

INTERLOCAL AGREEMENT
BETWEEN
CITY OF TOMBALL
AND
HARRIS COUNTY EMERGENCY SERVICES DISTRICT NO. 16
D/B/A KLEIN FIRE DEPARTMENT
FOR
FLEET MAINTENANCE SERVICES

This Interlocal Agreement (“Agreement”) is made by and between the City of Tomball (the “City”) and the Harris County Emergency Services District No. 16 / Klein Fire Department (the “District”), both political subdivisions under the laws of the State of Texas

WHEREAS, the Interlocal Cooperation Act, as amended and codified in Chapter 791 provides for interlocal cooperation between government agencies; and

WHEREAS, the City desires to use District fleet mechanical services for maintaining their fire apparatus. The District agrees to provide services in return for payment by the City; and

WHEREAS, this Agreement maximizes public benefit by providing District services to the City that it is not equipped to provide; and

WHEREAS, both the District and the City will benefit from using an agreement which defines and protects the interests of both parties; and

NOW THEREFORE, IN CONSIDERATION of the benefits to be derived and the terms and conditions set forth herein the City of Tomball and the District do hereby agree as follows:

1. Provision of Fleet Mechanical Services. The District agrees to provide fleet mechanical services to the City and the City agrees to pay for such services from the District on the following terms and conditions. “Fleet Mechanical Services” include, but are not limited to:

a. All services that can be reasonably provided by the District’s mechanics for both planned and scheduled (twice yearly Preventative Maintenance Services) and unplanned and unscheduled maintenance and repairs of the City’s Fire apparatus/vehicles, administrative vehicles, and any other equipment or apparatus. Such services shall be paid by the “Hourly Rate” method pursuant to Section 3a below. If the District, in its sole discretion, determines that the District cannot provide the needed maintenance or repairs internally for any reason (i.e. repairs that are beyond the District’s abilities such as engine replacement or transmission overhauls) the District, after notifying the City and receiving approval from the City, shall send the vehicle out for third party maintenance or repair to be paid for solely by the City. The City shall pay fees or costs charged by third party service providers directly to those third parties, in accordance with any payment terms required by the third parties. The City shall select the third party to whom any vehicle will be sent. Following the District’s recommendation to the City related to maintenance to be performed by a third-party vendor, the City shall have seven (7) days to respond to the

District regarding any recommended maintenance. If the City has not responded to the District within the designated timeframe, the City shall be deemed to have rejected the recommendation of the District.

b. Limited vehicle set-up and electrical services, including, but not limited to, installation of radios, emergency lighting, sirens and Onboard Mobile Gateways (OMG) on new or retro fitted City vehicles, as agreed to by the parties. Such services shall be paid by the “Hourly Rate” method pursuant to Section 3a below.

c. Maintenance of City vehicle costs, and preventative maintenance and repair costs when brought in associated with preventative maintenance of vehicles. Such services shall be paid by the “Hourly Rate” method pursuant to Section 3a below.

d. Repair services to equipment brought separately for repair and not associated with a vehicle. Such services shall be paid by the “Hourly Rate” method pursuant to Section 3a below.

e. Annual pump tests, including coordination of occasional required tests by third parties. Such services shall be paid by the “Hourly Rate” method pursuant to Section 3a below. The City shall pay fees or costs charged by third party testers directly to those third parties, in accordance with any payment terms required by the third parties. The City shall determine or approve the third party to whom any vehicle will be sent.

f. Initial evaluation of damaged vehicles and equipment for insurance claim purposes. Such services shall be paid by the “Hourly Rate” method pursuant to Section 3a below.

g. Determination if warranties cover needed repairs. The District shall attempt to coordinate such work with the manufacturer. Such services shall be paid by the “Hourly Rate” method pursuant to Section 3a below. Any warranty reimbursement for District labor by the manufacturer shall be paid directly to the District with no reimbursement to the City.

h. Diagnostic/evaluation and fleet expertise/advice. Such services to be paid by the “Hourly Rate” method pursuant to Section 3a below.

i. City requested District staff support for out-of-state travel for reasons such as new equipment inspection shall be paid by the “Hourly Rate” method for actual hours worked during the trip and including all travel costs and incidentals to be paid by the City.

2. Term of Agreement. The initial term of this Agreement shall be from April 8, 2024 through December 31, 2026, unless either party terminates the Agreement pursuant to Section 8 below. This Agreement shall automatically renew for five (5) consecutive two-year renewal terms, subject to each party’s rights to terminate as provided in Section 8.

3. Payment. The City shall pay the District for fleet mechanical services listed in Section 1 above as follows. Invoice amounts shall be due and payable within thirty (30) days of the date of the invoice.

a. Hourly Rate Payments: For the District services listed as “Hourly Rate” in Section 1 above, the City shall pay the District an amount equal to the City’s shop billing rate of \$157.00 per hour for all regular hours worked providing the services. An overtime rate of \$177.50 per hour for all hours worked that require staff to be paid at their overtime rate. The City must pre-authorize all overtime work except for after normal business hour callouts by City staff.

4. Materials and Parts:

a. Materials (including consumables such as fluids) and parts necessary to service City vehicles shall be ordered by the District and the District shall invoice the City for the actual cost plus a (3) three percent administrative cost incurred by the District for such materials on a monthly basis.

b. Invoices shall include at a minimum a description of materials and parts and vehicles in which they were used. With pre-authorization of District Fleet Maintenance Supervisor, the City may supply parts purchased at their cost for District use on City vehicles. No mark-up of City-supplied parts shall occur. However, City-supplied parts shall still incur a (3) three percent administrative cost for the cost of inventorying, storing and inspecting the parts provided.

c. Sales Tax: Sales tax, if any, is due and payable on any of the charges to the City under this Agreement, shall be paid by the City in addition to the charges described above.

5. Quarterly Meetings and Biennial Updating. The District and the City shall cooperate to analyze actual workload and costs and make necessary adjustments to future versions of this Agreement. A standing quarterly meeting with designees from each party shall be scheduled by the District, and held at the request of either party, to review reports and billings, and discuss any issues arising out of the performance of this Agreement.

6. District Responsibilities. The District shall:

a. Provide a reasonable number of appropriately certified mechanics to be available to work on City apparatus at any time, to provide the services offered in Section 1 above. However, the City acknowledges and agrees that the District’s emergency apparatus shall have priority at all times.

b. Provide maintenance services in accordance with the National Fire Protection Association (NFPA) 1900 standards and as is reasonable and feasible at the time the maintenance or repair service is performed.

c. Meet reasonable turnaround times in providing services. If emergency conditions exist, or other such extraordinary conditions that prohibit the District from meeting reasonable turnaround times, the District shall notify the Authority as soon as reasonably possible.

d. Account for all services provided including parts, labor, and incidentals. The District shall send a yearly report of services by January 31st to the City.

e. Track information related to the City's fleet vehicles including, but not limited to, labor hours spent on City fleet vehicles, vehicle service records, and records on parts ordered and used including costs and associated apparatus number.

f. Make reasonable attempts to provide timely fleet advice. Advice may include topics such as warranties, ordering of parts, vehicle specifications, service levels, diagnostics, and evaluation.

g. The District shall when requested by the City perform an inspection of the City vehicle tires and coordinate replacement as needed. The District shall have no liability to the City for any tire failures.

h. Provide and coordinate with the City for delivery of City vehicles needing services.

i. Invoice the City monthly for all payments due for services provided in the prior month.

7. City Responsibilities. The City shall:

a. Provide the District with updated lists of City apparatus and other vehicles whenever changes to the fleet occur.

b. Provide the District with information related to necessary preventative maintenance schedules for each vehicle.

c. Provide reasonable notice of anticipated mechanical needs beyond preventative maintenance.

d. Pay for any permits or other approvals required for City apparatus from regulatory agencies.

e. Deliver and pick up any apparatus needing maintenance or repairs or pay for any towing costs necessary to transport City vehicles.

8. Termination. Either party may terminate this Agreement, with or without cause, upon sixty (60) days written notice to the other party beginning on the second day after the mailing. If this Agreement is so terminated, the parties shall be liable only for the payment in accordance with the terms of this Agreement for services rendered prior to the effective date of the termination, which shall coincide with the last day that services would be provided under the terms of this Agreement. Any incomplete work that needs to be completed after the effective date of termination shall be billed to the City when the work is completed.

9. Assignment. Neither party shall assign or sublet its rights or responsibilities under this Agreement without the authorization of the other party. Notwithstanding the foregoing, the District shall have the right to have third party work performed with the consent of the City. The City may NOT request the District provide services for vehicles or apparatus that are not owned or leased by the City or Harris County Emergency Services District No. 15.

10. Notice. Each notice or communication which may be or is required to be given under this agreement shall be in writing and shall be deemed to have been properly given when delivered personally during the normal business hours to the party to whom such communication is directed or three working (3) days after being sent by regular mail, to the following address as may be designated by the appropriate party:

11. Dispute Resolution. If either party claims that the other party has breached any term of this Agreement, the following procedures shall be followed if and when informal communications, such as telephone conversations, fail to satisfy the claiming party, or one of the parties elects to trigger the dispute resolution process at any time, in the event of disputes or disagreements concerning programming or uses:

a. The claiming party's Designated Representative shall provide a written notice to the other party's representative of the alleged breach. The notice shall identify the act or omission at issue and the specific term(s) of the Agreement which the complaining party alleges was violated.

b. The responding party's Designated Representative shall respond to the notice in writing within fifteen (15) working days. The response shall state that party's position as well as what, if any, corrective action the responding party agrees to take.

c. The complaining party shall reply in writing, indicating either satisfaction or dissatisfaction with the response. If satisfied, any corrective action shall be taken within fourteen (14) working days of receipt of the responding party's reply unless otherwise mutually agreed. If dissatisfied, the complaining party shall call an in-person meeting. The meeting shall occur within a reasonable period of time and shall be attended by the Designated Representatives of each party, and such others as they individually invite.

d. If the complaining party remains dissatisfied with the results of the meeting, it shall then refer the matter to the City Chief and District Chief, or their designee's, for resolution. If the issue is not resolved at this level within thirty (30) days, then either party may require in writing that the matter shall be reviewed in a non-binding, structured mediation process developed on a cooperative basis by the parties and the parties shall consider in good faith any recommendations or settlements arising from such process. All of the steps preceding shall be a prerequisite to either party suing under this Agreement for breach, specific performance, or any other relief related to this Agreement.

12. Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Texas. The venue of any action arising out of this Agreement shall be in Harris County Courts. Each party expressly waives the right to a jury trial.

13. Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, for any reason and to any extent, be found invalid or unenforceable, the remainder of this Agreement and the application of that provision to other persons or circumstances shall not be affected thereby, but shall instead continue in full force and effect, to the extent permitted by law.

14. No Waiver. A party's forbearance or delay in exercising any right or remedy with respect to a default by the other party under this Agreement shall not constitute a waiver of the default at

issue. Nor shall a waiver by either party of any particular default constitute a waiver of any other default or any similar future default in performance of this Agreement.

15. Immunity. This Agreement is not intended to waive or alter any defense or immunity or limitation of liability of either party, including, but not limited to, V.T.C.A., Civil Practice & Remedies Code, Subchapter B. Tort Liability of Governmental Units, Section 101.001, et seq. Neither party shall be liable to the other for any special, consequential, incidental, punitive, or indirect damages arising from or relating to any breach of this Agreement, regardless of any notice of the possibility of such damages. Pursuant to Texas Government Code §791.006 the party that would have been responsible for furnishing the services in the absence of the contract is responsible for any civil liability that arises from the furnishing of those services.

16. No Joint Venture. Nothing contained in this Agreement shall be construed as creating any type or manner of partnership, joint venture, or other joint enterprise between the parties. This Agreement does not create a separate legal or administrative entity and does not require a joint board. No real or personal property will be jointly acquired pursuant to this Agreement.

17. Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the parties regarding the subject matter hereof. This Agreement may not be modified or amended in any manner except by a written document agreed to and signed by both parties. No purchase order instruction or invoice instruction shall be superior to the terms of this Agreement.

IN WITNESS THEREOF, the parties hereto, intend to be legally bound hereby and have caused this Interlocal Agreement to be executed by their respective duly authorized representatives as of the day indicated.

CITY OF TOMBALL

**HARRIS COUNTY EMERGENCY
SERVICES DISTRICT NO. 16**

By: _____

By: _____

Name: _____

Name: _____

Date: _____

Date: _____