Inter-local Agreement for COVID-19

Briefing Date: Jun 2 2020
Funding Source: General Fund
Originating Department: Comm Court Administration
Prepared by: Angie Smith, Administrative Assistant
Recommended by: Darryl Martin, County Administrator

BACKGROUND INFORMATION:
Dallas County and the City of Dallas have been working to develop a plan to continue COVID-19 testing in preparation of the Federal Government’s withdrawal from funding our current test sites. Although it appears funding is in place until at least the end of June, there is no guarantee the Federal Government will continue to fund testing of our County residents past June 30th. Dallas County and the City of Dallas propose entering into a joint Inter-local Agreement (ILA) to continue testing of City and County residents. The attached ILA was approved by the City of Dallas City Council on May 27, 2020.

FINANCIAL IMPACT:
The City and County will provide funding for the testing of County residents through a 50/50 cost share in the amount not to exceed $10,000,000.00 utilizing CARES Act funds.

LEGAL IMPACT:
The attached Inter-local Agreement for COVID-19 Testing has been reviewed and “Approved as to Form” by the Civil Division of the Dallas County District Attorney’s Office and the City Attorney from the City of Dallas.

PROJECT SCHEDULE:
It is anticipated testing will begin by July 1, 2020 or when federal funds are no longer available for the service.

SBE PARTICIPATION:
City and County Procurement officials will seek qualified applicants to provide the service. SBE participation will be utilized in accordance with City and County policy.

ADMINISTRATIVE PLAN COMPLIANCE:
The attached Inter-local Agreement is in compliance with Dallas County Vision, “Dallas County is “A Healthy Community” and the Administrative Plan “Services are being efficiently and effectively delivered.” This Joint Partnership with the City of Dallas will ensure all County residents have the ability to receive a test based on the protocols and parameters set by the City and County and the Healthcare team.
RECOMMENDATION:
Approve the attached Inter-local Agreement with the City of Dallas for COVID-19 Testing and agrees to the 50/50 Cost Share for the Testing at an amount not to exceed $10,000,000.00 utilizing CARES-Act funds.

MOTION:
On a motion made by TBD, and seconded by TBD, the following order will be voted on by the Commissioners Court of Dallas County, State of Texas:

Be it resolved and ordered that the Dallas County Commissioners Court does hereby approve the attached Inter-local Agreement with the City of Dallas for COVID-19 Testing and agrees to the 50/50 Cost Share for the Testing at an amount not to exceed $10,000,000.00 utilizing CARES-Act funds.

ATTACHMENTS:
ILA Dallas County - COVID-19 Testing 5-21-20 FINAL-signed
INTERLOCAL AGREEMENT BETWEEN THE CITY OF DALLAS
AND DALLAS COUNTY FOR COVID-19 TESTING

This INTERLOCAL AGREEMENT (this “Agreement”) is made and entered into in the County of Dallas, State of Texas, by and between the CITY OF DALLAS, TEXAS a municipal corporation, duly incorporated and existing under the constitution and laws of the State of Texas (“CITY”), and the COUNTY OF DALLAS, TEXAS, a political subdivision of the State of Texas created and existing under Article XI, Section 1 of the Texas Constitution (“COUNTY”).

W I T N E S S E T H:

WHEREAS, the Interlocal Cooperation Act, Government Code Chapter 791, Vernon’s Texas Civil Statutes, provides authorization for any local government to contract with one or more local governments to perform governmental functions and services;

WHEREAS, CITY and COUNTY desire to enter into an agreement with testing providers (“Contractor(s)”) for testing related to the COVID-19 pandemic (“Testing”); and

WHEREAS, CITY and COUNTY desire to partner with the CITY to providing funding for the Testing; and

WHEREAS, the COUNTY, under COUNTY COURT ORDER __________, has ordered, adjudged and decreed that COUNTY is approved to participate in a collaboration with CITY to share testing costs with funding identified by COUNTY and CITY respectively.

NOW THEREFORE, THIS AGREEMENT is hereby made and entered into by CITY and COUNTY for the mutual considerations stated herein:

1.0 PROCUREMENT OF CONTRACTOR

1.1 For the consideration hereinafter agreed to, and under the terms and conditions of this Agreement, the CITY or COUNTY may undertake, to procure Contractors to provide testing for the benefit of CITY and COUNTY as outlined in this Agreement.

1.2 Should the CITY or COUNTY take action as described in 1.1, the following responsibilities shall apply.

2.0 CITY RESPONSIBILITIES WHEN CITY PERFORMING TESTING

2.1 CITY will procure Contractors to serve the portion of Dallas County within the City of Dallas and receive and process invoices for payment.

2.2 CITY will invoice COUNTY its share of expenses incurred for Testing pursuant to 6.0 COST SHARE.
3.0 CITY RESPONSIBILITIES WHEN PROVIDING REIMBURSEMENT FOR TESTING

3.1 CITY will provide funding for the Testing to be obtained under this Agreement in the amounts set out below under 6.0 COST SHARE from available funds.

3.2 CITY will reimburse COUNTY for payments for CITY’s agreed upon share of the testing.

3.3 If the CITY fails to make required reimbursements or other payments due to COUNTY under this Agreement, COUNTY may, after written notice to CITY and expiration of a thirty-day cure period, terminate Testing done on the CITY’s behalf.

3.4 The CITY will make available to Contractors documents, CITY staff, and other necessary items and information in order for the Contractor to be able to adequately and successfully perform the Testing.

4.0 COUNTY RESPONSIBILITIES WHEN PROVIDING REIMBURSEMENT FOR TESTING

4.1 COUNTY will provide funding for the Testing to be obtained under this Agreement in the amounts set out below under 6.0 COST SHARE from available funds.

4.2 COUNTY will reimburse City for payments for COUNTY’s agreed upon share of the testing.

4.3 If the COUNTY fails to make required reimbursements or other payments due to City under this Agreement, City may, after written notice to County and expiration of a thirty-day cure period, terminate Testing done on the County’s behalf.

4.4 The COUNTY will make available to Contractors documents, COUNTY staff, and other necessary items and information in order for the Contractor to be able to adequately and successfully perform the Testing.

5.0 COUNTY RESPONSIBILITIES WHEN COUNTY PERFORMING TESTING

5.1 COUNTY will procure Contractors to serve the portion of Dallas County within the City of Dallas and receive and process invoices for payment.

5.2 COUNTY will invoice CITY its share of expenses incurred for Testing pursuant to 6.0 COST SHARE.

6.0 COST SHARE

6.1 When CITY is performing Testing, as consideration for the Testing contracted for herein, COUNTY agrees to pay Contractor costs and expenses, from available funds, pursuant to a 50/50 CITY/COUNTY cost share with the CITY paying the Contractor upfront with the COUNTY reimbursing the CITY for their 50 percent share.
6.2 When COUNTY is performing Testing, as consideration for the Testing contracted for herein, CITY agrees to pay Contractor costs and expenses, from available funds, pursuant to a 50/50 CITY/COUNTY cost share with the COUNTY paying the Contractor upfront with the CITY reimbursing the CITY for their 50 percent share.

6.3 Cost sharing will only apply to Testing that has been approved in writing by both parties including consent to it being subject to cost sharing. The written approval must come from the City Manager or the Assistant City Manager for Public Safety for the CITY and from the County Administrator for the COUNTY and include the language “I consent to cost sharing of 50 percent for this testing performed by [contractor name] up to [number of tests either total or per day/week/etc.] in a total not-to-exceed amount of $__________.”

6.4 CITY and COUNTY’s obligation to pay shall be subject to appropriation of sufficient funds from current revenues.

7.0 DISPOSITION OF FUNDS

The funds paid by COUNTY to CITY will be deposited with the City Controller in a fund designated in the Resolution approving this Agreement.

The funds paid by CITY to COUNTY will be deposited with the COUNTY in a fund designated in the Order approving this Agreement.

8.0 TERM

The term of this Agreement, is from the date of execution by both parties until the terminated by either party 1) for convenience by giving 30 days written notice, 2) for non-appropriation of funds or 3) for default.

9.0 NOTICES

9.1 Any notice, payment, statements, or demand required or permitted to be given hereunder by either party to the other may be affected by personal delivery in writing or by mail, postage prepaid. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Mailed notices shall be deemed communicated as of three (3) days after mailing.

If intended for the CITY, to: Copy to:
Director of Emergency Management City Manager
City Hall, Room L2 A North Hall, Room 4EN
1500 Marilla Street 1500 Marilla Street
Dallas, Texas 75201 Dallas, Texas 75201
10.0 **WARRANTIES EXCLUDED**

It is understood and agreed that any and all warranties which do exist come from the Contractors. The City of Dallas and Dallas County are not the Contractor for Testing.

11.0 **RESPONSIBILITIES OF PARTIES**

COUNTY agrees to be responsible for its own acts of negligence and CITY agrees to be responsible for its own acts of negligence which may arise in connection with this Agreement. In the event of joint and concurrent negligence, COUNTY and CITY agree that responsibility shall be apportioned comparatively. This obligation shall be construed for the benefit of the parties hereto, and not for the benefit of any third parties, nor to create liability for the benefit of any third parties, nor to deprive the parties hereto of any defenses each may have as against third parties under the laws and court decisions of the State of Texas.

12.0 **MISCELLANEOUS PROVISIONS**

12.1 This Agreement is entered into subject to the Charter and ordinances of the CITY and the legislative enactments of the COUNTY, both as amended, and all applicable federal and State laws. The provisions of this Agreement shall be construed in accordance with the laws and court decisions of the State of Texas; and exclusive venue shall lie in Dallas County, Texas.

12.2 This Agreement may be revised at any time by written mutual consent of the parties. No oral modifications can be made to this Agreement.

12.3 The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

12.4 This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporaneous agreements between the parties relating to matters in this Agreement.

12.5 COUNTY and CITY acknowledge that neither party is an Agent, employee, or joint enterprise of the other.

12.6 This Agreement has been duly executed and delivered by both parties and constitutes a legal and binding obligation of the parties. Each person executing this Agreement on behalf of each party represents and warrants that they have full right and authority to enter into this Agreement.
12.7 This Agreement shall be expressly subject to CITY’s Governmental Immunity and COUNTY’s Sovereign Immunity, Title 5 of the TEXAS CIVIL PRACTICES AND REMEDIES CODE.

12.8 In the event that one (1) or more provisions contained in the Agreement shall be held invalid, illegal or unenforceable in any respect, this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, and shall not affect the remaining provisions of this Agreement, which shall remain in full force and effect.

The CITY has executed this Agreement pursuant to Council Resolution No.20-_________, passed on the ____ day of ____________, 2020.

The COUNTY has executed the Agreement pursuant to Commissioners Court Order No. __________, passed on the ____ day of _____________, 2020.

EXECUTED this the ________ day of _____________, 2020.

COUNTY OF DALLAS:    CITY OF DALLAS:
T. C. BROADNAX
City Manager

BY:___________________    BY:___________________
Clay Lewis Jenkins                    Assistant City Manager
County Judge

APPROVED AS TO FORM:    APPROVED AS TO FORM:
JOHN CREUZOT          CHRISTOPHER J. CASO
DALLAS COUNTY DISTRICT ATTORNEY        City Attorney

BY:___________________    BY:___________________
Randall Miller  Assistant City Attorney
Assistant District Attorney