

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF AUSTIN AND
THE LOWER COLORADO RIVER AUTHORITY CONCERNING
MAINTENANCE REPAIR AND TESTING OF CITY ELECTRICAL UTILITY
EQUIPMENT**

THIS AGREEMENT is made and entered into by and between the City of Austin, a Texas home-rule municipal corporation ("Austin") and the Lower Colorado River Authority, a conservation and reclamation district of the State of Texas ("LCRA") pursuant to the Texas Interlocal Cooperation Act (Texas Government Code Chapter 791).

WHEREAS, Austin and LCRA are each engaged in generation and transmission of electric power and own and operate separate electric transmission facilities, lines, rights-of-way and electrical substation facilities; and

WHEREAS, Austin and LCRA own and operate similar electrical utility equipment, requiring maintenance and repair services, and dielectric testing; and

WHEREAS, LCRA has the necessary equipment and personnel and has developed the experience and expertise to maintain, repair, and perform dielectric testing on electric utility equipment; and

WHEREAS, having LCRA perform maintenance, repair and dielectric testing services on electrical utility equipment owned by Austin will maximize the utilization of resources of the respective utilities and reduce redundant expenditures; and

WHEREAS, LCRA is willing to perform repair, maintenance and dielectric testing services on Austin's electrical utility equipment upon the following terms and conditions.

NOW THEREFORE for and in consideration of the premises, and the mutual covenants and agreements set forth below, and other good and valuable consideration, Austin and LCRA agree as follows:

I. SCOPE OF SERVICES

1. Upon request by Austin, LCRA agrees, subject to the availability of personnel, facilities and equipment, to furnish all personnel, labor, material and equipment necessary to perform repair, maintenance, overhaul and dielectric testing services (collectively, "Services") on electrical utility equipment of Austin subject to the terms and conditions hereof.

2. Performance of Services hereunder shall be initiated by a work order authorized by both Austin and LCRA. The work order shall identify the subject equipment, the Services to be performed, provide a schedule for the performance of the Services, and upon request include an itemized estimate of the costs and expenses for Services performed under that work order.

3. Delivery and pick-up of Austin electrical utility equipment to and from LCRA shall be performed by Austin. LCRA shall notify Austin Fleet Service Center as soon as the electrical utility equipment is repaired and tested and ready for service.

4. The Services in this Agreement are not exclusive and nothing in this Agreement shall require Austin to have Services performed by LCRA or prohibit LCRA from performing similar Services for others.

II. COMPENSATION

1. Austin shall compensate LCRA for performance of the Services based on an agreed upon firm priced quote per job. If a change in the scope of work occurs, a revised firm priced quote will be submitted to Austin by LCRA. Work will continue once the revised quote is accepted in writing by Austin. The total cost to Austin for performance of the Services by LCRA during the term of this Agreement shall not exceed three hundred fifty thousand dollars (\$350,000) per year for a total not to exceed Agreement amount of one million seven hundred fifty thousand dollars (\$1,750,000) for the initial five year term and one million seven hundred fifty thousand dollars (\$1,750,000) for the second five year term.

2. Within fifteen (15) days after completion of the Services, LCRA shall send Austin an invoice citing the work order number and describing the Services performed, and the date(s) of performance. All work performed will be based on a firm priced quote.

3. Austin shall pay LCRA at the address shown on its invoice the amount due within thirty (30) days after receipt. Interest on delinquent accounts shall accrue at the rate of 1% per month (12.0% A.P.R.). Notwithstanding the above, in no event shall interest be charged exceeding the maximum allowed by Texas law.

4. Austin's obligations hereunder are payable only and solely from current funds appropriated and available for the purpose of this purchase. Lack of funds appropriated and available shall render this Agreement null and void to the extent that funds are not appropriated. Austin agrees that it shall not request services for which funds have not been appropriated and are not available.

III. TERM

1. This Agreement shall be effective as of the first day of the month following approval hereof by both Austin's City Council and the delegee of LCRA's Board of Directors (the "Effective Date").

2. This Agreement shall be for a term of five (5) years from the Effective Date hereof; provided, however, that this Agreement shall be automatically renewed for one (1) additional term of five (5) years subject to the availability of funding by Austin.

3. Either party may terminate this Agreement for convenience upon thirty (30) days prior written notice to the other party. Upon termination of this Agreement for convenience, (i) LCRA shall immediately discontinue work and shall thereafter perform only those services expressly required to be completed as necessary to effectively conclude the Services previously commenced, and (ii) LCRA shall be compensated for all services performed, and material and

equipment furnished, up to the effective date of termination as provided above.

IV. STANDARDS AND INSPECTIONS

LCRA shall perform all work hereunder in a good and workmanlike manner in accordance with the work order specifications and applicable industry standards and codes. Only new/OEM parts shall be used in the service and maintenance of electrical utility equipment. Austin shall have the right of inspection at all reasonable times during the performance of the work and prior to acceptance of the work. In the event that such inspection reveals that such work has not been performed in accordance with the above standards, LCRA shall either re-perform such work at no cost to Austin, or refund to Austin all amounts paid by Austin for such work.

V. INSURANCE

LCRA is a political subdivision of the State of Texas and is subject to the doctrine of sovereign immunity except where expressly waived by legislation. LCRA is also self-insured to the limits of its potential liability with respect to Worker's Compensation and self-insured for motor vehicle use and other acts which are within the scope of the Texas Tort Claims Act (TEX. CIV. PRAC. REM. CODE Section 101.021).

VI. NOTICES

Correspondence, notices and invoices shall be in writing and mailed, faxed, e-mailed or delivered to the other party as follows, or at such other address as a party may from time to time designate in writing. All notices, correspondence or invoices shall be effective upon receipt.

To Austin:

City of Austin
Fleet Services Division
P.O. Box 1088
Austin, Texas 78767-8845
Attn: Contract Management Supervisor

To LCRA:

Lower Colorado River Authority
P.O. Box 220
Austin, TX 78767-0220
Attn: Kendall Berggren

VII. MISCELLANEOUS

1. This Agreement constitutes the entire understanding of the parties relating to the subject matter hereof; there shall be no modification or waiver hereof except by writing, signed by the party asserted to be bound thereby.

2. Representatives of the Office of the City Auditor for the City of Austin or other authorized representatives of Austin shall have access to, and the right to audit, examine, or reproduce any and all records of LCRA related to the performance of this Contract. LCRA shall retain all such records for a period of three years after final payment is made under this Contract

or until all audit and litigation matters that Ausin has brought to the attention of LCRA are resolved, whichever is longer; provided, however, that if LCRA's record retention schedule allows for a shorter retention period for such records, LCRA's record retention schedule will govern the documents. LCRA agrees to refund Austin any overpayments disclosed by any such audit.

3. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors and assigns; provided, however, that neither party may assign this Agreement or subcontract the performance of Services hereunder, in whole or in part, without the prior written consent of the other party.

4. No failure or delay on the part of a party to exercise any right or remedy shall operate as a waiver of such right or remedy, nor shall any single or partial exercise of any right or remedy preclude any further or other exercise of any such right or remedy. All rights and remedies under this Agreement are cumulative and shall not be deemed exclusive of any other rights or remedies provided by law.

5. If any section or part of this Agreement is declared invalid by any Court of competent jurisdiction, such decree shall not affect the remainder of this Agreement, and such shall remain in full force and effect with the deletion of the part declared invalid.

6. The parties hereto agree and intend that all disputes which may arise from, out of, under or respecting the terms and conditions of this Agreement, or concerning the rights or obligations of the parties hereunder, or respecting any performance or failure of performance by either party hereunder, shall be governed by the laws of the State of Texas. The parties further agree and intend that venue shall be proper and shall lie exclusively in Travis County, Texas.

IN WITNESS WHEREOF, the undersigned have executed this Agreement in Austin, Travis County, Texas.

Lower Colorado River Authority

City of Austin

By: _____

by: _____

Title: _____

Title: _____

Date: _____

Date: _____

Approved as to form: _____

Approved as to form: _____