



Tennessee Valley Authority, 2835-A East Wood Street, Paris, Tennessee 38242

RECEIVED

AUG 15 2016

MARSHALL CO. JUDGE'S OFFICE

Cooperative Agreement No.279724

The Honorable Judge/Executive Kevin Neal
Marshall County Fiscal Court
1101 Main Street
Benton, Kentucky 42025

Dear Judge/Executive Neal:

This letter agreement, which includes all attachments hereto, (Agreement) sets forth the terms and conditions of an Agreement between the Tennessee Valley Authority (TVA), a corporate agency and instrumentality of the United States government, and the Marshall County Fiscal Court (Agency) to provide grounds maintenance at the Sledd Creek Public Access Area. Trash cans will also be provided to the Agency for the Sledd Creek Public Access Area as well as other public use areas under the Agency's management (i.e. Big Bear Park, Birmingham Launch Ramp, Buckhorn Park, Rocky Point Park, Sledd Creek Public Access Area, Jonathan Creek Boat Ramp and Lakeland Wesley Village Park).

The term of the Agreement shall begin September 1, 2016 and shall terminate September 1, 2026 unless otherwise modified or extended by both parties in writing; provided, however, that either party may terminate this Agreement on thirty (30) days written notice to the other.

Agency Responsibilities

Agency will:

1. Perform the work as set forth in Attachment A.
2. Keep and make available for a period of three (3) years from the ending date of this Agreement, accurate records and books of accounts showing the items and costs billed under this Agreement, as well as cost data supporting any proposal submitted to TVA in connection with this Agreement. At no expense to Agency and upon reasonable notice, TVA, or its agents, shall have the right to audit without restriction, at any time during normal working hours, the costs incurred in connection with the services performed hereunder and may examine Agency books and records relating thereto. Agency shall include the requirements of this section in each subcontract hereunder. Any payments to Agency which are not in accordance with the Agreement or are for costs not supported by Agency books, records, documents, or other valid evidences shall be subject to refund to TVA.
3. Comply with applicable laws and regulations pertaining to its responsibilities and work in connection with this Agreement. Agency will comply with, to the extent applicable, the following regulatory provisions which are hereby incorporated by reference and are available at <http://supplier.tva.gov> under "Referenced Clauses": Affirmative Action and Equal Opportunity; Asbestos Containing Materials; Officials Not To Benefit; Small Business Policy; Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246); Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Age Discrimination Act of 1975, and TVA regulations thereunder issued at 18 C.F.R. pts. 1302, 1307, 1309, and 1317, the provisions of which, and all future amendments of such statutes and regulations, are incorporated by reference as a part of this Agreement.
4. Comply with the terms of this Agreement.
5. To the fullest extent permitted by law, indemnify TVA against and hold TVA harmless from all claims, damages, demands, actions, costs, and charges to which they or either of them may be subject or which they or either of them may have to pay by reason of any injury to any person or property or loss

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of life or property suffered or sustained by any person whomsoever, resulting from or in any way connected with the performance of this Agreement, except liability for personal injuries, property damage, or loss of life or property caused by the sole negligence of TVA.

6. During the term of this Agreement, Agency will maintain at its own expense the following insurance coverages:
 - a. Commercial general liability insurance on an occurrence basis for bodily injury, death, "broad form" property damage, and personal injury, with coverage limits of not less than \$1,000,000 per occurrence.
 - b. Commercial auto liability coverage on all owned, non-owned, and hired vehicles with coverage limits of not less than \$1,000,000 per occurrence.
 - c. Workers compensation insurance as required by law or statute, including employers' liability coverage for injury, disease, and death, with coverage limits of not less than \$1,000,000 per accident and employee. A USL&H "If Any" endorsement should be secured for any work near navigable bodies of water.

Insurance carriers will be rated A- or better by A.M. Best Company. The liability policies listed above will name the United States and TVA as an additional insured as their interests may appear. The policies will contain a severability of interests and waiver of subrogation clause in favor of TVA. Policies will provide thirty (30) days' written notice prior to cancellation.

7. Upon TVA's prior approval, Agency may self insure rather than obtain the insurance coverages required above. However, such self-insurance status will in no way diminish Agency's responsibilities to TVA that would have otherwise been covered by insurance if Agency were not self insured. If TVA approves Agency's self-insurance status, but then Agency's financial status does not meet TVA's minimum standards, Agency must obtain the above insurance coverages. If Agency is self-insured it shall require its subcontractors, if any, under this Agreement to have the insurance coverages set forth above and Agency shall provide to TVA, upon TVA's request, evidence of such insurance.
8. As directed by TVA, name TVA as a project partner in all media releases and social media listings/communications made in connection with this Agreement.
9. Provide future inspections of project elements and provide ongoing patrols/law enforcement along with maintenance and operations support for all listed projects.
10. In no way interfere with TVA's or the public's use (if public use is permitted) of all or part of any TVA site unless specifically authorized in writing by TVA.
11. Obtain any necessary permits and licenses required to perform under this Agreement.

TVA Responsibilities

TVA will:

1. Provide animal-proof trash receptacles at no cost to Agency (the approximate value of the trash receptacles is \$11,000).
2. Provide such technical advice and assistance as TVA, in its sole discretion, determines it is in a position to provide.

Onsite Work

If Agency performs any work in connection with this Agreement on a TVA site, which for purposes of this Agreement includes any property on or to which TVA has any property interest, including, without limitation, ownership or lease, license, or easement rights, the following terms and conditions shall apply to such onsite work:

1. The Native American Graves Protection and Repatriation Act and the Archaeological Resources Protection Act apply to archaeological resources located on a TVA site. Agency shall not disturb or alter in any way the existing state of any archaeological sites, human remains, funerary objects, sacred objects, objects of cultural patrimony, or any other archaeological resources which may be discovered or identified on or under a TVA site. Upon the discovery of any such items, Agency shall immediately stop all activity in the area of the discovery, make a reasonable effort to protect such items, and notify TVA's Cultural Compliance Staff by telephone at (865) 632-3660. Agency shall also provide written notification of such discovery to TVA, Cultural Compliance, 400 West Summit Hill Drive, WT 11-D, Knoxville, Tennessee 37902. Agency shall not resume work in the area of the discovery until approved by TVA.
2. Agency shall control all emissions of pollutants that might be discharged or released directly or indirectly into the atmosphere, into any stream, lake, reservoir, watercourse, or surface or subterranean waters, or into or on the ground from any part of a TVA site, in full compliance with all applicable standards and requirements relating to pollution control of any kind now in effect or hereafter established by or pursuant to federal, state, or local statutes, ordinances, codes, or regulations. To the extent permitted by law, Agency shall indemnify, defend, and hold harmless TVA from any and all claims, costs, or losses that may arise as a result of Agency's breach of this provision.
3. If there is a discharge or release of a hazardous substance, material, or waste, or of any pollutant or other substance, in or from a TVA site by any person or entity other than TVA for which a cleanup, remediation, restoration, removal, or other action (hereinafter, individually and collectively, referred to as "environmental response") is ordered or required pursuant to any federal, state, or local statute, regulation, or ordinance, Agency shall bear full responsibility for the cost (including, without limitation, natural resources damages and costs) of said environmental response, and shall not seek any contribution or indemnification from TVA for all or any portion of said costs; provided, however, that nothing in this paragraph is intended to or shall preclude Agency from seeking indemnification or contribution from any other person or entity.
4. Agency shall comply with any applicable provisions of Section 107 of the Contract Work Hours and Safety Standards Act; the Occupational Safety and Health Act of 1970 regulations; and site-specific safety, health, and security requirements.

Miscellaneous Terms and Conditions

1. This Agreement is governed by and is to be construed under Federal law and to the extent not inconsistent with Federal law or to the extent that Federal law does not supply a rule of interpretation or decision as to the specific legal issue in question, the laws of the State of Tennessee without regards to its conflicts of law rules or decisions. This Agreement conveys no property rights, interest or estate in land or title to real property, and grants no exclusive license.
2. All work conducted by Agency is entirely at its own risk. In executing this Agreement, Agency expressly understands and agrees that TVA makes no warranty, express or implied, to Agency or any third party in connection with this Agreement. TVA expressly disclaims any warranty to Agency and any third party permitted to use a TVA site under the terms of this Agreement or any means of access thereto or egress therefrom, are safe, adequate, or suitable for the purposes for which the site is intended to be used under this Agreement.

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3. A delay or omission by TVA hereto to exercise any right or power under this Agreement shall not be construed to be a waiver thereof. A waiver by TVA under this Agreement shall not be effective unless it is in writing and signed by TVA. A waiver by a party of a right under or breach of, this Agreement shall not be construed to operate as a waiver of any other or successive rights under, or breaches of, this Agreement.
4. Agency agrees that it does not have the power or authority to bind TVA or to assume or create any obligation or responsibility, express or implied, on TVA's part or in TVA's name, or to represent to any person or entity that it has such power or authority.
5. The remedies provided to TVA in this Agreement are cumulative and not intended to be exclusive of any other remedies to which TVA may be entitled at equity or law. The exercise by TVA of any remedy to which it is entitled shall not preclude or hinder the exercise of any other such remedy nor constitute an election of remedies.
6. By signing this Agreement, the Agency and TVA acknowledge this is the entire Agreement between the parties which supersedes all other communications, either oral or written, with respect to the subject matter hereof. Neither TVA nor Agency will be bound by, or be liable to the other for any statement, representation, promise, inducement, or understanding not set forth herein. No amendments or modifications to this Agreement shall be valid unless mutually agreed by written Agreement executed by TVA and Agency. Any costs incurred by either party in implementing this Agreement are the sole responsibility of that the Agency.

If the foregoing correctly reflects our Agreement, please execute your acceptance on both copies of this letter, keep a copy for your records, and return a copy to:

Lesley White, Recreation Agreements Specialist
lmwhite@tva.gov

If you have questions about this Agreement, please call Lesley White or Nick Morris at 731-641-2022.

Sincerely,



J. Scott Lea, Manager
Recreation

Accepted and agreed to this _____ day of _____, 2016.

Marshall County Fiscal Court

Signature: _____

Name (printed): _____

Title: _____



Enclosures
Attachment A - Supporting Description
RLR 279724

ATTACHMENT A SUPPORTING DESCRIPTION

I. INTRODUCTION

This contract is being established with Marshall County, Kentucky, Fiscal Court to improve trash containment and collection services on TVA reservoir lands at Big Bear Park, Birmingham Launch Ramp, Buckhorn Park, Rocky Point Park, Sledd Creek Public Access Area, Jonathan Creek Boat Ramp and Lakeland Wesley Village Park. The total project estimate is approximately \$11,000. This agreement will enhance the existing trash collection infrastructure with animal-proof trash cans at several locations, and will establish a routine trash collection service and grounds maintenance at the Sledd Creek Public Access Area, currently under license to the Kentucky Department of Fish and Wildlife Resources.

II. OBJECTIVE

To bring about concurrent resource benefits of recreation, water quality, and local/regional economic development for the general public and the citizens near Marshall County, Kentucky.

III. SCOPE OF WORK

The scope of work is to: 1.) Install animal-proof trash cans at seven public access areas, bolting them either to existing concrete pads or to concrete pads poured on site. 2.) Perform regular inspections of trash receptacles and empty whenever necessary. 3.) Maintain overgrown vegetation around picnic and parking areas at Sledd Creek Public Access Area.

IV. DELIVERABLES AND REPORTING

Marshall County will provide: site planning, labor, and materials and supplies for installation of animal-proof trash receptacles at the public access areas listed in this agreement. In addition to current trash collection responsibilities at all of its County parks, Marshall County will empty trash receptacles and provide general grounds maintenance, including mowing and weed-eating, at the Sledd Creek Public Access Area on an as needed basis. Grounds maintenance at Sledd Creek shall be performed no fewer than six times per year calendar year and be conducted within the areas outlined in ATTACHMENT C.

V. EQUIPMENT/MATERIAL REQUIREMENTS

Wherever necessary, Marshall County will supply the materials and supplies to form concrete pads and anchor all animal-proof trash receptacles to a stable base to prevent damage from flooding and reduce the likelihood of theft or vandalism. Procurement of materials and supplies necessary for performing grounds maintenance at the Sledd Creek Public Access Area are not considered to be relevant to this contract and the purchase of said materials and supplies do not require TVA approval.




Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aergrid, IGN, IGP, swisstopo, and the GIS User Community

Attachment B

Cooperative Agreement
RLR 279724
Marshall County Fiscal Court
Tract GIR-335
Sledd Creek, TN RM 25L

Map Reference:
9D
Quad Sheet 6NE

 Sledd Creek
Maintenance Area



March 11, 2016