

INTERLOCAL AGREEMENT FOR COMMUNICATIONS CENTER AND DISPATCH SERVICES

This Interlocal Agreement for Communications Center and Dispatch Services ("Agreement") is entered into by and between the City of Wylie, Texas, a home-rule municipality ("Wylie") and the Town of Fairview, Texas, a home-rule municipality ("Fairview"). Wylie and Fairview are at times each referred to herein as a "party" or collectively as the "parties."

WHEREAS, Wylie has established a comprehensive regional public safety and public service communications and dispatch center ("Communications Center"); and

WHEREAS, Wylie's Communications Center is equipped with radio, telephone and data equipment and is designated as a 911 emergency communications Public Safety Answering Point ("PSAP"); and

WHEREAS, Wylie currently has equipment and operator capacity above and beyond the immediate needs of Wylie and has offered to make such equipment and operators available to address the regional communications/dispatch needs for the purpose of local government/agency communications; and

WHEREAS, Wylie has determined that it is in the best interests of the public to share its communication facility, equipment and personnel capabilities with cities, towns, fire departments, emergency medical care providers and other governmental entities in order to facilitate more effective and efficient use of the Communications Center; and

WHEREAS, Fairview has requested that Wylie provide communications and dispatch services to Fairview, and Wylie has agreed to provide such services under the terms and conditions of this Agreement and pursuant to the provisions of Chapter 791 of the Texas Government Code (otherwise known as the Interlocal Cooperation Act) and specifically Section 791.006(a) of the Texas Government Code, as amended; and

WHEREAS, the provision of communications and dispatch services is a governmental function that serves the public health and welfare and is of mutual concern to the parties; and

WHEREAS, Wylie and Fairview deem it to be in the best interest of both parties to enter into this Agreement; and

WHEREAS, each party paying for the performance of governmental functions or services is making those payments from current revenues available to the paying party and all payments are in an amount that fairly compensates the performing party for the services or functions performed under this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Wylie and Fairview hereby agree as follows:

1. **Performance of Services.**

- a. Wylie shall provide to Fairview, on a non-exclusive basis, communication and dispatch services through its Communications Center for the following emergencies: fire, medical, weather, hazardous materials and other general civil emergencies (collectively, "Services"). In order to facilitate the Services, Fairview shall provide to Wylie's communications personnel, on a continuing basis, all necessary street, apparatus and response information, as well as all necessary dispatching information unique to Fairview's operations.
- b. Without waiving any governmental immunity to which it is entitled, Wylie agrees to and accepts full responsibility for the acts, negligence and/or omissions of all Wylie employees and agents in connection with the performance of the Services.
- c. Without waiving any governmental immunity to which it is entitled, Fairview agrees to and accepts full responsibility for the acts, negligence and/or omissions of all Fairview employees and agents. It is also the responsibility of Fairview to ensure that its use of the Communications Center conforms to all Federal Communications Commission rules and regulations.
- d. On an ongoing basis, Wylie and Fairview agree to provide complete and adequate training to personnel selected by Fairview and/or Wylie in the use of the Communications Center.
- e. It is specifically agreed and understood by the parties hereto that this Agreement is permissive only and no property rights are granted hereunder.
- f. In the event Fairview or Wylie should fail to fulfill any of its obligations hereunder or shall violate any municipal, county, state or federal law, the other party shall have the option of terminating this Agreement by giving written notice of such violation and intent to terminate thirty (30) days in advance of the effective date of the termination.
- g. Correspondence, comments, requests, and complaints regarding Services rendered under this Agreement shall be reduced to writing and forwarded to the persons designated below. Failure to properly forward comments, requests, demands, and complaints may be considered as sufficient cause to terminate this Agreement under Section 1(f) above.
- h. The Services shall not arbitrarily be withheld, but it is understood by the parties that unforeseen circumstances may arise which prevent Wylie from providing Services at a particular time. It is recognized that Wylie has the duty and responsibility of rendering Services to citizens of both Wylie and Fairview. In the performance of the Services, Wylie shall have the sole responsibility and discretion to determine priorities in the dispatching and use of equipment and personnel. In the event that Wylie determines that it cannot provide continuous and uninterrupted Services to Fairview during the Primary Term of this Agreement (and any Renewal Term), Wylie shall use its best efforts to promptly notify Fairview of the interruption in provision of the Services and the estimated time until Services will be resumed.

2. **Term.**

The term of this Agreement shall commence on October 1, 2023 and shall terminate one (1) year thereafter ("Primary Term"), unless terminated earlier in accordance with this Agreement. Upon the completion of the Primary Term, this Agreement shall automatically renew for ten (10) successive one (1) year periods ("Renewal Terms"), unless terminated earlier by either party in accordance with this Agreement.

3. **Termination.**

This Agreement may be terminated on the occurrence of either of the following:

- a. Either party may terminate the Agreement by providing the other party written notice of termination at least ninety (90) days prior to the anticipated date of termination; or
- b. Mutual agreement of termination of the Agreement, executed in writing by both parties, without the requisite ninety (90) days prior written notice.
- c. For cause, according to Section 1(f), herein.

In the event of a termination (except for cause under 1(f) and 3(c), herein), Wylie shall be compensated on a pro-rata basis for all Services performed to the termination date. In the event of termination, should Wylie be over-compensated on a pro-rata basis for all Services performed to the termination date, Fairview shall be reimbursed on a pro-rata basis for all such over-compensation. Receipt of payment and/or reimbursement shall not constitute a waiver of any claim that may otherwise arise out of this Agreement. At the sole discretion of Wylie, this Agreement may be terminated or renegotiated in the event Fairview annexes additional territory into its corporate limits and/or increases the area that Fairview serves. Immediately upon the completion of any annexation proceedings, Fairview shall notify Wylie of the annexation, in writing, and provide Wylie with a legal description of the annexed area.

4. **Compensation.**

Fairview, out of current revenues available to it, shall pay to Wylie the amount of ninety-two thousand one hundred ten and 52/100 dollars (\$92,110.52) as compensation for Wylie's provision of the Services during the Primary Term and each Renewal Term of this Agreement, except as otherwise provided in this Section. Such amount is based upon the costs incurred by Wylie in order to fulfill Wylie's obligations under this Agreement ("Compensation Amount"). Fairview shall pay the Compensation Amount to Wylie net 30 days of date on the invoice during the Primary Term and each Renewal Term of this Agreement.

For any Renewal Term, the Compensation Amount shall be adjusted to an amount equal to the sum of Wylie's annual costs to cover: (i) the base pay rate for an entry-level dispatcher increased by any costs of living and/or average merit pay increases that are budgeted for the upcoming fiscal year; (ii) such dispatcher's expected overtime pay; and (iii) employee benefits normally provided to such a dispatcher position by Wylie that are separate and apart from pay rate and overtime pay. During each Renewal Term, Fairview shall pay to Wylie an annual fee, in addition to the Compensation Amount, for administrative services in the amount of ten percent (10%) of the Compensation Amount.

The formula for determining the Compensation Amount shall be reviewed by Wylie and Fairview during each Renewal Term of this Agreement for possible adjustments, but Wylie shall have the final determination as to the Compensation Amount for each successive term of this Agreement.

So that Wylie and all entities or agencies participating in the Communications Center may have projected cost estimates in advance of the normal municipal budgeting cycle, Wylie shall evaluate and determine the estimated cost for participation for the next fiscal year with this estimate to include the annual service fees and rate increases, based on this annual review, to be determined by Wylie prior to April 1st of each year and shall be effective for Services received after October 1st, the beginning of a new fiscal year for Wylie of each year. Wylie shall notify Fairview of any rate increases for Services performed or in the annual service fee by certified mail, mailed to the person designated in this Agreement to receive such notices, on or before April 1st of each year. To the extent that the total amount of any such increases communicated by Wylie, including both the Compensation Amount and the ten percent (10%) fee for administrative services, would be in excess of fifteen percent (15%) of the full amount of Fairview's payment due for the then-current term, Fairview may, at its discretion, elect to terminate this Agreement by providing Wylie written notice of termination at least ninety (90) days before the start of the successive Renewal Term. In such an event, this Agreement shall be deemed to terminate immediately before said Renewal Term would have commenced and the parties shall have no further obligations under this Agreement.

The Compensation Amount due for any term of this Agreement shall be prorated in the event a party elects to terminate this Agreement in accordance with the terms of this Agreement prior to the expiration of the then-current term.

Notwithstanding anything to the contrary in this Agreement and in addition to the Compensation Amount and any other fees required under this Agreement, Fairview shall pay all expenses for operation and maintenance of any equipment of facilities installed and operated at the Communications Center for the use of Fairview. Radio equipment transmitting on frequencies used by Fairview or its service area is an example of the types of equipment or facilities that fall into this category for determination of costs.

5. Miscellaneous Provisions.

a. Consideration.

This Agreement contains the entire agreement of the parties with respect to the matters contained herein and may not be modified or terminated except upon the provisions hereof or by the mutual written agreement of the parties hereto.

b. Indemnity.

To the extent permitted by law and without waiving any governmental immunity to which Fairview is entitled, Fairview shall defend, release, indemnify and hold harmless Wylie, its officers, agents, servants, representatives and/or employees of and from any and all claims, suits, actions, legal proceedings, demands, damages or judgments, including all expenses, attorney fees, witness fees, costs, and costs and expenses of appeals therefrom, arising out of Fairview's performance of this agreement, including, but not limited to, the intentional or negligent acts and/or omissions of Fairview, its officers, agents, servants, representatives and/or

employees, and regardless of the joint or concurrent negligence of Wylie, its officers, agents, servants, representatives and/or employees, this paragraph shall survive termination of this agreement.

c. Notice.

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested, or be delivered the same in person to such party via a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to Fairview, to:	Fairview Fire Department Attn: Jeff Bell, Fire Chief 372 Town Place Fairview, Texas 75069
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If to Wylie, to:	City of Wylie Attn: Brandon Blythe, Fire Chief 2000 N. Hwy. 78 Wylie, Texas 75098
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d. Entire Agreement.

This Agreement represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both parties.

e. Venue and Governing Law.

This Agreement and any of its terms or provisions, as well as the rights and duties of the parties hereto, shall be governed by the laws of the State of Texas, and both parties agree that venue shall be in Collin County, Texas.

f. Binding Effect.

This Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this Agreement.

g. Authority to Execute.

The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is

signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

h. Severability.

The provisions of this Agreement are severable. In the event that any paragraph, section, subdivision, sentence, clause or phrase of this Agreement shall be found to be contrary to the law, or contrary to any rule or regulation having the force and effect of the law, such decisions shall not affect the remaining portions of this Agreement. However, upon the occurrence of such event, either party may terminate this Agreement by giving the other party fifteen (15) days written notice of its intent to terminate.

i. Amendments.

Wylie and Fairview may amend this Agreement only by an instrument in writing signed by both parties.

j. Multiple Counterparts.

This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes. An electronic mail and/or facsimile signature will also be deemed to constitute an original if properly executed and delivered to the other party.

k. Assignment.

This Agreement is not assignable.

l. Immunity.

It is expressly understood and agreed that, in the execution and performance of this Agreement, the parties have not waived, nor shall be deemed hereby to have waived, any immunity, governmental, sovereign and/or official, or defense that would otherwise be available to them against claims arising in the exercise of governmental powers and functions. By entering into this Agreement, the parties do not create any obligations, express or implied, other than those set forth herein.

m. Representations.

Each signatory represents that this Agreement has been read by the party for which this Agreement is executed, and that each party has had an opportunity to confer with counsel, on the matters contained herein.

n. Drafting Provisions.

This Agreement shall be deemed to have been drafted equally by all parties hereto. The language of all parts of this Agreement shall be constructed as a whole according to its fair and common meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this Agreement.

o. Independent Contractor.

Except as otherwise expressly provided herein, Fairview and Wylie agree and acknowledge that each entity is not an agent of the other entity and that each entity is responsible for its own acts, forbearance, negligence and deeds, and for those of its agents or employees in conjunction with the performance of work covered under this Agreement.

p. No Third-Party Beneficiaries.

Nothing in this Agreement shall be construed to create any right in any third party not a signatory to this Agreement, and the parties do not intend to create any third-party beneficiaries by entering into this Agreement.

q. Records.

By entering into this Agreement, neither party is provided with any contractual right of access to any records or information created, received, or maintained by the other party unless expressly stated herein. Each party is independently responsible for compliance with any requests received pursuant to the Texas Public Information Act, and any third-party seeking information generated or maintained by a party to this Agreement should submit requests for such information directly to that party.

IN WITNESS WHEREOF, the parties have executed this Agreement and caused this Agreement to be effective when all the parties have signed it. The date this Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature below) will be deemed the effective date of this Agreement ("Effective Date"),


TOWN OF FAIRVIEW, TEXAS


Julie Couch, Town Manager

Date:

9/5/2023

ATTEST:


Joshua Stevenson, Town Secretary

APPROVED AS TO FORM:


Clark McCoy
Town Attorney

CITY OF WYLIE, TEXAS

Brent Parker, City Manager

Date: _____

ATTEST:

Stephanie Storm, City Secretary

APPROVED AS TO FORM:

Abernathy Roeder Boyd & Hullett, P.C.
Ryan D. Pittman, City Attorneys