

INTERLOCAL AGREEMENT BETWEEN THE CITY OF AUSTIN AND THE U.S. FISH AND WILDLIFE SERVICE

This Interlocal Agreement (“Agreement”) is entered into by the City of Austin (“City”), a home-rule municipal corporation located in Travis County, Texas, and the U.S. Fish and Wildlife Service (“USFWS”), collectively referred to as the “Parties,” regarding the USFWS Balcones Canyonlands National Wildlife Refuge Fire Management District headquartered in Marble Falls, Texas. This Agreement is entered into between the Parties pursuant to Texas Government Code Chapter 791.

I INTRODUCTION:

The Parties involved in the Agreement engage in prescribed fire planning and implementation, for the maintenance or enhancement of wildlife habitat, or the reduction of hazardous fuels for the protection of life, property, and resources. In addition, the Parties have a mutual interest in protecting life, property and natural resources from wildfires and other “all hazard” incidents. In order to meet these responsibilities safely and efficiently, the agencies involved understand the need for assistance during prescribed fire, wildfire and other “all hazard” incidents.

II PURPOSE:

The purpose of this Agreement is to establish a framework of cooperation for each of the Parties to provide mutual support, cooperation and assistance for prescribed fire management, fire prevention, fire preparedness; and for emergency management and assistance on “all hazard” incidents such as wildfire and floods. It will also provide for technical support and training; and will allow each Party to request equipment, personnel, and appropriate personal safety items as necessary to ensure the safety of employees participating interagency incident management efforts. Parties understand that the resources available from the City under this Agreement are limited to the resources of the Austin Fire Department.

III STATEMENT OF MUTUAL BENEFIT:

Management of prescribed fire, wildland fire, or other emergency incidents, of one or another of the parties’ land, could require greater resources and expertise than that party can handle. It is in the best interest of each Party to have available for, and response to, these incidents.

It is to the mutual advantage of the USFWS and the City to coordinate efforts for prevention, training for, detection, and suppression of wildfires; and management and training for prescribed fires and other incidents to improve efficiency and effectiveness.

IV RESPONSIBILITIES:

- 1 Each Party will designate a contact person for the implementation of the Agreement.
- 2 All requests for assistance shall be made through the appropriate contact person or designee.
- 3 Upon proper request for assistance, the responding Party will return acknowledgement of any available resources requested through the appropriate contact person or designee.
- 4 The responding agency will provide the requesting agency with all information available concerning resources being provided including, numeric identifier, type of equipment, number of personnel responding, and estimated time of arrival to staging.
- 5 The requesting Party will establish a point of contact and staging area for the responding Party. Upon arrival the requesting Party will provide an incident briefing, which identifies the incident commander, the objectives, safety hazards, and assignment of the Party responding.
- 6 Each Party will work under the supervision of the incident commander or burn boss or appropriate next level supervisor as designated by the incident commander or burn boss.
- 7 Each Party will provide for compensation of its own employees and operate and maintain its own equipment.
- 8 All personnel shall meet the qualifications of the National Wildfire Coordinating Group for the positions that they will occupy.
- 9 When responding to a request for assistance under this Agreement, no Party will dispatch persons under 18 years old, because of the hazardous or arduous duties involved during wildland fire management operation.
- 10 When responding to a request for assistance under this Agreement, each Party is acting on behalf of its own agency and it is the responsibility of each employee to work within the policy and limitations of his/her agency.
- 11 No Agreements should ever be entered into that require an agency to use up all of its resources in assisting another Party when such depleting activity is outside of its legally mandated primary responsibilities.
- 12 The mutual cooperation agreed to in this Agreement is to be implemented by each Party in good faith and in a reasonable manner so as not to cause harm to that Party's primary mission and duties pursuant to applicable federal, state, or local statutes, regulations, and agency policies.

V AGREEMENT TERM:

This Agreement will remain in force for a period of five years from the date of execution by both Parties.

This Agreement may be modified or amended as necessary upon written consent of all parties or may be terminated by either party with 60 days written notice to all parties.

Review. The Parties shall review their experiences in implementing this

Agreement near the end of the Agreement's term. At that time, the Parties shall decide whether to execute a new Agreement on the same terms as this Agreement, to enter into a new type of Agreement with revised terms to meet the needs of the parties, or to have no Agreement.

VI SPECIAL PROVISIONS:

- 1 Specifically citing Texas Government Code Section 791.006(a-1), the Parties agree that, for purposes of determining civil liability for non-party claims, the act of any person or persons while fighting fires, providing rescue services, providing first response EMS services, traveling to or from any type of emergency call or emergency scene, or in any manner furnishing services in accordance with this Agreement, shall be the act of the party performing such act. The payment of any and all civil or other liability, including negligence, resulting from the furnishing of services under this Agreement is the responsibility of the individual party performing such acts. This shall specifically include, but not be limited to, the payment of court costs, expenses, and attorneys' fees resulting from any such claim or lawsuit. The parties agree that the assignment of liability described this Section is intended to be different than liability otherwise assigned under Section 791.006(a) of the Texas Government Code.
- 2 It is expressly understood and agreed that the entering into and execution of this Agreement does not waive, nor shall be deemed to waive, any immunity or defense that would otherwise be available to a party against third-party claims arising from activities performed under this Agreement.
- 3 This Agreement is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between parties of this Agreement will be handled in accordance with applicable laws, regulations, and procedures. Each Party's monetary obligations, if any, are for the performance of governmental functions or services and are payable only from the current revenues appropriated and available for the performance of those functions or services.
- 4 Federal Appropriations. Nothing in this Agreement may be construed to obligate the United States, the Department of the Interior, or the Service to any current or future expenditure of resources in advance of the availability of appropriations from Congress. Nothing in this Agreement may be construed to obligate the City to any current or future expenditure of resources in advance of the availability of appropriations.
- 5 Non-Exclusivity. This Agreement does not create and should not be regarded as an exclusive arrangement between the Parties to the Agreement.
- 6 No partnerships. This Agreement shall not make or be deemed to make any party to this Agreement an agent for or the partner of any other party.
- 7 Attorney Fees. If any action at law or equity including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, each party to the litigation shall bear its own attorney's fees and costs.
- 8 Venue for any action at law or equity related to this Agreement shall be in Travis County, Texas.
- 9 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the matters covered by this Agreement, and no other Agreement, statement, or promise made by any party, or to any employee, officer, or agent of

- any party, which is not contained in this Agreement shall be binding or valid.
- 10 **Contacts.** For purposes of this Agreement, the following individuals are principle contacts. Notices to be given hereunder shall be made in writing and may be given by delivering the same in person, by mail, or by telecopy (facsimile). Notices shall be effective only if and when received at the address of the party to be notified.

U.S. Fish and Wildlife Service

Balcones Canyonlands National Wildlife
Refuge
Refuge Manager, Deborah Holle
24518 FM 1431
Marble Falls, TX 78654
512-339-9432 ext 10, Fax 512-339-6530

signature		date

U.S. Fish and Wildlife Service

Balcones Canyonlands National Wildlife
Refuge
Fire Management Officer, Carl Schwope
24518 FM 1431
Marble Falls, TX 78654
512-339-9432 ext 40

signature		date

City of Austin

Marc A Ott, City Manager
P.O. Box 1088
Austin, TX 78767-8859
512-974-6339

signature		date

Austin Fire Department

Rhoda Mae Kerr, Fire Chief
4201 Ed Bluestein Blvd
Austin, TX 78721
512-974-0131

signature		date

Approved as to form:

City of Austin Law Department

signature		date

DRAFT