

**INTERLOCAL COOPERATION AGREEMENT BETWEEN
THE CITY OF AUSTIN AND TRAVIS COUNTY FOR
HOUSEHOLD HAZARDOUS WASTE COLLECTION SERVICES**

THIS AGREEMENT is made and entered into by and between Travis County, Texas (the “County”) and the City of Austin, Texas (the “City”), collectively referred to as the “Parties” or individually referred to as “Party”.

WHEREAS, the County desires to provide household hazardous waste collection services (“Collection Services”) for County residents who live outside of the incorporated limits of the City;

WHEREAS, the City operates a household hazardous waste collection facility that is funded by the residents in the City’s full-service area under the Clean Community Fee included in these residents’ utility bills;

WHEREAS, the City’s facility has the capacity to serve the needs of the County residents;

WHEREAS, in the interest of economy and efficiency, the City and the County desire to cooperate in providing Collection Services to County residents, and this cooperation will mutually benefit the City and the County and serve to protect the public health, safety, welfare, and environment of the residents of both the City and the County; and

WHEREAS, the City and the County are authorized to enter into this Agreement under the Interlocal Cooperation Act, Texas Government Code Section 791.001 et seq.;

NOW, THEREFORE, the Parties, in consideration of these promises and mutual obligations undertaken, agree as follows:

1. Collection Services.

- (a) In this Agreement:
 - (1) “County residents” and “County households” refer to residents and households that reside within Travis County but outside the full-service area that is subject to the City’s Clean Community Fee.
 - (2) “Collection Services” include the City’s arrangements for the transport of this household hazardous waste to a facility for disposal or recycling in accordance with applicable law.

- (b) The City will provide Collection Services in accordance with the City’s guidelines for household hazardous waste, as defined by 30 Texas Administrative Code Section 335.402, to all County residents who transport household hazardous waste to:

- (1) The City's Household Hazardous Waste Collection Facility ("Facility"), located at 2514 Business Center Drive, Austin, Texas during the Facility's normal collection hours
 - (2) Collection events hosted by the City; and
 - (3) Mobile collection units set up by the City.
- (c) The City will ensure that all household hazardous waste transported by County residents to the Facility, a collection event, or a mobile collection unit is properly disposed of in accordance with all applicable local, state, and federal rules and statutes.
- (d) The City in its sole discretion may host collection events or set up mobile collection units described in (b)(2) and (b)(3) above, and nothing in this agreement obligates the City to host collection events or to set up mobile collection units.

2. Maintenance of Records.

- (a) For each month that this Agreement is in effect, the City will keep daily records of the number of County households who bring household hazardous waste during that month to each of the following:
- (1) The Facility;
 - (2) Collection events hosted by the City; and
 - (3) Mobile collection units set up by the City.
- (b) On January 30, April 30, July 30, and October 30 of each year that this Agreement is in effect, the City will provide the Director of the Natural Resources and Environmental Quality Division of the Travis County Transportation and Natural Resources Department a written report of the number of County households who brought household hazardous waste during each of the previous three months to each of the following:
- (1) The Facility;
 - (2) Collection events hosted by the City; and
 - (3) Mobile collection units set up by the City.
- (c) The Parties agree to maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and to make such materials available to each other and their duly authorized representatives for review and inspection at each party's respective offices during the period that this Agreement is in effect and for four years after the termination of this Agreement or until any impending litigation or claims are resolved, whichever is later.
- (d) The Parties and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

3. **Financial Obligations.**

In consideration of the City’s provision of Collection Services, the County will provide payment to the City as follows:

- (a) For each load of household hazardous waste collected from a County resident or County household at the Facility, a collection event, or a mobile collection unit, the County will compensate the City the amount per load charged by the City’s contractor for processing and disposal of household hazardous waste, but if the City’s contractor does not charge per load, the County will pay a pro-rata share of the amount owed by the City to its contractor.
- (b) The County will reimburse the City for the cost of a full-time City Pay Grade Nine employee, including salary and fringe benefits, for each quarter that this Agreement was in effect from the previous October 1 through September 30.
- (c) **Pre-Invoice Documentation.**
 - (1) The City will provide the County pre-invoice documentation described in Paragraph (c)(2) to the County on the following dates for the following periods of time:

Date for Providing Pre-Invoice Documentation	Period of Time Covered by Pre-Invoice Documentation
January 30	Previous October 1 through December 31
April 30	Previous January 1 through March 31
July 30	Previous April 1 through June 30
October 30	Previous July 1 through September 30

- (2) The City will provide the County the following pre-invoice documentation on the dates specified in Paragraph (c)(1):
 - (A) Tally sheets and a spreadsheet that show the number of loads of household hazardous waste collected each day at the Facility, at collection events, and at mobile collection units from County residents;
 - (B) The amount charged by the City’s contractors for disposal of household hazardous waste collected from County residents;
 - (C) Detailed salary information for the City’s Pay Grade Nine employee, including the City’s formula for calculating benefits for that employee; and
 - (D) Documentation evidencing the City’s payments, if any, to contractors for disposal of household hazardous waste collected from County residents, an itemization of what was paid, and copies of receipts for payments made to contractors.

(d) Invoices.

(1) The City will submit invoices to the County on the following dates for the following periods of time:

Date for Submitting Invoice	Period of Time Covered by Invoice
March 1	Previous October 1 through December 31
June 1	Previous January 1 through March 31
September 1	Previous April 1 through June 30
December 1	Previous July 1 through September 30

(2) For each month invoiced, the invoice must include the following information:

- (A) The total number of households that brought household hazardous waste to the Facility, collection events, and mobile collection units, and the number of those households that are County households;
- (B) The total volume of household hazardous waste collected at the Facility, collection events, and mobile collection units, and the volume of household hazardous waste that was collected from County households;
- (C) Copies of receipts for payments made to vendors;
- (D) A summary of vendor payments by month;
- (E) The City's cost for the City's Pay Grade Nine employee, and the City's formula for calculating that cost;
- (F) The City's total disposal costs for providing Collection Services at the Facility, at collection events, and at mobile collection units;
- (F) The City's calculation of the amount the County is to reimburse the City for the Collection Services and the City's formula for calculating that amount; and
- (G) Any additional payment information that may be required by the Travis County Auditor's Office.

(e) Payment by County.

- (1) If the services and work described in the invoice were rendered in compliance with this Agreement, the County will make payment to the City within 30 days after receipt of each invoice.
- (2) In the event changes or corrections are required to any invoice prior to payment, a request for additional information will be made by the County within 30 days of receipt of the invoice.
- (3) Interest on overdue payments is governed by Chapter 2251 of the Texas Government Code.

4. Project Management.

(a) The Director of the City's Austin Resource Recovery Department (the "Director") and the County Executive of the County's Transportation and Natural Resources Department (the "County Executive") will act on behalf of the City and the

County, respectively, as Contract Administrators in the implementation of this Agreement.

- (b) The City agrees to use every effort to maintain flexibility in the provision of Collection Services to County residents and the administration of this Agreement in order to accommodate the needs of both the City and the County.
- (c) Each Contract Administrator represents the interests of his respective Party during the term of the Agreement and is the designated point of contact for that Party. The Director and the County Executive may designate other representatives to transmit instructions and receive information.

5. Indemnification.

- (a) Liability. To the extent provided by Texas law, the City and the County agree that each separate entity is responsible for its own negligent acts and unlawful acts in relation to this Agreement and any resulting claims, damages, or attorney fees. In addition, the City must require that any contractor used by the City to dispose of or process household hazardous waste collected pursuant to this Agreement provide workers compensation insurance, auto liability insurance, and general liability insurance in the standard amounts required by the City for such contracts.
- (b) Claims Notification. If the City or the 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 the City or the County in relation to this Agreement, the Party receiving such notice must give written notice to the other Party of the claim or other action within three working days after being notified of it or the threat of it; 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 must be given in the manner provided in this Section of this Agreement. Except as otherwise directed, the notifying Party must furnish to the other Party copies of all pertinent papers received by that Party with respect to these claims or actions.

6. Effective Date.

This Agreement takes effect upon the last date of execution of the Agreement by the City and the County and will be effective until September 30, 2017. This Agreement will automatically renew from year to year from October 1 of each year to September 30 of the following year unless terminated earlier by the Parties.

7. Notice.

Any notice, request, or other communication required or appropriate to be given under this Agreement by either Party to the other shall be in writing and shall be considered delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail,

addressed to the person designated for receipt of notice, postage prepaid and Return Receipt Requested. Notices delivered by facsimile shall be considered delivered three (3) business days after transmittal or when received by the addressee, whichever is earlier. Hand-delivered notices are considered delivered upon receipt by the addressee, and receipt may be noted in a courier confirmation report. The Parties may make routine communications by first class mail, fax, or other commercially accepted means. Notices to the City and County shall be addressed as follows:

CITY: **Bob Gedert**
Director, Austin Resource Recovery
City of Austin
P.O. Box 1088
Austin, Texas 78767
Phone: 512-974-1926
Facsimile: 512-974-1999

WITH COPY TO: **Karen M. Kennard**
City Attorney
City of Austin, Law Department
P.O. Box 1088
Austin, Texas 78767
Phone: 512-974-1355
Facsimile: 512-974-2894

COUNTY: **Steven M. Manila, P.E. (or successor)**
County Executive
Transportation and Natural Resources Department
Travis County
P.O. Box 1748
Austin, Texas 78767
Phone: 512-854-9383
Facsimile: 512-854-4697

AND: **Cyd Grimes, C.P.M., CPPO (or successor)**
Travis County Purchasing Agent
P.O. Box 1748
Austin, Texas 78767
Phone: 512-854-9700
Facsimile: 512-854-9185

WITH COPY TO: **David Escamilla (or successor)**
Travis County Attorney
P.O. Box 1748
Austin, Texas 78767
Phone: 512-854-9315
Facsimile: 512-854-4808

8. Default.

A Party to this Agreement is in default (“Default”) under the Agreement if the Party fails to fully, timely, and faithfully perform any of its material obligations under the Agreement; and following notice of default as provided in Section 9 (Termination for Default), fails to cure the alleged default as provided in Section 9.

9. Termination for Default.

In the event of Default by a Party, the other Party has the right to terminate the Agreement for cause, by written notice delivered to the Party alleged to be in default via certified mail, postage prepaid, and return receipt requested. The notice is effective within sixty (60) days after delivery to the defaulting party, unless otherwise specified for a longer time period. During this time period, the Party alleged to be in default may cure the event of Default or provide evidence sufficient to prove to the other Party’s reasonable satisfaction that such default does not exist or will be cured in a time satisfactory to the Party alleging the default. In the event of Termination for Default, the County and its officials, agents, and representatives will not be liable for loss of any profits by any of the City’s contractors.

10. Termination for Convenience

A Party may terminate this Agreement for convenience by providing written notice to the other Party at least sixty (60) days before the termination date.

11. Funding and Funding Out.

Despite anything to the contrary in this Agreement, if, during budget planning and adoption, the Travis County Commissioners Court fails to provide funding for this Agreement for the following fiscal year of the County, The County may terminate this Agreement after giving the City 30 days’ written notice that this Agreement is terminated due to the failure to fund it. Additionally, payments under this Agreement shall be made from current revenues appropriated and available in the County’s current year operating budget.

12. Number and Gender Defined.

As used in this Agreement, whenever the context so indicates, the masculine, feminine, or neutral gender and the singular or plural number shall each be deemed to include the others.

13. Entire Agreement.

This Agreement contains the complete and entire Agreement between the Parties and supersedes all prior negotiations, agreements, representations, and understandings concerning its subject matter. This Agreement may not be modified, discharged, or changed in any respect whatsoever except by a further agreement in writing duly executed by authorized representatives of the Parties. No official, representative, agent, or employee of Travis County, Texas has any authority to modify this Agreement, except pursuant to such express authority as may be granted by the Commissioners Court of Travis County, Texas. All requests for changes shall be submitted to the Contract Administrator of each Party, with a copy to the County Purchasing Agent as set forth in Section 7.

14. Other Instruments.

The Parties agree to execute other and further instruments and documents that may become necessary to carry out the purposes of this Agreement.

15. Invalid Provision.

Any clause, sentence, provision, paragraph, or article of this Agreement held by a court of competent jurisdiction to be invalid, illegal, or ineffective shall not impair, invalidate, or nullify the remainder of this Agreement, but the effect shall be confined to the clause, sentence, provision, paragraph, or article so held to be invalid, illegal, or ineffective.

16. Venue.

This Agreement shall be construed under the laws of the State of Texas and all obligations of the parties are performable in Travis County, Texas. Venue for any disputes arising from this Agreement will lie in the appropriate court in Austin, Travis County, Texas.

17. Multiple Counterparts.

This Agreement may be executed (by original or facsimile) by the Parties in one or more counterparts, each of which shall be considered one and the same agreement.

18. Assignment.

A Party to this Agreement may not assign or transfer its interests under this Agreement without the prior written approval of the other Party.

19. Survival of Terms.

All provisions of this Agreement that impose continuing obligations on the Parties, including but not limited to reports and payments shall survive the expiration or termination of this Agreement.

20. Non-Waiver of Default.

No payment, act, or omission by one Party may constitute or be construed as a waiver of any breach or default of the other Party which then exists or may subsequently exist. All rights of the Parties under this Agreement are specifically reserved and any payment, act, or omission is not to be construed to impair or prejudice any remedy or title to the Parties under it. Any right or remedy in this Agreement does not preclude the exercise of any other right or remedy under this Agreement or under any law, except as expressly provided in this Agreement, nor will any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies.

21. Third Party Rights Not Created.

This Agreement is not intended to and shall not be construed to create any rights or remedies in any person or legal entity that is not a party to it and the Parties are not waiving any defense or immunity to which they are entitled against any person or legal entity that is not a party to this Agreement.

[Signatures on following page]

TRAVIS COUNTY, TEXAS

By: _____

**Sarah Eckhardt
Travis County Judge**

Date: _____

CITY OF AUSTIN, TEXAS

By: _____

Printed Name: _____

Title: _____

Date: _____

Approved as to form:

By: _____

Printed Name: _____

Assistant City Attorney

DRAFT