

FIRST AMENDMENT TO THE INTERLOCAL
AGREEMENT BETWEEN KERR COUNTY, TEXAS
AND THE CITY OF KERRVILLE, TEXAS FOR THE
PROVISION OF ANIMAL CONTROL SERVICES
WITHIN THE CITY OF KERRVILLE, TEXAS, AND
SERVICES OF THE BUTT-HOLDSWORTH
MEMORIAL LIBRARY FOR RESIDENTS OF KERR
COUNTY

This First Amendment to the *Interlocal Agreement for the Provision of Animal Control Services within the City of Kerrville, Texas, and Services of the Butt-Holdsworth Memorial Library for Residents of Kerr County* ("Agreement") by and between Kerr County, Texas ("County") and the City of Kerrville, Texas ("City") and fully executed on or about the 30th day of November, 2017, is made and entered into by and between the County and City and amends the Agreement pursuant to Section 15 of the Agreement as follows:

1. Section 2. TERM of the Agreement is amended by deleting the language that is stricken (~~deleted~~) and adding the language that is underlined (added) as follows:

"2. TERM. County and City shall commence the provision of its respective services under the Agreement on the 1st day of January 2018, regardless of the date of execution of this Agreement. The initial term shall end on September 30, 2018. Thereafter, this Agreement will automatically renew each year on October 1 and continue through September 30, for ~~four~~ five such one-year renewals, with a final termination date being September 30, ~~2022~~ 2023. Either party may terminate this Agreement within 180 days after the beginning of each fiscal year (e.g., October 1, 2018), by providing written notice of such termination to the nonterminating party. After March 31, 2018, the parties will evaluate the costs and programming of their respective services to determine the desire and feasibility for continuing this Agreement."

2. Except as amended in Section 1, above, County and City agree that the Agreement is and shall remain in full force and effect in accordance with its terms.

APPROVED AND ADOPTED by the Commissioners Court of Kerr County, Texas, on the 12th day of September, 2022, and by the City Council for the City of Kerrville, Texas, on the 13 day of September, 2022.

Contract No. 2022-94

CITY OF KERRVILLE, TEXAS

By: Judy Eychner
Judy Eychner, Mayor

ATTEST:

Shelley McElhannon
Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

Michael C. Hayes
Michael C. Hayes, City Attorney

COUNTY OF KERR, TEXAS

By: Rob Kelly
Rob Kelly, County Judge

ATTEST:

Jackie Dowdy
Jackie Dowdy, Kerr County Clerk

APPROVED AS TO FORM:

Heather Stebbins
Heather Stebbins, County Attorney



Court Order # 36460

**INTERLOCAL AGREEMENT BETWEEN KERR COUNTY,
TEXAS AND THE CITY OF KERRVILLE, TEXAS FOR THE
PROVISION OF ANIMAL CONTROL SERVICES WITHIN
THE CITY OF KERRVILLE, TEXAS, AND SERVICES OF
THE BUTT HOLDSWORTH MEMORIAL LIBRARY FOR
RESIDENTS OF KERR COUNTY**

This Interlocal Agreement for the Provision of Animal Control Services within the City of Kerrville, Texas, and Services of the Butt Holdsworth Memorial Library for Residents of Kerr County (the "Agreement") is entered into between Kerr County, Texas ("County"), and the City of Kerrville, Texas ("City"), and is effective as of January 1, 2018 (the "Effective Date").

WHEREAS, Chapter 791 of the Texas Government Code ("The Interlocal Cooperation Act") authorizes local government entities to enter into interlocal agreements for the provision of governmental functions and services; and

WHEREAS, Section 791.003 of the Texas Government Code specifically authorizes interlocal agreements for government functions and services, such as library, public health and welfare, and governmental functions in which the contracting parties are mutually interested; and

WHEREAS, the County and City are mutually interested in entering into an agreement whereby the County will provide animal control services within the City and the City will allow all County residents to access all services of its Butt Holdsworth Memorial Library; and

WHEREAS, each party, in performing governmental functions and services hereunder, shall perform those functions from current revenues legally available to that party; and

WHEREAS, each party finds that the execution and performance of this Agreement is in the common interest of both parties; that the terms of this Agreement will increase the efficiency and effectiveness of the delivery of services by each of the parties thereby benefitting the public interest; and that this Agreement effectively and fairly compensates the performing parties for the services or functions performed under the Agreement;

NOW, THEREFORE, in consideration of the recitals set forth above and covenants expressed herein, and in accordance with the Interlocal Cooperation Act, the County and City agree as follows with respect to the provision of animal control and library services:

1. PURPOSE. The intent of this Agreement is to establish the terms and conditions between County and City whereby County shall provide animal control services within the City and the City shall allow all Kerr County residents to access the City's Butt Holdsworth Memorial Library ("Library") and its services.

2. TERM. County and City shall commence the provision of its respective services under the Agreement on the 1st day of January 2018, regardless of the date of execution of this Agreement. The initial term shall end on September 30, 2018. Thereafter, this Agreement will automatically renew each year on October 1 and continue through September 30, for four such

*Contract
2017-80*

one-year renewals, with a final termination date being September 30, 2022. Either party may terminate this Agreement within 180 days after the beginning of each fiscal year (*e.g.*, October 1, 2018), by providing written notice of such termination to the nonterminating party. After March 31, 2018, the parties will evaluate the costs and programming of their respective services to determine the desire and feasibility for continuing this Agreement.

3. ANIMAL CONTROL SERVICES.

- A. County shall perform the following animal control services within the City's incorporated limits by and through its Kerr County Rabies and Animal Services Department pursuant to the following terms:
 - i. County shall provide all animal control services as required by law, including investigating citizen complaints; conducting periodic but daily patrols, 24 hours per day but excluding County holidays, to proactively enforce appropriate State animal-related laws; engaging in the impoundment of stray animals; investigating animal bite reports; quarantining of animals involved in bites; investigating allegations of animal cruelty; responding to animal neglect or injured animals; and euthanizing animals as necessary.
 - ii. County shall operate and maintain its existing animal control facility located at 3600 Loop 534 ("Facility") in accordance with applicable laws and to provide the services required in this Agreement. The Facility shall remain open to the public 8:00 AM to 5:00 PM, Monday through Friday, with closure for County holidays and other regularly scheduled times as designated by the County's Director of Animal Services.
 - iii. County shall accept stray dogs and cats at the Facility from the public and City employees for holding.
 - iv. County shall manage the reclamation of animals by owners and the adoption of unclaimed animals by the public.
 - v. County shall serve as the Local Rabies Control Authority for the City, pursuant to Section 826.017, Texas Health and Safety Code. The parties agree that the County's August 11, 2003, order regarding Animal Regulations of the Kerr County Commissioners Court, and any lawfully adopted successor orders, shall apply within the jurisdictional areas of the City.
- B. City shall continue to respond to and investigate allegations of animal theft, animal noise complaints (*e.g.*, barking dogs), and nuisance conditions pursuant to the keeping of animals within the City.

- C. County is not responsible for the collection of dead animals from streets or rights-of-way within the City nor is it obligated to respond to wildlife issues as regulated by the Texas Parks and Wildlife Department.
- D. Where necessary and by mutual agreement of the parties, City may adopt all ordinances and resolutions necessary to give County and its personnel jurisdiction to provide animal control services within City pursuant to the terms of this Agreement where the providing of animal control services is authorized by law, and including the power to issue citations for violations of any ordinances pertaining to animal control regulations and the protection of animals and which pertain to services the County agrees to render in accordance with the terms of this Agreement. City shall continue to enforce those parts of its "Animal Regulations", as found in Chapter 18, Articles II and III, of the City's Code of Ordinances, that do not conflict with the services provided by the County, said regulations subject to amendment.
- E. City shall file citations and complaints regarding applicable violations occurring within the jurisdictional limits of the City through the City's Municipal Court. It is agreed that the appropriate personnel from County will be administratively directed to be present at such times as court sessions are set and cases involving said citations and complaints are on the court's docket, without the necessity for the issuance of a subpoena. City shall provide reasonable notice of any case settings to the County.
- F. County may charge fees to persons registering, licensing, reclaiming, or adopting an animal pursuant and subject to the budget approval process provided by State statute.
- G. City and specifically its police department, may, when called and/or available, provide support to County and its employees with respect to the County's provision of services under this Agreement where, in the City's sole discretion, a dangerous or threatening situation exists.
- H. In the event that County creates or is required by state law to have an advisory board for animal control or sheltering services, County agrees that City may appoint up to one-fifth (1/5) of the appointments to the board.

4. LIBRARY SERVICES. City, through its Library, shall assume the functions of a county library within Kerr County in accordance with Section 323.011, Texas Local Government Code, under the terms and conditions hereinafter stated:

- A. City shall maintain and be solely responsible for the ownership, control, and management of the Library.

- B. City shall maintain the accreditation of the Library in accordance with the Title 13 of the Texas Administration Code, Part 1, Chapter 1, Subchapter C, with services based upon a population estimate.
- C. The Library Advisory Board, as established by City and functioning in accordance with Chapter 66, Article II of the City Code of Ordinances, shall continue providing advice and recommendations to the City as to the operations of Library. Within 90 days of the full execution of this Agreement, City shall amend the membership make-up of the Library Advisory Board to provide that one member of the five-member board may be appointed by the County. Thereafter, and following a vacancy to the board, the County may appoint a member.
- D. City shall continue operating the Library in accordance with the existing days and times that it is open to the public and in accordance with the annual budgeted programming. City may change the standard operating days and times for holidays, building renovations and construction, weather conditions, and other unforeseen conditions at any time and without prior notice to the County.

5. REPORTS AND ANNUAL REVIEW. Each party shall provide a written summary of its operations pursuant to the respective services it is providing under this Agreement. Such reports shall be submitted to the other party on a quarterly basis as follows: on or before January 1, April 1, July 1, and October 1 of each year. In addition, the parties shall meet each year to review the services and operations required under this Agreement.

6. DEFAULT. In the event of default by either party in the performance of its respective obligations hereunder, and said defaulting party fails to cure such default within thirty (30) days after receipt of written notice from the nondefaulting party, the nondefaulting party, at its option, and without prejudice to any other remedy it may have for the defaulting party's breach of this Agreement, may terminate this Agreement not earlier than thirty (30) days after delivering written notice of termination to the defaulting party.

7. INDEPENDENT OPERATIONS. In the performance of obligations hereunder, each party has the exclusive right to supervise, manage, control, and direct its employees in the performance of its required services hereunder. Each party shall look to the other party for results only and shall not have the right to direct the other party or any of its officers or employees in the performance of such services or as to the manner, means, or methods in which the services are performed except as herein expressly provided

8. NO ASSIGNMENT. This Agreement shall be binding upon parties hereto, provided, however, that neither party shall assign, sublet, or transfer their interest in this Agreement without the prior written consent of the other.

9. APPLICABLE LAW. This Agreement has been made in and shall be construed in accordance with the laws of the State of Texas. Venue shall be in Kerr County, Texas.

10. NOTICE. Notice to either party as provided herein shall be sufficient if sent by first class mail, postage prepaid to each party as follows:

**County Judge
Kerr County Courthouse
700 Main Street
Kerrville, TX 78028**

**City Manager
City of Kerrville
City Hall, 701 Main Street
Kerrville, TX 78028**

Or, to such other addresses as the parties may designate to each other in writing.

11. WAIVERS AND IMMUNITIES. Nothing herein shall be considered a waiver of any right, protection, or immunity of either party granted by the laws of the State of Texas, or any other statute, law or regulation and each party hereto expressly reserves all such rights, protection and immunity. All privileges and immunities from liability, exemptions from laws, ordinances and rules, pension, relief, disability, worker's compensation, and other benefits which apply to the activities of officers, employees, or agents of the parties when performing a function shall apply to such officers, employees, or agents to the same extent while engaged in the performance of any of their functions and duties under the terms and provisions of this Agreement. Each party reserves, and does not waive, its rights of sovereign immunity and rights under the Texas Tort Claims Act. The parties expressly agree that, in all things relating to this Agreement, each is performing a governmental function, as defined by the Texas Tort Claims Act. The parties further expressly agree that every act or omission of each party, which, in any way, pertains to or arises out of this Agreement falls within the definition of governmental function. Independent of, severable from, and to be enforced independently of any other enforceable or unenforceable provision of this Agreement, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM THE LATTER PARTY'S RIGHTS) FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND including lost profits, loss of business, or other economic damage, and further including injury to property, mental anguish and emotional distress AS A RESULT OF BREACH OF ANY TERM OF THIS AGREEMENT, REGARDLESS OF WHETHER A PARTY WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF. Finally, each party acknowledges that the provisions of this Agreement were negotiated to reflect an informed, voluntary allocation between them of all risks (both known and unknown) associated with the transactions associated with this Agreement. The disclaimers and limitations in this Agreement are intended to limit the circumstances of liability. The remedy limitations, and the limitations of liability, are separately intended to limit the forms of relief available to the parties.

*Interlocal Agreement for Animal Control and Library Services
between Kerr County and Kerrville*

12. INDEPENDENT CONTRACTORS. County and City are independent legal entities. Nothing in this Agreement shall be construed to create the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for carrying out the terms of this Agreement. Neither party nor any of their respective officials, employees, or agents shall control or have any right to control the activities of the other party in carrying out the terms of this Agreement.

13. SEVERABILITY. The parties shall observe and comply with all applicable federal, state, and local laws, rules, ordinances, and regulations affecting the conduct of services provided and the performance of obligations undertaken by this Agreement. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

14. HEADINGS. The headings of sections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.

15. ENTIRE AGREEMENT; AMENDMENTS. This Agreement constitutes the entire understanding of the parties hereto and supersedes all prior or contemporaneous understandings, communications, or representations, whether oral or written, regarding the subject matter of this Agreement with respect to the subject matter hereof. No amendment, modification, or alteration of the terms shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties hereto. The parties reserve the right to amend this Agreement in the event either party should experience an unforeseen, significant impact to their respective budget allocated for the services addressed in this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed on behalf of the Kerr County, Texas, by the County Judge, as authorized by the Commissioners Court, and on behalf of the City of Kerrville, Texas, by the Mayor, as authorized by of the City Council.

CITY OF KERRVILLE, TEXAS

By: Bonnie White
Bonnie White, Mayor

Date: 11-30-17

ATTEST:

Brenda G. Craig
Brenda G. Craig, City Secretary

COUNTY OF KERR, TEXAS

By: Tom Pollard
Tom Pollard, County Judge

Date: 11-15-2017

ATTEST:

Rebecca Bolin
Rebecca Bolin, County Clerk


*Interlocal Agreement for Animal Control and Library Services
between Kerr County and Kerrville*

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

APPROVED AS TO FORM:



Heather Stebbins, County Attorney