

STATE OF TEXAS §
 §
COUNTY OF McLENNAN §

**2023 INTERLOCAL AGREEMENT FOR
HOUSEHOLD HAZARDOUS WASTE COLLECTION**

THIS AGREEMENT ("Agreement") is entered into by and between the City of Waco, Texas ("Waco"), the City of Woodway, Texas ("Woodway"), the City of Hewitt, Texas ("Hewitt"), the City of Lacy-Lakeview ("Lacy-Lakeview") and the City of Bellmead ("Bellmead") acting herein by and through their duly authorized City Managers and collectively known and referred to herein as the "Participating Cities".

WHEREAS, Texas Government Code, Chapter 791, authorizes the formulation of interlocal cooperation agreements between and among municipalities and counties; and

WHEREAS, Texas Government Code, Sec. 791.011 provides that a local government may contract with another to perform governmental functions and services, and Sec. 791.003(3)(H) defines waste disposal as a governmental function and service; and

WHEREAS, Texas Government Code Sec. 791.025 provides that a local government may contract with another local government to purchase services; and

WHEREAS, the Participating Cities desire to enter into an interlocal agreement whereby Waco will purchase the services of a disposal firm and administer a regional household hazardous waste collection event ("Event"); and

WHEREAS, each city agrees to pay the cost provided in this Agreement and will have representatives present at the event to monitor the number of citizens from their respective cities who bring household hazardous waste to the event, so that the representative can turn away any citizens once the city's funding limit is reached; and

WHEREAS, the Participating Cities mutually desire to be subject to the provisions of Texas Government Code, Chapter 791, also known as the Interlocal Cooperation Act;

NOW THEREFORE, it is agreed as follows:

1. DEFINITIONS

For the purposes of this Agreement, the following definitions shall apply:

- A. Environmental Damages shall mean all claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs, and expenses of investigation and defense of any claim, whether or not such claim is ultimately defeated, and of any good faith settlement or judgment, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, including without limitation reasonable attorney's fees and disbursements and consultant's fees, any of which are incurred subsequent to the execution of this Agreement as a result of the handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse of

waste pursuant to this Agreement, or the existence of a violation of environmental requirements pertaining to same, other than any imposed by Waco, and including without limitation:

1. Damages for personal injury and death or injury to property or natural resources;
2. Fees incurred for the services of attorneys, consultants, contractors, experts, laboratories, and all other costs incurred in connection with the investigation or remediation of such wastes or violation of environmental requirements, including but not limited to, the preparation of any feasibility studies, or reports, or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration, or monitoring work required by any federal, state, or local governmental agency or political subdivision, other than as imposed by Waco, or otherwise expended in connection with the existence of such waste or violation of environmental requirements, including without limitation, any attorney's fees, costs and expenses incurred in enforcing this contract, or collecting any sums due hereunder; and
3. Liability to any third person or governmental agency to indemnify such person or agency for costs expended in connection with the items referenced in subparagraph (2) herein.

B. Environmental requirements shall mean all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all governmental agencies, departments, commissions, boards, or bureaus of the United States, states, and political subdivisions thereof (other than any imposed by Waco), and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment, including without limitation:

1. All requirements, including but not limited to those pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of hazardous or toxic substances, materials, or wastes whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, storm water, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, or hazardous or toxic substances, materials, or wastes, whether solid, liquid, or gaseous in nature; and,
2. All requirements pertaining to the protection of the health and safety of employees or the public (other than imposed by Waco).

C. Force majeure shall include decrees of, or restraints by, a governmental instrumentality, acts of God, work stoppages due to labor disputes or strikes, failure of Waco's contractor(s) to perform pursuant to their agreements with

Waco for the conduct of the Event, fires, explosions, epidemics, pandemics, riots, war, rebellion, and sabotage.

- D. Household hazardous waste shall mean any solid waste generated in a household by a consumer which, except for the exclusion provided for in 40 CFR Sec. 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261. The term has the same meaning as "hazardous household waste" and may also be referred to as "HHW."
- E. Participating Cities shall mean the Cities of Waco, Woodway, Hewitt, Lacy-Lakeview, and Bellmead.
- F. Person shall mean an individual, corporation, organization, government, governmental subdivision or agency, business trust, partnership, association, or other legal entity.
- G. Waste, depending on the context, shall refer to the material presented for collection at the event and/or the actual materials accepted at the event.

2. PURPOSE

The purpose of this Agreement is to enter into an agreement between the Participating Cities whereby, subject to the terms and conditions specified below, Waco agrees to purchase the services of a household hazardous waste disposal firm and administer and supervise a regional Event that will be available to households within the corporate limits of the Participating Cities.

3. DUTIES OF WACO

Waco will serve as the Event coordinator and agrees to perform the following duties:

- A. Designate one of its employees to serve on the Event planning committee;
- B. Recruit its citizens to volunteer as workers at the Event;
- C. Coordinate Event advertising targeted to its own citizens as well as some advertising designed to alert citizens within all of the Participating Cities;
- D. Administer and supervise an Event on **SATURDAY, MARCH 25, 2023** in the parking lot of the City of Waco Solid Waste Operations Center at 501 Schroeder Drive. If weather does not permit the Event to be held on March 25, 2023, then Waco will identify a date in the month of April 2023 to hold the Event;
- E. Chair a planning committee comprised of Participating Cities;
- F. Provide a centrally located collection site within Waco for the Event;
- G. Employ personnel, perform administrative activities, and provide administrative services necessary to perform this Agreement;
- H. Cause the Event to be advertised in the local media;
- I. Enter into a contract with a household hazardous waste disposal firm ("contractor") for the handling, collection, transportation, storage, disposal,

treatment, recovery, and/or reuse of household hazardous waste collected at the Event. Such contractor shall be required pursuant to the contract:

1. to assume generator status for the waste collected at the Event, excluding materials recycled pursuant to subsection J. below;
 2. to use the storage, recycling, treatment and disposal sites set forth in the contract in performing its services under the contract. All storage, treatment, recycling and disposal sites used by the contractor shall be licensed by the EPA and/or TCEQ as required by law;
 3. to indemnify all Participating Cities; and,
 4. to name all Participating Cities as additional insureds;
- J. Arrange for recycling vendors for used oil, used oil filters, automobile batteries, household batteries, LED and fluorescent bulbs, and anti-freeze for Participating Cities;
- K. Attempt to reduce the overall expenditures of the event by implementing cost saving measures that may include bulking oil-based paint and arranging for local reuse of usable latex paint;
- L. During the term of this Agreement is in force, Waco shall provide appropriate documentation that funding has been committed and will be available to pay disposal, set up, and transportation costs as required by the contract with the contractor;
- M. This Agreement is conditioned upon Waco funding the expenditures set forth herein in Waco's budget.

4. DUTIES OF CITIES OTHER THAN WACO

Cities participating in this Event (except Waco, whose duties are set out above) agree to perform the following duties:

- A. Designate one of its employees, and another as an alternate, to act as its household hazardous waste collection Operational Contact whom Waco may communicate with in advance of the Event.
- B. Coordinate and fund advertising targeted to its own citizens related to the Event. This advertising may include such things as inclusion in water, sewer, and/or garbage bills. Such advertising shall include the type of wastes that will be accepted at the HHW Day, the requirement of proof of residency, and date, location and hours of operation.

5. RIGHT OF REFUSAL OF WASTE

Waco and its contractor shall have the right to refuse to accept waste at the Event from any individual if, in their reasonable judgment, Waco or its contractor, determine that:

- A. The waste is not household hazardous waste;
- B. The waste fails to meet other criteria established for the Event;

- C. The individual does not have sufficient identification to establish that he/she is in fact a resident of any of the Participating Cities; or
- D. The waste or the resident presents a hazard to the Event or to persons or property at the Event.

Participating Cities shall provide instructions to residents regarding preparation of the hazardous household waste materials to be brought for disposal to the Event. Details concerning acceptable disposable materials and proper preparation of disposing of such materials shall be provided by the contractor.

6. COMPENSATION

- A. Waco shall provide the Participating Cities with detailed statements of all expenses incurred for the Event. The sum due Waco under this paragraph shall be an amount calculated on a per household cost basis. With the execution of this Agreement, each city shall provide Waco with a letter stating its level of participation in dollars. Those letters shall be attached to the executed agreement as Exhibits A through D and shall be incorporated herein as though set out in their entirety. Reimbursement of such expenses shall be paid to Waco no later than thirty (30) calendar days following receipt of said expenses by the Participating Cities.
- B. The above sum is based upon an estimated eight hundred (800) total households from the Participating Cities taking part in the Event, provided, if, after the conclusion of the Event, there remains unexpended, committed Event funds as set out above from Participating Cities, the sum agreed to be paid above shall be reduced on a pro rata basis, provided the actual cost for the number of households from the Participating Cities did not exceed the sum agreed to be paid above.
- C. The cost accounting provided by Waco shall include figures for the total number of households participating in the Event, the number of households from each participating city, the total waste collected at the Event, and the amount of grant funds expended for the Event.
- D. Within thirty (30) calendar days of receipt of the final invoice from the contractor, Waco shall separately account for all expenses on an itemized basis and shall provide a final accounting of the pro rata share of expenses of all Participating Cities.

7. WAIVER OF CLAIMS

- A. **Waiver of Claims:** Each of the Participating Cities agrees to waive any and all claims against the other Participating Cities to the extent of the liability limits under the Texas Tort Claims Act, as amended.
- B. **Environmental Waiver**
 - 1. To the extent of its allocated liability as set forth in paragraph (B)(3) below, each of the Participating Cities does hereby release, waive any

and all claims, against the other Participating Cities and their officers, agents, employees, and volunteers, against any and all environmental damages resulting from the handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse, by any person, of waste which was collected pursuant to Event.

2. To the extent of its allocated liability as set forth in paragraph (B)(3) below, each of the Participating Cities does hereby release, waive any and all claims, against the Participating Cities and their officers, agents, employees, and volunteers, against any and all violations by any person of any environmental requirements pertaining to the handling, collection, transportation, storage, disposal, treatment recovery, and/or reuse of waste collected pursuant to the Event.
 3. Participating Cities recognize that it will not be practical to distinguish between the HHW collected at the Event once the waste has been aggregated. They further recognize that it is necessary to create an equitable allocation of liability among the Participating Cities for the waste collected at the Event. Therefore, the Participating Cities agree that the allocated liability of each of the Participating Cities under this paragraph (B) shall be calculated as follows:
 - (a) The actual number of a participating city's households contributing waste to the Event divided by the actual number of total households contributing waste to the event = X percent.
 - (b) Participating Cities' Allocated Liability = X percent multiplied by the total volume of waste collected at the Event.
- C. The individual obligation of each Participating City under this Agreement shall be limited to the burden and expense of defending only itself against all claims, suits and administrative proceedings and conducting all negotiations of any description, and paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due and owing against the said respective city.

8. IMMUNITY

It is expressly understood and agreed that, in the execution of this Agreement none of the Participating Cities waives, nor shall be hereby deemed to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions, and that the services described in this Agreement are a governmental function.

9. FORCE MAJEURE

A delay or failure of Waco to perform services pursuant to this Agreement shall be excused to the extent that the delay or failure to perform resulted from a force majeure event, and the delay or failure was beyond the control of Waco and not due to its gross negligence.

Waco will make reasonable efforts to reschedule the Event if possible with the Contractor and the Participating Cities. The Participating Cities shall not have, and hereby waive, any and all claims whatsoever for any damages resulting from delays or failure to perform caused by a force majeure event.

10. TERMINATION

The Participating Cities shall each have the individual right to terminate this Agreement upon thirty (30) calendar days written notice to the other Participating Cities, but such termination shall apply only to that Participating City giving such written notice.

11. NOTICE

Any notice given under this Agreement shall be delivered to those listed in Exhibit E incorporated by reference herein for all intents and purposes.

12. ENTIRETY

This Agreement contains all commitments and agreements of the parties hereto, and no other oral or written commitments shall have any force or effect if not contained herein.

13. SEVERABILITY

In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

14. VENUE

Should any action arise out of the terms and conditions of this Agreement, venue for said action shall be in McLennan County, Texas.

15. AUTHORITY

This Agreement is made by the Participating Cities as an Interlocal Agreement, pursuant to Texas Government Code, Chapter 791.

16. AUTHORIZATION

The undersigned officers and/or agents of the Participating Cities hereto are properly authorized officials and have the necessary authority to execute this Agreement on behalf of

the parties hereto, and each party hereby certifies to the other that any necessary resolutions extending such authority have been duly passed and are now in full force and effect.

EXECUTED in multiple counterparts, each intended as an original.

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CITY OF WACO, TEXAS

By: _____
Bradley Ford, City Manager

ATTEST:

Michelle Hicks, City Secretary

Date Signed: _____

APPROVED AS TO FORM & LEGALITY

Jennifer Richie, City Attorney

[Remainder of page intentionally left blank]

CITY OF WOODWAY

By: _____
Dr. Shawn Oubre, City Manager

ATTEST:

City Secretary

Date Signed: _____

APPROVED:

City Attorney

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CITY OF HEWITT

By: _____
Bo Thomas, City Manager

ATTEST:

Lydia Lopez, City Secretary

Date Signed: _____

APPROVED:

Mike Dixon, City Attorney

[Remainder of page intentionally left blank]

CITY OF LACY-LAKEVIEW

By: _____
Keith Bond, City Manager

ATTEST:

City Secretary

Date Signed: _____

APPROVED:

City Attorney

[Remainder of page intentionally left blank]

CITY OF BELLMEAD

By: _____
Yost Zakhary, City Manager

ATTEST:

City Secretary

Date Signed: _____

APPROVED:

City Attorney

Exhibit A

Letter from Woodway stating its level of participation in dollars

Exhibit B

Letter from Hewitt stating its level of participation in dollars

Exhibit C

Letter from Lacy Lakeview stating its level of participation in dollars

Exhibit D

Letter from Bellmead stating its level of participation in dollars

EXHIBIT E

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Bo Thomas, City Manager

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Keith Bond, City Manager

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yzakhary@bellmead.com

Yost Zakhary, City Manager