

**INTERLOCAL COOPERATION AGREEMENT**  
**BETWEEN THE CITY OF AUSTIN AND TRAVIS COUNTY**  
**FOR PUBLIC HEALTH SERVICES**

**PARTIES**

This Interlocal Agreement ("Agreement") is entered into by the following parties: City of Austin, a municipal corporation and political subdivision of the State of Texas ("City") and Travis County, a political subdivision of the State of Texas ("County").

**RECITALS**

City and County have historically operated to collaboratively provide public health and human services throughout Travis County and the City of Austin.

The City of Austin Health and Human Services Department has the authority to perform all public health functions that the City of Austin and Travis County can perform through Texas Health and Safety Code, Chapter 121, and other applicable statutes.

Travis County Health, Human Services and Veterans' Services has the authority to perform all public health functions that County can perform through Texas Health and Safety Code Ann., Section 121.032, and other applicable statutes.

County has the authority to provide for public health, education and information services (Texas Health and Safety Code Chapters 121 and 122, and other statutes), and provision of those services constitutes a public purpose.

County has the authority to provide for the care of indigents and other qualified recipients (Tex. Loc. Gov't. Code, Section 81.027, and other statutes), and provision of those services constitutes a public purpose.

City and County have the authority to enter into an Interlocal Cooperation Agreement through Texas Constitution, Article 3, Sec. 64, and "The Interlocal Cooperation Act," Texas Government Code, Chapter 791.

Pursuant to the terms of this Agreement, City and County will provide personal , professional and other services for the care of qualified recipients and for public health education and information, thus providing services which will further the achievement of a public purpose.

NOW, THEREFORE, in consideration of the hereinafter set forth agreements, covenants and payments, the sufficiency of which are acknowledged, City and County agree to the terms and conditions stated in this Agreement as follows:

**DEFINITIONS**

**1.0 TERMS DEFINED.** In this Agreement, the following terms will have these meanings:

1.1 "Agreement Funds" means all funds paid by County to City pursuant to the applicable terms of this Agreement.

- 1.2 "Agreement Term" means the Initial Term and/or any subsequent Renewal Term(s) or any other period of time designated in writing as an Agreement Term by the Parties.
- 1.3 "City Council" means the City Council of the City of Austin, Texas.
- 1.4 "Commissioners Court" means the Commissioners Court of Travis County, Texas.
- 1.5 "County Auditor" means Susan Spataro, the Travis County Auditor, or her successor.
- 1.6 "County Purchasing Agent" means Cyd Grimes, the Travis County Purchasing Agent, or her successor.
- 1.7 "Day(s)" means calendar day(s), unless otherwise specifically noted in any individual provision.
- 1.8 "Director" means David Lurie, Director, HHSD, or his successor.
- 1.9 "Executive Manager" means Sherri Fleming, Executive Manager, TCHHSVS, or her successor.
- 1.10 "Fiscal Year" means that twelve-month time period between any October 1 and the next following September 30.
- 1.11 "HHSD" or "City Department" means the City of Austin Health and Human Services Department.
- 1.12 "Parties" and/or Party" means the County and/or City.
- 1.13 "Subcontract" means any agreement between City and another party to fulfill, either directly or indirectly, any of the requirements of this Agreement, in whole or in part.
- 1.14 "TCHHSVS" or "County Department" means Travis County Health, Human Services and Veterans Services.

## **GENERAL TERMS.**

**2.0 PURPOSE AND SCOPE.** The purpose of this Agreement is to continue to provide those public health services authorized to be provided by County through the collaborative use of City staff and a combination of City and County staff and other resources. The Parties commit to continuing to provide these services throughout the term(s) of this Agreement. The Parties also seek to continue to consider improvements to public health delivery in a way which will maximize the benefits and efficiencies for those persons who need such services in Travis County and the City of Austin.

## **3.0 AGREEMENT TERM.**

**3.1 Initial Term.** The Initial Term begins on October 1, 2007, and shall continue through September 30, 2008, unless terminated earlier in accordance with the terms of this Agreement.

**3.2 Renewal Term.** Unless sooner terminated pursuant to the terms of this Agreement, and upon approval of funding by the Commissioners Court and City Council during their respective budget process relating to any Renewal Term, subject to Section 3.3, this Agreement shall renew, only as evidenced by written approval of the Parties, on October 1, 2008, for a term of one year, and each successive October 1 for up to an additional four years, as evidenced each year by written approval of the

Parties prior to each renewal, or for any time period agreed to in writing by County and City. The exercise of any option to renew shall continue in full force and effect the terms and conditions of the Agreement except for such changes as are set out in a written renewal.

**3.3 Post-Renewal Changes.** In addition to those changes which might be agreed to by the Parties in a written renewal, the Parties also understand and agree that, information provided in the year-end report and reconciliation as set forth in Section 13.4, as set forth in the performance and financial reporting forms of Attachment C, may result in re-negotiation by County or City of services and activities and costs of those services and activities. Such changes would be based on the information provided in that year-end report (as set forth in Attachment C) and decisions made by each Party as to continuation of services at current, decreased or increased levels. Any decision by County which would result in a partial decrease in funding by County would include at least ninety (90) days notice by County to City pursuant to the Notice provision of this Agreement of such decrease. Inability of the Parties to reach an agreement as to final changes necessitated by conclusions drawn as a result of the year-end report information may result in termination by either Party pursuant to Section 14.3.2 of this Agreement.

#### **4.0 AMENDMENT**

**4.1 Written Amendment.** Unless specifically provided otherwise in this Agreement, any change to the terms of this Agreement shall be in writing and signed by the Parties.

**4.2 Acknowledgements as to Amendments.** It is acknowledged by the City that no officer, agent, employee or representative of County has any authority to change the terms of this Agreement unless expressly granted that authority by the Commissioners Court under a specific provision of this Agreement or by separate action of the Commissioners Court.

**4.3 Budget Submissions for Renewal Terms.** The Parties agree to exchange by April 1 of each year the information necessary to prepare and compile the forthcoming Fiscal Year's budget so that annual costs and expenses associated with the performance of this Agreement may be appropriately considered and budgeted. The "information necessary" will include updated cost model information reflecting updated population numbers, any cost drivers and other forecasting data being utilized by City, and that information specified in this Agreement, including that information required in the year-end report as described in Section 13.4 and as set forth in Attachment C all available projections for the next following fiscal year, and such other information as mutually agreed to by the Parties.

**4.4 Submission - Amendments.** All requests for all changes, alterations, additions or deletions of the terms of this Agreement or any attachment to it shall be submitted to the Executive Manager, the Director and the County Purchasing Agent. Upon agreement by the City Department and County Department, the request will be presented by the County Purchasing Agent to the Commissioners Court and by the Director to the City Council or appropriate City authority for consideration.

#### **5.0 ENTIRE AGREEMENT.**

**5.1 Inclusive Agreement.** All oral and written agreements between the Parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement, including the applicable terms of the Agreement, have been reduced to writing and are contained in this Agreement. The "Interlocal Cooperation Agreement City Health Department County Health Department" effective October 1, 1985, and subsequently amended is terminated as of the effective date of this Agreement.

**5.2 Attachments.** The attachments enumerated and denominated below are hereby made a part of this Agreement, and constitute promised performance by the Parties in accordance with the terms of this Agreement.

- 5.2.1 Attachment A, Work Statement, Public Health Services
- 5.2.2 Attachment B, Work Statement, Animal Services
- 5.2.3 Attachment C, Financial and Performance Reports/Form
- 5.2.4 Attachment D, County Personnel
- 5.2.5 Attachment E, Invoice Form
- 5.2.6 Attachment F, Inventory of County Property

**5.3 Authorized Representatives.** City and County agree that, unless otherwise designated specifically in any provision, all communication, requests, questions, or other inquiries related to this Agreement shall initially be presented by and through the Executive Manager for the County and the Director for the City.

## **6.0 PERFORMANCE.**

### **6.1 Services and Activities.**

6.1.1 Program Services. The Parties shall perform the services and activities stated in the attached Work Statements, either directly or indirectly through Subcontracts, in accordance with the terms and conditions stated therein and in this Agreement. The provision of services by the City does not include services required due to extraordinary or catastrophic events or disasters or that may be required due to changes in state or federal laws or regulations unless specifically provided for herein.

6.1.2 Catastrophic Events. In the event of any extraordinary or catastrophic event or disaster (Event), City and County shall mutually agree as to the handling of such Event. At the earliest possible date, such agreement will be reduced to writing and signed by the Director and Executive Manager, with immediate notice to the City Council and Commissioners Court. County shall not be responsible for any costs for services and activities related to the Event without approval by the Commissioners Court. City and County will make a good faith effort to coordinate and work together to meet the needs of the community related to such Event.

#### 6.1.3 Coordination and Review.

(a) Coordination. Where possible, City agrees to combine efforts in order to maximize efficiency and effectiveness of personnel and work efforts.

(b) Review. City and County will work together to assess and evaluate performance under this Agreement, and to develop mutually agreeable plans to improve the system of public health provided under this Agreement based upon those reviews of the effectiveness of the program operated by the City. Such review will take place following the provision of the mid-year and end-of-year reports by City according to Attachment C, and at any time that either Party presents a need for review and consideration of identified problems or issues.

(c) Major Changes. City and County agree that any substantial changes in programs/service/activities provided under this Agreement will be discussed by the Parties and agreed to during the budget process prior to each Renewal Term. No major changes in ongoing programs/services/activities provided to County under this Agreement will be made by City during an Agreement Term without prior written approval by County. "Major" or "substantive" changes will be defined basically as any change which would increase or decrease program performance or cost by more than twenty-five percent (25%). The Parties agree that any change in the terms of this

Agreement required by a change in federal, state, or local law, rule or regulation will be automatically incorporated herein effective on the date designated by such law, rule or regulation. Either Party may seek termination under Section 14.2.1 if that Party is unable to conform to such changes required by federal, state and local laws or regulations.

## **6.2 Supplies and Equipment.**

6.2.1 Jointly Provided. County shall retain title to that equipment listed in Attachment D, "Inventory of County Property." City shall make such County Property available to County annually for inventory purposes and provide assistance pursuant to Section 6.4. City shall provide all other necessary supplies and equipment and shall provide for the maintenance of such supplies and equipment (including that property owned by County). Vehicles used to provide services in County areas shall carry the seals of both jurisdictions.

### **6.2.2 Replacement.**

(a) Capital Acquisition Property. For purposes of this Agreement, "Capital Acquisition Property ("Property") shall be considered to be any tangible, non-expendable property with a value of more than five thousand dollars (\$5,000.00). Only property within this definition will be considered for reimbursement by County under this Agreement.

(b) Cost to the City of Property required because of replacement or because of expanded services shall be:

(i) approved by City and County in the budget process related to the year in which the equipment will be purchased; and

(ii) charged to County in an amount equal to the equivalent of depreciation, although City will follow City accounting procedures and GASB requirements in accounting for supplies and equipment. For example, if Property purchased by City for use under this Agreement has a four (4) year life, the charge to County would be calculated on a monthly basis as follows:

% of population agreed to for County for that year  
X [times]

$$\frac{1}{4 \text{ [# year life]} \times 12}$$

- [less]  
reasonable salvage value

OR

25% X 1/48 - reasonable salvage value

(c) such purchases shall be made subject to the mutual agreement of the Parties as to the need, purchase price, and proportionate share of County.

(d) The County shall determine and be responsible for the disposition of County equipment that has been replaced. The City shall determine and be responsible for the disposition of City equipment that has been replaced.

(e) In the event of termination of this Agreement by either Party prior to the completion of the useful life of the asset, the Parties will mutually agree to settlement of costs related to such asset.

### **6.3 Fees.**

6.3.1 Fees. City shall charge only those fees authorized by the County to be charged for the services to be provided by City under this Agreement in accordance with County policies and applicable law. No change in those fees or additional fees will be collected by City without prior approval of the Commissioners Court. The City shall have no duty to collect unpaid fees. In the event the City undertakes collection efforts pursuant to written authority by County, the City's costs shall be separately billed and paid according to the written authorization by County.

6.3.2 Payment to County. City shall deposit fees as they are collected to a designated County account. Fee deposit forms and/or receipts will include the following information:

Receipts: Payor information (Name -individual or company; phone number (if provided by payor); payment method; amount received; amount applied; department (HHSD); other receipt details if available.

Fee Deposits: Amount; purpose of fee or program for which fee collected; permit receipt number; payor check number; amount - check or cash; other, where available; copy of deposit slips; copy of check.

City shall make available (for inspection or copying) itemized deposit records as they are maintained by City.

6.3.3 Supporting Documentation for Collections. City shall make available to County, for viewing and copying, copies of the supporting documentation for any billing or collection (subject to Section 6.3.1) to be undertaken by the County or on its behalf.

6.3.4 Changes in County Fees. City understands and agrees that any changes in County fees charged under this Agreement must be processed according to County policies and procedures and applicable laws, including public hearings and Commissioner Court approval. No change in any County fee will be made without written notice from County of the completion of such process and the identification of the changes in fees.

### **6.4 County Property.**

6.4.1 Annual Inventory. City shall provide an annual written inventory regarding all property received from the County pursuant to Section 6.2, and certifying the continued use of such property. Such inventory shall be reviewed by County and subject to County acceptance and approval.

6.4.2 Discontinued Use. Should County property or equipment (as listed in Attachment D) be deemed to no longer be of service or serviceable, City shall return such property to the County or request written disposition instructions. Property returned to the County shall be returned subject to ordinary wear and tear. When use of County property (as listed in Attachment D) is discontinued, City will obtain an appropriate replacement (which will be City property) pursuant to Section 6.2.2, and cost to County for such property will be as calculated under Section 6.2.2(b).

6.4.3 Responsibility. City shall take reasonable measures to protect County property provided under this Agreement.

6.4.4 Loss or Damage. City shall furnish County with a written, factual report of the theft, loss off, or damage to any County property by providing written notice to the County Executive Manager with a copy to:

Dan Mansour  
Travis County Risk Management  
P. O. Box 1748  
Austin, Texas 78767

Ron Dube  
Fixed Asset Manager  
Travis County Purchasing Office  
P. O. Box 1748  
Austin, Texas 78767

In the event of any theft, vandalism, loss or other offense against the property, City shall notify the appropriate local law enforcement authorities and County immediately following such incident. The City shall repair or replace any County property lost or damaged due to the City's fault. Determination as to whether to repair or replace shall be the decision of City, with consultation with and agreement of County. County shall notify City in writing of such agreement (or disagreement) with the City's proposal within thirty (30) days of receiving written notification; if County does not notify City of County's decision within that thirty (30) day period, County will be presumed to have consented to City's recommendation. Any deficiency or delay in performing services under this Agreement due to a delay in repairing or obtaining replacement equipment shall not be deemed a default of this Agreement.

**6.5 Insurance.** City and County acknowledge and agree that each Party is self-insured and will maintain such coverage at a level sufficient to cover the needs of City and County, respectively, pursuant to applicable generally accepted business standards. Each Party shall require all subcontractors providing services under this Agreement to have insurance coverage sufficient to cover the needs of the Parties and/or subcontractor pursuant to applicable generally accepted business standards.

**6.6 Liabilities and Claims.**

6.6.1 Liability. City shall not be liable for any claims, damages or attorney fees arising from any negligence or unlawful acts of the County or its employees in relation to this Agreement. County shall not be liable for any claims, damages or attorney's fees arising from any negligence or unlawful acts of the City or its employees in relation to this Agreement. City and County acknowledge that each entity is otherwise responsible for any claims or losses from personal injury or death or property damages that were caused by the acts or omissions of that entity, its agents, employees, or representatives in the performance of the services and activities under this Agreement; and that each entity will be responsible for the handling of the portion of any claim which is based solely on the assertion that a policy of that entity is illegal or unenforceable in any way.

6.6.2 Claims Notification. If City or County receives notice or becomes aware of any claim or other action, including proceedings before an administrative agency, which is made or brought by any person, firm, corporation, or other entity against City or County in relation to this Agreement, City or County shall give written notice to the other Party of the claim or other action within three (3) working days after being notified of it or the threat of it. The notice shall include: the name and address of the person, firm, corporation or other entity that made or threatened to make a claim, or that instituted or threatened to institute any type of action or proceeding; the basis of the claim, action or proceeding; the court or administrative tribunal, if any, where the claim, action or proceeding was instituted; and the name or names of any person against whom this claim is being made or threatened. This written notice shall be given in the manner provided

in Section 19.0 of this Agreement. Except as otherwise directed, City or County shall furnish to the other Party copies of all pertinent papers received by the notifying Party with respect to these claims or actions.

## **6.7     Acknowledgements, Warrants, and Assurances.**

6.7.1    Eligible Client Warranty. The Parties agree that services provided under this Agreement do not include any County eligibility requirements. If it is determined that any added program services will be provided based upon specific eligibility requirements, County shall provide the City with standards or policies which are mutually agreeable to the Parties by which the City may simply and effectively determine that it may provide services to individuals meeting County requirements for public purposes services.

6.7.2    Accurate Information. City warrants that all reports, data and information submitted to County will be accurate, reliable and verifiable. Approval by County of such shall not constitute nor be deemed a release of the responsibility and liability of City, its employees, agents or associates for the accuracy and competency of their reports, information documents, or services, nor shall approval be deemed to be the assumption of such responsibility by County for any defect, error, omission, act or negligence or bad faith by City, its employees, agents, or associates.

6.7.3    No Duplication. City acknowledges and agrees that City will not accept payments from other sources for the same services paid for by County for the provision of services hereunder.

**6.8     Personnel.** To the extent County employee positions listed in Attachment D are engaged in directly providing services that would otherwise be provided by the City under this Agreement, the City shall make an appropriate adjustment in calculating total program costs to the County. At such time as the positions as listed become vacant, the City shall hire replacement personnel to provide the work or services and an adjustment to the cost and payment terms of the Agreement shall appropriately be made. It is understood that the costs of these personnel (with necessary adjustments) will be reflected as credits to County in the invoices for payment provided by City to County under Section 13.2, unless or until such positions are transferred to City. As long as such employees are employed by County, and during any Renewal Term, the Parties understand and agree that the employees referenced under this Section 6.8 will receive from County as a part of their compensation, cost-of-living increases approved by City during any budget process for the next Fiscal Year.

**6.9     Forms - W-9 Taxpayer Identification Form.** City shall provide the County Purchasing Agent with an Internal Revenue Service Form W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code and its rules and regulations, and a statement of entity status in a form satisfactory to the County Auditor, and with immediate notice of any changes to said forms. City understands that this W-9 form must be provided to the County Purchasing Agent before any Agreement Funds are payable.

**6.10    Materials and Publications.** City and County, as appropriate, must comply with the applicable standard patent rights clauses in 37 Code of Federal Regulations, Section 401.13 or Federal Acquisition Regulations, Section 52.227.1. All reports, charts, schedules, or other materials submitted by either Party under the terms of this Agreement, and all work performed under this Agreement shall be the property of the creating Party. Either Party may publish the results of this Agreement performance at their own expense with notice to the other Party. Any publication or other use shall include acknowledgement of any support received from the other Party and the appropriate reference to any copyright. Subject to rights of third parties and compliance with confidentiality or privacy laws, each Party hereby grants the other Party an irrevocable, non-exclusive, non-transferable and royalty-free



license to use, reproduce, publish, revise and make disposition of, prepare derivative works from, distribute to the public, to perform and display publicly, for or on behalf of that Party according to law, any material (including software) that may be developed as part of the work under this Agreement, provided that it is an original work of authorship under the U. S. Copyright Act.

#### **6.11 Miscellaneous Responsibilities.**

6.11.1 Employee Offenses. City will conduct criminal background checks on the following HHSD job applicants and employees ("employee" being defined under this Section as including all employees, volunteers, or other persons working under the direction of City or County, respectively, in the provision of services under this Agreement in a manner which involves direct Client contact) who will perform services under this Agreement: (a) those who work with youth; and (b) clinical social workers. In addition, City and County will make a good faith effort to ensure that no employee having direct client contact has been convicted of having committed an offense of abuse, neglect, or exploitation or an offense against the person, an offense against the family, or an offense involving public indecency under the Texas Penal Code.

6.11.2 Qualifications. If specific qualifications are set forth in the job descriptions required by either Party, or attached to any position related to providing of services under this Agreement, only personnel with the required qualifications will be assigned to fill functions unless a written waiver is granted by the other Party.

### **7.0 COMPLIANCE.**

7.1 Federal, State and Local Laws. City shall provide all services and activities performed under the terms of this Agreement in compliance with the Constitutions of the United States and Texas and with all applicable federal, state, and local orders, laws, regulations, rules, policies and certifications governing any activities undertaken during the performance of this Agreement including, but not limited to: Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C., Section 794); the Americans With Disabilities Act of 1990, Public Law 101-336 (S.933) ("ADA"); Chapter 73, TEXAS ADMINISTRATIVE CODE, Section 85.113 (relating to workplace and confidentiality guidelines regarding AIDS and HIV); Health Insurance Portability and Accountability Act of 1996 (HIPAA). City shall not discriminate against any employee, applicant for employment, or Eligible Client based on race, religion, color, gender, national origin, age or handicapped condition. In performance of all Agreement services and activities, City will comply with applicable state and federal licensing and certification requirements, health and safety standards, and regulations prescribed by the U. S. Department of Health and Human Services and the Texas Department of State Health Services.

#### **7.2 Confidentiality.**

7.2.1 Method. Each Party shall secure the confidentiality of records and other information relating to clients served in accordance with the applicable Federal, state and local laws, rules and regulations and applicable professional ethical standards. This provision shall not be construed as limiting the right of access to otherwise disclosable client information.

7.2.2 Limited Access. Prior to a scheduled monitoring or audit, each Party agrees to submit to the other Party in writing any relevant requirement precluding that Party's access to client information including the correct citation of the legal authority on which the limiting Party relies to support its claim that the other Party is prohibited from access to the client information.

7.2.3 Masking. Upon authorization from either Party to render client files anonymous, the other Party agrees to mask information identifying clients in a way that will not obstruct the authorizing Party's monitoring and evaluative duties in any way.

7.2.4 Privacy. Each Party shall comply with state and federal laws relating to the privacy and confidentiality of patient and client records that contain protected health information, or other information made confidential by law, and shall maintain patient and client records in compliance with state laws relating to the security and retention of medical or patient records.

### **7.3 County Rules/Policies.**

7.3.1 Applicable County Rules/Policies. In provision of services related to local rules and regulations, City shall administer and enforce County rules and policies within the unincorporated areas of the County (and the ETJ, where applicable). County agrees that said rules and policies will be written in compliance with all applicable federal, state and local laws, rules and regulations. County has provided City with current copies of all relevant rules/policies, and will provide City with copies of any amendments to those rules/policies. City may notify County of any issues with said policies by giving written notice including a description of that issue and recommended resolution. Such notice shall go to the Executive Manager with a copy to the County Attorney. County shall notify City in writing of such agreement (or disagreement) with the City's proposal for resolution at the earliest possible date, but no more than thirty (30) days of receiving written notification; if County does not notify City of County's decision within that thirty (30) day period, County will be presumed to have consented to City's recommendation. If requested by County, City will work with County in the event that resolution of the issue requires an amendment to the County policy in order to allow sufficient time for consideration by the Commissioners Court.

7.3.2 Imminent Threat. If the City believes an imminent threat to public health exists and a County policy or rule does not authorize prompt action, notice shall be provided to the Executive Manager and County Attorney by confirmed facsimile, electronic mail or personal delivery, and the County Executive Manager or her designee shall immediately respond to City and provide direction. The parties agree that City staff shall not be required to enforce a policy or rule that does not comply with applicable laws or regulations, and failure to enforce a policy or rule in such circumstance shall not be deemed a default under this Agreement.

## **8.0 RETENTION AND ACCESSIBILITY OF CLIENT & FISCAL RECORDS.**

8.1 Retention and Maintenance of Records. City shall create and maintain all records and reports required and/or created relevant to performance under this Agreement, including but not limited to those specifically set out in this Section 8.0 (and all other applicable provisions of this Agreement), including all fiscal records, documentation about operations and documentation for all expenditures pertaining to this Agreement, and all operational and statistical reports related to performance in a readily available state, until all evaluations, audits and other reviews have been completed and all questions or issues (including litigation) arising from those evaluations, audits and reviews are resolved satisfactorily to County, or three (3) years after the end of the final Agreement Term, whichever occurs later.

### **8.2 Maintenance of Client Records.**

8.2.1 Medical. City shall maintain all medical records in accordance with all applicable statutes and regulations governing medical information.

8.2.2 Other. If any program is operated utilizing specific client eligibility criteria as set forth in Section 6.7, City shall create and maintain all records regarding Eligible Clients that

include the information on which City relies to determine the Client's eligibility, all records and reports agreed to by the Parties as necessary to evaluate the effectiveness of the services provided under this Agreement and all records related to performances under this Agreement as set forth herein.

**8.3 Access.** Subject to all applicable laws, City shall give County, and County shall give City, or any of their respective duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files and other papers, things or property belonging to or in use by City or County, respectively, pertaining to this Agreement at reasonable times and for reasonable periods. These rights to access shall continue as long as the records are required to be retained by City and/or County, and for any additional time period that the records are retained by City and/or County. If there is any incident in which claims are made against the County or any County employee, or City or any City employee, as a result of the activities performed under this Agreement, the Party against whom the claim is made shall give the duly authorized representative(s) of the other Party full and reasonable access to and the right to examine documentation related to this matter at reasonable times and for reasonable periods. These rights to access shall continue until all claims are resolved or three years after the termination of the Agreement, whichever is later.

## **9.0 REPORTING REQUIREMENTS**

**9.1 Performance/Financial Reports.** City shall submit mid-year and end-of-year performance and financial data to the County as set forth in Attachment C within sixty (60) days after the end of the Term half to which the report relates.

**9.2 Reimbursement Reports.** For any expenses that are separately or individually approved by the Commissioners Court to be paid on a reimbursement basis, apart from the maximum amount to be paid, City shall deliver to County reports that provide all of the information required by County within twenty (20) days after the end of the month to which the reimbursement relates.

**9.3 Annual Performance Close-Out Report.** City shall deliver a performance close-out report to the County as set forth in Section 13.4 and in Attachment C.

**9.4 Corrections.** City agrees to correct or revise any errors, omissions or other deficiencies in any reports or services provided by the City to ensure that such reports and services provide accurate information. City shall make the required corrections or revisions without additional cost to County.

**9.5 Legal Prohibition.** If City is legally prohibited from providing any required or requested reports, it shall immediately notify County, through County Department, in writing of this fact. Such notice shall include specific identification of the basis of the prohibition, including statutory citations as applicable, and shall be reviewed by County for final resolution.

**9.6 Additional Reports.** County may make, and City will respond to, reasonable requests of City to produce additional reports based on available information. The Parties shall mutually agree to the timing, content and format of such reports.

**9.7 Changes.** City shall promptly provide County with written reports of any changes in any of the information, reports and/or records provided to County pursuant to this Agreement.

## **10.0 NON-WAIVER**

### **10.1 County Approval.**

10.1.1 County's Satisfaction. The Parties expressly acknowledge and agree that County shall not be responsible for the cost of any services provided under this Agreement that are not substantially performed according to the terms of this Agreement and with County's approval, which shall not be unreasonably withheld.

10.1.2 Responsibility and Liability. Approval of County of any service, report or other performance by City under this Agreement shall not constitute nor be deemed a release of the responsibility and liability of City, its employees, agents or associates for the accuracy and competency of their reports, information, documents, or services, nor shall approval be deemed to be the assumption of such responsibility by County for any defect, error, omission, act or negligence or bad faith by City, its employees, agents, or associates.

**11.0 PRIOR DEBTS.** County shall not be liable for: costs incurred or performances rendered by City under this Agreement before or after the Agreement Term, although the Parties agree that this Agreement shall not affect County's obligation to pay City for services provided prior to the effective date of this Agreement under the terms of the previous agreement between City and County; expenses not billed to County within the applicable time frames set forth in this Agreement; or any payment for services or activities not provided pursuant to the terms of this Agreement.

## **12.0 LIMITATIONS.**

**12.1 Current Revenue Funds.** County shall make payments for services under this Agreement from current revenue funds available to County and set aside for this purpose. County is paying for the performance of governmental functions and services from current revenues available to County. The payment is in an amount that fairly compensates City for the services or functions performed under this Agreement.

**12.2 Immunity or Defense.** It is expressly understood and agreed by all Parties that, neither the execution of this Agreement, nor any conduct of any representative of City or County relating to this Agreement, shall be considered to waive, nor shall it be deemed to have waived, any immunity or defense that would otherwise be available to that entity against claims arising in the exercise of its governmental powers and functions, nor shall it be considered a waiver of sovereign immunity to suit. It is understood and agreed that a decision by one Party to waive immunity or to compensate a claim for which immunity would have been a defense and would have operated to prevent payment does not operate as a waiver or decision to compensate by the other Party; nor will such action by one Party operate to incur any expense or charge to the other Party.

**12.3 Training.** The Parties agree, to the extent possible, to extend opportunities for training to each other's personnel on matters relevant to each department's functions of a space available basis.

## **FINANCIAL PROVISIONS**

### **13.0 AGREEMENT FUNDS.**

#### **13.1 Fixed Price.**

13.1.1 Initial Term Agreement Funds Amount. In consideration of full and satisfactory performance of the services and activities provided under the terms of this Agreement, and

subject to other applicable provisions of this Agreement, County shall pay the City the following amount during the Initial Term:

GROSS Total:	\$ <u>2,633,397.00</u>
LESS Personnel Credit:	\$ <u>171,985.00</u>
NET Total:	\$ <u>2,461,412.00</u>

City expressly acknowledges and agrees that the sum stated in this Section 13.1.1 is the amount to be paid by County to City during the Initial Term period unless an increase in the County budget for this Agreement is approved by Commissioners Court and this Agreement is appropriately amended.

#### 13.1.2 Fiscal Year Limitation.

(a) City expressly acknowledges and agrees that County funding obligations can **ONLY** be incurred for the portion of the Agreement Term corresponding to a time period included in the approved budget for any one Fiscal Year unless services are requested outside of the scope of the Agreement.

(b) In no event shall any provision of this Agreement or any agreement subject to this Agreement be interpreted to obligate the County beyond the funds approved by the Commissioners Court for any Fiscal Year/budget period. Payments by County during the Initial Term or any Agreement Term shall be subject to the Fiscal Year limitations applicable to this Agreement under Section 13.0. In no event shall any provision of this Agreement or any agreement subject to this Agreement be interpreted to obligate the City to provide services outside of the scope of this Agreement.

(c) City understands and agrees that funds that apply to a subsequent Fiscal Year are contingent upon approval of such funding for this Agreement by the Commissioners Court in the budget process related to that Fiscal Year. This Section 13.1.2 shall apply to any future Agreement Term(s) within the Fiscal Year dates applicable to that Agreement Term.

### 13.2 Payments to City.

13.2.1 Quarterly Payment Dates. County shall pay City quarterly an amount equal to one-fourth (1/4) the total amount set forth in Section 13.1.1 on or before the following dates of each Agreement Term:

- (a) December 31
- (b) March 31
- (c) June 30
- (d) September 30

#### 13.2.2 Quarterly Amount.

- (a) The quarterly amount for the Initial Agreement Term shall be:  
**\$ 658,349.25,**
- (b) less the agreed upon quarterly credit for County personnel in the amount  
of:  
**\$ 42,996.25,**
- (c) for a total quarterly payment of:  
**\$ 615,353.00.**

13.2.3 Credit True Up. Adjustments for any changes in the amount set forth under Section 13.2.2(b) [and the resulting change in Section 13.2.2(c)] that result from changes in County personnel during the Agreement Term will be made as a part of the process set forth in Section 13.4 below.

13.2.4 Quarterly Invoice. On or before the first day of the months set forth in Section 13.2.1 (a) - (d) above for payment, City shall provide County with quarterly invoices utilizing the form attached to this Agreement as Attachment E showing the invoiced quarterly amount, the assigned quarterly credit for personnel, and other information as set forth in the invoice form.

### 13.3 Cost Model.

#### 13.3.1 Cost Model.

(a) General. City and County agree that the determination of costs for public health services under this Agreement have been made using a dual approach. For most public health services, the costs to County will be based upon the Travis County population-based percentage; however, for those services described in Subsection (c) below, the cost will be based on a combination of the population-based percentage and the cost allocation method described in subsection c. For Animal Services, the costs will be calculated based upon a straight cost methodology described in Subsection (e).

(b) Population Based. The annual fixed price for public health services will be allocated based on the Travis County population percentage, except as set forth in subsection (c) below. The Travis County population percentage will be calculated as described in Attachment A.

(c) Dual Approach. The dual approach combining population and cost allocation will be utilized for the following areas of Environmental and Consumer Health Unit (ECHU):

- 1) Information, Referral & Permitting and
- 2) Health & Safety Code Compliance

For these areas the fixed price will be calculated using a combination of the Travis County population percentage and a cost allocation method based on the number of County food establishments.

For the categories of 1) Health and Safety Code Compliance and 2) Information Referral & Permitting, County's portion of the fixed cost will be allocated as follows:

- a. Eighty Percent (80%) of County's portion will be based on cost and the % of fixed food establishments in the unincorporated areas of the County:

$$.80 \times \text{Cost} \times \frac{\text{\# of permitted food establishments located in unincorporated Travis County}}{\text{total \# of permitted food establishments in Austin/Travis County}}$$

- b. Twenty Percent (20%) of County's portion will be based on population percentage:

.20 X Cost X County population percentage

c. County portion will be determined by applying the total from subsections "a" and "b" above.

(d) Application. The Parties agree that the Travis County population percentage calculation and the cost allocation methodology set forth in this Section 13.3.1 applies to the Initial Term and the first Renewal Term of this Agreement but is subject to re-negotiation as to any later Renewal Terms(s) based, in part, upon performance data received related to each Term. The Parties agree that the population based percentages will be updated annually based on current figures. The parties agree to work together in order to evaluate and develop the most efficient and effective provision of services in the community as a whole.

(e) Animal Services. The annual fixed price for Animal Services shall be allocated as follows:

- (1) Using a 5-year rolling average,
  - a. Animal Control services shall be based on the percent (%) of activities attributed to County; and
  - b. Shelter Services, including Adoption and Rescue, shall be based on the percent (%) of animals accepted at the Shelter attributed to County.
- (2) Spay/neuter sterilization services at County sites shall be as set forth in Section III.B.8.c of Attachment B to this Agreement.
- (3) City will credit \$10,000 per term year for coyote abatement services provided by the County's Predator Control Program. This credit will be shown as a separate line item in the Cost Model and will be netted from the total cost charged to the County.

13.3.2 The cost model does NOT include, either directly or indirectly, any of the following:

- (a) Other Post Employment Benefits (OPEB) for City employees whether or not those costs are for current year benefits, prior year benefits, or future year benefits;
- (b) employee recognition, rewards or awards other than performance pay documented pursuant to Council adopted compensation schedules;
- (c) entertainment and gifts, including meals or beverages, even if related to a business purpose. This subsection (c) notwithstanding, the cost model WILL allow for payment for meal and beverage expenses for employees incurred during out-of-town trips or conferences related to services provided under this Agreement and incurred according to the City travel policy (a current copy of which has been provided to County; copies of amendments will be provided to County whenever changes are made).
- (d) legislative consultant services;
- (e) donations to non-profit or private organizations;
- (f) legal services (the Parties agree that the City has no obligation to provide legal services to County under this Agreement);
- (g) consulting services. This subsection (g) notwithstanding, the cost model WILL allow for payment for consulting services related to services provided within the scope of this Agreement.