

CITY OF AUSTIN

AND

TEXAS DEPARTMENT OF PUBLIC SAFETY

INTERLOCAL AGREEMENT FOR STATE OF TEXAS CAPITOL COMPLEX

THIS INTERLOCAL AGREEMENT ("Agreement") is made by and between the City of Austin ("City"), a home-rule municipality and political subdivision of the State of Texas, and the Department of Public Safety of the State of Texas, a state agency ("TXDPS"), which are referred to herein as the "Parties."

WHEREAS, the City and TXDPS are authorized to enter into this Agreement under Section 411.062 and Chapter 791 of the Texas Government Code; and

WHEREAS, the Parties would like to define respective responsibilities for the maintenance of signs, signals, street markings, and parking meters within the Capitol Complex; and

WHEREAS, the Parties would like to define respective responsibilities for coordinating street closures within the Capitol Complex; and

WHEREAS, the Parties would like to define respective responsibilities for traffic and parking enforcement, and general security in the Capitol Complex, including private property within the Capitol Complex; and

WHEREAS, TXDPS and the City acknowledge that in the event of a significant event, Austin Police Department ("APD") law enforcement officers will have concurrent jurisdiction over State of Texas property located within the Capital Complex, located within the jurisdiction of Travis County and that no mutual aid request is necessary for APD officers to make an arrest in that jurisdiction for the duration of APD's participation in a significant event at the request of TXDPS.

NOW THEREFORE, the Parties hereto, for and in consideration of these promises and mutual obligations herein undertaken do, hereby, agree as follows:

Article 1. Contract Term, Termination

1. This Agreement shall become effective on the date it is signed by the last of the two Parties to this Agreement, and shall continue in full force and effect for ten (10) years after execution of this Agreement, unless amended in writing by the Parties under Article 7 or terminated under Section 2 of this Article.

2. The Parties may terminate this Agreement upon mutual written consent or either party may terminate this Agreement upon thirty (30) calendar days written notice to the other party.

Article 2. Police and Security Functions

The "Capitol Complex," as defined by Texas Government Code, Section 411.061, is the property more particularly described in Exhibit "A" attached to this Agreement and by this reference incorporated herein.

The TXDPS shall provide all police and general security functions within the Capitol Complex, including private property located in a state building. These functions shall include all criminal and traffic law enforcement. APD shall continue to respond to calls for police service and criminal offense investigation at all locations within the Capitol Complex occurring on private property that is not located in a state building. APD Communications shall provide Austin DPS Communications with any information regarding calls for service located within the Capitol Complex.

Nothing in this Agreement shall preclude a peace officer as defined in the Texas Code of Criminal Procedure ("CCP"), Article 2.12, "Who are Peace Officers," from exercising their duties as a peace officer in accordance with CCP, Article 14.01, "Offense Within View" or Article 14.03, "Authority of Peace Officers."

TXDPS shall be responsible for obtaining and coordinating resources within its agency needed to provide full command and control over all significant events that exclusively affect and occur on State of Texas property located within the Capitol Complex. At its discretion and at the request of TXDPS, APD may render assistance during a significant event that exclusively affects and occurs on State of Texas property located within the Capitol Complex.

At the discretion of TXDPS and contingent upon APD availability, TXDPS may request assistance from APD for significant events, as needed. Any multi-agency law enforcement response at the request of TXDPS to a significant event at the Capitol Complex (e.g., weapon of mass destruction ("WMD"), homicide in progress, mass evacuation, large protest, etc.) shall be worked using a Unified Command (as defined by the National Incident Management System Incident Command System) which shall enable responding agencies with different legal, geographic, and functional responsibilities to coordinate, plan, and interact effectively.

TXDPS shall notify the Austin Regional Intelligence Center ("ARIC") of any special event, incident, or situation within the Capitol Complex or any property under the control of TXDPS that may affect the safety of the residents of the City of Austin.

APD shall notify the TXDPS Fusion Center of any special event, incident, or situation on any property within the city limits of the City of Austin that may affect the safety of the Capitol Complex or any property under the control of TXDPS. At its

discretion, TXDPS may contact APD at any time for a “real-time” update on any special event, incident, or situation on any property within the city limits of the City of Austin that may affect the safety of the Capitol Complex or any property under the control of TXDPS.

Article 3. Street Closures within the Capitol Complex

The City shall notify the TXDPS Fusion Center of any special event, incident, or situation (not limited to those of a criminal nature) on any property within the city limits of the City of Austin that may affect the Capitol Complex or any property under the control of TXDPS.

The City shall coordinate all street event closures within the Capitol Complex with the TXDPS Commander of the Capitol Complex or his designee (“TXDPS Commander”). The City shall notify the TXDPS Commander or his designee within five (5) business days of receiving an application to close any portion of any right-of-way within the Capitol Complex. Persons or organizations that desire to close any portion of right-of-way within the Capitol Complex shall make application to the City following normal application processes. The City shall issue all permits for construction activities within the right-of-ways of the Capitol Complex. The City or its designated contractor shall notify the TXDPS Commander and Executive Director of the Texas State Preservation Board of any construction activities that require the use or removal of parking areas a minimum of seven (7) business days in advance of occupying the parking area. The City’s designated contractor shall be responsible for any fees required for parking closure. The City or its designated contractor shall install temporary “No Parking Tow Away” signs where required to prohibit parking. The City Parking Enforcement Officers shall have the authority to enforce parking regulations within construction sites located within the Capitol Complex. The City shall coordinate its enforcement activities within construction sites with the TXDPS Commander or his designee. The City shall notify TXDPS no less than six (6) months prior to beginning any planned major street reconstruction within the Capitol Complex, which requires street closure. The City shall provide the TXDPS Commander or his designee with as much advance notice as possible for emergency street construction activities.

Article 4. Parking Meters

The TXDPS shall coordinate with the Texas State Preservation Board (“SPB”) to install, operate, maintain, enforce, and collect monies from all state-owned parking meters installed within the Capitol Complex in accordance with Section 443.015 of the Texas Government Code, or other applicable Texas laws. This shall include all meters in place at locations operated and maintained by the City along either side of the streets forming the perimeter of the Capitol Complex on or before January 1, 1997.

Article 5. Signs, Signals, and Street Markings

The City of Austin shall continue to erect, maintain, and inventory all street and traffic signs within the Capitol Complex except for signs that regulate parking. TXDPS shall erect, maintain, and inventory all signs within the Capitol Complex that regulate parking.

The City of Austin shall continue to erect, maintain, and inventory all electronic traffic control devices including, but not limited to, stop and go signals, turn signals, and flashing caution signals.

The City of Austin shall install and maintain all street markings within the Capitol Complex except for markings that regulate parking. TXDPS shall install and maintain all street markings within the Capitol Complex that regulate parking including, but not limited to, no parking zones, timed parking zones, and parking meter stall lines. Prior to any changes by the City or TXDPS, the Parties shall notify the other and the State Preservation Board.

Article 6. City May Provide Service upon Request of TXDPS

The City may within its ability to perform, and upon prior written request of TXDPS authorized by the TXDPS Commander, provide the following service within the Capitol Complex:

- A. Parking meter installation and repair.
- B. Street markings or signage which regulates parking.
- C. Installation of other items or equipment related to public safety.

Reimbursement for materials and work performed under this Article will be made by TXDPS based upon itemized invoices presented by the City and approved by TXDPS. The itemized invoices shall include details as prescribed by TXDPS. TXDPS shall make payment to the City within thirty (30) days from receipt of the City's request for payment and performance of the services, whichever is later, provided the request is properly prepared and consistent with this Agreement. Payments under this Agreement shall be made from current revenue available to the party.

Article 7. Amendments

Any changes in the text, provisions, responsibilities, or obligations authorized herein shall be made by written amendment executed by both Parties.

Article 8. Successors and Assigns

The TXDPS and the City bind themselves, successors, assigns, and legal representatives to the other party to this Agreement and the successors, assigns, and legal representatives of such other party to all covenants and provisions

provided herein. Furthermore, neither party shall assign or transfer any interests in this Agreement without the prior written consent of the other party.

Article 9. Severability

If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, that holding 1) shall not invalidate the remainder of this Agreement; 2) shall be limited to the specific parts of this Agreement described in that holding; and 3) shall not affect the validity of this Agreement in any way or in any other instance. The provisions of this Agreement are intended to be severable for this purpose. All other provisions shall remain in full force and effect.

Article 10. No Waiver

No waiver of default by either party of any rights and obligations to be performed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of the rights and obligations of the other party.

Article 11. Entire Agreement

This Agreement constitutes the entire Agreement between the City and TXDPS. No other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained in this Agreement is valid or binding.

Article 12. Choice of Law and Venue

This Agreement shall be governed by the laws of the State of Texas. Venue and jurisdiction of any litigation, or right of cause of action under or in connection with this Agreement shall be exclusively in Travis County, Texas.

Article 13. Chapter 2260, Texas Government Code

The City shall use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code and the applicable TXDPS administrative rules to attempt to resolve all disputes or contract claims arising under this Agreement.

Article 14. Legal Notices

Any notices provided under this Agreement shall be in writing and either sent by certified mail, postage paid, return receipt requested, or hand-delivered, addressed in each case as follows, until some other address is designated in a written notice to the other party.

City Manager
City of Austin
P. O. Box 1088

Director
Texas Department of Public Safety
P. O. Box 4087

Austin, Texas 78767

Austin, Texas 78773-0001

Chief of Police
City of Austin
P. O. Box 689001
Austin, Texas 78768-9001

TXDPS Commander, Capitol Complex
Texas Department of Public Safety
P. O. Box 13126
Austin, Texas 78711-3126

Director
Austin Transportation Department
City of Austin
P. O. Box 1088
Austin, Texas 78767

Executive Director
Texas State Preservation Board
P.O. Box 13286
Austin, Texas 78711

City Attorney
City of Austin
P. O. Box 1088
Austin, Texas 78767

Article 15. No Liability for Employees and Officers

Each party to this Agreement agrees that it shall have no liability whatsoever for the actions or omissions of the other party's employees and officers, regardless of where the individual's actions or omissions occurred. Each party is solely responsible for the actions or omissions of its employees and officers; however, such responsibility is only to the extent required by Texas law. Where injury or property damage result from the joint or concurring acts or omissions of the Parties, any liability shall be shared by each party in accordance with the applicable Texas law, subject to all defenses, including governmental immunity. These provisions are solely for the benefit of these Parties and not for the benefit of any person or entity not a party to this Agreement; nor shall any provision of this Agreement be deemed a waiver of any defenses available by law.

Article 16. No Liability for Homeland Security Activity

Pursuant to Section 421.062 of the Texas Government Code, the Parties are not responsible for any civil liability that arises from furnishing a service related to a homeland security activity, as defined by Section 421.001 of the Texas Government Code, while acting under this Agreement.

Article 17. No Joint Enterprise

The Parties are associated with each other only for the purposes and to the extent set forth in this Agreement, and with respect to the performance hereunder, the Parties are and shall be independent contractors and shall have the sole right to supervise, manage, operate, control, and direct the performance of the details incident to its duties in this Agreement. Nothing contained in this Agreement shall

be deemed or construed to create a partnership or joint venture, to create the relationship of an employer-employee or principal-agent, or to otherwise create any liability for the Parties whatsoever with respect to the indebtedness, liabilities, and obligations of the other party to this Agreement or any other party.

Article 18. No Apparent Agency

Neither party has authority for or on behalf of the other except as provided in this Agreement. No other authority, power, partnership, or rights are granted or implied.

Article 19. Audit

The City understands and agrees that acceptance of state funds under this Agreement acts as acceptance of the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds in accordance with Section 2262.003 of the Texas Government Code. The City further agrees to cooperate fully with the State Auditor's Office or TXDPS in the conduct of an audit or investigation, including providing all records requested. The City shall ensure that this clause concerning the State Auditor's Office or TXDPS' authority to audit state funds and the requirement to cooperate fully with the State Auditor's Office is included in any subcontract it may award. The State Auditor's Office or TXDPS shall, at any time, have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of the City relating to this Agreement. The City shall keep all records and documents regarding this Agreement for the term of this Agreement and for four (4) years after termination of this Agreement.

Article 20. Certifications

The Parties certify that this Agreement is authorized by the governing body of the Parties. The signatories for the Parties certify that they have full and complete authority to enter into this Agreement on behalf of the Parties.

IN WITNESS WHEREOF, the Parties have executed duplicate counterparts to effectuate this Agreement.

Mark A. Ott
City Manager
City of Austin

Steven C. McCraw
Director
Texas Department of Public Safety

Date: _____

Date: _____

Exhibit "A" - Capitol Complex Map