

STATE OF TEXAS §
 § INTERLOCAL AGREEMENT
 COUNTY OF NUECES §

This Interlocal Agreement made and entered into this _____ day of _____, 2013, by and between Texas A&M University-Corpus Christi acting through its National Spill Control School, and the City of Corpus Christi, a Texas home-rule municipal corporation hereinafter referred to as "City", under the authority and in accordance with the Interlocal Cooperation Act, as set out in Chapter 791, Texas Government Code.

WHEREAS, Texas Government Code, Chapter 791, authorizes local governments of the state to enter into contracts for governmental functions and services to increase their efficiency and effectiveness; and

WHEREAS, the Texas A&M University – Corpus Christi ("TAMU-CC") and the City are local governments as defined in Texas Government Code, Section 791.003(4), have the authority to enter into this agreement, and have each entered into this agreement by the action of its governing body in the appropriate manner prescribed by law; and

WHEREAS, both the City and TAMU-CC represent to one another that each respective party has the authority to enter into this agreement and perform the obligations and duties stated herein; and

WHEREAS, the National Spill Control School at TAMU-CC and the City of Corpus Christi Marina envision an era of expanded cooperation building upon the many years of successful collaboration already appreciated by both organizations; and

WHEREAS, the National Spill Control School at Texas A&M University Corpus Christi TAMU-CC has been using the City of Corpus Christi Marina boat ramps, a small area of L-Head space adjacent to the boat ramps, storage spaces, and waters inside the protective bulkhead to conduct periodic spill response training exercises for over 10 years; and

WHEREAS, these facilities have been used only during the National Spill Control School course exercises; and

WHEREAS, all National Spill Control School spill response equipment is currently mobilized for each course to the Corpus Christi Marina from the TAMU-CC campus;

WHEREAS, prior the 9/11 events in 2001, since its inception in 1977, the National Spill Control School had conducted some spill response exercises inside the harbor of the Port of Corpus Christi and the shift of location to the Corpus Christi Marina was in the interest of homeland security; and

WHEREAS, in 2011 and 2012 the Corpus Christi Marina experienced a period of expanded services that now include a tenant-owned marine fueling facility and a bilge oil collection station sponsored by the Texas General Land Office (TGLO); and as a result of these developments, the Corpus Christi Marina now desires to store spill response equipment on the Corpus Christi Marina premises and certain Corpus Christi Marina staff must be trained in spill response and oil spill safety; and

WHEREAS, in 2012 the National Spill Control School was the recipient of a large beneficial contribution which includes about 4000 feet of spill containment boom, skimmers, pumps, and other spill response equipment, and the volume of the contribution has exceeded the existing storage capacity assigned to the National Spill Control School at the TAMU-CC campus; and

WHEREAS, the TAMU-CC and the City specify that each party paying for the performance of said functions of government shall make those payments from current funds available to the paying party.

NOW THEREFORE, this contract is made and entered into by TAMU-CC and City in consideration of the aforementioned recitals and for the mutual consideration stated herein ("The Agreement"):

1. PURPOSE OF AGREEMENT

The purpose of this agreement is to establish a framework for collaboration between the National Spill Control School and the Corpus Christi Marina which assures mutually beneficial conditions but involves no exchange of funds between the two organizations. The National Spill Control School will provide equipment and training. The Corpus Christi Marina will provide storage space and access to utilities (fresh rinse water).

2. NATIONAL SPILL CONTROL SCHOOL RESPONSIBILITIES

The National Spill Control School will provide the following:

- A. The National Spill Control School will train the staff of the Corpus Christi Marina in proper spill response techniques. The Corpus Christi Marina will be informed of each oil spill course provided by the National Spill Control School. The Corpus Christi Marina will be allowed to register 1 to 3 individuals in each course. The only exception may be that some proprietary courses are offered for specific industrial clients and even these could include Corpus Christi Marina personnel if acceptable to the client.
- B. A secured spill response storage container of approximate size of 20 feet by 8 feet by 8 feet high will be provided and staged at the Corpus Christi Marina by the National Spill Control School, at a mutually agreed upon location. The container and its contents will be maintained in good condition by the National Spill Control School. Keys to the container locks will be held by both the Corpus Christi Marina and the National Spill Control School. Contents of the container will include:

- 2) Sufficient anchor systems with anchors, chain, rope, and floats to support the deployment of the stored boom,
 - 3) One or more oil spill skimmers and associated motors and hoses,
 - 4) At least one gasoline or diesel or hydraulically powered pump.
- C. The National Spill Control School will allow free access to the storage container and its contents, and the free use of National Spill Control School equipment, by the Corpus Christi Marina in the event of oil or fuel spill emergency or regulatory inspection.
 - D. An inventory of equipment will be conducted semi-annually by the National Spill Control School. National Spill Control School will immediately notify Corpus Christi Marina if any equipment is missing or damaged.
 - E. Maintenance and replacement of equipment will be the responsibility of the National Spill Control School. Repair or replacement of damaged equipment will be made by the party causing the damage, subject to appropriation of funds.
3. City of Corpus Christi Marina Responsibilities
- A. The Corpus Christi Marina will send staff members to the National Spill Control School for spill response training.
 - B. The Corpus Christi Marina will allow the National Spill Control School to store a secure marine container in a mutually agreeable location on the Cooper's Alley L-Head. One possible location is west of the boat ramps and across the boat ramps from the bilge oil and fuel storage facilities, which is the same location where the National Spill Control School usually sets up a command post during spill response exercises.
 - C. The Corpus Christi Marina will include observation of this storage container in routine inspections of the L-Head. The Corpus Christi Marina will advise the National Spill Control School of any indications of unauthorized intrusion, vandalism, or natural degradation.
 - D. The Corpus Christi Marina will allow the National Spill Control School to utilize vacant boat storage stalls on the L-Head for overnight boat storage at no charge during courses for approximately 1-3 nights per course.

4. TERM AND TERMINATION

This Interlocal Agreement shall have an initial term of three (3) years and shall be effective upon its date of execution by the last party to execute the Agreement. The agreement shall automatically renew for successive one-year terms. This agreement may be terminated at any time with or without cause by either party upon ninety (90) days written notice to the other parties. Within thirty (30) days of expiration of this Agreement, TAMU-CC shall cause the removal of all of its equipment and storage facility from Corpus Christi Marina.

5. NOTICE

Official notice shall be by written notice and delivery to all of the parties to this Agreement. Delivery shall be by deposit in the United States Postal Service, first class, return receipt requested to:

TO TAMU-CC

Texas A&M University-Corpus Christi
Attn: Director of National Spill Control School
6300 Ocean Drive
Corpus Christi, Texas 78412

TO THE CITY:

City of Corpus Christi
Attn: Marina Superintendent
P.O. Box 9277
Corpus Christi, Texas 78469-9277

6. INDEMNIFICATION

TAMU-CC and the City agree that both TAMU-CC and the City shall each be responsible for their own negligent acts or omissions or other tortuous conduct in the courts of performance of this Agreement, without waiving any sovereign governmental immunity available to either TAMU-CC or City under Texas law and without waiving any available defenses under Texas law. Nothing in this paragraph shall be construed to create or grant any rights, contractual or otherwise, in or to any third persons or entities.

7. FISCAL FUNDING

Notwithstanding anything to the contrary herein, this Agreement is expressly contingent upon the availability of funding for each item and obligation contained herein. In the event of insufficient funding, or if funds become unavailable in whole or part, either party, at its sole discretion, may provide funds from a separate source or terminate this Agreement. In the event that payments or expenditures are made, they shall be made from current funds as required by Chapter 791, Texas Government Code.

8. VENUE

Venue to enforce this Agreement shall lie exclusively in Nueces County, Texas.

9. **ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties hereto and may not be modified except by an instrument in writing executed by the parties hereto as herein provided.

10. **SEVERABILITY**

If any provision of this Agreement shall be held invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

11. **DEFAULT/WAIVER**

It is not a waiver of default if the non-defaulting party fails to declare immediately a default or delays in taking any action.

12. **COUNTERPARTS**

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF this Agreement has been executed on behalf of the City of Corpus Christi and Texas A&M University – Corpus Christi in the manner provided by law.

THE CITY OF CORPUS CHRISTI

By: _____
Ronald L. Olson
City Manager

Date: _____

ATTEST:

By: _____
Armando Chapa
City Secretary

TEXAS A&M UNIVERSITY CORPUS CHRISTI

By: Bruce A. Payne
Bruce A. Payne
Director, Contracts & Property