



**RESOLUTION NO. 20150922-11**

**RESOLUTION AUTHORIZING CONTRACT FOR PROFESSIONAL FOREST MANAGEMENT SERVICES TO KINGWOOD FORESTRY SERVICES, INC.**

**WHEREAS**, TexAmericas Center is a political subdivision of the State of Texas with the powers and authorities specified in Chapter 3503 of the Special District Local Laws Code of the State of Texas; and

**WHEREAS**, Kingwood Forestry Services, Inc. has the necessary experience and expertise to provide Forest Management services to TexAmericas Center; and

**WHEREAS**, TexAmericas Center has determined this firm to be qualified to perform these services;

**NOW, THEREFORE, BE IT RESOLVED** that the Executive Director/CEO shall be and he is here by authorized to enter into a professional service contract with Kingwood Forestry Services, Inc. to provide Forest Management services for TexAmericas Center on terms substantially the same as attached hereto.

**PASSED AND APPROVED THIS 22<sup>nd</sup> day of September, 2015.**



Denis Washington, Chairman of the Board

**ATTEST:**



Boyd Sartin, Secretary/Treasurer

Attached: FY16 Agreement for Services



## AGREEMENT FOR SERVICES

This Agreement is made by and between TexAmericas Center, a political subdivision of the State of Texas, hereinafter referred to as "TAC" and Kingwood Forestry Services, Inc., hereinafter referred to as "Consultant" and is effective as of the date opposite the signature of the later party to sign this Agreement.

### Recitals

TAC is a political subdivision of the State of Texas and serves as the local reuse authority for the redevelopment of property in Bowie County, Texas, received from the United States Department of the Army pursuant to the provisions of the Defense Base Closure and Realignment Act of 1990, as amended; and

WHEREAS, TAC desires to engage the services of the Consultant, as an independent contract and not as an employee, to assist TAC in performing its redevelopment responsibilities on the terms and conditions provided in this Agreement;

NOW, THEREFORE, TAC engages the services of the Consultant. In consideration of the mutual promises contained in this Contract, the parties agree as follows:

1. Term. This Agreement is for a period of 1 (one) year, commencing on **October 1, 2015**. It may be terminated by either party by giving 30 days' written notice to the other party. **Consultant** will be paid the "Fee" for any activities in progress at time notice is given.

2. Services. The services to be rendered by the Consultant to TAC consist of the following:

1. **Sale of Timber:** Both parties hereto recognize there are many factors involved in the decision to sell timber which are outside of silvicultural considerations. **Consultant** shall make recommendations to TAC with respect to the timing and the extent of timber sales but it shall be the exclusive right of TAC to determine both the timing of sales and the products and volumes to be sold. All sales will be made in the name of TAC, and TAC reserves the right to accept or reject any or all bids or offers for said sales.

2. **Management:** **Consultant** shall make prudent management and silvicultural recommendations to TAC for the purpose of long term timber production and recreational hunting from said lands and, upon direction of the TAC, **Consultant** shall designate the areas to receive silvicultural treatments, prepare maps and contracts and supervise contract compliance of activities as needed. All contracts will be made between contractor and TAC.

3. **Communications with TAC** to review forest conditions and plans for forest management and to report on progress of all activities relating to forest management.

4. **Other services as agreed to by the parties.**

Servies shall be provided by **Consultant** pursuant to Work Orders issued by **TAC** and approved by **Consultant**.

It is understood and agreed that **Consultant** is an independent contractor and is not an employee of **TAC**. **Consultant** shall not act as an employee of **TAC** and shall not enter into any contracts or agreements on behalf of **TAC**. Any contracts that need to be negotiated on behalf of **TAC** shall be presented to **TAC** for its approval and execution. Nothing contained in this Agreement is intended, nor shall it be construed, to create a partnership or joint venture between the parties hereto or to render either party liable or responsible for the debts or obligations of the other.

3. Professional Services. **TAC** is retaining the professional services of **Consultant**, and **Consultant** may not engage the services of any agents, assistants, persons or corporations to provide the services stated herein without the prior written consent, and upon written terms as approved by **TAC**.

4. Fee. For **Consultant's** performance and completion of all services, **TAC** shall compensate **Consultant** as specified in authorized work orders. Such rates include labor, overhead, expenses, and profit.

5. Devotion of Time. The **Consultant** will devote the time that is reasonably necessary for a satisfactory performance of **Consultant's** duties under this Agreement.

6. Entire Agreement. This Agreement constitutes the sole and only agreements of the parties and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter.

7. Assignment. Neither this Agreement nor any duties or obligations may be assigned by **Consultant** without the written consent of **TAC**. In the event of an assignment by the **Consultant** to which **TAC** has consented, the Assignee or the Assignee's legal representative must agree in writing with **TAC** to assume, perform, and be bound by all of the provisions of this Agreement.

8. Successors and Assigns. Subject to the provisions regarding assignment, this Agreement is binding on and inures to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

9. Attorney's Fees. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party is entitled to reasonable attorney's fees in addition to any other relief to which it may be entitled.

10. Governing Law. This Agreement and the rights and duties of the parties under it are governed by the laws of the State of Texas. Any litigation regarding the terms of this Agreement or the enforcement of it, shall be maintained in the District Court of Bowie County, Texas.

11. Amendment. This Agreement may be amended by the mutual agreement of the parties to it in a writing to be attached to and incorporated in this Agreement.

12. Legal Construction. In the event that any one or more of the provisions contained in this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provisions, and the agreement will be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

Date Executed: 9/22/15

TEXAMERICAS CENTER

By: [Signature]

Name: Scott Norton

Title: Executive Director/CEO

Date Executed: 8-26-15

KINGWOOD FORESTRY SERVICES, INC

By: [Signature]

Name: Carl Herberg

Title: Vice President



**WORK ORDER NUMBER 2016-1**

**PROJECT NAME: FY 2016 PROFESSIONAL FORESTRY MANAGEMENT SERVICES**

**SERVICES: CONSULTANT SERVICES**

**LOCATION: TEXAMERICAS CENTER**

**WORK ORDER DESCRIPTION**

This Work Order Number 2016-1, approved and signed this 1st day of October, 2015, supplements and is an attachment to the Professional Services Agreement effective the 1st day of October, 2015 between TexAmericas Center (Client) and Kingwood Forestry Services, Inc. (Consultant) to provide authorization the CONSULTANT to provide the services described herein associated with the FY 2016 PROFESSIONAL FORESTRY MANAGEMENT SERVICES Project (Project) in Bowie County, Texas.

**SCOPE**

The Scope of Services under this Work Order Number 2016-1 is that generally described as follows:

- A. Provide professional forestry management services support as needed to support the goals and mission of the Client. See Attached Proposal.

**TERMS AND CONDITIONS**

- A. Client shall pay, and CONSULTANT agrees to accept as full compensation for the services to be performed under this Contract, payment as outlined herein. All work performed using this proposal are subject to revision or adjustment only if mutually agreed to in writing between the parties; subject, however to the limitations and requirements set forth in subparagraph D below.

- B. In the event that services requested by Client exceed the statements, provisions and assumptions as described herein, CONSULTANT shall provide additional Work Order requests to Client in a timely fashion.
- C. Invoices shall be submitted to Client on a per contract basis for the services rendered for the contract work in accordance with the attached proposal. Client shall remit payment for such invoiced amounts within 30 days of receipt of the invoice.
- D. Compensation for services rendered in accomplishment of timber management services shall be made to the Consultant on a per contract basis with the option to split the compensation at the end of a fiscal year if requested by Client. The invoice will contain a performance report that contains all support documentation for the payment requested. The maximum compensation amount which shall be rendered to the Consultant for such basic timber management services as defined in this work order shall not exceed 7% of timber sale income without prior written authorization by Client.
- E. Consultant agrees that timber sale income payments will be made out to TexAmericas Center, collected by Consultant, and delivered to Client in a timely manner following the reconciliation of payment.


**WORK ORDER EXECUTION**

Except as modified or supplemented herein, all requirements of Professional Services Agreement effective the 1st day of October 2015, between CLIENT and CONSULTANT remain in full force and effect.

**TEXAMERICAS CENTER**

By:   
Name: Scott Norton  
Title: Executive Director/CEO  
Date: 9/22/15

**KINGWOOD FORESTRY SERVICES, INC.**

By:   
Name: Carl B. Herberg, R.F., A.C.F.  
Date: 8-26-15