

**INTERLOCAL AGREEMENT
FOR COUNTY BOARDING HOME FACILITY REGULATION,
PERMITTING AND ENFORCEMENT WITHIN CITY LIMITS OF TOMBALL, TEXAS**

This Interlocal Agreement (“Agreement”) is entered into by and between **Harris County** (“County”), a body corporate and politic under the laws of the State of Texas acting by and through its governing body the Harris County Commissioners Court, and **City of Tomball** (“City”), a home-rule municipal corporation situated in Harris County, pursuant to the Interlocal Cooperation Act, Tex. Gov’t Code Ch. 791.001, *et seq.* County and City may each be referred to herein individually as a “Party” or collectively as the “Parties.”

RECITALS

WHEREAS, the Harris County Commissioners Court and the City of Tomball City Council, through authority granted to each party pursuant to section 260.004 of the Texas Health and Safety Code to promote the public health, safety, and welfare, have adopted regulations relating to the operation of boarding home facilities within their respective jurisdictions; and

WHEREAS, the Interlocal Cooperation Act provides authorization for local governments to contract with one another and with agencies of the state to perform governmental functions and services under the terms of the Act; and

WHEREAS, both the County and the City are willing to provide such services as are necessary for the uniform enforcement of the County’s and the City’s boarding home facility regulations within the City,

NOW THEREFORE, in consideration of the mutual promises, obligations, and benefits herein set forth, the Parties agree as follows:

TERMS

**ARTICLE I
DEFINITIONS**

- A. As used in this Agreement, the following terms have the meanings set out below:
1. “Agreement” means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Commissioners Court.
 2. “City” is defined in the preamble of this Agreement and includes its successors and assigns.
 3. “Countersignature Date” means the date countersigned by the City Manager on the signature page of this Agreement. The Countersignature Date is the effective date of this Agreement.
 4. “County” is defined in the preamble of this Agreement and includes its successors and assigns.

5. “Director” means the Fire Chief of the City of Tomball, or the person otherwise designated by the City Manager of the City of Tomball.
6. “Boarding Home Facility” has the meaning assigned in Section 22.197 of the Code of Ordinances of the City of Tomball, Texas.
7. “Party” or “Parties” means the County and the City, individually or collectively.
8. “Regulations” means the County’s Boarding Home Facilities Regulations, adopted by the Harris County Commissioners Court on January 26, 2021, as may be amended from time to time (attached hereto and made part of this Agreement as “Exhibit A”) and the City of Tomball’s Boarding Home Facility Ordinance, adopted by the City Council of the City of Tomball on August 21, 2023, as may be amended from time to time (attached hereto and made part of this Agreement as “Exhibit B”).
9. “Sheriff” means the Harris County Sheriff, or the person the Sheriff designates.
10. “Boarding Home Facility Administrator” means the Director.

ARTICLE II RIGHTS AND DUTIES OF THE COUNTY

A. Permitting

1. For the purpose of enabling the City to perform its obligations under this Agreement, the Sheriff designates the role of Boarding Home Facility Permit Administrator to the Director for all permits for Boarding Home Facilities within the City Limits.
2. The Sheriff shall immediate direct all inquiries for County Permit applications within City Limits to the Director. The Sheriff’s Office shall conspicuously note on its website (<http://www.hcso.hctx.net>) that all applications for County Boarding Home Facility permits within City limits must be administered by the City.
3. Upon request by the Sheriff, Commissioners Court shall provide a hearing officer for the purpose of conducting hearings for the denial, suspension and revocation of County permits within the City Limits, as set out in Sections 2.2 through 2.6 and 3.2 through 3.7 of the County Regulations and Sections 22-203 through 22-206 of the City Code of Ordinances. The Director shall be provided an opportunity to present evidence, cross examine witnesses and be represented by legal counsel.

B. Enforcement

1. The County Attorney retains the full authority granted in Section 234.137 of the Texas Local Government Code to sue in district court for an injunction to prohibit the violation or threatened violation of the Regulations and/or Ordinance.
2. The County peace officers designated by the Sheriff to enforce the requirements contained within the Regulations shall coordinate enforcement activities and inspections with the Director or the Chief of Police .

3. The County shall be the designated agent for conducting criminal background checks as required under Section 2 of the Regulations for all permits issued for Boarding Home Facilities within the City Limits.
4. Either party may seek criminal penalties for violations of the Regulations in a court of appropriate jurisdiction.

ARTICLE III RIGHTS AND DUTIES OF THE CITY

A. Permitting

1. As the Boarding Home Facility Permit Administrator, the Director shall supervise, control, and operate the Permit Office and issue City permits for the residential conversion of the Boarding Home Facilities within the City limits on behalf of the County as set out in Section 2.1 of the Regulations and Section 22-198 of the Ordinance. The Parties agree that the City will not prosecute any violations other than civil or greater than a class C misdemeanor of the Regulations or Ordinance. The Director, in consultation with the Sheriff, shall promulgate requirements for issuing a County permit for Boarding Home Facilities within City Limits based on the Regulations and City ordinances.

B. Enforcement

1. The Director, Chief of Police, Building Official, and/or Fire Marshal shall coordinate the enforcement of all requirements contained within the Regulations and Ordinances of the City of Tomball with the Sheriff.
2. Either party may seek criminal penalties for violations of the Regulations in a court of appropriate jurisdiction.

ARTICLE IV FUNDING AND COMPENSATION

- A. The Parties each understand and agree that neither the County nor the City has certified funds to fulfill their obligations under this Agreement. It is the intent of the Parties that the cost of services shared with each entity will be of equal value and benefit.
- B. The Parties agree that the non-refundable processing fee established in Section 2.1 of the Regulations and Section 22-202 of the City's Code of Ordinance shall be paid by a permit applicant directly to the City of Tomball. Further, the Parties agree that the non-refundable County permit application fee shall be paid directly to the County. If either Party receives any permit fees for Boarding Home Facilities within the other Party's permitting jurisdiction from an applicant, it shall remit those funds to the appropriate Party at its address for notices.

ARTICLE V TERM AND TERMINATION

- A. The term of this Agreement is one-year and begins on the Countersignature Date. It is the intent of the Parties that the Agreement shall automatically renew annually for ten (10) successive one-year terms, unless earlier terminated.

- B. Either Party may terminate its participation in this Agreement by giving at least thirty (30) days' written notice to the other Party.

**ARTICLE VI
DOCUMENTS EXCHANGED**

- A. The Parties may exchange documents in the course of this Agreement. Each Party agrees to keep confidential, to the extent allowed by law, all such documents and to provide prior notice to the other of any requests or releases of such documents.

**ARTICLE VII
NOTICES**

- A. The Parties intend that any notice may be delivered personally, by certified or registered mail, return-receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, addressed as follows:

If to the County: Office of the Harris County Attorney
 1019 Congress, 15th Floor
 Houston, Texas 77002
 Attn:

If to the City: City of Tomball, Texas
 Attn: City Manager
 401 Market Street
 Tomball, Texas 77375

Or to such other persons or places as either Party may from time to time designate by written notice to the other Party. Any notice delivered by mail or courier shall also be sent by email to the County Attorney and the City Manager at the time it is placed with the postal service or courier for delivery.

**ARTICLE VIII
NO PERSONAL LIABILITY AND NO THIRD PARTY BENEFICIARY**

- A. Nothing herein shall be construed as creating any personal liability on any part of any officer or agent of any public body that may be a Party hereto. The Parties agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or liability that any Party may have by operation of law. The Parties further agree that no provision of this Agreement extends the liability of any Party beyond the liability provided in the Texas Constitution and the laws of the State of Texas. Neither the execution of this Agreement nor any other conduct of any Party relating to this Agreement shall be considered a waiver of any right or defense under the Texas Constitution or the laws of the State of Texas.
- B. In accordance with Tex. Gov't Code § 791.006 (a-1), each Party shall assume responsibility for its own actions and those of its officers, officials, employees and agents, and for its own defense should any claim be presented or suit filed against it arising from or related to any law enforcement or permitting services provided under this Agreement. This assignment of liability is intended to be different than any assignment provided in Tex. Gov't Code § 791.006(a).

**ARTICLE IX
MISCELLANEOUS**

- A. **Non-Assignability.** The Parties shall not make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other Party.
- C. **Independent Parties.** It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to constitute or create a joint venture, partnership, association or other affiliation or like relationship between the Parties, it being specifically agreed that their relationship is and shall remain that of independent parties to a contractual relationship as set forth in this Agreement. The County is an independent contractor and neither it, nor its employees or agents shall be considered to be an employee, agent, partner, or representative of the City for any purpose. The City, nor its employees, officers, or agents shall be considered to be employees, agents, partners or representatives of the County for any purposes. Neither Party has the authority to bind the other Party.
- D. **No Third Party Beneficiaries.** The County is not obligated or liable to any party other than the City for the performance of this Agreement. Nothing in the Agreement is intended or shall be deemed or construed to create any additional rights or remedies upon any third party. Further, nothing contained in the Agreement shall be construed to or operate in any manner whatsoever to increase the rights of any third party, or the duties or responsibilities of County with respect to any third party.
- E. **Waiver of Breach.** A waiver by either Party of a breach or violation of any provision of the Agreement shall not be deemed or construed to be a waiver of any subsequent breach.
- F. **Compliance with Law.** In performing services pursuant to this Agreement, each Party shall comply with all applicable federal, state, County, and City statutes, regulations, rules, and ordinances. To the extent allowed under applicable laws, each Party intends to notify the other Party of any violation of law, regulation, or ordinance that relate to services or data obtained or provided under this Agreement immediately after the noticing Party, its employees, subcontractors or agents become aware of it and without regard to whether the noticing Party or its employees, subcontractors or agents are involved or merely witnesses.
- G. **Applicable Law and Venue.** This Agreement shall be governed by the laws of the State of Texas and the forum for any action under or related to the Agreement is exclusively in a state or federal court of competent jurisdiction in Texas. The exclusive venue for any action under or related to the Agreement is in a state or federal court of competent jurisdiction in Harris County, Texas.
- H. **No Binding Arbitration; Right to Jury Trial.** The County does not agree to binding arbitration, nor does the County waive its right to a jury trial.
- I. **Contract Construction.**
- (1) This Agreement shall not be construed against or in favor of any Party hereto based upon the fact that the Party did or did not author this Agreement.
 - (2) The headings in this Agreement are for convenience or reference only and shall not control or affect the meaning or construction of this Agreement.

(3) When terms are used in the singular or plural, the meaning shall apply to both.

(4) When either the male or female gender is used, the meaning shall apply to both.

- J. **Recitals.** The recitals set forth in this Agreement are, by this reference, incorporated into and deemed a part of this Agreement.
- K. **Entire Agreement; Modifications.** This Agreement contains the entire agreement between the Parties relating to the rights herein granted and the obligations herein assumed. This Agreement supersedes and replaces any prior agreement between the Parties pertaining to the rights granted and the obligations assumed herein. This Agreement shall be subject to change or modification only by a subsequent written modification approved and signed by the governing bodies of each Party.
- L. **Severability.** The provisions of this Agreement are severable, and if any provision or part of this Agreement or the application thereof to any person, entity, or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provision or part of this Agreement to other persons, entities, or circumstances shall not be affected thereby.
- M. **Survival of Terms.** Any provision of this Agreement that, by its plain meaning, is intended to survive the expiration or earlier termination of this Agreement including, but not limited to the indemnification provision, shall survive such expiration or earlier termination. If an ambiguity exists as to survival, the provision shall be deemed to survive.
- N. **Multiple Counterparts/Execution.** This Agreement may be executed in several counterparts. Each counterpart is deemed an original and all counterparts together constitute one and the same instrument. In addition, each Party warrants that the undersigned is a duly authorized representative with the power to execute the Agreement.
- O. **Warranty.** By execution of this Agreement, the City and the County warrant that the duties accorded to each in this Agreement are within the powers and authority of the respective Parties.

HARRIS COUNTY

CITY OF TOMBALL

By: _____
Lina Hidalgo
County Judge

By: _____
David Esquivel
City Manager

APPROVED AS TO FORM:

ATTEST:

CHRISTIAN D. MENEFFEE
County Attorney

By: _____
Maria Jackson
City Secretary

By: _____
Name
Assistant County Attorney

ORDER OF COMMISSIONERS COURT

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the City of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted.

ORDER AUTHORIZING AN INTERLOCAL AGREEMENT BETWEEN HARRIS COUNTY AND CITY OF TOMBALL TO FOR COUNTY BOARDING HOME FACILITY REGULATION, PERMITTING AND ENFORCEMENT WITHIN THE CITY LIMITS OF TOMBALL, TEXAS

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order prevailed by the following vote:

	Yes	No	Abstain
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Tom S. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Lesley Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order adopted follows:

IT IS ORDERED that:

1. The Harris County Judge is authorized to execute on behalf of Harris County the attached Interlocal Agreement between Harris County and City of Tomball to transfer maintenance responsibilities and remove certain roads from the County road log located in Harris County Precinct Three.
2. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.