

INTERLOCAL AGREEMENT FOR FIRE SERVICES

THIS INTERLOCAL Agreement for Fire Services ("Agreement") is entered into by and between the City of Fort Worth, a home rule municipality in the State of Texas ("Fort Worth"), acting by and through Tom Higgins, its duly authorized Assistant City Manager, and the City of Euless, a home rule municipality in the State of Texas ("Euless"), acting by and through Gary McKamie, its duly authorized City Manager. Fort Worth and Euless are sometimes hereinafter referred to individually as the "Party" and collectively as the "Parties".

WHEREAS, the governmental entities which are Parties to this Agreement desire to enter into an agreement concerning mutual aid fire services on an as requested basis; and

WHEREAS, the Texas Government Code, Chapter 791, the "Interlocal Cooperation Act," authorizes local government entities to enter into interlocal contracts for governmental purposes; and

WHEREAS, the Texas Government Code 791.006 specifically authorizes interlocal agreements for fire services;

NOW, THEREFORE, it is mutually agreed by the Parties hereto to enter into this Agreement upon the following terms:

I. Services to be Performed.

The services to be performed under this Agreement are as listed in Attachment A, which is attached hereto and considered a part hereof for all purposes. The services performed shall be subject to the Operating Provisions in Attachment B, which is attached hereto and considered a part hereof for all purposes.

II. Costs Reimbursed.

City of Euless and Fort Worth agree to reimburse each other for actual costs other than ordinary operating costs incurred by each other in the performance of this Agreement. "Ordinary operating costs" shall mean those costs incurred in the scope of performing normal fire suppression duties, including but not limited to fuel, mechanical wear and tear, Personal Protective Equipment, Emergency Medical Supplies, and employee wages and benefits; provided, however, that special fire suppression methods are not an ordinary operating cost.

Reimbursement shall be made on an incident-by-incident basis and shall be made subsequent to a submission of an invoice by the Party incurring costs to

the other Party. Notwithstanding the above, each Party shall be responsible for all costs associated with its own equipment, including damage and breakage.

III. Term of Agreement and Termination.

The term of this Agreement shall be for one year beginning upon approval by both Parties and renewing automatically for additional one-year periods. Either Party may terminate this Agreement without penalty upon sixty days notice in writing to the other Party.

IV. Liability.

Each Party to this Agreement shall at all times be and remain legally responsible for the conduct of their respective fire department employees regardless of whether such employees were performing duties under this Agreement at the request of the requesting City and regardless of whether such employees were acting under the authority, direction, suggestion or orders of an officer of the requesting City. This assignment of civil liability is specifically permitted by section 791.006(a-1) of the Texas Government Code ("Code") and is intended to be different than the liability otherwise assigned under section 791.006(a) of the Code. Each Party hereby waives all claims against the other Party for compensation for any loss, damage, personal injury or death occurring as a consequence of the performance of this Agreement.

Neither Party shall be reimbursed by the other Party for costs incurred pursuant to this Agreement, except as set forth in Section II of this Agreement. Personnel who are assigned, designated, or ordered by their governing body to perform duties pursuant to this Agreement shall receive the same wage, salary, pension, and all other compensation, benefits and rights for the performance of such duties, including injury or death benefits and Worker's Compensation benefits, as though the service had been rendered within the limits of the City where he or she is regularly employed.

All wage and disability payments, pension payments, damage to equipment and clothing, medical expenses, and expenses of travel, food, and lodging or any benefits or payments to which an individual is entitled shall be paid by the City in which the employee in question is regularly employed.

All equipment used by the responding City in carrying out this Agreement will, during the time response services are being performed, be owned, leased, or rented by such responding City. All employees acting on behalf of a responding City at the request of a requesting City will, during the time response services are being performed, be employees members of the responding City for all purposes, including any claims for Worker's Compensation that may arise during the time such services are being rendered.

At all times while equipment and personnel of the responding City are traveling to, from, or within the geographical limits of the normal response area of the requesting City in accordance with the terms of this Agreement, such personnel and equipment shall be deemed to be employed or used, as the case may be, in the full line and cause of duty of the responding City. Further, such personnel shall be deemed to be engaged in a governmental function of their City.

Nothing herein shall be construed to be a waiver of immunity under the Texas Tort Claims Act by either Party.

V. Independent Contractor.

Each Party shall operate under this Agreement as an independent contractor, and not as an agent, representative, servant or employee of the other. Subject to the terms of this Agreement, each Party shall have the right to control the details of its performance hereunder.

VI. Notice.

Unless otherwise provided herein, all notices required or permitted by this Agreement shall be made to the following addresses:

City of Fort Worth
City Manager's Office
Attn: Tom Higgins, Assistant City Manager
1000 Throckmorton St.
Ft. Worth, Texas 76102

City of Euless
City Manager's Office
Attn: Gary McKamie, City Manager
201 N. Ector Drive
Euless, Texas 76039

VII. Payments.

Any and all payments arising under this Agreement for the performance of governmental functions or services must be made from current revenues available to the paying Party.

VIII. Compliance.

Both Parties shall comply with all Federal, State and City statutes, ordinances and regulations applicable to the performance of the services under this Agreement.

IX. Entire Agreement.

This writing embodies the entire agreement and understanding between the Parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.

X. Amendments.

No alteration, change, modification or amendment of the terms of this Agreement shall be valid or effective unless made in writing and signed by both Parties hereto and approved by appropriate action of the governing body of each Party.

XI. Waiver.

No waiver of performance by either Party shall be construed as or operate as a waiver of any subsequent default of any terms, covenants, and conditions of this Agreement. The payment or acceptance of fees for any period after a default shall not be deemed a waiver of any right or acceptance of defective performance.

XII. Governing Law and Venue.

If any action, whether real or asserted, at law or in equity, arises on the basis of any provision of this Agreement, venue for such action shall lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas — Fort Worth Division. This Agreement shall be construed in accordance with the laws of the State of Texas.

XIII. Successors and Assigns.

Neither Party hereto shall assign, sublet or transfer its interest herein without prior written consent of the other Party, and any attempted assignment, sublease or transfer of all or any part hereof without such prior written consent shall be void. This Agreement shall be binding upon and shall inure to the benefit of Fort Worth and Eules and their respective successors and permitted assigns.

XIV. No Third-Party Beneficiaries.

The provisions and conditions of this Agreement are solely for the benefit of Fort Worth and Eules, and any lawful successor or assign, and are not intended to create any rights, contractual or otherwise, to any other person or entity.

XV. Severability.

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

XVI. Force Majeure.

It is expressly understood and agreed by the Parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war; civil commotion; acts of God; inclement weather; governmental restrictions, regulations, or interferences; fires; strikes; lockouts, national disasters; riots; material or labor restrictions; transportation problems; or any other circumstances which are reasonably beyond the control of the Party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the Party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such requirement shall be extended for a period of time equal to the period such Party was delayed.

XVII. Contract Construction.

The Parties acknowledge that each Party and, if it so chooses, its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party must not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

XVIII. Captions.

Captions and headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

XIX. Right to Audit.

City of Euless agrees that Fort Worth will have the right to audit the financial and business records of Euless that relate to the services provided (collectively "Records") at any time during the Term of this Agreement and for three (3) years thereafter in order to determine compliance with this Agreement. Throughout the Term of this Agreement and for three (3) years thereafter, Euless shall make all Records available to Fort Worth at 201 N. Ector Drive, Euless, Texas following reasonable advance notice by Fort Worth and shall otherwise cooperate fully with Fort Worth during any audit.

Fort Worth agrees that Eules will have the right to audit the financial and business records of Fort Worth that relate to the services provided (collectively "Records") at any time during the Term of this Agreement and for three (3) years thereafter in order to determine compliance with this Agreement. Throughout the Term of this Agreement and for three (3) years thereafter, Fort Worth shall make all Records available to Eules at 1000 Throckmorton Street, Fort Worth, Texas following reasonable advance notice by Eules and shall otherwise cooperate fully with Eules during any audit.

Notwithstanding anything to the contrary herein, this Section XIX shall survive expiration or earlier termination of this Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

Executed this _____ day of _____, A.D. 20_____.

ATTEST:

CITY OF FORT WORTH

Mary Kayser, City Secretary

By: _____
Tom Higgins
City Manager

APPROVED AS TO FORM AND LEGALITY:

City Attorney

Date: _____

ATTEST:

CITY OF EULESS

Kim Sutter, City Secretary

By: _____
Gary McKamie
City Manager

APPROVED AS TO FORM AND LEGALITY:

Wayne K. Olson, City Attorney

Date: _____

ATTACHMENT "A"

I. AUTOMATIC AID RESPONSE

Explanatory note: Upon receipt of the report of an incident requiring response in their own respective cities, the Fort Worth and Euless fire departments may normally dispatch the level of resources described in Section I.A below to the reported locations. For the purposes of this agreement, automatic aid in the amount of resources described will be dispatched by one city into the other city's jurisdictional limits of ETJ, if the incident is reported in any of the geographical areas listed below. Also for purposes of this agreement, "reported" will be defined to mean any telephone calls into the 911 system, direct telephone calls to the fire department or radio transmissions to the fire and/or police dispatch centers. Excluded are automatic alarms, unless followed up by one of the above.

A. Euless:

The Euless Fire Department will respond into Fort Worth with an engine or quint company staffed with a minimum of three personnel on all reported structure fires and/or major vehicle accidents, within a specified area of the City. All such responses are subject to availability of personnel and equipment.

Boundary of the response area shall be in that portion of the City of Fort Worth in 2010 Mapsco coordinates:

Page 54, grid W, X, Y, and Z

Page 55, grid S, T, U, V, W, X and Y

Page 56, grid J, K, N, P, S, and T

Page 68, grid B, C, and D, North of the train tracks

And all of Fort Worth jurisdictional limits located east of State Highway 360

B. Fort Worth:

The Fort Worth Fire Department will respond into Euless with an engine or quint company staffed with a minimum of three personnel on all reported structure fires and/or major vehicle accidents, within a specified area of the City. All such responses are subject to availability of personnel and equipment.

Boundary of the response area shall be in that portions of the Eules in 2010 Fort Worth Mapsco coordinates:

Page 54, grid T, U and V

Page 55, grid L, M, N, P, Q, R and S

Page 56, grid J and N

II. MUTUAL AID RESPONSE

A. Eules:

1. Calls for assistance during "working" structure fires shall be given on an "as needed basis" by Eules and shall include one engine/quint staffed with a minimum of 3 firefighters. All such responses are subject to availability of personnel and equipment.

B. Fort Worth:

1. Calls for assistance during "working" structure fires shall be given on an "as needed basis", yet shall not exceed a normal one-alarm assignment as described by the Fort Worth Fire Department. All such responses are subject to availability of personnel and equipment.

ATTACHMENT "B"

Operating Provisions

- I. Any dispatch of equipment and personnel pursuant to this Agreement is subject to the following conditions:
 - A. Any request for aid hereunder shall include a statement of the amount and type of equipment and number of personnel that are needed, but the amount and type of equipment and number of personnel to be furnished shall be determined by a representative of the responding city. The Parties would provide a fire company staffed by certified firefighters as certified by the Texas Commission on Fire Protection.
 - B. In areas where common jurisdictional boundaries exist, it is conceivable that accurate determination of jurisdiction may not be possible upon receipt of an alarm. In such cases, it is deemed appropriate and in the best interest of the public for the entity receiving the alarm to dispatch its forces and to notify the other affected entities of the alarm. The requested entity will respond, if able to, as conditioned by this agreement.
 - C. In the event that the responding city is unable to respond to the request for assistance, the fire chief or designee of the responding city shall immediately notify the fire department of the requesting city that no response can be made.
 - D. Personnel from the Fire Department of the responding city shall report to the officer in charge of the requesting city at the location to which the equipment are dispatched and shall be subject to the orders of that official. At all times the ultimate control and responsibility of the personnel from the responding city shall remain with the highest ranking fire officer from the responding city at the scene. The Command Post will be staffed by representatives from both Euless and Fort Worth so that a "Unified Command" is established.
 - E. Personnel from the Fire Department of the responding city shall be released by the officer in charge from the requesting city when the services of the responding city are needed within the area for which it normally provides fire protection.
 - F. A working accountability system in accordance with NFPA guidelines shall be established at every incident.

- G. The departments shall conduct a minimum of one joint training session and/or exercise annually.
- II. All equipment used by the responding Fire Department in carrying out this Agreement will, at the time of action hereunder, be owned, leased or rented by it.