



OFFICE OF THE MAYOR  
EL PASO, TEXAS

JOE WARDY  
MAYOR

November 22, 2004

Dear Honorable Judge and Commissioners:

Given the short time left before we must act to dissolve the City-County Health District, the City is submitting to you a proposal for a revised Cooperative Agreement. Based on several conversations between members of your legislative body and ours, City staff has been working diligently with District and County staff to understand accountability concerns, develop thorough financial information, and find ways to reduce costs to both parties in order to prepare a viable proposal.

We believe the enclosed proposal satisfies the County's concerns and yet preserves the reason for having a joint public health district in the first place: *to effectively control infectious diseases and other community health problems that cross political jurisdictions*. Working together is the best and most financially feasible way to protect the health of our community.

The significant changes to the agreement are as follows:

**Governance**

- The Board will have 9 members:
  - 4 professionals, nominated by their professional societies
  - 2 County Commissioners
  - 2 City Representatives
  - 1 Chairperson: the County Judge and the Mayor alternate 2-year terms
- The Director may be a separate position from the Health Authority (physician)

**Scope of Services**

- On-site Sewage Facility Program has been removed from the District.
- The services required to be performed by the District and funded jointly by the City and County are essential public health and regulatory services. *Elimination of County participation in any of the essential services could seriously endanger public health.*
- All other services require special approval and funding.

**Financial**

- City will account for District finances as a separate enterprise-type fund.

- Funding is allocated on a “user” basis wherever such data exists; otherwise, funding is allocated on the traditional basis of relative budget size.
- The parties share the District’s administrative costs for existing contracted grant-funded programs.
- The resulting bill to the **County for FY2005 is \$1,617,129 – a 38% decrease** from FY2004 funding of \$2,588,209.

<b>Essential Services</b>	<b>Total Program Expenditures</b>	<b>Allocation Basis</b>	<b>County Funding</b>
Food Regulation	\$1,381,329	user	\$98,353
Animal Regulation	\$2,180,013	user	\$571,662
Environmental/Vector	\$764,870	user	\$91,592
STD/HIV/AIDS Control	\$664,059	user	\$50,940
Tuberculosis Control	\$1,065,297	user	\$72,130
Immunization Program	\$2,203,454	user	\$53,237
TCEQ-EPA Compliance	\$1,488,666	63/37 formula	\$205,109
Epidemiology Investigation	\$129,370	63/37 formula	\$48,268
Public Health Laboratory	\$478,525	63/37 formula	\$149,473
Grant-Funded Programs	<u>\$10,177,981</u>	63/37 formula	<u>\$276,364</u>
<b>Total</b>	<b>\$20,533,565</b>		<b>\$1,617,129</b>

**Special Programs (optional)**

Dental Services	\$740,763	user	\$148,397
Health Education Programs	\$182,733	user	\$39,070
Lead Prevention	\$66,225	63/37 formula	\$6,054

Understandably, the County needs time to review this proposal carefully. However, because County funding was appropriated only through December 31, 2004, the District must give notice by November 30 to employees who may be terminated on December 31. We therefore suggest the following:

Mon., Nov. 29	Commissioners Court considers extending County funding to Jan. 30, 2005
Tues., Nov. 30	City Council directs District to notify terminated employees, if County declines funding extension.
Mon., Dec. 6 or 13	If County extends funding, County votes on proposed Agreement
Tues., Dec. 7 or 14	City Council responds to County vote to continue or dissolve District
Fri., Dec. 31	County funding ends, if not extended, and staff is eliminated. County can enter into discussions with the City to contract for public health services from a City Health Department.
Thurs., Feb. 3	District dissolves, if not revised.

We appreciate the County's consideration of this proposal and stand ready to answer any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Wardy', with a long horizontal flourish extending to the right.

Joe Wardy  
Mayor



### 1. Appointment

The nine members of the Board shall be appointed by the El Paso County Commissioners' Court and by the El Paso City Council as provided herein. Replacement appointments to fill the remainder of an un-expired term shall be made by the same governing body that appointed the exiting Board member.

All regular appointments will be effective January 1 of the appropriate year. Board members shall serve for terms of two years each and except for elected or appointed officials of the City or County, no Board member shall serve more than two consecutive regular terms. The members shall serve without compensation.

### 2. Membership Requirements

One (1) member shall be a qualified, licensed and practicing physician, nominated by the Medical Society of the County and appointed by the County; one (1) member shall be a qualified, licensed and practicing veterinarian, nominated by the Veterinary Association of the County and appointed by the County; one (1) member shall be a licensed, practicing registered nurse, nominated by the Texas Nurses Association, El Paso Chapter and appointed by the City; one (1) member shall be a person nominated by the El Paso Restaurant Association and appointed by the City; two (2) members shall be elected or appointed officials of the County, appointed by the County; and two (2) members shall be elected or appointed officials of the City. The Chairperson shall be the County Judge or the Mayor during alternating two-year terms, commencing with the \_\_\_\_\_ on January 1, 2005.

All licensed/registered professionals shall be licensed/registered by the State of Texas. Except for elected or appointed officials of the City or County, each Board member must have resided within the territorial limits of the District for a minimum of three years prior to selection.

### 3. Removal

A member of the Board may be recommended for removal for good cause by a vote of at least two-thirds of the remaining Board members present and voting, provided that there is a quorum present. Such action may be initiated by the Board Chairperson or any Board representative. The member(s) in question shall be provided an opportunity to be heard by the Board before the vote is called. Absence from three consecutive regular Board meetings, or from five regular meetings in any twelve month period, whether consecutive or not, shall result in automatic removal, in which case the Board shall declare a vacancy and notify the appointing authority of the un-expired term to be filled.

#### 4. Duties of the Board

The Board shall, subject to final budgetary approval by the City and County:

- a. Adopt the organizational structure of the District utilizing the approved budgetary staffing allocations.
- b. Adopt procedures, rules and regulations for managing District staff and program operations.
- c. Establish performance measures and annually evaluate the Director. [reworded]
- d. Adopt policies and procedures designed to promote the public health and safety of the community, in accordance with all relevant ordinances and statutes.
- e. Institute such disease prevention investigations and surveys necessary to meet the Board's public health responsibilities.
- f. Conduct regular monthly Board meetings to address the District's business and solicit public input subject to the Open Meetings Act.
- g. Conduct such special meetings and hearings as necessary to address emergency or unanticipated public health needs of the community.
- h. Establish such subcommittees as desired to make recommendations to the Board.

### **III. FUNDING AND BUDGET**

#### **1. Budget Preparation and District Approval**

In order to facilitate and coordinate the preparation of the District's budget for each fiscal year, the District staff shall meet with the City's OMB and the County Auditor in April to begin preparation of the budget for the next fiscal year. By May 1, the Director shall present the draft budget to a joint meeting of City Council and Commissioners Court for their consideration and direction to the District regarding the proposed programs and services to be provided in the next fiscal year. By May 15, the Director shall present a budget proposal to the Board of the District for its recommendation.

By June 1, the Director shall submit the proposed detailed annual budget as recommended by the Board to both the City Council and the Commissioners' Court until a final budget is agreed upon by the City and County, according to the schedules established by the governing bodies to ensure proper allowance in their respective budgets for the anticipated expenditures to be

appropriated by those governing bodies. The City and County shall each adopt the budget for the Health District according to the procedures and formulas established herein.

2. City and County Appropriations.

The City and County shall bear the approved budgeted costs of the operation of the District, less related revenues (but excluding court-imposed fines), grants, program fees and other income sources (the "residual costs"), as follows:

a. "Allocated Programs" Those residual costs to be funded by the City and County based upon each entity's pro rata share of the total combined current fiscal year adopted General Fund Budgets of the City and the County as follows:

<u>City's Total Adopted General Fund Budget</u>	<u>A</u>
<u>County's Total Adopted General Fund Budget</u>	<u>+ B</u>
<u>Total of Both Adopted General Fund Budgets</u>	<u>C</u>

Allocation of Funding Responsibility

City -- A divided by C = %

County -- B divided by C = %

b. "User-based Programs" Those residual costs to be funded by the City and County (and any other user entity) based upon each entity's pro rata share of the total users of that program's activities based on the previous fiscal year's actuals (budgeted per projections, reconciled annually per actuals), as follows:

<u>Number of program Users living in the City limits</u>	<u>A</u>
<u>Number of program Users living in unincorporated areas of the County</u>	<u>+B</u>

Total number of program users C

Allocation of Funding Responsibility

City -- A divided by C = %

County -- B divided by C = %

c. "Special Programs and Expenditures" Those services and activities and associated costs and/or capital expenditures to be funded as agreed upon in writing by the City and County and any other participating entity.

3. Payment

The County shall pay to the City on the first business day of each month of the fiscal year, without demand, one-twelfth of the estimated annual funding obligation. Not later than 60 days

after receipt of the annual audit of the District for each fiscal year, the parties shall make a reconciliation of any difference between the funding obligation as budgeted per projections and the funding obligation per actuals for the fiscal year. Any transfers of funds made pursuant to the reconciliation shall be made within 90 days following receipt of the District's annual audit. The obligation to make the reconciliation and any funds transfer pursuant to reconciliation shall survive the termination of this agreement.

#### 4. Budget Amendments

All Budget amendments, transfers, and grant applications shall be approved by the Director, the Board, the City and the County, except that (1) any Budget transfers within existing approved programs involving less than \$20,000.00 may be approved by the Director and the Board alone, and (2) the City and County may each delegate such approval authority as allowed by law.

### IV. MANAGEMENT AND OPERATION

The Board shall manage and operate the District in accordance with federal and state laws, regulations, and rules now in effect or hereafter promulgated, as well as in accordance with the approved budget. Except as expressly provided otherwise herein, the Board may adopt such administrative policies and procedures as it deems reasonable and necessary to carry out its duties.

The District shall employ sufficient personnel to operate the District in an effective manner as provided in its annual budget and staffing table and which is acceptable to the Texas Department of Health for the purpose of qualifying for state matching funds for the operation of the District. To facilitate the general administrative support provided by the City, the District shall adopt personnel classifications, which are compatible with City payroll and personnel systems.

The District may contract for the goods, services, and grants necessary and prudent for the operation of the District. However, the District's contractual obligations shall not exceed the annual budgetary allocations made by the City and the County and all District contracts must be approved in accordance with such administrative procedures as may be required in the City's annual budget resolution.

Neither the City nor the County shall be liable for any conduct of the District's personnel nor for any condition or use of District property pursuant to the Texas Practice & Remedies Code Section 101.063. However, should a court of competent jurisdiction enter a final judgment for damages against the City or County or both, regarding liability arising from the operation of the District, the parties shall be entitled to contribution from each other to the extent of the percentage

of their contribution to the General Fund Expenditures funding of the District for the year in which the cause of action arose as allowed by law.

The District shall provide such reports and information as may be requested by the City or County. If the District is unable or if it is not reasonably feasible to provide the reports or information as requested, the Director shall promptly communicate this to the requestor and discuss what other information may suffice.

Unless otherwise prohibited by law, the District may provide services related to public health in incorporated areas within the County. [omit] [consolidate section on Administrative support]

## **V. ADMINISTRATIVE SUPPORT**

The City shall provide administrative support to the District as provided on Schedule A. The City shall serve as the fiscal agent for the District, utilizing a separate fund in accordance with GASB. The fiscal year of the District shall coincide with the fiscal year of the City. The City shall provide such reports and information as may be requested by the Board. If the City is unable or if it is not reasonably feasible to provide the reports or information as requested, the City shall promptly communicate this to the requestor and discuss what other information may suffice. The City Manager shall be the point-of-contact at the City for communications regarding administrative support.

## **VI. CHANGES TO THE DISTRICT TERMS OF OPERATION**

Criteria and procedures for the admission, withdrawal and expulsion of governmental entity members of the District shall be developed by mutual agreement of the existing members.

The Cooperative Agreement may be modified at the recommendation by the Board, subject to the approval by the City and the County, provided the changes are in compliance with State public health rules and regulations.

## **VII. HEALTH DISTRICT DIRECTOR**

### **1. Duties**

The Director shall be appointed jointly by the City and County and shall be responsible for District operations pursuant to Texas Health and Safety Code Section 121.045. The Director shall:

- a. Serve as an ex-officio, non-voting member of the Board.
- b. Serve as chief administrative officer of the District.

- c. Make routine and special reports to the Texas Department of Health, the Board, the City and the County.
- d. Successfully accomplish the annual performance measures established by the Board.
- e. Develop effective liaison and relationships with community agencies, medical entities, governmental bodies, focus groups, businesses, regulatory agencies and the public to discharge the public health mandate.
- f. If the Director is a physician and if so designated by the City and County, serve as the Health Authority for the District pursuant to Texas Health & Safety Code Section 121.045.
- g. If the Director is not the Health Authority, appoint a physician as the Health Authority for the District, subject to the approval of the members and the Board.
- h. Review the pertinent state rules and regulations regarding the District and within sixty days following the end of each State regular legislative session or any applicable special session, and report to the Board on same.

## 2. Removal

The Director may be removed from office at any time by approval of both the Commissioners' Court and City Council, with or without recommendation of the Board; provided, however, that written explanation of the reason for removal shall be provided to the Director and the Director shall be provided an opportunity to be heard by such governing bodies before the vote is taken.

## **VIII. DISSOLUTION OF DISTRICT**

Procedure for the dissolution of the organization shall be initiated at the request of the City or County through the Director, at which time all members will be consulted. Dissolution may not occur prior to six months after such dissolution is requested by the City or the County, unless mutually agreed otherwise. The Director shall use every means to coordinate an orderly dissolution and shall receive the advice and support of the Board. All actions shall be exercised in accordance with existing local, state and federal rules and regulations as they pertain to the termination of personnel, distribution of joint property and the responsibility to provide for services.

**IX. MISCELLANEOUS**

1. Any and all notices required to be given by one party to the other under the terms of this Agreement shall be in writing and shall be effective only if sent by certified mail, return receipt requested, to the following addresses:

City of El Paso  
Attn: Mayor  
Attn: City Manager  
2 Civic Center Plaza  
El Paso, Texas 79901

County of El Paso  
Attn: County Judge  
County Courthouse  
500 E. San Antonio  
El Paso, Texas 79901

El Paso City-County Health  
& Environmental District  
Attn: Director  
1148 Airway  
El Paso, Texas 79925

2. For the purpose of determining the place of contract and the law governing same, this Agreement is entered into in the City and County of El Paso, State of Texas, and shall be governed by the laws of the State of Texas . Venue shall be in El Paso County, Texas.

3. All persons that are signatories to this Agreement represent that they have authority to enter into this Agreement and bind their respective organizations thereto.

4. This writing constitutes and expresses the entire agreement between the parties and shall not be amended or modified except by written instrument signed by both/all parties.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

ATTEST:

THE CITY OF EL PASO

\_\_\_\_\_

\_\_\_\_\_

City Clerk

Joe Wardy  
Mayor

ATTEST:

THE COUNTY OF EL PASO

\_\_\_\_\_

\_\_\_\_\_

County Clerk

Hon. Dolores Briones  
County Judge

EL PASO CITY-COUNTY HEALTH  
AND ENVIRONMENTAL DISTRICT

\_\_\_\_\_  
Jorge C. Magaña, MD, FAAP  
Director

APPROVED AS TO FORM

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Lee Shapleigh  
Assistant County Attorney

APPROVED AS TO FORM

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Assistant City Attorney