

STATE OF TEXAS §
COUNTY OF COLLIN §

INTERLOCAL COOPERATION AGREEMENT
FOR FIRE PROTECTION, "FIRST RESPONDER," AND
EMERGENCY MEDICAL SERVICES

This Interlocal Cooperation Agreement for Fire Protection, "First Responder," and Emergency Medical Services (this "Agreement") is made and entered to be effective as of November 17, 2021 (the "Effective Date"), by and between the City of Farmersville, Texas, a home-rule municipality (the "City"), and Lakehaven Municipal Utility District of Collin County, a political subdivision of the State of Texas (the "District"), (each individually, a "Party," and collectively the "Parties").

RECITALS

WHEREAS, the Texas Commission on Environmental Quality ("TCEQ") issued an order creating the District on January 10, 2014; and

WHEREAS, Lakehaven Municipal Utility District of Collin County is a municipal utility district and a political subdivision of the State of Texas, operating under the provisions of Article XVI, Section 59, Chapters 49 and 54, Texas Water Code, as amended, and Chapter 8093, Texas Special District Local Laws Code; and

WHEREAS, Section 8093.0401, Texas Special District Local Laws Code ("Section 8093.0401") gives the City of Farmersville exclusive authority in the District to issue all building permits, certificates of occupancy, and any certificate or permit issued by the City relating to business activities subject to the terms of the Development Agreement between the Parties made pursuant to Section 212.172, Texas Local Government Code; and

WHEREAS, Section 8093.0401 also authorizes the City of Farmersville to charge a fee for a permit or certificate issued by the City for use in the District provided that the fee charged therefor does not exceed the fees charged for the same permit or certificate issued for use in the corporate limits of the City; and

WHEREAS, on May 11, 2021, the City, the District, and others entered into that certain First Amended and Restated Agreement Relating to the Creation and Operation of the Lakehaven Municipal Utility District (the "Creation Agreement"); and

WHEREAS, Section 49.351, Texas Water Code ("Section 49.351"), authorizes the District to contract with a municipality for the performance of all fire-fighting services including the provision of fire protection, "first responder," and emergency medical services within the District and may provide for the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply (collectively "Fire-Fighting Services"); and

WHEREAS, Section 49.212, Texas Water Code, authorizes the District to adopt and enforce all necessary charges or mandatory fees for providing or making available any District facility or service (including Fire-Fighting Services); and

WHEREAS, Article 2 of the Creation Agreement constitutes a contract under Section 49.216, whereby the City agreed to provide fire protection, "first responder" services, emergency medical services, and police services (collectively, "Emergency Services") to the District, (Section 2.1), and the District agreed to pay for such Emergency Services (Section 2.2); and

WHEREAS, under Section 2.2(h) of the Creation Agreement ("Subsection (h)"), the District agreed to enter into an interlocal cooperation agreement (the "Interlocal Agreement") under which the District would agree to be responsible for the payments required under Section 2.2; and

WHEREAS, the District is seeking to secure Fire-Fighting Services for the benefit of the residents and property owners within its boundaries (the "District Area") as described in the attached Exhibit "A"; and

WHEREAS, the Board of Directors of the District (the "Board of Directors") has determined that it is in the best interests of the District to enter into this Agreement with the City relative to providing Fire-Fighting Services to the District Area; and

WHEREAS, the Parties hereto now wish to establish a formal agreement for the provision of Fire-Fighting Services to the District Area pursuant to the terms of this Agreement and the Creation Agreement; and

WHEREAS, this Agreement shall be in conformance with Section 49.351, Texas Water Code, and Chapter 791 of the Texas Government Code, more commonly known as the "Interlocal Cooperation Act," which allows governmental entities to contract with each other to perform governmental functions for each other that they are each authorized to perform for themselves.

NOW, THEREFORE, THE PARTIES DO HEREBY AGREE AS FOLLOWS:

AGREEMENT

Section 1. Preamble. All matters stated above in the preamble are found to be true and correct and are incorporated herein by reference as if copied in their entirety.

Section 2. Purpose. The purpose of this Agreement is to set forth the terms under which the City will provide fire-fighting services to the District Area in return for payments by the District to the City as set forth herein.

Section 3. Scope of Services. The City agrees to provide the District with all of the customary and usual services of a fire department, including fire suppression, fire prevention, training, safety education, maintenance, communications, medical emergency services, photography, and administration (collectively referred to herein as "Fire-Fighting Services").

(a) The Farmersville Volunteer Fire Department (and its successor, if any) (collectively the "FVFD") will provide the Fire-Fighting Services in accordance with the laws of the State of Texas at the same level and to the same degree as are provided to the citizens of the City, and the City will manage the response time, priority of calls and the service provided by the City for the District Area commensurate with and in the same manner as within the City limits. The District lies within the City's extraterritorial jurisdiction ("ETJ") and the District's boundaries are depicted in Exhibit "A."

(b) The City shall be the sole determinant of the type and amount of personnel and equipment dispatched to any accident, fire, or other emergency within the District Area.

Section 4. Supervision. The City Manager and the Fire Chief for the FVFD (who is a City employee) shall have all responsibility for the planning, organizing, assigning, directing and supervising the City's personnel and volunteer fire-fighters under this Agreement. The rendition of Fire-Fighting Services, the standard of performance, the discipline of officers, and other matters incident to the performance of such services and the control of personnel so employed and volunteers will be solely determined, directed and performed by the FVFD.

Section 5. Equipment. The District understands and agrees that City is not, and shall not, be required to purchase any additional equipment of any type or nature and shall not request or require the District to purchase any additional equipment of any type or nature for fire-fighting or emergency purposes to comply with this Agreement except as specifically provided in the Creation Agreement or an amendment to this Agreement, and that if multiple accidents, dispatches, fires, or other emergency calls occur within the District Area or the City so as to utilize all emergency equipment of City or the FVFD, that other cities under mutual aid agreements may be utilized to respond to such emergency calls and the District hereby releases the City from all liability, if any, under such circumstances.

Section 6. Employees, Independent Contractors and Volunteers. The Parties agree that (i) the City is an independent contractor, (ii) that the City shall have exclusive control of the performance of Fire-Fighting Services hereunder, and (iii) that employees and volunteers of the City in no way are to be considered employees of the District. City agrees that The members of the FVFD performing fire-protection services, emergency medical services, and "first responder" services will meet at least the minimum qualifications established by the FVFD with respect to the performance of fire-protection services, emergency medical services, and "first responder" services required under this Agreement. At all times during the term of this Agreement, all volunteer fire-fighters and employees shall be solely under the supervision and control of the City Manager, the Fire Chief of the FVFD or the Chief's duly authorized representative. The District will make no recommendations regarding, and are in no way responsible for, the selection, sufficiency or qualification of the City's volunteer fire-fighters, employees, independent contractors and/or other volunteers.

Section 7. Compensation.

(a) General. The Parties have agreed upon a methodology to determine a fair and equitable allocation of the costs of providing Fire-Fighting Services to the District

Area. The methodology is intended to produce a cost to a resident or business of the District comparable to that allocable to a resident or business of the City for same or similar services. The methodology for calculating the annual amount to be paid by the District under this section for Fire-Fighting Services provided by the City is set forth in the Creation Agreement as more particularly described in paragraph (b) below.

(b) Calculation and Payment of Emergency Services specifically Including Fire-Fighting Services. As provided in Subsection (h), the District shall be responsible for the payments for Emergency Services, which includes payment for Fire-Fighting Services, required under Section 2.2 of the Creation Agreement on the terms provided therein or in an amendment to this Agreement. The District shall make such payments from current revenue available to the District, and the Parties acknowledge that such payments are fair compensation for the Emergency Services specifically including Fire-Fighting Services to be provided to the District.

Section 8. Liability and Insurance.

(a) This Agreement is governed by Section 791.006 of the Interlocal Cooperation Act. The District warrants and represents that the District has the authority to provide Fire-Fighting Services within the District and is eligible to enter into this Agreement.

(b) It is specifically understood and agreed by the District and the City that nothing contained in the Creation Agreement, or this Agreement is intended to waive, nor shall it be interpreted as waiving, the City's sovereign immunity or governmental immunity regarding any claims whether sounding in contract or in tort arising out of, but not limited to:

(1) the action of an employee or other person while responding to an emergency call or reacting to an emergency situation within, on, or about the City's corporate limits and/or the District Area; or

(2) the failure to provide or the method of providing Fire-Fighting Services including fire protection, "first responder," and emergency medical services within, on, or about the City's corporate limits and/or the District Area.

(c) It is further specifically understood and agreed by the District and the City that liability related to or arising out of the City's provision of Fire-Fighting Services including fire protection, "first responder," and emergency medical services under this Agreement is not being assigned as allowed under Section 791.006(a-1) of the Interlocal Cooperation Act to the City.

(d) The provisions of this Section 8 shall survive termination of the Creation Agreement and this Agreement.

Section 9. Revenues Retained. All revenues, fines, and forfeitures that may be generated by the performance of Fire-Fighting Services within the geographical boundaries of the District shall be retained by the City.

Section 10. No Amendment; Incorporation. Except as specifically provided herein or by a subsequent written amendment hereto, this Agreement is not intended to amend nor alter the rights and obligations of the Parties contained within the Creation Agreement, and the Creation Agreement shall, in all other respects, continue to govern the relationship of the Parties relating to the Emergency Services.

Section 11. Term. Unless otherwise extended or renewed by the Parties, the Term of this Agreement shall be contemporaneous with the Creation Agreement.

Section 12. Default and Remedies.

(a) Notice & Conference. Prior to sending a notice of default under Section 12(b), if a Party believes that the other Party has not met or is not meeting an obligation (other than obligations to pay) under this Agreement, the Party will contact the other Party and schedule an in-person meeting to discuss the issue. The Parties shall cooperate with each other in scheduling a meeting and discussing the issue in good faith. If the aggrieved Party does not believe that this informal contact, discussion, and ensuing efforts have resolved the issue, they may proceed with sending a notice of default.

(b) Notice of Default. No Party shall be in default under this Agreement until (i) written notice of the alleged failure of such Party to perform any of its obligations hereunder has been given by another Party and (ii) such noticed Party has had a period of time, as specified below, in which to cure the alleged failure. The Party declaring a default shall notify the offending Party in writing of any such alleged failure to perform. Such notice shall specify the basis for a declaration of default. Defaults for failure to timely pay any amounts due hereunder shall be cured within ten (10) days and, for all other defaults the notified Party shall have ninety (90) days from the receipt of such notice to cure any default. If a default is not cured within such 10-day or 90-day period, as applicable, then the noticing Party shall have the option to terminate this Agreement.

(c) City Termination; Other Remedies. Concurrently with a notice under Section 12(b) above, City shall have the right to terminate this Agreement for failure by the District to make the payments described in Section 7, but only after (i) City provides written notice to the District of its intent to so terminate this Agreement and (ii) District is given thirty (30) days from the receipt of such notice from City to cure the failure. City may terminate this Agreement for a failure to pay only after a failure to make all required payments within such 30-day period. City may further seek such legal remedies available to City under law to recover any amount which remains outstanding pursuant to this Agreement. Any amounts due and payable to City and which remain unpaid after thirty (30) days from the date such payment was due shall bear interest at the annual rate of ten percent (10%), compounded, commencing on the 31st day after payment was due. In the event City is required to file suit to collect any unpaid amounts under this Agreement, City

Section 16. Severability. The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section, or other part of this Agreement, or the application thereof to any person 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 word, phrase, clause, sentence, paragraph, section, or other part of this Agreement to other persons or circumstances shall be not be affected thereby.

Section 17. Force Majeure.

(a) In the event any Party is rendered unable, wholly or in part, by “force majeure” (as hereinafter defined) to carry out its obligations under this Agreement, then the obligations of such Party to the extent affected by such force majeure, to the extent due diligence is being used to resume performance at the earliest practical time, shall be suspended during the continuance of any inability so caused to the extent provided but for no longer period of time. As soon as reasonably possible after the occurrence of the force majeure relied upon, the Party whose contractual obligations are affected shall give written notice of such force majeure to the other Party to this Agreement. If possible to remedy, such cause shall be remedied with all reasonable dispatch.

(b) The term “force majeure” as used herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, orders of the United States or the State of Texas or other military authority with jurisdiction over the District, insurrections, riots, epidemics, landslides, earthquakes, fires, hurricanes, arrests, civil disturbances, widespread pestilence, explosions, breakage or accidents to machinery, pipelines or canals, significant variations from normal weather conditions reasonably expected during the period in question, and any other inability a Party could not have avoided by the exercise of due diligence and care. “Force majeure” shall not mean or refer to governmental regulations or acts of any governmental entity, board, commission or council over which a Party may reasonably exert influence in order to meet its obligations pursuant to this Agreement, including the City of Farmersville.

Section 18. Indemnification.

(a) TO THE EXTENT ALLOWED BY LAW, THE DISTRICT AGREES TO AND SHALL INDEMNIFY, SAVE AND HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICIALS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING BUT NOT LIMITED TO ATTORNEY’S FEES (WHETHER 1ST PARTY OR 3RD PARTY) AND RELATED COSTS, FOR PERSONAL INJURY, DEATH OR PROPERTY DAMAGE, DESTRUCTION OR LOSS ARISING OUT OF OR CONNECTED IN ANY WAY WITH THE PERFORMANCE OF THE DISTRICT’S RESPONSIBILITES UNDER THIS AGREEMENT, WHERE SUCH PERSONAL INJURY, DEATH OR PROPERTY DAMAGE, DESTRUCTION OR LOSS IS CAUSED BY THE DISTRICT’S SOLE NEGLIGENCE OR ITS SOLE INTENTIONAL ACT OR OMISSION OR WHERE SUCH PERSONAL INJURY, DEATH, OR PROPERTY

DAMAGE, DESTRUCTION, OR LOSS IS CAUSED BY THE JOINT NEGLIGENCE OF THE DISTRICT AND ANY OTHER PERSON, OR ENTITY OR THE JOINT INTENTIONAL ACT OR OMISSION OF THE DISTRICT AND ANY OTHER PERSON OR ENTITY.

(b) The foregoing notwithstanding, the Parties hereto reserve the right to assert all available legal defenses and all protections and limitations of liability provided by State law and Federal law, including but not limited to the Texas Tort Claims Act and the Texas Constitution relative to these Parties.

(c) The provisions of this indemnification are solely for the benefit of the Parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any person or entity.

Section 19. Authority and Enforceability. The Parties represent and warrant that this Agreement has been approved and or adopted by the Parties' authorized representatives and that the individuals executing this Agreement on behalf of each Party has been duly authorized to do so. Each Party acknowledges and agrees that this Agreement is binding upon such Party and enforceable against such Party in accordance with its terms and conditions.

Section 20. Waiver of Breach. No waiver by either Party of any default or breach of a term or condition of this Agreement by the other Party may be treated as a waiver of any subsequent default or breach of the same or any other term or condition of this Agreement.

Section 21. Modification. This Agreement may only be modified, changed or altered at any time upon mutual agreement of the Parties, provided that any such modification, change and/or alteration be reduced to writing and approved by the governing bodies of the City and the District.

Section 22. Parties In Interest. This Agreement shall be for the sole and exclusive benefit of the City and the District and shall not be construed to confer any benefit or right upon any other party.

Section 23. Entire Agreement. This Agreement together with the Creation Agreement constitute the entire Agreement among the Parties relative to the provision of Fire-Fighting Services. There have not been and are no agreements, covenants, representations or warranties among the Parties, either oral or written, relative to such subject matter other than those expressly stated or provided for in this Agreement and the Creation Agreement.

Section 24. Good Faith Cooperation. The Parties agree to use good faith in the performance of their respective duties and obligations under this Agreement such that the intent of the Parties shall be fulfilled. The Parties further agree to take such additional actions, from time to time, as may be necessary to fully carry out the purposes and intent of this Agreement including, but not limited to, the execution of further documentation.

Section 25. No Third-Party Beneficiaries. This Agreement only inures to the benefit of, and may only be enforced by, the Parties. No other person or entity shall have any right, title, or

interest under this Agreement or otherwise be deemed to be a third-party beneficiary of this Agreement.

Section 26. No Waiver of Immunity. Nothing in this Agreement shall create or give any claim or cause of action against the District or the City that would not exist in the absence of this Agreement. Nothing contained herein shall be deemed or construed to waive any claims, defenses, privileges, or governmental or sovereign immunity that the District or the City has with respect to suits against the District or the City or any of their respective elected officials, officers, or employees, as to any claim or cause of action brought by any person or entity other than a Party to this Agreement.

Section 27. Miscellaneous. This Agreement is not intended to and shall not be construed so as to create a joint enterprise between the Parties. This Agreement shall not be construed more strictly against the drafter as all Parties have the benefit of counsel in the negotiation and preparation of this Agreement. The headings of the various paragraphs of the Agreement have been inserted for convenient reference only and shall not be construed to enlarge, diminish, or otherwise change the express provisions hereof.

Section 28. Assignment. Neither Party may assign this Agreement nor any interest herein without the prior written consent of the other Party.

Section 29. Counterparts. This Agreement may be executed in multiple counterpart originals, each of which shall have equal dignity and effect.

Section 30. Authority. The undersigned officers and/or agents of the parties hereto are the 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 orders or resolutions extending said authority have been duly passed and are now in full force and effect.

Section 31. Conflict of Interest.

District covenants and agrees that District and its associates and employees will have no interest, and will acquire no interest, either direct or indirect, which will conflict in any manner with the performance of the services called for under this Agreement. All activities, investigations and other efforts made by District pursuant to this Agreement will be conducted by employees, associates or subcontractors of District.

In addition, to the extent that this Agreement (a) must be approved by the City's governing body before it may be signed or (b) has a value of \$1,000,000, or more, District shall comply with the requirements of Texas Government Code § 2252.908 by completing and submitting Form 1295 to the Texas Ethics Commission ("Commission") at the time District submits this signed Agreement to City, and as follows:

Form 1295 Filing Process: The Commission has made available on its website a new filing application that must be used to file Form 1295. The District must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a

certification of filing that will contain a unique certification number. An authorized agent of the District must sign the printed copy of the form and complete the "unsworn declaration" which includes, among other things, the date of birth and address of the authorized representative signing the form. The completed Form 1295 with the certification of filing must be filed with the City.

The City must notify the Commission, using the Commission's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the Contract binds all parties to the Contract. The Commission will post the completed Form 1295 to its website within seven business days after receiving notice from the City.

Form 1295 Availability: Certificate of Interested Parties Form is available from the Texas Ethics Commission website at the following address:

https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm

For questions regarding and assistance in filling out Form 1295, please contact the Texas Ethics Commission at 512-463-5800.

Section 32. Anti-Boycotting and Anti-Discrimination.

(a) Prohibition on Contracts with Companies Boycotting Israel. In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into an agreement with a company for the provision of goods or services unless the agreement contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the agreement.

Chapter 2270 does not apply to: (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the District is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this Agreement on behalf of the District verifies by its signature on this Agreement that the District does not boycott Israel and will not boycott Israel during the term of this Agreement.

(b) Prohibition on Contracts with Companies Boycotting Energy Companies. In accordance with Senate Bill 13, 87th Leg., R.S., to be codified in Chapter 2274, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

Chapter 2274 does not apply to: (1) a company that has fewer than ten (10) full-time employees; or (2) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the District is not subject to Chapter 2274 for the reasons stated herein, the signatory executing this Agreement on behalf of the District verifies by its signature on this Agreement that the District does not boycott energy companies and will not boycott energy companies during the term of this Agreement.

(c) Prohibition on Contracts with Companies Boycotting any Firearm Entity or Firearm Trade Association. In accordance with Senate Bill 19, 87th Leg., R.S., to be codified in Chapter 2274, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against any firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against any firearm entity or firearm trade association.

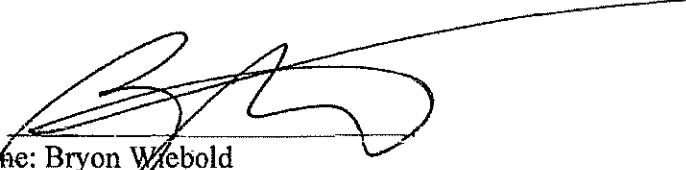
Chapter 2274 does not apply to: (1) a company that has fewer than ten (10) full-time employees; or (2) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). In addition, this provision does not apply to: (1) a contract with a sole-source provider; or (2) a contract for which the governmental entity did not receive any bids from a company that is able to provide the required written verification. Unless the District is not subject to Chapter 2274 for the reasons stated herein, the signatory executing this Agreement on behalf of the District verifies by its signature on this Agreement that the District does not boycott any firearm entity or firearm trade association and will not boycott any firearm entity or firearm trade association during the term of this Agreement.

[Signature page(s) follow.]

IN WITNESS WHEREOF, the City and the District, intending to be bound, hereby execute this Agreement.

THE CITY

City of Farmersville, Texas,
a home-rule municipality

By: 
Name: Bryon Wiebold
Title: Mayor

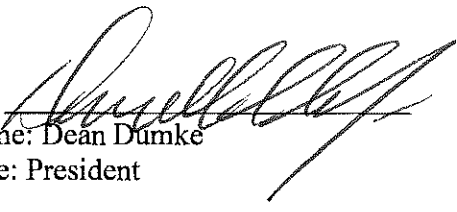
Attest:

By: 
Name: Tabatha Monk
Title: City Secretary

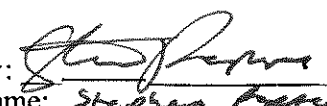


THE DISTRICT

Lakehaven Municipal Utility District of Collin
County

By: 
Name: Dean Dumke
Title: President

Attest:

By: 
Name: Stephen Pope
Title: Assistant Secretary

