



## Recommendation for Water & Wastewater Commission

<b>Commission Meeting Date:</b>	October 14, 2015
<b>Council Meeting Date:</b>	November 19, 2015
<b>Department:</b>	Austin Water
<b>SUBJECT</b>	
Authorize negotiation and execution of an Interlocal Cooperation Agreement between the City of Austin and Travis County for the funding of research, monitoring, data analysis, and population and habitat suitability modeling for the endangered golden-cheeked warbler on the Balcones Canyonlands Preserve. Travis County has agreed to provide \$25,000 in funding for the final year of the United States Forest Service contract.	
<b>AMOUNT AND SOURCE OF FUNDING</b>	
The Travis County Commissioners Court previously approved a contribution of \$25,000 in the County's 2015 fiscal year to ensure full funding and completion of the study.	
<b>Purchasing Language:</b>	N/A
<b>Prior Council Action:</b>	February 17, 2011- Council approved the Collection Agreement with the United States Forest Service. January 17, 2013- Council amendment the Collection Agreement with the United States Forest Service.
<b>For More Information:</b>	Sherri Kuhl, 512-972-1664; Daryl Slusher; 512-972-0218
<b>Boards and Commission Action:</b>	October 14, 2015- To be reviewed by the Water and Waste Water Commission.
<b>MBE/WBE:</b>	N/A

Austin Water's Wildland Conservation Division requests authorization to enter into an Interlocal Cooperation Agreement with Travis County in which Travis County will provide the City of Austin with \$25,000 to help fund research, monitoring, data analysis, and population and habitat suitability modeling for the endangered golden-cheeked warbler and Balcones Canyonlands Preserve (BCP).

This project is a landmark study and focuses on addressing four key questions: 1) What is the absolute abundance of the Golden-cheeked Warbler (warbler) on the BCP and on individual macrosites? 2) How do demographics (e.g. density, productivity, survival) vary with landscape and habitat factors? 3) How viable are these populations? and 4) How do various management scenarios influence population viability? Addressing these questions is critical to assure the long-term viability of the warbler, which is a fundamental goal of the Balcones Canyonlands Conservation Plan and will help assure permit compliance for the City and County. To answer these questions, estimates of fecundity, recruitment, dispersal, abundance, survival, and habitat characteristics are needed across space and time within the BCP. In order to fill knowledge gaps, understand species' response to management, and provide reasonable demographic measures based on real data for modeling population growth and persistence, this project requires intense monitoring to obtain this information. This includes: color banding and tracking individual warblers; searching for and monitoring nests; conducting point counts; and collecting vegetation data for nests and point count locations across the BCP. This type of data collection is very labor and time intensive and generates large amounts of data to be analyzed. The data is essential to understanding and successfully managing habitat for the long term viability of the golden-cheeked warbler population.

The Wildland Conservation Division is made up of the Balcones Canyonlands Preserve program and the Water Quality Protection Lands program protecting over 40,000 acres of land from roughly Cedar Park to Kyle. The Balcones Canyonlands Preserve was established as a result of a Federal Permit issued to the City of Austin and Travis County to authorize impacts to eight endangered species. This permit requires active management, monitoring, and research for these endangered species.

**INTERLOCAL COOPERATION AGREEMENT  
BETWEEN  
THE CITY OF AUSTIN  
AND  
TRAVIS COUNTY  
FOR GOLDEN-CHEEKED WARBLER STUDY**

This agreement (Agreement) is an interlocal agreement authorized and governed by the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. Each party represents and warrants that in the performance of its respective obligations as set forth in this Agreement, it is carrying out a duly authorized governmental function, which it is authorized to perform individually under the applicable statutes of the State of Texas and/or its charter. Each party represents and warrants that the compensation to be made to the performing party contemplated in this Agreement are in amounts that fairly compensate the performing party for the services or functions described in this Agreement, and are made from current revenues available to the paying party. This Interlocal Cooperation Agreement (this “Agreement”) is between Travis County (the “County”) and the City of Austin (the “City”).

**I. WITNESSETH**

**WHEREAS**, Travis County and the City of Austin are joint holders of USFWS Permit TE-788841-2, an Endangered Species Act Section 10a permit for the Balcones Canyonlands Conservation Plan (the “BCCP”) a 30-year permit issued by the United States Fish & Wildlife Service (“USFWS”) in 1996;

**WHEREAS**, USFWS Permit TE-788841-2 requires the County and the City to acquire, protect, and manage the Balcones Canyonlands Preserve (the “BCP”) in part for the federally listed golden-cheeked warbler (*Setophaga chrysoparia*) (“warbler” or “GCWA”), its habitat, and the long-term survival of the warbler in Travis County, as mitigation for development within the County;

**WHEREAS**, The County and City’s joint and cooperative administration and management of the BCCP are guided, in part, by the “Interlocal Cooperation Agreement between Travis County and the City of Austin Implementing the Balcones Canyonlands Conservation Plan – Shared Vision” adopted in August 1995 (“interlocal agreement”) and included as part of the ESA Section 10a permit;

**WHEREAS**, Among other things, the interlocal agreement provides for joint and cooperative efforts on preserve management as well as joint and cooperative funding of preserve administration and management;

**WHEREAS**, In February 2011, the City entered into an agreement with the U.S. Forest Service Northern Research Station (the “Forest Service”) to conduct a warbler population viability and habitat suitability study (the “Study”) within the BCP. Under the agreement with the Forest Service, the City of Austin has provided \$65,000 to \$85,000 annually to the Forest Service to conduct the Study because the Forest Service has expertise in population and habitat modelling, and in the ecology and conservation of migratory songbirds, including the warbler;

**WHEREAS**, In December 2014, the City and the Forest Service modified their agreement to (1) extend the performance period from February 17, 2015 to February 17, 2016, (2) provide an additional \$85,000 in funding for the Study, and (3) to revise the scope of services for the Study;

**WHEREAS**, The County has collaborated on the Study with the City of Austin and the Forest Service by performing various field surveys and analyses;

**WHEREAS**, Completion of the Study is important to understanding the long-term viability of the warbler within the BCP. Ensuring viability of the warbler population is a fundamental goal of the BCCP;

**WHEREAS**, The Travis County Commissioners Court previously approved a contribution of \$25,000 in the County's 2015 fiscal year to ensure full funding and completion of the Study.

**NOW THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them kept and performed as hereafter set forth, the County and City do agree as follows:

## **II. PURPOSE OF THE AGREEMENT**

The purpose of this Agreement is to identify and define the responsibilities of the County and the City for cost-sharing the fifth and final year of the Study to complete the specific tasks outlined in Attachment 1, which is Exhibit B to Modification 4 to the agreement between the City of Austin and the Forest Service.

## **III. TERM**

This Agreement becomes effective when signed by the last party to the Agreement. This agreement shall be in full force and effect until the Parties have completely performed their obligations as stated herein, unless otherwise terminated. It is the intent and understanding of the Parties that the obligations of each party under this Agreement shall remain effective only so long as and provided that each party has fully appropriated funds for performing such obligations for the party's current fiscal year. If for any fiscal year of any party funds are not appropriated for such party's performance of its obligations under this Agreement, this Agreement shall become void and such party shall promptly give notice to the other parties of the non-appropriation of funds.

## **IV. OBLIGATIONS OF THE CITY**

A. The City agrees to fulfill its obligations under the City's contract with the Forest Service for the Study and to enforce the provisions of the contract. The City will promptly notify the County of any changes to the City's contract with the Forest Service.

B. The City will continue to collaborate with the Forest Service, the County, and other BCP partners to successfully complete each of the eight tasks identified in Attachment 1 and answer the four primary questions listed in Attachment 1.

C. The City will promptly provide the County with electronic and hard copies of data collected as a result of the Study and any reports or analyses of that data.

D. The City will promptly provide the County with electronic and hard copies of any draft articles for peer-reviewed publications and provide the County an opportunity to comment on the drafts before they are submitted for publication.

E. The City will promptly provide the County with electronic and hard copies of final drafts of articles relating to the Study that are submitted for publication in peer-reviewed publications.

## **V. OBLIGATIONS OF THE COUNTY**

A. Within 30 days after the City submits an invoice to the County that cites this Agreement, the County will provide payment to the City in the amount of \$25,000 as the County's contribution to the Study costs outlined in Attachment 1.

B. The County will continue to collaborate with the Forest Service, the City, and other BCP partners to successfully complete each of the eight tasks identified in Attachment 1 and answer the four primary questions listed in Attachment 1.

## **VI. LIABILITY**

The City and the County agree that each entity is responsible for its own proportionate share of any liability for its negligent acts or omissions.

## **VII. MISCELLANEOUS**

A. Force Majeure. In the event that the performance by the City or the County of any of its obligations or undertakings hereunder shall be interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God, or the common enemy, or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party or privy hereto, then it shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effects hereto.

B. Notice. Any notice given hereunder by either party to the other shall be in writing and may be effected by personal delivery in writing or by registered or certified mail, return receipt requested when mailed to the proper party, at the following addresses:

CITY: Lisa O'Donnell  
City of Austin BCP Senior Biologist  
3621 South FM 620  
Austin, Texas 78738

WITH COPY TO: Mitzi Cotton (or successor)  
Assistant City Attorney  
City of Austin Law Department  
301 W. 2<sup>nd</sup> Street  
Austin, Texas 78701

COUNTY: Steven M. Manilla, P.E. (or successor)  
County Executive, TNR  
P. O. Box 1748

Austin, Texas 78767

AND: Cyd Grimes, C.P.M., CPPO (or successor)  
Travis County Purchasing Agent  
P.O. Box 1748  
Austin, Texas 78767

WITH A COPY TO: David Escamilla (or successor)  
Travis County Attorney  
P. O. Box 1748  
Austin, Texas 78767  
File No. 291.569

- C. Number and Gender Defined. As used in this Agreement, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number shall each be deemed to include the others.
- D. Entire Agreement. This Agreement contains the complete and entire Agreement between the Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understanding, if any, between the parties respecting the Study. This Agreement may not be modified, discharged, or changed in any respect whatsoever except by a further agreement in writing duly executed by authorized representatives of the Parties. No official, representative, agent, or employee of Travis County, Texas has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the Commissioners Court of Travis County, Texas. The recitals set forth above and Attachment 1 are incorporated herein.
- E. Effective Date. This Agreement takes effect upon the last date of execution of the Agreement by the City and the County as described in Section III.
- F. Invalid Provision. Any clause, sentence, provision, paragraph, or article of this agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Agreement, but the effect thereof shall be confined to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or ineffective.
- G. Current Funds. The party or parties paying for the performance of governmental functions or services shall make payments therefor from current revenues available to the paying party.

*[Signatures on following page]*

CITY OF AUSTIN, TEXAS

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_  
Authorized Representative

Date: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Assistant City Attorney

TRAVIS COUNTY, TEXAS

By: \_\_\_\_\_  
Sarah Eckhardt, County Judge

Date: \_\_\_\_\_

## **ATTACHMENT 1**



# EXHIBIT B

to

## MODIFICATION 4 TO THE COLLECTION AGREEMENT

Between The  
CITY OF AUSTIN  
And the  
USDA, FOREST SERVICE  
NORTHERN RESEARCH STATION

### **MODIFIED SCOPE OF SERVICES AND TASKS**

**FOR**

**GOLDEN-CHEEKED WARBLER POPULATION VIABILITY AND HABITAT  
SUITABILITY WITHIN THE BALCONES CANYONLANDS PRESERVE**

**PRIMARY CONTACT FOR US FOREST SERVICE:** Frank R. Thompson, III, Research Wildlife Biologist, USDA Forest Service, Northern Research Station, University of Missouri, Columbia, MO 65211; Phone: 573-875-5341 x224; E-mail: [frthompson@fs.fed.us](mailto:frthompson@fs.fed.us).

**PRIMARY CONTACT FOR CITY OF AUSTIN:** Lisa O'Donnell, City of Austin BCP Senior Biologist, 3621 South FM 620 Rd., Austin, Texas 78738; Phone 512-972-1664; E-mail [lisa.odonnell@austintexas.gov](mailto:lisa.odonnell@austintexas.gov).

**BACKGROUND:** The U.S. Forest Service ("USFS") submitted a proposal to the City of Austin ("COA") to provide golden-cheeked warbler (warbler) Population Viability and Habitat Suitability modeling within the Balcones Canyonlands Preserve ("BCP"). Additionally, USFS refined a point count monitoring methodology and worked with COA staff to refine current monitoring protocols to assure the information collected could be utilized in the modeling project. This scope of services outlines tasks for the fifth and final year of this project. This document also includes a brief summary of additional analyses that could be pursued under a new contract.

This project focuses on four primary questions:

- 1) What is the absolute abundance of the warbler on the BCP and on individual macrosites?
- 2) How do demographics (e.g. density, productivity, survival) vary with landscape and habitat factors?

- 3) How viable are these populations?
- 4) How do various management scenarios influence population viability?

Answers to these questions are important to assure the long-term viability of the warbler which is ultimately the goal of the Balcones Canyonlands Conservation Plan and will help assure permit compliance for COA and Travis County. To answer these questions, we need knowledge of fecundity, recruitment, dispersal, abundance, and survival across space and time for populations both on and off the BCP. In order to fill these knowledge gaps, understand species' response to management, and provide reasonable demographic measures based on real data for modeling population growth and persistence, more intense monitoring across the BCP is necessary. This project will provide the needed support to obtain this information.

The primary goal of the BCP is to protect and enhance the habitat of endangered and rare species as mitigation for development in western Travis County. The BCP is critical to the survival and recovery of the warbler. Warbler habitat in western Travis County is widely considered to be the highest quality and least fragmented of any county within this species' breeding range. The BCP protects about 25-30% of the warbler's habitat in Travis County. To mitigate for the loss of the remaining habitat, management of the BCP must promote habitat sustainability, regeneration, and restoration to support a viable breeding population.

The warbler requires large blocks of mature, closed-canopy woodlands for nesting and raising young. Active habitat management requires minimizing threats to this species, including disturbance from human activities; declining oak regeneration from white-tailed deer, feral hogs, and oak wilt; non-native plants; and nest predators. Because the warbler requires mature woodlands, habitat regeneration could take decades to recover if negatively impacted by a poorly designed program. Given the complexity of the threats to the warbler, a more sophisticated analysis of the species, habitat, and management is needed to ensure effective management strategies are implemented.

This project proposes to develop models to better understand factors influencing the long-term viability of the warbler and its habitat and to predict the fate of both under various management scenarios. This project will build on existing monitoring and research, including the work being conducted by Baylor University, to estimate woodland stand age, successional pathways, and fire histories within the BCP. This research will provide a foundation for the models and will be used to evaluate how land use changes have affected habitat quality.

Existing species and habitat monitoring programs will be evaluated and revised as necessary to ensure collection of data needed to develop the models.

This project will be collaborative, with USFS, COA, Travis County, and other BCP partners playing key roles and contributing data. COA staff and BCP partners will have the opportunity to learn how the population/ habitat models work, how their data contribute to the models, and how this information can be used to support conservation and management of the warbler. With this understanding, COA staff and BCP partners will also be prepared to conduct similar analyses for other BCP species.

**YEAR 5 TASKS:** In accordance with the Year 4 scope of work, USFS will work with the City of Austin to provide an interim report (as part of the BCP's 2014 annual report) summarizing data collected and analyses conducted to date, and progress with respect to the four primary questions the project is addressing (see pages 1 and 2 of this scope of work). This will also include analyses of previously-collected nest monitoring data to determine what vegetation measures to continue collecting in 2015. For the final year, 2015, the following tasks are anticipated:

Task 1. January 2015. Submit for publication in peer-reviewed journals a paper on a hierarchical modeling approach to predicting and validating abundance of warblers on BCP by Jennifer Reidy, Univ. of MO; Frank Thompson, USFS; Courtney Amundsen, USGS; and Lisa O'Donnell, COA.

Task 2. January-February 2015: USFS, COA, and Travis County staff will finalize the plan for the 2015 field season to collect data needed for the population and habitat suitability models. The focus of the fifth field season will be on resighting banded birds, including the 50 nestlings banded in 2014; intensive monitoring on existing study plots, including banding nestlings; and nest searching/monitoring in additional areas to gather more productivity data along urban edges. COA contact will secure necessary permits from BCP partners and additional land owners to conduct research on their property.

Task 3. February-March 2015: All partners will review standardized methods developed in 2011-2014 for color-banding, spot mapping, nest searching/monitoring, nest vegetation, and re-sighting marked birds in preparation for field work (Task 4).

Task 4. March-June 2015: USFS, COA, Travis County, and participating BCP partners will collect data on intensive monitoring plots in accordance with Tasks 2 and 3. USFS will color-band nestlings and conduct nest searches/monitoring in

additional search areas identified in Task 2. COA and USFS will collect nest vegetation data.

Task 5. June-September 2015: Copies of all USFS and COA datasheets and maps from the above tasks will be provided to USFS and COA. USFS and COA will each enter all of the demographic (spot mapping, productivity, re-sighting) and nest vegetation data they collect into the COA BCP database. A copy of the database will be provided to the USFS and each participating BCP partner.

Task 6. June-September 2015: USFS and COA staff will finalize nest survival and productivity analyses and produce seasonal productivity estimates. USFS and COA staff will complete adult survival analyses, produce yearly survival estimates, and evaluate preliminary juvenile survival estimates.

Task 7. October -December 2015: USFS will submit a final report summarizing the results of each of the four questions identified for this project (see pages 1 and 2 of this scope of work). This will include:

- 1) Warbler abundance estimates across the BCP and within individual macrosites based on the point count data and hierarchical modeling.
- 2) Relationships between vital rates (density, productivity, survival) and habitat characteristics at the local and landscape scale.
- 3) Population viability models based on:
  - i. Lands currently within the BCP.
  - ii. Remaining undeveloped lands within the BCP acquisition boundaries.
  - iii. The population viability model will include analyses to evaluate how increases or decreases in vital rates would affect population viability, all input files required to run the model, and instruction for COA staff on how to run the model.
- 4) The results of 1-3 above will inform management by modeling how warblers interact with their habitat and how their environment drives population recruitment and survival. The models will lay the foundation for conducting additional population viability analyses as needed by BCP managers to address spatially-explicit management scenarios that could affect warbler populations.

Task 8. October-December 2015: USFS will collaborate with COA on the annual report submitted to USFWS

**ADDITIONAL EXPECTED PRODUCTS (delivered after December 2015).**

USFS, University of Missouri, and COA plan to submit the following for peer-reviewed publications, in accordance with the original study proposal and the terms and conditions of the City of Austin and Travis County BCP research permits:

1. GCWA survival on BCP estimated from a spatial mark-resight model
2. GCWA population viability on BCP based on current landscape conditions and survival estimates and productivity estimates from BCP

**BUDGET**

<b>EXPENSES</b>	<b>Total</b>
<b><u>SALARIES</u></b>	
J. Reidy Salary , 8.2 months	\$30,171
J. Reidy Benefits	\$10,671
Field technicians – 3 @ 16 weeks @ \$12.5/hr + benefits (8%)	\$25,920
Field technicians – 1 @ 16 weeks @ \$14.5/hr + benefits (8%)	\$10,022
<b><u>SUPPLIES</u></b>	
Field supplies	\$488
<b>TOTAL DIRECT COSTS</b>	<b>\$77,272</b>
<b>INDIRECT COSTS (10%)</b>	<b><u>\$7,727</u></b>
<b>TOTAL</b>	<b>\$85,000</b>