

RESOLUTION NO. R-2018-92

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF BASTROP AND BASTROP COUNTY EMERGENCY SERVICE DISTRICT NO. 2 FOR FIRE PROTECTION SERVICE, ATTACHED AS EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The City Council has appointed the City Manager as the Chief Administrative Officer of the City; and

WHEREAS, The City Manager is responsible for the proper administration of all affairs of the City; and

WHEREAS, The City of Bastrop ("City") has a duty to provide for the health and care of its citizens, including fire protection services; and

WHEREAS, Bastrop County Emergency Services District No. 2 ("District") must provide timely and efficient fire protection services to the area that comprises the southeastern district of the territory (as described and depicted in Attachment "A"), for which it is currently unable to guarantee timely and efficient fire services because it lacks a nearby accessible fire station in; and

WHEREAS, The District and the City have found the most cost-efficient way to provide fire services and protection to its southeastern territory is for the City and the District to share the City of Bastrop Fire Station #2, a City-owned fire station in the region, whereby the District fire personnel are able to stay on call in Bastrop Fire Station #2 and use the facility as necessary; and

WHEREAS, The City and the District are authorized to enter into this Interlocal Agreement for Fire Protection Services ("Agreement") and to enter into an arrangement for these services by TEX. GOV. CODE, Ch. 791, TEX HEALTH & SAFETY CODE, Ch. 775, and TEX. LOC. GOV'T CODE, Ch. 51, and TEX. LOC. GOV'T CODE, Ch. 342, among other laws; and

WHEREAS, the City and the District are authorized to enter into this Agreement in all respects by TEX. GOV'T CODE, Ch. 791.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1: That the City Manager is hereby authorized to execute an Interlocal Agreement for Fire Protection Services the City of Bastrop and Bastrop County Emergency Services District No. 2. (Exhibit A)

Section 2: All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 3: That this Resolution shall take effect immediately upon its passage, and it is so resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 25th day of September, 2018.

APPROVED:



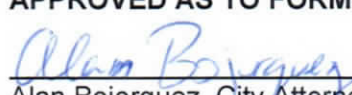
Connie B. Schroeder, Mayor

ATTEST:




Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

w/permissions


**INTERLOCAL AGREEMENT
FOR FIRE PROTECTION SERVICES BETWEEN THE CITY OF BASTROP AND
BASTROP COUNTY ESD #2**

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into and between the City of Bastrop ("City"), a Texas home-rule municipal city situated in Bastrop County, Texas and Bastrop County ESD #2 ("ESD #2"), a political subdivision of the State of Texas. City and ESD#2 hereby contract as follows:

WHEREAS, the City of Bastrop has a duty to provide for the health and safety of its citizens, including fire protection services; and

WHEREAS, ESD #2 must provide timely and efficient fire protection services to the area that comprises the southernmost district of the territory (as described or depicted in Attachment "A"), for which it is currently unable to guarantee timely and efficient fire services because it lacks a nearby, accessible fire station in; and

WHEREAS, ESD #2 and the City have found the most cost-efficient way to provide fire services and protection to its southern territory is for the City and ESD #2 to share City of Bastrop Fire Department Station 2, a City-owned fire station in the region, whereby ESD #2 fire personnel are able to stay on call in Bastrop Fire Station #2 and use the facility as necessary; and

WHEREAS, the City and ESD #2 are authorized to provide the services described in this Agreement and to enter into an arrangement for these services by TEX. GOV. CODE, Ch. 791, TEX. HEALTH & SAFETY CODE, Ch. 775, and TEX. LOC. GOV'T CODE, Ch. 51, and TEX.

LOC. GOV'T, Ch. 342, among other laws; and

WHEREAS, the City and ESD #2 are authorized to enter into this Agreement in all respects by TEX. GOV' T. CODE, Ch. 791.

1.0 DEFINITIONS

1.1 Rules of Interpretation. Words and phrases used in this Agreement shall have the meanings set forth in this section. Words and phrases not defined in this Agreement shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

1.2 Specific Terminology.

City: the City of Bastrop, a Texas home-rule municipality located in Bastrop County, Texas.

City Attorney: the person or law firm designated by the City Council to serve in the capacity of City Attorney (i.e., primary legal advisor) for the City.
City Council: the City Council of the City of Bastrop.

City's Territory: any location within the full purpose corporate limit of the City of Bastrop.

Day: a single calendar day.

Equipment: any equipment commonly used to fight or prevent fires, such as firetrucks and hoses.

ESD #2: the Bastrop County ESD #2 Emergency Services District No. 2 acting by and through its governing body, the Board of Emergency Services Commissioners, and its authorized personnel.

Facility: City of Bastrop Fire Station 2, the facility owned by the City in the southern part of the City's territory which is to be used by both the City of Bastrop and Bastrop County ESD #2 in the terms set out by this Agreement.

2.0 TERM OF AGREEMENT

2.1 Initial Term. This Agreement begins on the date when it has been executed by both parties, and ends twelve (12) months later, unless earlier terminated under the terms of this Agreement.

2.2 Renewal Term. This Agreement, as may be properly amended or modified from time to time, automatically renews for a term of one (1) year unless terminated under the terms of this Agreement.

3.0 RESPONSIBILITIES OF CITY

3.1 No Fees. The City shall not charge ESD #2 for access to its facility and equipment.

3.2 City Firefighters. Crews from the City and ESD #2 will automatically respond together on select calls in both districts.

3.3 Shared Equipment/Resources. Fire response apparatuses may be shared with ESD #2 by the City from time to time, as necessary.

3.4 Compliance with Laws. The City shall comply with all applicable laws, rules, and regulations in the performance of this Agreement.

4.0 RESPONSIBILITIES OF ESD#2

4.1 Full Access. ESD #2 shall have full access at all times to the facility and its equipment.

4.2 Limitations. ESD #2 shall not make any changes to the facility or layout of the equipment herein without prior approval.

4.3 Compliance with Laws. ESD #2 shall comply with all applicable laws, rules, and regulations in the performance of this Agreement.

5.0 LOSSES & INSURANCE

5.1 Limits of Liability. City is not liable for any claims, damages or attorney fees arising from the negligent or illegal acts of ESD #2 or its employees or agents in relation to the services provided by ESD #2 under this Agreement. ESD #2 is not liable for any claims, damages, or attorney fees arising from the negligent or illegal acts of City or its employees or agents in relation to the responsibilities of City under this Agreement.

6.0 TERMINATION

6.1 Without Cause. Either party may terminate this Agreement at any time, without cause, by providing the other party with at least thirty (30) days written notice of termination.

6.2 Termination for Breach. Either party may terminate this agreement if it is found that the other party has breached this Agreement. The failure of either party to comply with the terms and conditions of this Agreement is a breach of this Agreement. Prior to termination, the terminating party shall provide written notice to the other party of any breaches. Upon receipt of this notice, the breaching party has thirty (30) days to correct the breaches or explain why the actions do not breach this Agreement to the satisfaction of the terminating party. Failure to correct the breaches within thirty (30) days means the non-breaching party may terminate the agreement with no further notice to the breaching party.

7.0 NOTICE

7.1 Written Notice. All notices sent pursuant to this Agreement shall be in writing and sent by registered or certified mail, postage prepaid, return receipt requested.

7.2 ESD #2 Address. Notice sent pursuant to this Agreement shall be delivered or sent to the ESD #2 Board President at the following address:

P.O. Box 1747
Bastrop, Texas 78602

7.3 City Address. Notices sent pursuant to this Agreement shall be sent to the City Manager at the following address:

P.O. Box 427
Bastrop, TX 78602

City of Bastrop
Agreement for Fire Protection Services ESD 2

- 7.4 Time of Delivery.** When notices are mailed by registered or certified mail, notice shall be deemed effective three days after deposit in a U.S. mail box or at a U.S. post office.
- 7.5 Change of Address.** Either party may change its address for notice under this Agreement by providing a notice of the change to all parties in compliance with this paragraph.

8.0 MISCELLANEOUS

- 8.1 Amendment of Agreement.** The only modification concerning this Agreement that has any force or effect is a subsequent amendment in writing signed by both parties. No official, representative, agent, or employee of ESD #2 or City has any authority to amend this Agreement or waive any of its provisions, except pursuant to specific authority to do so expressly granted by the respective governing body.
- 8.2 Entire Agreement.** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties to it with respect to the subject matter of it and contains all of the covenants and agreements between the parties with respect to this subject matter. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party or anyone acting on behalf of any party which are not embodied in this Agreement and that any agreements, statements, or promises not contained in this Agreement are not valid or binding.
- 8.3 Waiver.** The waiver by either party of a breach of this Agreement shall not constitute a continuing waiver of that breach or of a subsequent breach of the same or a different provision, unless the party not in breach agrees to a waiver.
- 8.4 Reservation of Rights & Remedies.** All rights of both parties under this agreement are specifically reserved. Any reimbursement, installment, payment, act, or omission by a party shall not impair or prejudice any remedy or right of that party under this Agreement. Any right or remedy stated in this Agreement shall not preclude the exercise of any other right or remedy under this Agreement, the law or in equity, and any action taken in the exercise of any right or remedy shall not be deemed a waiver of any other rights or remedies.
- 8.5 Independent Contractors.** City and ESD #2 intend to enter this Agreement as independent contractors and assume all of the rights, obligations and liabilities applicable to it as an independent contractor. Neither party is authorized to represent the other for any purpose whatsoever without the prior written consent of the other party. Employees of City shall not be considered to be employees of ESD #2. Employees of ESD #2 shall not be considered to be employees of City.

- 8.6 Right to Contract with Other Entities.** This Agreement shall not be construed to hinder ESD #2's ability and right to contract with other entities to provide the services provided under this Agreement.
- 8.7 Parties Bound.** This Agreement shall be binding upon and inure to the benefit of the parties to it and to their respective legal representatives and successors where permitted by this Agreement. This Agreement is not assignable without consent of the other party which shall not be unreasonably withheld.
- 8.8 Third Party Rights Not Created and Indemnity.** This Agreement is not intended and shall not be construed to create any rights or remedies in any person or legal entity that is not a party to it and neither ESD#2 nor City is waiving any defense or immunity to which it is entitled against any person or legal entity that is not a party to it.
- 8.9 Governing Law & Venue.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created under it are performable in *Bastrop County, Texas*. Venue for addressing any disputes arising under this Agreement shall be limited to *Bastrop County, Texas*.
- 8.10 Severability.** In case any one or more of the provisions in this Agreement is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement and this Agreement shall be construed as if the invalid, illegal, or unenforceable provisions had never been in it.
- 8.11 Computation of Time.** When any period of time is stated in this Agreement, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday, or a day that either ESD #2 or City has declared a holiday for its employees, these days shall be omitted from the computation.

ENTERED & AGREED TO by the authorized signatory agents of the parties, as evidenced below.

CITY OF BASTROP:

by: Lynda Humble
City Manager of the City of Bastrop

BASTROP COUNTY EMERGENCY SERVICES DISTRICT #2:

by: George Martinez
President of Bastrop Co. ESD #2

EXHIBIT A
AREA FOR AUTOMATIC RESPONSE BY THE CITY OF
BASTROP

