

**INTERLOCAL COOPERATION AGREEMENT BETWEEN HAYS COUNTY AND  
THE CITY OF SAN MARCOS FOR ACCESS TO THE CITY'S  
POLICE CADMOBILE CLIENT SYSTEM**

**STATE OF TEXAS**           §  
   §  
   §  
**COUNTY OF HAYS**       §

This Interlocal Cooperation Agreement (the "Agreement") is between the City of San Marcos, Texas (the "City"), a municipal corporation located in Hays County and Hays County, a political subdivision of the State of Texas (the "County") (collectively the City and the County, referred to as the "Parties", or singularly as a "Party"), acting by and through their authorized representatives.

**RECITALS:**

**WHEREAS**, Chapter 791 of the Texas Government Code authorizes all local governments to contract with each other to perform governmental functions or services including administrative functions normally associated with the operation of government such as purchasing of necessary equipment, supplies and services and the Parties enter into this Agreement in accordance with Chapter 791;

**WHEREAS**, the City currently possesses dedicated computer servers and disk storage collectively (the "Server Storage Equipment") dedicated to Computer Aided Dispatch/Record Management System/Mobile Client Software which stores and manages all City records related to the San Marcos Police Department's ("SMPD") CAD/Mobile Client System (the "SMPD System"); and

**WHEREAS**, the County desires to access and store data on the SMPD System and will compensate the City for these services; and

**NOW, THEREFORE**, upon and for the mutual consideration stated herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE I – DEFINITIONS**

For purposes of this Agreement, each of the following terms will have the meaning set forth herein unless the context clearly indicates otherwise:

- 1.1**    CAD/Mobile Client (Computer Aided Dispatch/Records Management System/Mobile Client) means the licensed software and hardware used by the SMPD and the County to utilize the SMPD System and manage records generated and stored for various law enforcement and public safety purposes.

- 1.2 Criminal Justice Information Systems (“CJIS”) means the requirements and standards for computer and data security promulgated by the Federal Bureau of Investigation and adopted or required by the Texas Department of Public Safety for access to certain law enforcement data hosted by State and local agencies.
- 1.3 Commencement Date means the later of the: (a) date the County secures the necessary licenses from the City’s current SMPD System software vendor, Computer Information Systems (“CIS”), or its successor and (b) the date City personnel have provided written notice to the County that the SMPD System is available and ready for shared use.
- 1.4 Effective Date means the last date of execution of this Agreement by either Party hereof.
- 1.5 Force Majeure means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, terrorist act, or threat thereof, riot, civil commotion, insurrection, government action or inaction (unless caused by the intentionally wrongful act(s) or omission(s) of the Party), fires, earthquake, tornado, hurricane, explosions, floods, strikes, slowdowns or work stoppages.
- 1.6 Shared Use means the shared use of the City’s SMPD System between City and the County.
- 1.7 Technology Refresh means the repair, installation or replacement of hardware or equipment necessary to operate the SMPD System.

## **ARTICLE II – TERM; TERMINATION**

- 2.1 The term of this Agreement will commence on the Effective Date and will remain in full force and effect for one year from that date. This Agreement will automatically renew for successive one (1) year terms unless terminated by either Party in accordance with the provisions in Subsection 2.2 below. The conditions set forth below will apply to the initial term and all renewals.
- 2.2 Either Party may terminate this Agreement for convenience and without cause, by providing ninety (90) calendar days prior written notice thereof to the other Party. Upon termination the County will pay to the City all costs and fees due and owing under this Agreement, if not already paid, and will not be entitled to a refund of any costs or fees for Technology Refresh or the Shared Use.
- 2.3 Upon either party receiving written notice of termination, the City will continue to provide the County with access to the SMPD System until such time that the County has successfully extracted its data, but in no event no longer than 90 days from the date of the notice of termination. The parties agree to cooperate to export records and information belonging to the County in a usable format so that the County may move it to an alternate system. If required to export data, the City retains the right to engage the County’s vendor at the County’s expense.

### **ARTICLE III – TERMS**

#### **3.1 SMPD System:**

- (a) The City agrees to grant the County use of the SMPD System for the storage of County Sherriff Office records. Each agency will have “View Only” access to the other agency’s data, with the exception of the City’s Information Technology staff performing system maintenance duties as a part of their responsibilities under this Agreement, may access the records and data of the other.
- (b) The City will provide and maintain all of the City’s equipment related to providing the County with access to the SMPD System. However, each Party is responsible for the maintenance of its own equipment, and the security thereof.
- (c) The City is not responsible for providing the County’s personnel with any training or information technology support (“IT Support”) in connection with the County’s use of the SMPD System. The County may request training or IT Support from the City, and if the City agrees to provide such services, the County will pay to the City the costs of such training or services as may be agreed by the Parties at the time of such request for services.
- (d) The City will be the administrator of the SMPD System and the County will have no administrative rights. The County will be assigned access rights to perform day-to-day functions, which includes the management of the County user accounts in to the SMPD System. The City will not be responsible for any loss of data by the County due to its use of the SMPD System nor for any interruption of County use.

**3.2** The City agrees to provide appropriate backup of the County data stored in the SMPD System in accordance with the City’s data retention policy.

**3.3** The County will comply with the applicable Criminal Justice Information System Security standards.

**3.4** Hays County SMPD System License: As a condition of this Agreement, the County will, at its own cost, secure such license(s) as may be required directly from the City’s current software vendor in order to access the SMPD System on or before ninety (90) calendar days after the Effective Date. This Agreement will automatically terminate in the event the County fails or is otherwise unable to secure such license from the City’s current software vendor by such date or in the event the County fails to maintain such license(s) during the term of this Agreement.

**3.5** Maintenance and Repairs. The City will provide five (5) calendar days prior written notice to the County when it will be necessary for the SMPD System to be down or not operating, except in cases of an emergency in which case the City will attempt to provide verbal notice as soon as reasonably practical.

#### **ARTICLE IV INDEMNIFICATION / IMMUNITY / INSURANCE**

- 4.1** *To the extent authorized by Texas law each Party agrees to release, defend, indemnify, and hold harmless the other Party (and its officers, agents, and employees) from and against all claims, losses, damages, cause or causes of action for injuries (including death), property damages (including loss of use), and any other losses, demands, suits, judgments, and costs in any way arising out of, related to, or resulting from the indemnifying Party's breach or default in the performance of any of its obligations under this Agreement, or caused by the negligent acts or omissions of its respective officers, agents, employees, or any other third Parties for whom it is legally responsible in connection with performing this Agreement. This Agreement and the indemnity provided herein is not intended to and will not create any cause of action for the benefit of third parties or any person not a Party to this Agreement. This indemnity will survive the termination or expiration of this Agreement.*
- 4.2** It is expressly understood and agreed that, in the execution of this Agreement, no Party waives, nor will be deemed hereby to have waived, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement will not create any rights in Parties not signatories hereto.

#### **ARTICLE V COMPENSATION**

- 5.1** In consideration of the County's access to the SMPD System, as granted by the City, the County will pay an annual fee of \$1,500.00 toward hardware replacement. In addition, the County will pay the City \$125.00 per month for ongoing administrative support. The monthly payment will be paid before the 1<sup>st</sup> day of each calendar month beginning with the first calendar month immediately following the Commencement Date. The City reserves the right to adjust the annual fee to cover costs associated with this Agreement. The City will provide written notice to the County six months prior to the start of the County's fiscal year before any such cost adjustment is proposed. Such fees will cover the County's access to and the City administration and maintenance of the SMPD System.

#### **ARTICLE VI MISCELLANEOUS**

- 6.1** Applicable Law. This Agreement is governed by the laws of the State of Texas.
- 6.2** Place of Performance. Performance and exclusive venue for any dispute arising under this Agreement is in Hays County, Texas.
- 6.3** Entire Agreement. This Agreement, including any appendices and attachments, recitals and exhibits represents the entire and integrated Agreement between the Parties and supersedes all prior proposals, negotiations, representations, agreements, arrangements or understandings either written or oral between the Parties. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution

of this Agreement will affect or modify any of the terms or obligations hereunder. The terms and conditions of this Agreement may only be amended or modified by written amendment executed by all of the parties.

- 6.4** Waiver. Failure of any Party, at any time, to enforce a provision of this Agreement, will in no way constitute a waiver of that provision, nor in anyway affect the validity of this Agreement, any part hereof, or the right of any Party thereafter to enforce each and every provision hereof. No term of this Agreement will be deemed waived or breach excused unless the waiver is in writing and signed by the Party claimed to have waived the term. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.
- 6.5** Legal Construction. In the event any one or more of the provisions contained in this Agreement are for any reason deemed invalid, illegal, or unenforceable by a court or other tribunal of competent jurisdiction, in any respect, this Agreement will be construed as not containing the provision and all other provisions of this Agreement which are otherwise lawful will remain in full force and effect, and to this end the provisions of this Agreement are declared severable. The Parties will use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties as necessary.
- 6.6** Compliance with Applicable Laws. Each Party agrees to comply with all applicable local, state and federal laws, rules and regulations.
- 6.7** Interlocal Cooperation. The Parties agree to cooperate with each other in good faith at all times during the term of this Agreement in order to achieve the purposes and intent of this Agreement. Each Party to this Agreement acknowledges and represents that this Agreement has been executed by its duly authorized representative.
- 6.8** Notice. Unless otherwise specified, any notice required or permitted to be delivered hereunder will be deemed received three days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below or on the day actually received if sent by courier or otherwise hand delivered to the following addresses:

City of San Marcos:

City Manager  
City of San Marcos  
630 E. Hopkins  
San Marcos, Texas 78666

Hays County:

Judge Bert Cobb, M.D.  
Hays County Judge  
111 E. San Antonio, Suite 300  
San Marcos, Texas 78666

- 6.9** Multiple Originals. It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which will be deemed an original for all purpose, but all of the counterparts will constitute one and the same instrument.
- 6.10** Public Information Act. The Parties understand that the City is governed by the Texas Public Information Act, Chapter 552 of the Texas Government Code. This Agreement and all written and or digital information generated under this Agreement may be subject to release under the Act. It is agreed by all parties to this agreement that the custodian of a record will be the Party that entered the data into the City's Network, if applicable.
- 6.11** Funding. The Parties acknowledge that funds for the payment for work performed by any of the Parties under the Agreement have been provided through the budget approved by the individual governing bodies for the current fiscal year only. State statutes prohibit the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. The Parties cannot guarantee the availability of funds, and enter into the Agreement only to the extent such funds are made available. The Parties acknowledge and agree that they will have no recourse against another for its failure to appropriate funds for the purposes of the Agreement in any fiscal year other than the year in which the Agreement was executed.
- 6.12** Consent and Approval. Unless otherwise expressly stated in this Agreement, whenever the consent or approval of a Party is required prior to the action to be taken by the other Party, such consent or approval will not be unreasonably withheld, denied, or delayed.
- 6.13** Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement will survive termination.
- 6.14** Binding Effect. The Parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement. This Agreement will take effect immediately upon execution by both Parties hereof and will inure to the benefit and be binding upon the administrators, successors and assigns of the Parties hereto. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

**(SIGNATURES ON THE FOLLOWING PAGE)**

HAYS COUNTY

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

\_\_\_\_\_  
Date

ATTEST:

By: \_\_\_\_\_  
Liz Q. Gonzalez  
Hays County Judge

\_\_\_\_\_  
Date

CITY OF SAN MARCOS

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name/Title

ATTEST:

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name, Title