Travis County Commissioners Court Agenda Request

Meeting Date: March 25, 2014
Prepared By/Phone Number: Shannon Pleasant, CTPM 854-1181 / Marvin Brice, CPPB 854-9765
Elected/Appointed Official/Dept. Head: Cyd Grimes, C.P.M., CPPO
Commissioners Court Sponsor: Judge Biscoe

Agenda Language: Approve Interlocal Agreement No. 4400001950 Capital Area Council of Governments, for Orthoimagery 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.

  Travis County Transportation and Natural Resources (TNR) request entering into an Interlocal Agreement with The Capital Area Council of Governments (CAPCOG) to acquire a 4-Band CIR (color infrared) leaf-on 12 inch resolution orthoimagery.

  Aerial photography is an efficient means to assess changes to features within the county, taking into account the large geographic extent of the region. The County uses aerial imagery for many purposes: evaluating vegetation both in relation to fire damage and drought stress, determining impervious surface for drainage facilities, land use classification, rectification of parcel boundaries, digitizing structures, locating streets, bridges and other identifiable features, as well as a background for most of the mapping (including 911addressing) and engineering projects in the county. Ortho-photography is particularly beneficial with Geographic Information System (GIS) software which makes viewing, analyzing and printing customized digital maps much easier.

  The term of the Interlocal Agreement takes effect on the date it is signed on behalf of CAPCOG and it ends, unless sooner terminated under Article 6 or 7of the agreement, when the total value of funding, as set

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

out in Article 3.1, has been furnished by Travis County, or on September 30, 2014, whichever comes first.

Contract Expenditures: Within the last 12 months $0.00 has been spent against this contract/requirement.

- **Contract-Related Information:**
  Award Amount: $21,173.59
  Contract Type: Interlocal Agreement
  Contract Period: Upon execution through September 30, 2014

- **Contract Modification Information:** Not Applicable
  Modification Amount:
  Modification Type:
  Modification Period:

- **Solicitation-Related Information:** Not Applicable
  Solicitations Sent: Responses Received:
  HUB Information: % HUB Subcontractor:

- **Special Contract Considerations:**

☐ 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 #: FR# 300000700
  ☒ Funding Account(s): 1490010145 and 1490010001
  ☐ Comments:

ID# 10511

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

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

February 21, 2014

MEMORANDUM

TO: Cyd Grimes, County Purchasing Agent

FROM: Steven M. Manilla, P.E., County Executive

SUBJECT: Interlocal Agreement
Orthoimagery for Geomap 2014 Work Order

TNR requests that Travis County enter into an interlocal agreement with The Capital Area Council of Governments ("CAPCOG") to acquire a 4-Band CIR (color infrared) leaf-on 12 inch resolution orthoimagery. Aerial photography is an efficient means to assess changes to features within the county, taking into account the large geographic extent of the region. The County uses aerial imagery for many purposes: evaluating vegetation both in relation to fire damage and drought stress, determining impervious surface for drainage facilities, land use classification, rectification of parcel boundaries, digitizing structures, locating streets, bridges and other identifiable features, as well as a background for most of the mapping (including 911 addressing) and engineering projects in the county. Ortho-photography is particularly beneficial with GIS software which makes viewing, analyzing and printing customized digital maps much easier.

The funding for this agreement was approved in the FY13 budget process. The funds have been pre-encumbered on funds reservation 300000700. The product category for this service is 81151601 and the budgeted cost centers are 1490010145 and 1490010001.

If you should have any questions or need further information, please contact April Rodriguez at (512) 854-7676.

AR:SMM:ar

Funds Reservation 300000700

General Data

Document type	NE	Document type	030
Company code	1000	Document date	08/30/2013
FM area	1000	Posting date	08/30/2013
Controlling area	1000	Currency	USD/ 1.00000

Statistics

Entered by	JENSENC	Created on	08/30/2013
Last changed by	HUFFH	Last changed	09/10/2013

More Data

Text	CAPCOG IL - Aerial Imagery
Reference	
Overall Amount	21,173.59 USD

Document Item 001

Text	Aerial Imagery		
Commitment item	511900	Funds center	1490010145
Fund	0145	G/L account	511900
Cost center	1490010145	Due on	
Vendor		Customer	
Amount	12,704.15 USD		

Document Item 002

Text	Aerial Imagery		
Commitment item	511900	Funds center	1490010001
Fund	0001	G/L account	511900
Cost center	1490010001	Due on	
Vendor		Customer	
Amount	8,469.44 USD		

CAPITAL AREA COUNCIL OF GOVERNMENTS

GEOSPATIAL DATA INTERLOCAL CONTRACT FOR GEOMAP 2014 WORK ORDER 4665-9

Article 1. Parties and Purpose

1.1. The Capital Area Council of Governments ("CAPCOG") is a regional planning commission and political subdivision of the State of Texas organized and operating under Chapter 391 of the Local Government Code.

1.2. Travis County, Texas is a local government that is seeking to obtain 4-band CIR leaf-on 12-inch resolution orthoimagery (the "Orthoimagery Project" or the "Project").

1.3. CAPCOG has contracted with Fugro EarthData, Inc. ("Fugro") to provide these goods and services to Travis County.

1.4. This contract is entered into between CAPCOG and Travis County under Chapter 791 of the Government Code (this "Agreement") so that Travis County can contribute funding toward the development of 4-band CIR leaf-on 12-inch resolution orthoimagery being developed jointly by Travis County and CAPCOG through CAPCOG's contract with Fugro for the Capital Area Geospatial Base Map Project (the "CAPCOG/Fugro Contract") and so that Travis County can obtain the orthoimagery goods and services described in Article 2.

Article 2. Goods and Services

2.1. CAPCOG agrees to furnish Travis County the 4-band CIR leaf-on 12-inch resolution orthoimagery according to the delivery schedule described in Section 3.2 of this Agreement and in accordance with the attached Exhibit A (Work Order and Map) to this contract. The goods and services will be provided to CAPCOG by Fugro pursuant to the CAPCOG/Fugro Contract, and CAPCOG will in turn provide the goods and services to Travis County.

2.2. CAPCOG will submit all Travis County work orders in a timely manner to Fugro.

2.3. CAPCOG agrees to enforce the provisions of the CAPCOG/Fugro Contract and to ensure that all deliverables for the Project:

(a) are provided in accordance with the CAPCOG/Fugro Contract and

(b) meet or exceed the standards set forth in Attachment A of the CAPCOG/Fugro Contract.

2.4. CAPCOG will cause each deliverable to be promptly delivered to Travis County so that Travis County can assess the deliverable and notify CAPCOG within 15 business days after receipt of the deliverable that the deliverable is either acceptable or deficient.

2.5. If Travis County notifies CAPCOG of a deficiency in a deliverable, CAPCOG will acknowledge receipt of the notice within 5 business days and promptly seek correction of the deficiency by Fugro in accordance with the terms of the CAPCOG/Fugro Contract.

2.6. With respect to the deliverables to be provided to Travis County pursuant to this Agreement, Travis County has:

(a) the same rights that CAPCOG has under the CAPCOG/Fugro Contract to create and own derivative products and services based on the geospatial base map data that Fugro collects and delivers and to patent, trademark, copyright, license, franchise, or otherwise legally protect and exercise all ownership rights in and to the derivative products and services as Travis County's intellectual property; and

(b) any other intellectual property or proprietary rights granted by Fugro to CAPCOG under the CAPCOG/Fugro Contract.

2.7. Travis County has the right to access and use, at no cost to Travis County and without any restrictions as to use, alteration, or distribution by Travis County, any derivative products and services created by and owned by CAPCOG based on the geospatial base map data provided to Travis County pursuant to this Agreement.

2.8. With respect to geospatial base map data provided to Travis County pursuant to this Agreement and any derivative products created based on the geospatial base map data, whether or not protected by copyright or other intellectual property or proprietary right, CAPCOG will either:

(a) allow members of the public to inspect or receive copies of the geospatial base map data or any derivative products either without charge or at charges that do not exceed the rates specified in the cost regulations promulgated by the Office of the Attorney General regarding public information requests, or

(b) refer to Travis County any members of the public who wish to inspect or receive copies of the geospatial base map data or any derivative products.

Article 3. Contract Price and Payment Terms

3.1. Travis County agrees to provide funding to CAPCOG under this contract, solely from current revenues available to Travis County with a total value of not to exceed $21,173.59. The total contract value includes a project management fee equal to 6% of the price to be paid by CAPCOG to Fugro under the particular work order executed to provide goods and services for Travis County. In each invoice submitted for an installment payment under Section 3.2, CAPCOG agrees to invoice Travis County for the percentage of the project management fee equal to the installment percentage due under Section 3.2.

3.2. Travis County agrees to provide installment payments to CAPCOG based on the Deliverable Schedule shown below:

- 30% when CAPCOG provides to the County written confirmation that Fugro has completed all aerial photography for the Project
- 30% when CAPCOG provides to the County the survey report and aerial triangulation ("AT") report prepared by Fugro
- 30% when CAPCOG provides documentation to the County that Fugro has established an online quality control/quality assurance process for the Project 10% when the County has received and is satisfied with all deliverables for the Project

3.3. Invoices requesting payment along with attached documentation provided by Fugro to CAPCOG that the deliverable milestones have been met, as per Article 3.2, shall be delivered to: Travis County Transportation and Natural Resources, P.O. Box 1748, Austin, Texas 78767-1748, Attention: David Shore, GIS Coordinator.

3.4. Travis County agrees to pay the invoice within 30 days after it receives the invoice, as required by the Prompt Payment Act, chapter 2251 of the Government Code.

3.5. CAPCOG agrees to provide funding and/or in-kind services to Fugro under the CAPCOG/Fugro Contract, with a total value of not to exceed $19,975.09 in order to provide funding for performance of this Agreement.

3.6. CAPCOG and Travis County agree that Fugro will look solely to CAPCOG for payment under the CAPCOG/Fugro Contract and that Travis County has no obligation to Fugro.

3.7. TAXPAYER IDENTIFICATION. CAPCOG shall provide Travis County with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification, that is completed in compliance with the Internal Revenue Code and its rules and regulations before any funds are payable.

Article 4. Effective Date and Term of Contract

4.1. This contract takes effect on the date it is signed on behalf of CAPCOG and it ends, unless sooner terminated under Article 6 or 7, when the total value of funding, as set out in Article 3.1, has been furnished by Travis County, or on September 30, 2014, whichever comes first. Notwithstanding any provision to the contrary, this Agreement is not binding on Travis County until it is approved by the Travis County Commissioners Court and executed by the County Judge.

Article 5. Nondiscrimination and Equal Opportunity

5.1. CAPCOG and Travis County will not unlawfully discriminate against anyone in carrying out this contract because of race, color, religion, national origin, sex, age, disability, or veteran status.

Article 6. Termination of Contract for Unavailability of Funds

6.1. Travis County acknowledges that CAPCOG is a governmental entity without taxing power and agrees that CAPCOG may terminate this contract in whole or part if CAPCOG learns that funds to pay for the goods or services will not be available at the time of delivery or performance.

6.2. CAPCOG terminates this contract for unavailability of funds by giving Travis County notice of the termination, as soon as it learns of the funding unavailability, and specifying the termination date, which may not be less than 15 calendar days from the notice date. The contract terminates on the specified termination date.

Article 7. Termination for Breach of Contract

7.1. (a) If Travis County or CAPCOG breaches a material provision of this contract, the other may notify the breaching party describing the breach and demanding corrective action. The breaching party has five business days from its receipt of the notice to correct the breach, or to begin and continue with reasonable diligence and in good faith to correct the breach. If the breach cannot be corrected within a reasonable time, despite the breaching party's reasonable diligence and good faith effort to do so, the parties may agree to terminate the contract or either party may invoke the dispute resolution process of Article 8.

(b) If Fugro breaches its contract with CAPCOG, so that the orthoimagery contracted for is not delivered to Travis County, CAPCOG may terminate this contract by giving Travis County notice of the termination, as soon as it learns of the nondelivery,

and specifying the termination date, which may not be less than 15 calendar days from the notice date. The contract terminates on the specified termination date.

7.2. Termination for breach under Article 7.1 does not waive either party's claim for damages resulting from the breach.

Article 8. Dispute Resolution

8.1. The parties desire to resolve disputes arising under this contract without litigation. Accordingly, if a dispute arises, the parties agree to attempt in good faith to resolve the dispute between them. To this end, the parties agree not to sue one another, except to enforce compliance with this Article 8, toll the statute of limitations, or seek an injunction, until they have exhausted the procedures set out in this Article 8.

8.2. At the written request of either party, each party shall appoint one nonlawyer representative to negotiate informally and in good faith to resolve any dispute arising under this contract. The representatives appointed shall determine the location, format, frequency, and duration of the negotiations.

8.3. If the representatives cannot resolve the dispute within 30 calendar days after the first negotiation meeting, the parties agree to refer the dispute to the Dispute Resolution Center of Austin for mediation in accordance with the Center's mediation procedures by a single mediator assigned by the Center. Each party shall pay half the cost of the Center's mediation services. 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 are to remain confidential as described in Section 154.073 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality.

8.4. The parties agree to continue performing their duties under this contract, which are unaffected by the dispute, during the negotiation and mediation process.

Article 9. Notice to Parties

9.1. Notice to be effective under this contract must be in writing and received by the party against whom it is to operate. Notice is received by a party: (1) when it is delivered to the party personally; (2) on the date shown on the return receipt if mailed by registered or certified mail, return receipt requested, to the party's address specified in Article 9.2 and signed for on behalf of the party; or (3) three business days after its deposit in the United States mail, with first-class postage affixed, addressed to the party's address specified in Article 9.2.

9.2. CAPCOG's address is 6800 Burleson Road, Building 310, Suite 165, Austin, TX 78744, Attention: Betty Voights, Executive Director. Notices to the County must be sent to:

Travis County
Transportation and Natural Resources Department
P. O. Box 1748
Austin, Texas 78767
Attn: David Shore (or successor)
GIS Coordinator

WITH A COPY TO: Cyd Grimes, C.P.M., CPPO (or successor)
Travis County Purchasing Agent
P.O. Box 1748
Austin, Texas 78767

9.3. A party may change its address by providing notice of the change in accordance with Article 9.1.

Article 10. Miscellaneous

10.1. Each individual signing this contract on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations.

10.2. This contract states the entire agreement of the parties, and an amendment to it is not effective unless in writing and signed by all parties. Exhibit A, including the map attached thereto, is part of this contract.

10.3. This contract is binding on and inures to the benefit of the parties' successors in interest. Neither the County nor CAPCOG may assign, sublet, or transfer its interest in or obligations under this Agreement without the written consent of the other party hereto. IT IS EXPRESSLY ACKNOWLEDGED THAT NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS AGREEMENT EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE COMMISSIONERS COURT.

10.4. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original and all of which together constitute one and the same instrument. The terms of this Agreement shall become binding upon each party from and after the time that it executes a copy hereof. In like manner, from and after the time it executes a consent or other document authorized or required by the terms of the Agreement, such consent or other document shall be binding upon such party.

10.5. **Non-Waiver of Default.** No payment, act, or omission by Travis County may constitute or be construed as a waiver of any breach or default of CAPCOG which

then exists or may subsequently exist. All rights of Travis County under this Agreement are specifically reserved and any payment, act, or omission is not to be construed to impair or prejudice any remedy or title to Travis County under it. 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.

10.6. **No Waiver of Immunity.** It is expressly understood and agreed by the parties that neither the execution of this Agreement nor any conduct of any representative of CAPCOG or Travis County relating to this Agreement will be considered to waive, nor will it be deemed to have waived, any immunity or defense that would otherwise be available to that entity against claims arising in the exercise of its governmental powers and functions, nor will it be considered a waiver of sovereign immunity to suit.

10.7. This Agreement is between Travis County and CAPCOG. This Agreement is not intended, nor may it be construed, to confer any benefits, rights, or remedies upon any person not a party hereto.

10.8. If performance by either party of any obligation under this Agreement is interrupted or delayed by reason of unforeseeable event beyond its control, whether such event is an act of God or the common enemy, or the result of war, riot, civil commotion, sovereign conduct other than acts of Travis County under this Agreement, or the act or conduct of any person or persons not a party or privy hereto, then such party will be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

10.9. **Venue.** TO THE EXTENT ALLOWED BY TEXAS LAW, IT IS AGREED THAT VENUE FOR ALL LAWSUITS CONCERNING THIS AGREEMENT WILL BE IN TRAVIS COUNTY, TEXAS.

10.10. **Severability**. If any term, condition, or provision in this contract is found to be invalid, unlawful or unenforceable to any extent, the parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this contract. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

TRAVIS COUNTY, TEXAS

By_____

Samuel T. Biscoe
County Judge

Date_____

CAPITAL AREA COUNCIL OF GOVERNMENTS

By_____

Betty Voights
Executive Director

Date 2/14/14

EXHIBIT A

GEOMAP 2014 WORK ORDER 4665-9

When signed on behalf of CAPCOG, this Work Order authorizes Fugro Earthdata, Inc. ("Fugro") to provide the goods and services described in the Scope of Work set out below in accordance with the timetable set out in the Scope of Work.

CAPCOG agrees to pay Fugro the firm fixed price of $19,975.09 for the goods and services provided under the Scope of Work.

This Work Order is subject to all of the terms and conditions of the Contract for the Capital Area Geospatial Base Map Project between CAPCOG and Fugro (the "CAPCOG/Fugro Contract").

Scope of Work

Acquisition of 4-band CIR leaf-on 12-inch Orthophotos for 421 square miles (Q4 tiles), for a total price of $21,173.59 or $50.29 per unit tile. Each of the Q4 tiles is depicted in the attached map. Further details of the overall Scope of Work and Work Order are provided as exhibits to the CAPCOG/Fugro Contract.
[Signatures on following page]

FUGRO EARTHDATA, INC.

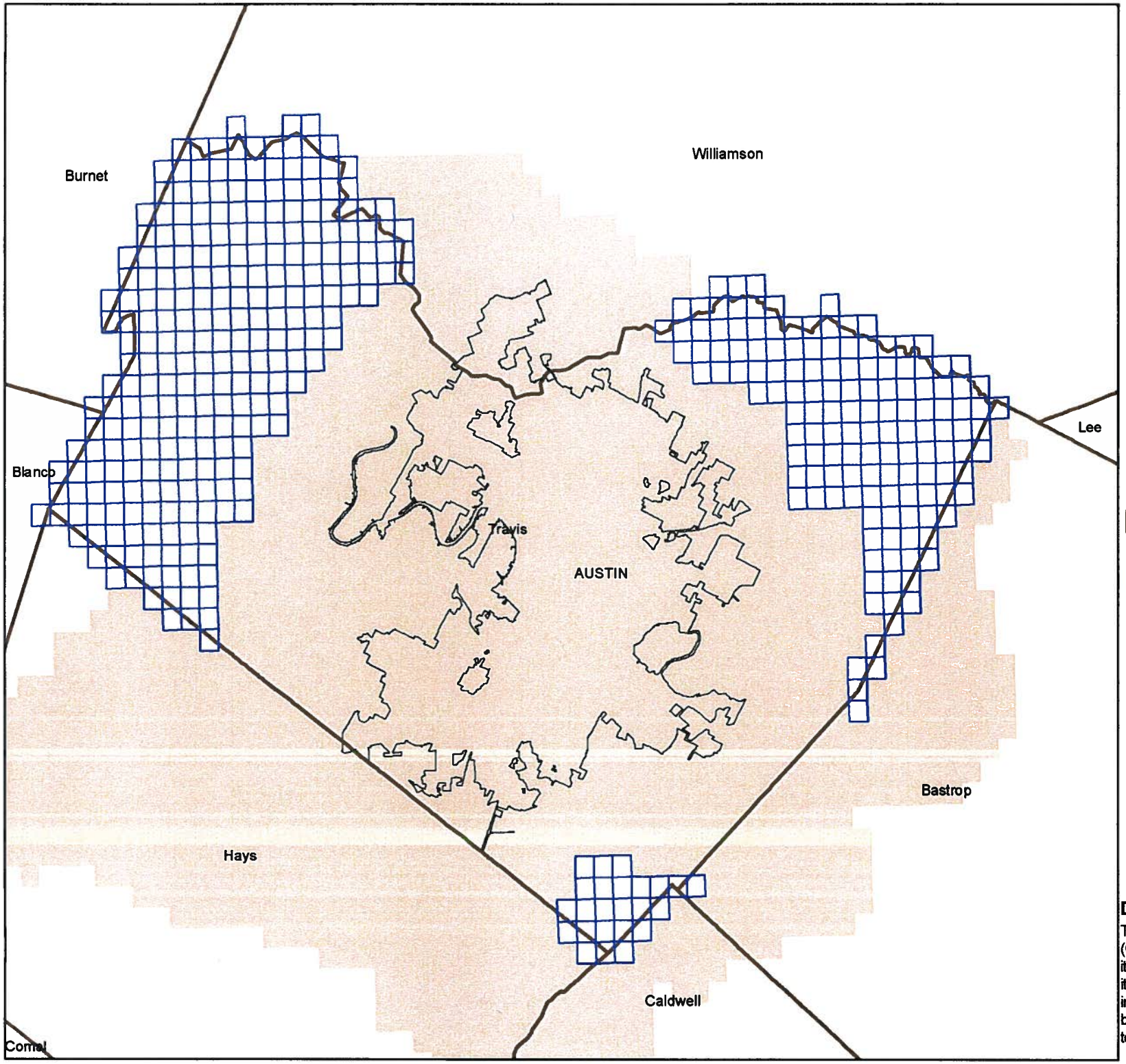
By: _____
Printed Name: _____
Title: _____
Date: _____

CAPITAL AREA COUNCIL OF GOVERNMENTS

By: _____
Betty Voights
Executive Director
Date: _____

[MAP IS ON FOLLOWING PAGE]

GeoMap 2014
Travis County



CAPCOG
Capital Area Council of Governments

Capital Area Council of Governments

Legend

- County Boundary
- Travis County Orthos
- City of Austin 2014 Orthos
- Austin City Limits

N
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Miles
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Disclaimer:
The Capital Area Council of Governments (CAPCOG) provides this map as well as its data "as is" and assumes no liability fo its accuracy or completness. This map is intended as a representation of the data being presented and is in no way intende to be survey grade information.