



**Interlocal Agreement  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.:** 51  
**AGENDA DATE:** Thu 05/27/2004  
**PAGE:** 1 of 2

**SUBJECT:** Approve execution of an Interlocal Agreement with governmental entities in the Colorado River basin for membership in the Texas Colorado River Floodplain Coalition.

**AMOUNT & SOURCE OF FUNDING:** Funding in the amount of \$1,500 is included in the Fiscal Year 2003-2004 Operating Budget of the Watershed Protection and Development Review Department.

**FISCAL NOTE:** There is no unanticipated fiscal impact. A fiscal note is not required.

**REQUESTING** Watershed Protection and **DIRECTOR'S**  
**DEPARTMENT:** Development Review **AUTHORIZATION:** Joe Pantalion

**FOR MORE INFORMATION CONTACT:** George Oswald, 974-3369; Martha Vincent, 974-3371

**PRIOR COUNCIL ACTION:** Approved Interlocal and appointed representatives for the Texas Colorado River Floodplain Coalition, July 19, 2001.

**BOARD AND COMMISSION ACTION:** N/A

**PURCHASING:** N/A

**MBE / WBE:** N/A

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As a result of the devastating floods occurring from 1991 through 2001, the Lower Colorado River Authority (LCRA) initiated a series of meetings to find ways to improve the effectiveness of floodplain management coordination and cooperation in the lower Colorado River basin. Currently, 52 cities (including Austin) and counties in the basin have joined together to encourage comprehensive, consistent management of the floodplain along the Colorado River and its tributaries; provide a forum for data exchange; and facilitate a structured approach to administering the complex issues related to floodplain management.

The Coalition has achieved a number of successes so far, including:

- The award of a \$447,000 FEMA grant to update and digitize flood maps in the basin;
- Passage of Senate Bill 936 granting counties and general law cities greater floodplain management enforcement and fee authority;
- Basin wide flood control feasibility studies funded by the LCRA, U.S. Army Corps of Engineers, Texas Waters Development Board and local partners; and
- The award of a \$213,000 FEMA grant to help Coalition communities meet new hazard mitigation planning requirements necessary to maintain eligibility for federal disaster relief funds.

Each member of the Coalition pays an annual fee toward administrative costs. The cost for the City of Austin is \$1,500.00. Once executed this agreement will remain in effect without further Council action



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unless the City opts to withdraw from the Coalition.

One council member, currently Council Member Alvarez, serves on the Executive Committee of the Coalition, and one council member, to be appointed, serves as an alternate.

## **Texas Colorado River Floodplain Coalition Interlocal Agreement**

THIS INTERLOCAL AGREEMENT ("Agreement") is made and entered into effective \_\_\_\_\_, 2003, by and between the undersigned governmental entities (the "Parties") to create the Texas Colorado River Floodplain Coalition (the "Coalition"), whose representatives have signed this Agreement with the authorization of their governing bodies.

### **Preamble**

WHEREAS, pursuant to the Interlocal Cooperation Act, Texas Government Code Chapter 791, as amended (the "Act"), cities, counties, special districts and other legally constituted political subdivisions of the State of Texas are authorized to enter into interlocal contracts and agreements with each other regarding governmental functions and services as set forth in the Act; and

WHEREAS, the natural resources and functions of riverine and coastal floodplains within the Colorado River basin help maintain the integrity of natural systems and provide multiple benefits such as the storage and conveyance of flood waters, recreation, the recharging of ground water, the maintenance of surface water quality, and the provision of habitats for fish and wildlife; and

WHEREAS, periodic flows on the Colorado River, its tributary streams and the Highland Lakes, cause extensive damage to property and loss of life; and

WHEREAS, the lower Colorado River basin is experiencing rapid population growth and continued development within the floodplains of the Colorado River and its tributaries; and

WHEREAS, local floodplain management programs in the lower Colorado River basin need assistance in the areas of technical expertise and review, emergency management, training for floodplain management and emergency operations, and legislative relations; and

WHEREAS, the actions of upstream and downstream communities along the Colorado River and its tributaries directly affect each other such that individual local goals for flood protection and abatement, drainage, transportation, greenway establishment and protection, and development can be better achieved through cooperative floodplain management; and

WHEREAS, building consensus among all affected stakeholders, however diverse, best provides an opportunity to establish mutually supportive partnerships and offers the benefits of commitment to basic goals and objectives and more meaningful implementation; and

WHEREAS, there does not presently exist a regional entity that can comprehensively address the region's floodplain management needs;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, and subject to the conditions herein set forth, the Parties hereto covenant, agree, and bind themselves as follows:

### **Article One - Definitions**

For the purposes of this Agreement, the following words and terms shall have the following meanings unless clearly indicated otherwise:

**Base flood** – the flood having a one percent chance of being equaled or exceeded in any given year, also known as the 100-year flood.

**Base flood elevation** – the height of the base or the 100-year flood, usually in feet, in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1929, or other datum referenced in the Flood Insurance Study Report.

**Flood Insurance Rate Map (FIRM)** – the official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the flood risk premium zones applicable to the community. Communities are originally mapped by the U.S. Army Corps of Engineers as a result of a Flood Insurance Study. Information shown on the maps is the geographical representation of information found in the Flood Insurance Study.

**Floodplain** – any land area susceptible to being inundated by flood waters from any source.

**National Flood Insurance Program (NFIP)** – A federal program created under the National Flood Insurance Act of 1968, 42 USC § 4001 *et seq.*, to provide the general public with the opportunity to obtain flood insurance at reasonable rates to cover damages to buildings and their contents caused by flooding; and to reduce future flood damages by requiring the regulation of new development in floodprone areas. The program is regulated under the Federal Insurance Administration, Federal Emergency Management Administration, with regulations in 44 CFR Part 60.

### **Article Two – Purpose of Agreement**

The purpose of this Agreement is to accomplish the following goals and objectives:

- 2.1 To create a consensus-based coalition that seeks mutually agreeable solutions to common floodplain management problems through a collaborative process;

- 2.2 To facilitate local floodplain management and emergency management program coordination;
- 2.3 To stabilize and reduce flooding risks, minimize property damage and loss of life through the effective and consistent enforcement of all applicable laws and by discouraging development in flood hazard areas and encouraging responsible development in the floodplain;
- 2.4 To develop and implement a plan to update and maintain Flood Insurance Rate Maps for the Coalition communities;
- 2.5 To establish a single entity partner with state and federal floodplain and emergency management agencies;
- 2.6 To create a regional entity to coordinate with the Colorado River basin Congressional delegation, federal administration, state legislators, and others to accomplish the purposes of this Agreement;
- 2.7 To create an administrative structure through this Agreement to provide administrative functions and services for the Coalition and to provide a means for the Parties to negotiate agreements and obtain funding from state and federal agencies;
- 2.8 To assist the Parties with their training, technical assistance and public education needs with respect to floodplain management;
- 2.9 To create a mechanism for sharing ideas, programs and resources among the Parties;
- 2.10 To provide a public forum for floodplain management issues so that affected stakeholders and the public at large may have timely and meaningful notice and opportunity to comment on the activities of the Coalition;
- 2.11 To achieve or exceed, where appropriate, full and continuous compliance by the Parties with the National Flood Insurance Program (NFIP) and related state laws and regulations;
- 2.12 To encourage the Parties to coordinate other related programs such as their National Pollutant Discharge Elimination System (NPDES) stormwater permitting programs, on-site sewerage system programs, greenway and parks acquisition programs, and wetland preservation programs with their floodplain management permitting program in order to achieve floodplain management goals; and

- 2.13 To encourage the consideration and use, where appropriate, of cost-effective alternatives to structural controls that may also provide recreational and environmental benefits including, but not limited to, the acquisition of open areas and significant wetlands through voluntary agreements with landowners, the acquisition of structures in the floodplain and their relocation, and the use of tax incentives and recognition programs.

### **Article Three – Accords**

The Parties agree to do the following:

- 3.1 **Training, Education and Technical Assistance:** The Parties agree to establish a training, education and technical assistance program to provide assistance to local floodplain management programs. This shall include an education program for locally elected officials, regulated community and the general public. The program shall also include an incentives/recognition program for local floodplain management programs.
- 3.2 **Floodplain Management Program Assessment Guidance Manual:** The Parties shall develop a Floodplain Management Program Assessment Guidance Manual containing recommended floodplain development permitting criteria, flood damage mitigation measures, common assessment methodologies, common application forms that are consistent with National Flood Insurance Program requirements, model ordinances that meet NFIP requirements, a discussion of cost-effective alternatives to structural controls that may also provide recreational and environmental benefits, and any other relevant recommendations. The Manual shall also include recommendations for the reduction of flood potential of projects outside of the 100-year floodplain necessary to achieve the goal of no rise in the 100-year base flood elevation.
- 3.3 **Local NFIP Program Reviews :** Not later than June 30, 2003, or one year from the date of initial membership, whichever occurs later, each Party shall have an independent review performed of that Party's ordinances or orders and floodplain management programs to assist the Party in meeting, at a minimum, NFIP program requirements. In addition, the review shall include an assessment using the Coalition's recommended permitting criteria and mitigation measures contained in the Floodplain Management Program Assessment Guidance Manual. A summary of the review as well as any follow-up comments and actions by the Party in response to the assessment review shall be provided by the Party to the Coalition Executive Committee not later than June 30, 2003, or at the next June meeting of the Executive Committee following one year after the date of initial membership. Each Party shall have a progress review at

least once every three years following the initial review, and submit a summary of the subsequent review, responses, and follow-up actions to the Executive Committee at or before the next June meeting following the third year. This section shall not impose any duty or liability on a Party to adopt changes to its ordinances, orders or programs. Rather, the purpose of this section is provide technical assistance to the Parties and to assist the Executive Committee is assessing whether the overall Coalition goals are being met, developing new and alternative incentives and strategies to meet these goals, and for the Coalition's recognition and awards program.

- 3.4 **Regional Opportunity for Review and Comment:** At the request of another Party, the permitting Party shall provide to the requesting Party the same notice and opportunity to comment on a permit application as provided to the general public. Notice of permit applications and related decisions shall also be provided to the Administrative Agency to be put into a common database. Such data shall be made accessible to all Coalition members as well as other entities so that flood models can be kept up-to-date.
- 3.5 **Retention of Permitting Authority:** Nothing in this Agreement shall be construed to affect a Party's permitting discretion or authority. The local permitting jurisdiction retains ultimate control over permitting decisions including the granting of any reasonable and necessary variances or exemptions.

#### **Article Four – Administration**

- 4.1 **Executive Committee:** An Executive Committee is established to provide policy guidance for the Coalition and to make recommendations to the governing bodies of the Parties to accomplish the purposes of this Agreement. Each Party to this Agreement shall be entitled to appoint one member and one designated alternate from its governing board and one ex officio member to the Executive Committee. The Executive Committee shall appoint a Chair and Vice-Chair from among their members and shall meet as necessary to implement this Agreement. The Executive Committee shall adopt By-Laws for the conduct of its business and meetings, including the establishment of policies and procedures for timely and meaningful public notice and comment on Coalition activities to the Executive and Technical Committees. These shall include, but not limited to, public notice of any meetings, opportunity for public comment at such meetings, the public dissemination of information about the current activities of the Coalition, and the establishment of a Stakeholder Advisory Group.
- 4.2 **Technical Committees:** A Technical Committee is created composed of three regional committees to study and provide technical

recommendations for the Coalition as directed by the Executive Committee. Each party shall appoint a member and an alternate to serve on one of three technical committees corresponding to the location of that Party. Such regions shall include: the Upper Basin consisting of Blanco, Burnet, Llano, Lampasas and San Saba counties; the Middle Basin consisting of Travis, Bastrop and Fayette counties; and the Lower Basin including Colorado, Wharton and Matagorda counties. Parties who may later join this Agreement and who are not located within one of these designated regions shall be assigned by the Executive Committee to a region with which it shares the greatest number of common issues or concerns. Each regional committee will appoint a Chair and Vice-Chair from among their members and shall meet from time to time as necessary to address issues and projects and as directed by the Executive Committee. The chair and vice-chair of the Technical Committee shall be rotated annually among the three regional committee chairs and vice-chairs with the order drawn by lot.

4.3 **Administrative Agency:** Beginning July 1, 2002, and subject to a periodic review by the Executive Committee, the Lower Colorado River Authority shall serve as the Administrative Agency for the Coalition to supervise the performance of this Agreement and to perform administrative activities necessary for the performance of this Agreement. Subject to available funds, such activities may include:

- providing logistical support for the meetings of the Executive Committee and Technical Committees including the preparation of the agenda, arranging for the meeting locations, taking minutes of the meetings, preparing and disseminating notices of the meetings, and drafting and mailing correspondence;
- acting as a central clearinghouse for technical information, models, studies, ordinances, training and educational opportunities;
- identifying funding options and the preparation and submission of grant applications on behalf of the Coalition;
- maintaining a web page and internet address for the Coalition;
- maintaining a computer data base of floodplain application and permitting information;
- arranging for the annual independent assessment review of each Party's floodplain management program provided in Article III, Section 3.3, of this Agreement, unless such review is performed by the Federal Emergency Management Agency or the Texas Natural Resource Conservation Commission; and



- contracting with a qualified engineering consultant on behalf of the Coalition for the technical review of development permit applications upon the request of a Party.
- 4.4 The Lower Colorado River Authority shall be reimbursed for its services as the Administrative Agency for the Coalition under this Agreement. This may be done, in whole or in part, with money from membership fees collected by the Coalition as provided by 5.2 of this agreement and/or any other available sources of funds.
- 4.5 The Lower Colorado River Authority is a Party to this Agreement only for purposes of serving as the Coalition's Administrative Agency under this article.
- 4.6 Recognizing that the Lower Colorado River Authority, in its role as Administrative Agency for the Coalition, provides only administrative and technical support to the Coalition and its members, each Party to this Agreement agrees to HOLD HARMLESS the Lower Colorado River Authority from and against any claims that may arise from the performance of its duties as Administrative Agency under this Agreement except to the extent caused by the gross negligence or intentional misconduct of the Lower Colorado River Authority and as provided by law.

### **Article Five – Funding**

- 5.1 **Funding Sources:** The goal of the Coalition is to fund its activities and administration through the use of fees, grant monies and loans matched with existing in-kind services to the greatest extent possible. Should the funding under this Agreement be insufficient to support the activities of the Coalition, the Executive Committee shall develop and submit recommendations to the Parties not later than the October quarterly meeting; for action at the subsequent January meeting.
- 5.2 **Annual Membership Fee:** Except as otherwise provided in this section, each Party shall pay an annual membership fee in the amount established in Appendix A of this Agreement to go toward the administrative costs of the Coalition. The fee for the initial year of membership shall be \$250 regardless of population. A request by a member for a variance or deferment of payment of a population based fee may be granted by a majority vote of the Coalition's officers if a fee greater than \$250 has not been taken in to account in the requesting member's current fiscal year or for other good cause. Such fees shall be paid to the Coalition through its treasurer not later than January 31 of each year following the date of membership. The Executive Committee shall periodically review the

formula and payment schedule to ensure the fair and equitable apportionment of costs of the Coalition among the Parties not covered by other funding sources.

- 5.3 **Administrative Agency**: As approved by the Executive Committee, the Administrative Agency is authorized to seek additional funding including grants for cooperative planning studies, projects, models, data, and any other information, activities or projects on behalf of the Coalition necessary to accomplish the purposes of this Agreement.

#### **Article Six – Additional Parties**

Additional political subdivisions may become parties to this Agreement by first obtaining endorsement by the Executive Committee, approving the terms and conditions of this Agreement, and affixing hereto the signature of its authorized representative indicating the date of approval of this Agreement by said entity.

#### **Article Seven – Renewal and Amendments**

This Agreement shall take effect July 1, 2003, or upon the signature of a Party, whichever occurs later. A Party may withdraw from this Agreement, through a vote of its governing body, provided it has notified the Executive Committee of such action in writing at least 60 days before its intended withdrawal date. Amendments may be made to this Agreement upon the approval of the governing bodies of all Parties. Amendments to this Agreement not related to the payment to, or the providing of services by, the Administrative Agency do not require the approval of the Administrative Agency.

#### **Article Eight – Dissolution**

This Agreement may be dissolved at any time by the written mutual consent of the Parties.

#### **Article Nine – Severability Clause**

If any provision of this Agreement or any application hereof shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions and applications shall not be in any way affected or impaired thereby.

### **Article Ten – Governing Law**

This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Texas.

## Appendix A – Annual Membership Fee

Population Based upon Latest U.S. Census	Fee
	\$
$\leq 1,500$	250
$\leq 2,500$	500
$\leq 5,000$	750
$\leq 7,500$	1,000
$\leq 10,000$	1,250
$> 10,000$	1,500

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and their respective seals to be hereunto affixed and attested, as of the date and year noted below.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Name, Title, Entity

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

Before me, \_\_\_\_\_, a notary public, on this day personally appeared \_\_\_\_\_ known to me to be the person whose is subscribed above and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the \_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Notary Public Signature

\_\_\_\_\_  
Notary Public Typed or Printed Name

My Commission Expires: \_\_\_\_\_