

INTERLOCAL AGREEMENT  
BETWEEN  
THE CITY OF AUSTIN, THE CITY OF SAN MARCOS POLICE DEPARTMENT,  
THE HAYS COUNTY CRIMINAL DISTRICT ATTORNEY'S OFFICE,  
AND THE HAYS COUNTY SHERIFF'S DEPARTMENT  
FOR FORENSIC LAB SERVICES

This Interlocal Agreement Between the City of Austin and County of Hays For Forensic Lab Services ("Agreement") is entered into by and between the following parties: Hays County, Texas, a political subdivision of the State of Texas ("County"), the Hays County Criminal District Attorney's Office, a Department of Hays County (the "DA"); the City of San Marcos Police Department, an agency of a Home Rule City primarily located in Hays County ("SMPD"); and the City of Austin, a Home Rule City primarily located in Travis County, Texas ("City"), pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The above-listed entities are collectively referred to as "the Parties" or "the Parties to this Agreement." The County, the DA, and SMPD are collectively referred to as "the Client Entities."

**WHEREAS**, the Parties each have an interest in achieving a more efficient Criminal Justice system through a collaborative, regional effort.

**WHEREAS**, the Parties anticipate that the terms and conditions of this Agreement will facilitate and promote a more efficient Criminal Justice system in Hays County;

**WHEREAS**, the City currently operates a Forensic Science Division in the Austin Police Department ("APD") for criminal investigation purposes; and,

**WHEREAS**, the City's Forensic Science Division performs laboratory analysis on DNA, firearms/toolmark and latent print evidence seized in connection with criminal cases; and,

**WHEREAS**, the City currently employs staff to perform such analysis; and,

**WHEREAS**, Parties agree that the laboratory will perform analysis in these disciplines for the client entities based on the following formula; and,

**WHEREAS**, the Parties agree that it would be mutually advantageous for the County to provide funding for the City to perform these analyses at the Forensic Science Division; and,

**WHEREAS**, the City and County are authorized to enter into this agreement pursuant to Chapter 791 of the Government Code, the Interlocal Cooperation Act, as each party is contracting for governmental functions that it is authorized to perform individually and both parties agree that all payments made pursuant to this Agreement fairly compensate the performing party for the services provided;

**NOW, THEREFORE**, for and in consideration of the mutual promises and agreements contained herein, and other good and valuable consideration, the City and County agree as follows:

## **SECTION 1. GENERAL INTENT**

The current number of cases being handled by the Austin Police Department's Forensic Science Division prevents the Division from assisting other agencies with analysis. Law enforcement agencies rely on the analyses of physical evidence generated from the investigation to resolve offenses. Because the client entities do not have the capability to perform said analyses and because of the delay in receipt of laboratory analysis results on evidence analyzed utilizing the current method, the client agencies are unable to resolve many cases in a timely manner. The City currently operates a forensic laboratory that performs laboratory analyses on evidence in the disciplines of latent print, DNA and firearm/toolmark. The Parties agree that additional funding would enable the City to perform laboratory analysis on related evidence for the above listed entities, thereby completing these analyses more quickly than currently being conducted. The Parties agree that it would be mutually advantageous for the Client Entities to provide funding for the City to provide funding to perform these analyses at the City's Forensic Science Division. The Parties understand and agree that the goal of this interlocal agreement is to provide analysis results to the client entities as prescribed within the agreement below for each discipline from date of submission.

## **SECTION 2. TERM OF AGREEMENT**

2.1 **Initial Term.** The Initial Term of this Agreement shall begin when it has been signed by both parties, and shall continue through September 30, 2013, unless sooner terminated as provided herein.

2.2 **Renewal Term(s).** Subject to continued funding, this Agreement shall automatically renew annually, on October 1 of each successive year, unless terminated by either party as provided herein.

2.3 **Termination.** Either party may terminate this contract in its entirety for convenience by giving the other notice of intent to terminate. After the notice is received, the parties shall negotiate in good faith the terms and effective date of the termination. In any event, however, this contract terminates ninety (90) calendar days after a party receives the notice of termination.

## **SECTION 3. CITY SERVICES**

3.1 **Interviewing and Hiring.** City will interview, hire, and train qualified personnel to perform the analyses requested by the client entities.

3.2 **Employee Qualifications.** City will ensure that the personnel hired pursuant to this Agreement is fully qualified to perform the analysis services contemplated by this Agreement.

3.3 **Support.** City will provide a workspace and access to any necessary equipment and/or materiel for the accomplishment of the duties under this Agreement.

3.4 **Billing/Accounting.** City will develop a system of billing that will outline the cases worked, the disciplines utilized and the hours required to perform the request by the client entity.

3.5 Other Hays County Entities. During the term of this Agreement, the City may also make the services cited in this Agreement available to the Cities of Buda and Kyle on a case-by-case basis. If such services are made available, the City shall charge those entities the same rates paid by the Client Entities in this Agreement.

#### **SECTION 4. CLIENT ENTITY FUNDING**

4.1 Funding for Services. The Client Entities will provide funding to the City for services rendered.

4.2 Amount of Compensation. For and in consideration of the satisfactory performance of services by City in accordance with terms of this Agreement, the Client Entities shall pay the City on a service rendered basis, based on the terms in this section and based on the costs set out by the City of Austin fee schedule ordinance, attached as Exhibit 1, as may be amended by future annual budget ordinances.

##### **DNA Analyses**

- Cost for Analysis - To be billed per case, depending on type of evidence and number of samples.
- Turnaround Time
  - Approximately **3 – 5 months** depending on priority.

##### **Firearms Analysis**

- Analysis Included:
  - Function Testing/NIBIN Entry
  - Firearm and Tool mark Comparison
  - Serial Number Restoration
- Analysis Not Included:
  - Crime Scene Reconstruction
  - Gunshot Residue/Distance Determination
- Turnaround Time:
  - The turnaround time for cases will be no more than **20 days**, unless agreed upon by submitting agency based in individual case specifics.
- Cost for Analysis:
  - Time per case is dependent on the amount of evidence and type of analysis requested.

##### **Latent Print**

- Analysis Included:
  - APFIS Entry
  - Latent Comparison
- Turnaround Time:
  - The turnaround time for cases will be **30 days**.
- Cost for Analysis:
  - Time per case is dependent on the amount of evidence and type of analysis requested.

## **Trial Testimony**

- Included: Expert Analysis and conclusions drawn from expert analysis of any of the above-cited services rendered shall be provided in the form of trial testimony on an as-needed basis.
- Cost:
  - Trial testimony shall be provided at no additional charge.

Billing will take place quarterly (calendar-year quarters) and shall be due within thirty (30) days of the date of billing.

Clients will provide the contact names of those authorized to approve analyses on cases. These authorizing authorities will be responsible for authorizing the analyses and subsequent payment for services, using the approved form.

4.3 Invoicing. For all payments, City shall invoice County quarterly for services rendered pursuant to this Agreement. Invoices shall be submitted within ten (10) calendar days of the next quarter in which services will be performed. The invoice shall include evidence of the work performed under the agreement.

4.4 Unless otherwise requested by County in writing, invoices shall be mailed to:

Vickie Wilhelm  
Hays County Auditor's Office  
111 E. San Antonio, Suite 100  
San Marcos, Texas 78666

4.4 Payment. County shall make payment to City within thirty (30) calendar days following the receipt by County of a proper invoice. County shall forward all invoices received from City to SMPD, within five (5) days of receipt. Invoices shall be forwarded to:

Chief Howard Williams  
SMPD – Chief of Police  
2300 S. IH-35  
San Marcos, TX 78666

4.5 Parties will pay from revenues currently available. Each party paying for the performance of governmental functions or services under this Agreement will make those payments from current revenues available to that paying party.

4.6 Payment by SMPD, for chemistry services. Within fifteen (15) days of receipt of an invoice sent from the County pursuant to Section 4.4, above, SMPD shall pay the County its share of the invoice, which, unless otherwise agreed by the Client Entities in writing, shall be one-third (1/3) of the total invoice amount received for Drug Analysis and one hundred percent (100%) of the total invoice received for any other analysis ordered by SMPD pursuant to an SMPD investigation.

4.7 For all other services outlined in this agreement each client agency will be billed separately on a quarterly basis.

## **SECTION 5. RELATIONSHIP OF PARTIES, AND LIABILITY**

5.1 The Parties are associated only for the purposes and to the extent set forth herein. Nothing contained herein shall be deemed or construed to create a partnership or joint venture, or to create the relationship of employer-employee or of principal-agent. No party to this Agreement will be responsible for the acts or omissions of an employee of another party except as may be decreed against that party by a judgment of a court of competent jurisdiction.

5.2 It is expressly understood and agreed that by executing this Agreement no party waives, nor shall be deemed to have waived, any immunity or defense otherwise available to it under the law.

5.3 This Agreement is not intended, nor shall it be construed, to confer any benefits, rights or remedies upon any person or entity not a party hereto.

## **SECTION 6. ASSIGNMENT AND SUBCONTRACTING**

6.1 Neither Party may assign its rights or subcontract its duties under this contract without the prior written consent of the other Party. An attempted assignment or subcontract in violation of this paragraph is void.

## **SECTION 7. TERMINATION FOR UNAVAILABILITY OF FUNDS**

7.1 This Agreement is to be contingent upon approval and appropriation by the parties of sufficient funds in their respective operating budgets for each party's fiscal year under this Agreement. In the event that such funding is not appropriated and approved, this Agreement will terminate automatically on the last day in the fiscal year for which sufficient funds were budgeted and appropriated for this Agreement, provided that any such action or termination due to non-appropriation of funds will not be construed as a default under this Agreement. The Parties agree to give the other party at least ninety (90) days advance written notice of termination under this provision.

## **SECTION 8. NOTICE TO PARTIES**

8.1 Notice to be effective under this contract must be in writing and received by the party against whom it is to operate. Notice is received by a party: (1) when it is delivered to the party personally; (2) on the date shown on the return receipt if mailed by registered or certified mail, return receipt requested, to the party's address specified below, and signed on behalf of the party; or (3) three business days after its deposit in the United States mail, with first-class postage affixed, addressed to the party's address specified below.

Sheriff Gary Cutler  
1307 Uhland Road  
San Marcos, TX 78666

Chief Art Acevedo  
Chief of Police - APD  
715 E. 8<sup>th</sup> Street  
Austin, Texas 78701

Chief Howard Williams  
SMPD – Chief of Police  
2300 S. IH-35  
San Marcos, TX 78666

Sherri Tibbe  
Hays County Criminal District Attorney  
110 E. MLK Blvd.  
San Marcos, Texas 78666

A party may change its address by providing notice of the change in accordance with this section.

### **SECTION 9. MISCELLANEOUS**

9.1 Each individual signing this contract on behalf of a party warrants that he or she is legally authorized to do so and that the party is legally authorized to perform the obligations undertaken.

9.2 This contract states the entire agreement of the parties, and an amendment to it is not effective unless in writing and signed by all parties.

This contract is executed in duplicate originals.

CITY OF AUSTIN

HAYS COUNTY

By \_\_\_\_\_  
Marc A. Ott  
City Manager

By \_\_\_\_\_  
Bert Cobb, M.D.  
County Judge

Date \_\_\_\_\_

Date \_\_\_\_\_

Attest: \_\_\_\_\_  
Liz Q. Gonzalez  
Hays County Clerk

SAN MARCOS PD

HAYS COUNTY CRIMINAL D.A.

By \_\_\_\_\_  
Howard Williams  
Chief of Police

By \_\_\_\_\_  
Sherri Tibbe  
Criminal District Attorney

Date \_\_\_\_\_

Date \_\_\_\_\_