

INTERLOCAL AGREEMENT
BETWEEN THE CITY OF AUSTIN AND THE AUSTIN/TRAVIS COUNTY
SOBRIETY CENTER LOCAL GOVERNMENT CORPORATION
RELATING TO THE ESTABLISHMENT OF A SOBRIETY CENTER

PARTIES

This Interlocal Agreement ("Agreement") is entered into by and between the City of Austin, a Texas home rule municipal corporation and political subdivision of the State of Texas ("the City") and the Austin/Travis County Sobriety Center Local Government Corporation, a Texas local government corporation ("the Corporation"), each a "Party" and collectively referred to herein as the "Parties".

RECITALS

WHEREAS, the City Council and the Commissioners Court have determined that chronic inebriation can consume public resources, such as depleting law enforcement time and energy, judicial and medical resources, and also negatively impact individual health; and

WHEREAS, the City Council and Commissioners Court have recognized the benefits of providing a sobriety center and determined that the operation of a sobriety center would provide an alternative for the safe short-term treatment and management of persons under the influence of alcohol, and divert intoxicated persons from the County Jail; and

WHEREAS, in September, 2016, the City and Travis County ("the County") jointly created a Local Government Corporation to establish and operate a sobriety center in the downtown area of the City;

WHEREAS, the City and the County agreed to contribute resources to the sobriety center by providing financial support through various means articulated within a separate interlocal agreement between those two parties;

WHEREAS, City Council approved funding of \$380,000 in the City's Fiscal Year 2017 budget for initial actions necessary by the Corporation to establish and manage a sobriety center, including but not limited to the hiring of an executive director, administrative support personnel, and legal counsel, and procurement of office space;

WHEREAS, the City and the Corporation are authorized to enter into this Agreement through the Interlocal Cooperation Act, Texas Government Code, Chapter 791;

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the sufficiency of which is acknowledged, City and Corporation agree to the terms and conditions stated in this Agreement as follows:

SECTION 1. DEFINITIONS

Terms Defined. In this Agreement, the following terms will have these meanings:

- 1.1 "Agreement" means this Interlocal Agreement between the City and Corporation as the same may be amended or restated from time to time.
- 1.2 "Agreement Manager" means the City employee in the Austin Public Health Department who is responsible for exercising general oversight of the Corporation's activities under this Agreement.
- 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 "Fiscal Year" means that twelve-month time period between any October 1 and the next following September 30.

SECTION 2. GENERAL TERMS

2.1 Purpose and Scope. The purpose of this Agreement is to set forth the terms and conditions under which City shall provide initial funds to the Corporation for the creation and management of a sobriety center.

2.2 Agreement Term. The term of this Agreement ("initial term") begins upon execution by both Parties and will continue through September 30, 2017, unless sooner terminated as provided herein. Subject to continued funding by the City Council, this Agreement will automatically renew for a one year term ("renewal term"), ending on September 30, 2018, unless terminated earlier in accordance with the terms of this Agreement.

2.3 Entire Agreement. All oral and written agreements between the Parties to this Agreement relating to a sobriety center 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. This Agreement supersedes and replaces all oral and written prior written agreements between the Parties.

2.4 Agreement Communications. City and Corporation 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 designated Assistant City Manager for the City and the Chair of the Board of the Corporation. Once hired, the Executive Director of the Corporation shall replace the Chair of the Board for such purposes.

2.5 Current Revenues. The Parties acknowledge that funding for the Corporation and the sobriety center will be from current revenues available to each Party.

SECTION 3. CORPORATION'S RESPONSIBILITIES AND OBLIGATIONS

3.1 Overall Objective. The Corporation is to take actions as appropriate to implement and make operational a sobriety center consistent with the directives of Articles of Incorporation, the Bylaws, and relevant City and County resolutions. In doing so, the Corporation shall manage its activities to remain within the City Council's adopted budget of \$380,000 for FY2017. Such actions include, but are not limited to:

3.1.1 Hiring an Executive Director.

3.1.2 Reviewing, evaluating and revising as appropriate the Corporation's proposed staffing plan; and hiring staff according to the revised plan as approved by the Corporation.

3.1.3 Reviewing evaluating and work with assigned Travis County representatives to finalize facility layout.

3.1.4 Reviewing evaluating and revising as appropriate the initial operational plan; make expenditures according to the revised plan as approved by the Corporation.

3.1.5 Arranging for and securing services and supplies as determined appropriate by the Corporation to implement a sobriety center.

3.1.6 Developing and making available to the public key performance metrics to demonstrate the operational effectiveness and efficiency of the sobriety center.

3.2 Development of the FY2018 Budget. The Corporation shall develop and approve an FY2018 Budget to be submitted to the City in accordance with the City's process.

3.3 Insurance. The Corporation agrees that it will procure sufficient Directors and Officers Liability coverage, if available in the marketplace, to protect the Corporation for losses or advancement of defense costs in the event the Corporation or one or more of its board members suffer a loss as a result of a legal action brought against the Corporation, its board members, or both. If such coverage is not available in the marketplace, the Parties agree to work together to formulate a strategy to ensure that board members and employees of the Corporation are protected from personal loss as a result of legal action brought against one or more board member or employee of the Corporation.

3.4 Reporting.

3.4.1 Performance Reports. Corporation shall submit a quarterly performance report using the format and method specified by the City no later than fifteen (15) calendar days

following each calendar quarter. If the fifteenth (15th) calendar day falls on a weekend or holiday, the deadline to submit the quarterly performance report is extended to no later than 5:00 p.m. Central Time of the first (1st) weekday immediately following the weekend or holiday. Corporation shall provide complete and accurate supporting documentation upon request by City. All reports will be entered into the City's contracting system.

3.4.2 Expenditure Reports. Corporation shall submit a monthly expenditure report by the 15th of each month. Each expenditure report will include accurate supporting documentation.

3.5 Monitoring and Evaluation. Corporation agrees that the City or its designee may carry out monitoring and evaluation activities to ensure adherence by the Corporation and subcontractors performing any services under this Agreement. Corporation shall fully cooperate in any monitoring or review by the City and further agrees to designate a member of the board or an employee of the Corporation to coordinate monitoring and evaluation activities.

SECTION 4. CITY'S RESPONSIBILITIES AND OBLIGATIONS

4.1 For and in consideration of the actions to be taken and the services to be rendered by the Corporation as described in Section 3 of this Agreement, during the initial term of this Agreement the City shall pay the Corporation \$380,000. For and in consideration of the actions to be taken and the services to be rendered by the Corporation during the renewal term, the City shall pay the Corporation an amount consistent with the FY 2018 budget developed by the Corporation as required in Section 3.2 of this Agreement.

4.2. The City's Agreement Manager shall be responsible for exercising general oversight of the Corporation's activities under this Agreement. Specifically, the Agreement Manager shall represent the City's interests in resolving day-to-day issues that may arise during any term of this Agreement, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Corporation, and shall timely approve all requests for payment. The City's Agreement Manager shall give the Corporation timely feedback on the acceptability of progress and task reports. The City's Agreement Manager will make the final determination of whether a cost is allowable or unallowable. The Agreement Manager's oversight of the Corporation's activities shall be for the City's benefit and shall not imply or create any partnership or joint venture as between the City and the Corporation.

SECTION 5. RIGHT TO AUDIT

5.1 The Corporation agrees that the representatives of the Office of the City Auditor, or other authorized representatives of the City, shall have access to, and the right to audit, examine, and copy any and all records of the Corporation related to the performance under this Agreement during normal business hours (Monday – Friday, 8 am – 5 pm). In addition to any other rights of termination or suspension set forth in this Agreement, City shall have the right to immediately suspend the Agreement, upon written notice to the Corporation if it fails to cooperate with this audit provision. The Corporation shall retain all such records for a period of five (5) years after the expiration or early termination of this Agreement or until all audit and

litigation matters that the City has brought to the attention of the Corporation are resolved, whichever is longer. The Corporation shall refund to the City any overpayments disclosed by any such audit.

5.2. The Corporation shall include these audit requirements in any contracts entered into for services rendered under this Agreement.

SECTION 6. FINANCIAL TERMS

6.1 City and Corporation agree that the amounts to be paid by City to the Corporation pursuant to this Agreement shall be computed in accordance with the Cost Model attached hereto as **Exhibit A** and made a part of this Agreement.

6.2. City shall pay Corporation for the actions to be taken and the services rendered under this Agreement.

6.3. City's obligation to pay shall be subject to the timely receipt of complete and accurate reports and any other deliverable required under this Agreement.

6.4. Payments to the Corporation will immediately be suspended upon the occasion of any late, incomplete, or inaccurate report, audit, or other required report or deliverable under this Agreement, and payments will not be resumed until the Corporation is in full compliance.

6.5. Corporation shall deposit and maintain all funds received under this Agreement in either a separate numbered bank account or a general operating account, either of which shall be supported with the maintenance of a separate accounting with a specific chart which reflects specific revenues and expenditures for the monies received under this Agreement. Corporation's accounting system shall identify the specific expenditures, or portions of expenditures, against which funds under this Agreement are disbursed.

SECTION 7. TERMINATION

7.1 Automatic Termination. This Agreement will automatically terminate upon execution by all Parties of a succeeding agreement between the City, the Corporation, and the County for the creation, operation, and management of a sobriety center by the Corporation.

7.2 Failure to Fund. If at any point during the budget planning and adoption process, the City Council fails to provide funding for the Corporation or sobriety center, any one of the Parties may terminate this Agreement.

7.3 Other Reasons for Termination. Any Party to this Agreement may terminate this Agreement if it is unable to conform to changes required by federal or state laws or regulations.

7.4 Notice of Termination. Any Party to this Agreement may terminate this Agreement for one or both reasons described in this section by providing the other Party/Parties with thirty (30) days written notice as described in section 6, below.

SECTION 8. NOTICES

8.1 Requirements. Except as otherwise specifically noted herein, any notice required or permitted to be given under this Agreement by a Party to the other Party/Parties shall be in writing and shall be given and deemed to have been given immediately if delivered in person to the address set forth in this section for the Party to whom the notice is given, or on the third day following mailing if placed in the United States Mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the Party at the address hereinafter specified.

8.2 City Address. The address of the City for all purposes under this Agreement and for all notices hereunder shall be:

Rey Arellano (or his successor in office)
Assistant City Manager
P. O. Box 1088
Austin, Texas 78767

With Copy to:

Austin Public Health Department
Shannon Jones, Director
P.O. Box 1088
Austin, Texas 78767

7.3 Corporation Address. HERE

9. Change of Address. Each Party may change the address for notice to it by giving written notice of the change. Any change of address shall be reported to the other Party/Parties within twenty (20) days of the change.

10. Dispute Resolution/Mediation. Disputes and unresolved questions or issues of City or Corporation shall initially be presented by City to Corporation by submission in writing to the Chair of the Board and by Corporation to City by submission in writing to the Assistant City Manager. If satisfactory resolution cannot be achieved between the Parties within a reasonable time, and should mediation be acceptable to both Parties in resolving a dispute arising under this Agreement, the Parties agree to use the Dispute Resolution Center of Austin, Texas, as the provider of mediators for mediation as described in the TEX. CIV. PRAC. AND REM. CODE, Section 154.023. Unless both Parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in TEX. CIV. PRAC. AND REM. CODE, Sec. 154.073, unless both Parties agree, in writing, to waive the confidentiality.

11. Force Majeure. Neither Party shall be financially liable to the other Party for delays or failures to perform under the Agreement where such failure is caused by force majeure (i.e. those causes generally recognized under Texas law as constituting impossible conditions). Such delays or failures to perform shall extend the period of performance until these exigencies have been removed or until the Parties agree in writing to either amend or terminate the Agreement. The Party seeking to avail itself of this clause shall notify the other Party within five (5) business days or otherwise waive the right as a defense, unless notification is impractical under the circumstances, in which case notification shall be done in as timely a manner as possible.

12. Third Party Beneficiary. This Agreement sets out the agreements and obligations between City and Corporation only, and no provision in this Agreement creates any rights in any person or entity that is not a party to this Agreement. The rights to performance in this Agreement are only enforceable by City and Corporation.

13. Legal Authority. The person or persons signing this Agreement on behalf of each Party warrant that he, she or they have been duly authorized by their respective entities to sign this Agreement on behalf of the entity and to bind the entity validly and legally to all terms, performances, and provisions in this Agreement. Each Party warrants that the Party possesses the legal authority to enter into this Agreement and to perform the services that Party has obligated itself to perform under this Agreement.

CITY OF AUSTIN

By: _____
Rey Arellano
Assistant City Manager

Date: _____

CORPORATION

By: _____
Nancy Hohengarten
Chair of the Board
Austin/Travis County Sobriety Center Local Government Corporation

Date: _____