

## ASSIGNMENT AND ASSUMPTION OF CONSERVATION EASEMENT

### (Snow Melt Cave)

THIS ASSIGNMENT AND ASSUMPTION OF CONSERVATION EASEMENT (this "Assignment") is executed to be effective as of the Effective Date (as hereinafter defined) of this Assignment, by and between **Brushy Creek Municipal Utility District**, a conservation and reclamation district of the State of Texas (the "Assignor"), **Williamson County** (the "Assignee"), and the **United States Fish and Wildlife Service**, an agency of the United States within the United States Department of the Interior (the "Service"). The "Effective Date" of this Assignment shall be the date upon which the last of Assignor, Assignee and the Service execute this Assignment, as indicated on the signature pages of this Assignment.

### Recitals

A. WHEREAS, in connection with the construction of certain raw water transmission facilities in Williamson County, Texas (the "Project"), Assignor submitted a request dated December 12, 2003 to the Service for formal consultation regarding the Project and its effect on the federally listed Bone Cave harvestman in accordance with Section 7 of the Endangered Species Act of 1973, as amended. The request was assigned Consultation No. 2-15-F-2002-0453 by the Service (the "Consultation");

B. WHEREAS, in connection with the Consultation, the Service rendered its biological opinion that the Project was not likely to jeopardize the continued existence of the Bone Cave harvestman (the "Opinion");

C. WHEREAS, the Opinion rendered by the Service was based, in part, on the requirement that Assignor would protect and manage Snowmelt Cave using the same criteria as in the management plans for Assignor's then existing service areas and Sendero Springs. The Opinion further provided that protection of Snowmelt Cave would entail a conservation easement placed on land in proximity to the cave opening;

D. WHEREAS, in accordance with the Opinion and pursuant to the Consultation, Elmer L. McLester, Trustee, as grantor, conveyed that certain Conservation Easement to the Assignor, as grantee, dated November 23, 2004 and recorded as Document No. 2005003748 of the Official Public Records of Williamson County, Texas (the "Conservation Easement");

E. WHEREAS, the Conservation Easement restricts use of that certain real property more particularly described therein (the "Parcel") for purposes of ensuring that the Parcel will be retained forever in its natural and scenic condition; to preserve the wildlife habitat on the Parcel; and to prevent any use of the Parcel that would significantly impair or interfere with the conservation values of the Parcel described therein; and

F. WHEREAS, Assignor and Assignee desire to assign all of Assignor's right, title and interest in, under and to the Conservation Easement to Assignee, together with all regulatory obligations associated with the Parcel and Snowmelt Cave, to Assignee;

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment. Assignor does hereby assign to Assignee all of Assignor's right, title and interest in, under and to the Conservation Easement, together with all regulatory obligations related to, or arising out of, the Parcel and Snowmelt Cave. Without limitation, Assignor is assigning to Assignee all regulatory obligations to protect and manage Snowmelt Cave in accordance with the Opinion and any and in accordance with all applicable local, state and federal regulatory requirements.

2. Assumption. Assignee hereby assumes and agrees to perform all of Assignor's obligations under and pursuant to the Conservation Easement. Assignee further hereby assumes all regulatory obligations to protect and manage Snowmelt Cave in accordance with the Opinion, the Consultation and in accordance with any and all applicable local, state and federal regulatory requirements. Assignee specifically assumes the obligation to manage Snowmelt Cave in accordance with a management plan approved by the Service.

3. Indemnity. To the extent authorized by law and in consideration of the foregoing assignment, Assignee hereby agrees to indemnify, defend and hold Assignor, together with its officers, directors, employees, agents, contractors and representatives, and their respective successors, heirs, executors, legal representatives and assigns, harmless from all liabilities, damages, actions, causes of action, losses, costs and expenses arising out of or in connection with the Conservation Easement and management and protection of Snowmelt Cave to the extent the same arises after the Effective Date of this Assignment.

4. Recordation. Upon execution by all parties, this Assignment shall be recorded in the Official Public Records of Williamson County, Texas.

5. Miscellaneous. This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, representatives, administrators, successors and assigns. Any capitalized terms used herein and not defined herein shall have the meanings ascribed to them under the Contract.

6. Transfer of Responsibility. By execution below, the Service consents to this Assignment for all purposes, and agrees that Assignor shall have no further responsibility for management or protection of Snow Melt Cave.

[signature page follows]



**ASSIGNEE:**

**WILLIAMSON COUNTY**

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

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

Title: \_\_\_\_\_

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

**ACKNOWLEDGEMENT**

THE STATE OF TEXAS                    §  
  §  
COUNTY OF WILLIAMSON               §

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, \_\_\_\_\_ of Williamson County, political subdivision of the State of Texas, on behalf of said political subdivision.

\_\_\_\_\_  
Notary Public, State of Texas

(SEAL)

**THE UNITED STATES FISH & WILDLIFE SERVICE**

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

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

Title: \_\_\_\_\_

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

**ACKNOWLEDGEMENT**

THE STATE OF \_\_\_\_\_

§

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

§

§

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, \_\_\_\_\_ of the United States Fish & Wildlife Service, on behalf of said agency of the United States of America.

\_\_\_\_\_  
Notary Public, State of Texas

(SEAL)

After Recordation, Send To:  
Brushy Creek Municipal Utility District  
16318 Great Oaks Drive  
Round Rock, Texas 78681