



MEMORANDUM REPORT

Meeting Date: April 16, 2019

TO: Board of Commissioners of the Los Altos Hills County Fire District

FROM: Jen Beyers, Esq. (Jorgenson, Siegel, McClure & Flegel)

SUBJECT: **Amendment No 1. to Contract For Arborist Services Between the Los Altos Hills County Fire District and Kielty Arborist Services**

RECOMMENDATION: Adopt one of the following Resolutions as Resolution 19-10:

1. Resolution of the Los Altos Hills County Fire District Authorizing Execution of Amendment No. 1 to the Contract for Arborist Services; or
2. Resolution of the Los Altos Hills County Fire District Authorizing the General Manager and District President to Finalize Negotiations with Kielty Arborist Services and Authorizing Execution of an Amendment to the Contract for Arborist Services.

BACKGROUND

On June 19, 2018, the Los Altos Hills County Fire District (“District”) entered into a Contract for Arborist Services (“Contract”) with Kielty Arborist Services (“Kielty”). Under the Contract, Kielty reviewed Site Assessment Spreadsheets submitted by the District’s tree removal contractor to determine eligibility for the District’s tree removal program (“Tree Removal Program”) and provided written reports of his determinations. Kielty also helped to set the price for removal of trees and reviewed submissions for to, among other things, confirm that work was satisfactorily completed.

The District has questioned whether the current approach under the Tree Removal Program is the best use of its fuel reduction funds, and has acknowledged that long-term planning should be in the context of the Community Wildfire Protection Plan (“CWPP”) approval with greater fire impact reduction in mind. On March 7, 2019, the Fuel Reduction Subcommittee (“Subcommittee”) met to discuss, in part, revisions to the District’s Tree Removal Program. The Subcommittee discussion during the March 7, 2019, meeting resulted in a proposal to approve a more limited Tree Removal Program (“Revised Tree Removal Program”) that takes the pressure off the District’s waitlist, puts a hold on additions to the waitlist, and gives the District time to incorporate longer-term strategic approaches to fuel reduction while leaving funds available for those approaches. The Memorandum Report dated March 19, 2019, which is attached hereto, provides additional details about the Subcommittee’s recommendations for the Revised Tree Removal Program.

DISCUSSION

At the District’s March 19, 2019, meeting, the Commissioners agreed to proceed with the Revised Tree Removal Program. The Commissioners also reached a consensus to have the District’s arborist (“Kielty”) begin looking at the trees on the existing Tree Removal Program waitlist. The proposed

scope of services that Kielty would need to provide under the Revised Tree Removal Program differs from the scope of services authorized under the Contract. Therefore, in order to proceed with the Revised Tree Removal Program, an amendment to the Contract is required to specify the services Kielty will provide.

On April 5, 2019, the Subcommittee met to discuss Kielty's amended scope of services to meet the District's needs under the Revised Tree Removal Program. The Subcommittee will produce written administrative guidelines which provide direction on the new limitations for trees authorized for removal under the Revised Tree Removal Program ("Guidelines"). The Subcommittee recommends that Kielty's scope of work include evaluation of trees on waitlist properties while using the Guidelines to prepare a spreadsheet that formally identifies the trees that fall within the Guidelines ("Spreadsheet"). The Spreadsheet will include an evaluation for removal of each tree identified. The Subcommittee also recommends to have Kielty separately note other trees and site observations. It is important to note that the District's Tree Removal Program is not required and may be terminated at any time. All trees remain the responsibility of the property owner.

The date of the Subcommittee meeting to propose Kielty's amended scope of work did not allow the District to finish negotiation of the amendment with Kielty before the April Agenda posted. Therefore, the recommendation to the District Board is to decide, based on the status of conversations with Kielty up to the April 16, 2019, meeting, whether to adopt the Resolution of the Los Altos Hills County Fire District Authorizing Execution of the First Amendment to the Contract for Arborist Services; or to adopt the Resolution of the Los Altos Hills County Fire District Authorizing the General Manager and District President to Finalize Negotiations with Kielty Arborist Services and Authorizing Execution of an Amendment to the Contract for Arborist Services. A draft First Amendment to the Contract is attached for consideration and comment by the District Board.

Alternatively, the District Board may choose to not adopt either resolution. A decision to not adopt either resolution would halt the process to evaluate trees on the current Tree Removal Program waitlist.

Attachment(s):

- 1. Memorandum Report dated March 19, 2019, re: Fuel Reduction Programs: New Tree Removal and Brush Chipping Programs.**
- 2. Draft First Amendment to the Contract for Arborist Services between the Los Altos Hills County Fire District and Kielty Arborist Services.**



MEMORANDUM REPORT

Meeting Date: March 19, 2019

TO: Board of Commissioners of the Los Altos Hills County Fire District

FROM: Fuel Reduction Subcommittee: George Tyson (chair), Duffy Price, with help from Stu Farwell and J. Logan

SUBJECT: Fuel Reduction Programs: New Tree Removal and Brush Chipping Programs

RECOMMENDATION:

1. Approve concept of the new Tree Removal Program; initiate Arborist tree evaluations on existing waiting list and prepare Request for Proposals (RFP) for FY2019/2020 Tree Removal Program
2. Seek consensus on proceeding with an RFP process for Brush Chipping for 2019-2020

BACKGROUND

The tree (Fuel Reduction) subcommittee met on 07Mar2019, with attendance by Tyson, Price, Farwell, and Logan, with two major topics: Tree Removal and Brush Chipping. The regular operations update on the current tree program will be covered by Stu in his Consultant Report.

Tree Removal Program

- We have been awaiting the results of the County Management Audit for over six months and have held off on major contracts/initiatives during this time. We have now reached the point where if we do not act now, we will have a gap in tree removal, with many residents having been on our waiting list for a year or more.
- We have questioned whether the current approach of tree removal is the best use of our fuel reduction funds and acknowledge that our long-term planning should be in the context of CWPP (Community Wildfire Protection Plan) approval with greater fire impact reduction in mind.
- Our current contract will expend the \$2MM budgeted for 2018-2019 and the work will be completed by the end of June 2019. The current contract does not appear to be as cost-effective as previous contracts (using \$/tree metric), and actual invoices show that many trees removed are oaks (presenting limited fire supporting risk) and some homeowners have had >12 trees removed.

DISCUSSION and RECOMMENDATION: Tree Removal Program

- Effectively immediately, we propose a more limited Tree Removal program that: 1. takes the pressure off of our waiting list; 2. puts a hold on additions to the waiting list, and 3. gives us time to incorporate longer-term strategic approaches to fuel reduction (e.g. Audit and CWPP feedback), while still leaving funds available for those approaches.
- Major elements of that new program are:
 - Process similar to the previous zone-oriented program, where an arborist evaluates each tree proposed by residents, then these specific trees are bundled into an RFP process featuring competitive bidding.
 - Arborist evaluations to begin immediately, under the existing contract with Kevin Kielty and projected to run through June 2019. Future contracts for arborist support will be submitted to an RFP process.
 - New limits on tree removal:

- Removal of dead/dying conifers and any eucalyptus only
- No more than 3 trees removed per address/property
- No more than \$8000 estimated cost per property, using costing matrix from current contract
- Improvements to the tree tracking process (including designation of selected trees, confirmation of tree removal, and visibility to residents of their status on-line) will be made.
- Target of initiating new contract in July. Depending on numbers of trees included, this may be broken into two phases with separate contracts to improve timeliness and competitiveness.
- Any new tree requests after 19March will be responded with the message that the program's future structure is being studied and that there is no waiting list per se.
- J. has prepared and we have reviewed the attached Tree Removal FAQ, which can be used by any Commissioner to explain the purpose and process of this program. FAQ is dynamic and will be updated accordingly

Proposed Action by Commission:

- Approve the concept of the new tree program, initiate Arborist tree evaluations on existing waiting list. The Commission will approve selection of a Contractor after the RFP process has been completed.

Brush Chipping Program

Background

- This program of on-site brush chipping has been heavily used by our residents and is quite popular and visible. We believe that it helps encourage residents to reduce brush on their properties and thus reduces fire danger.
- The current program has been running for many years, and the service has been anecdotally described as excellent. Expenditures for 2019-2020 are budgeted at \$350,000, an increase from the previous year.
- The current contract with S.P. McClenahan expires at the end of FY2018-2019. The contract was not competitively bid, but an analysis on costing of chipping service providers was provided to the Commission in April 2017.

Discussion and Recommendation:

- We proposed continuing the program. We also propose continuing the existing postcard notification process, with a plan of supplementing the postcard request with online requests form via the Fire District website.
- We propose a formal RFP process in selecting the contractor. We anticipate that initial contract would be for one year, but that extensions would be possible based on performance.

Proposed Action by Commission:

- We seek general agreement (consensus) on proceeding with an RFP process for Brush Chipping for 2019-2020

Attachment:

1. Tree Removal FAQ

AMENDMENT No. 1
TO THE CONTRACT FOR
ARBORIST SERVICES

THIS AMENDMENT No. 1, made and entered into as of the _____ day of April 2019, to the Contract for Arborist Services ("Contract") made and entered into on June 19, 2018, by and between Los Altos Hills County Fire District, hereinafter referred to as "**DISTRICT**," and KIELTY ARBORIST SERVICES, hereinafter referred to as "**CONSULTANT**."

RECITALS

WHEREAS, on June 19, 2018, DISTRICT and CONSULTANT entered into a Contract for arborist services; and

WHEREAS, CONSULTANT is an independent contractor providing similar professional services to numerous other agencies; and

WHEREAS, at the DISTRICT's meeting on March 19, 2019, the DISTRICT BOARD decided to revise the dead tree program; and

WHEREAS, the revisions to the DISTRICT's dead tree program necessitate a change to the Contract's scope of service.

In consideration of the covenants, conditions and promises hereinafter contained, to be kept and performed by the parties hereto, DISTRICT and CONSULTANT hereby agree that the following sections of the Contract are amended to read as follows:

1. Section 1, **SCOPE AND LEVEL OF SERVICES**, is hereby amended to delete Section 1 in its entirety and replace it with the following::

"1. **SCOPE AND LEVEL OF SERVICES**. "CONSULTANT shall evaluate trees at up to 170 properties on the current Tree Removal Waitlist and located within the DISTRICT and determine which trees at each property, if any, qualify for removal based on the District's Guidelines for Qualification for Tree Removal ("Guidelines") The Guidelines will be provided to CONSULTANT prior to start of the evaluations. CONSULTANT shall prepare an excel spreadsheet showing the name, address and phone numbers of each resident listed on the dead tree removal program waitlist as of March 19, 2019, and identify each tree that qualifies for removal pursuant to the Guidelines ("Spreadsheet"). CONSULTANT shall also note on a separate sheet any other trees and site observations.

1.1 CONSULTANT is responsible for contacting property owners prior to arrival and must obtain approval from the property owner before accessing a property.

1.2 Spreadsheet must also include relevant information about the tree(s), including location, tag number, species, diameter, height; and relevant information on work to be done, including designation of work, estimated hours for work, estimated cost of work, priority ranking based on risk of fire to nearby buildings, and any other recommendations or considerations. CONSULTANT shall include with the Spreadsheet photographs of each tree identified on the Spreadsheet that show the location of the tree, and surroundings of the tree. The

photographs shall identify the tree by numbers corresponding to the number of the tree on the Spreadsheet.

1.3 It is essential to this Agreement that the information contained in the Spreadsheet is accurate, and that all photographs attached to the Spreadsheet provide a clear sense of the surroundings and include powerlines, terrain, creeks, or nearby structures, if any. Errors on the Spreadsheet may lead to unnecessary increased costs for the DISTRICT.”

2. Section 2, **TIME FOR PERFORMANCE**, is hereby amended to delete Section 2 in its entirety and replace it with the following:

“2. **TIME FOR PERFORMANCE**. The services shall be performed on a timely and regular basis. CONSULTANT shall comply with any turnaround times set forth by the District’s Fire Consultant or its designee. On or before May 24, 2019, CONSULTANT shall have completed and submitted to the District the Spreadsheet and notes for properties on the first half of the waitlist located within Areas 1, 2, and 3 of the District (West of Highway 280). On or before June 30, 2019, CONSULTANT shall have completed and submitted to the DISTRICT the Spreadsheet and notes for the properties on the second half of the waitlist located in Areas 4, 5, and 6 of the DISTRICT (East of Highway 280).”

3. Section 3, **STANDARD OF PERFORMANCE**, is amended to add the following sentence to the end of the paragraph:

“CONSULTANT is expected to review all documents it prepares for the DISTRICT, including, but not limited to Spreadsheets, for quality control (i.e. accuracy regarding size and description of trees). DISTRICT may perform periodic review of the Spreadsheet or other work product produced by CONSULTANT for quality control purposes. CONSULTANT shall cooperate and assist as needed with any request by the DISTRICT to review documents for quality control.”

4. All other terms of the Contract, which are not in conflict with the provisions of this First Amendment, shall remain unchanged and in full force and effect. In case of a conflict in the terms of the Contract and this First Amendment, the provisions of this First Amendment shall control. If there is any conflict in the terms of this First Amendment with the exhibits or attachments, then the provisions of this First Amendment shall control.

IN WITNESS WHEREOF, the District and Consultant have executed this Contract effective as of the date written above.

**LOS ALTOS COUNTY FIRE
DISTRICT:**

By: _____
President, Board of Directors

ATTEST:

District Clerk

KIELTY ARBORIST SERVICES:

By: _____

Name (printed): _____

Title: _____

EIN _____