

**INTERLOCAL AGREEMENT BETWEEN CITY OF ROSENBERG, TEXAS
ROSENBERG POLICE DEPARTMENT**

&

**FORT BEND COUNTY BY AND THROUGH
FORT BEND COUNTY SHERIFF'S OFFICE**

THIS INTERLOCAL AGREEMENT is hereby made and entered into by and between the CITY OF ROSENBERG, TEXAS, a political subdivision, and a Texas Home Rule Municipal Corporation (hereinafter "City"), and FORT BEND COUNTY, TEXAS, by and through the, FORT BEND COUNTY SHERIFF'S OFFICE, a Texas Local Government and political subdivision (hereinafter "Participating Entity" or "FBCSO") each acting by and through its duly authorized agents (referred to collectively as the "Parties").

WHEREAS, Chapter 791 of the TEXAS GOVERNMENT CODE, also known as the INTERLOCAL COOPERATION ACT, authorizes all local governments to contract with each other to perform a governmental function and service that each party to the contract is authorized to perform individually, and in which the contracting parties are mutually interested; and

WHEREAS, the Parties have sufficient funds available from current revenues to perform the functions contemplated by this agreement; and

WHEREAS, the City has built and maintains a firing range facility located at 2704 Ave. A, Rosenberg, Fort Bend County, Texas for use by the Rosenberg Police Department (hereinafter "RPD") and

WHEREAS, the City and RPD recognize the necessity of access to a firing range facility for neighboring law enforcement agencies; and

WHEREAS, each of the parties hereto requires training for firearms use, and any other appropriate law enforcement or public safety training, in order to increase the skill and professionalism of its law enforcement and public safety personnel and reduce liabilities to the parties; and

NOW, THEREFORE IN CONSIDERATION of the recitals and mutual covenants made herein by the City and to enhance cooperation among local law enforcement agencies and to express mutual commitment to crime prevention and for law enforcement purposes, the City and Fort Bend County Sheriff's Office hereby mutually agree as follows:

ARTICLE I

DEFINITIONS

The following terms shall have the following meanings when used in this Agreement:

1.1 The term "Chief of Police" means the Chief of Police of the City of Rosenberg. This term also applies to any person designated by the Chief of Police to act on their behalf in regard to this Agreement.

1.2 The term Participating Entity shall mean "FBCSO" or the other executor of this Agreement.

1.3 The term Facility shall mean the Rosenberg Police Department firing range located at 2704 Ave. A, Rosenberg, Texas 77471.

ARTICLE II

USE OF FIRING RANGE BY PARTICIPATING ENTITY

2.1 City agrees to schedule Participating Entity with sufficient time to train all Participating Entity's commissioned officers in firearm use, and other public safety activities.

2.2 Fort Bend County Sheriff's Office agrees to any scheduling by City at a mutually agreeable time and date in accordance with the Rosenberg Police Department Firing Range Booklet containing all rules and regulations attached hereto and incorporated by reference as Exhibit "A".

2.3 Fort Bend County Sheriff's Office agrees to assist with daily standard range maintenance at the facility as mutually agreed upon between the Rosenberg Police Department and the Fort Bend County Sheriff's Office. The City will waive any fees for the use of the facility in exchange for the agreement of the Fort Bend County Sheriff's Office to provide the Rosenberg Police Department with an annual credit of \$1,500.00 towards law enforcement training at the Gus George Law Enforcement Academy.

2.4 Participating Entity agrees to abide by all of the terms regarding facility rules, facility safety, and scheduling as set forth in the Firing Range Booklet attached hereto and incorporated by reference as Exhibit "A"; specifically as follows:

- A representative from each agency must have attended the annual Firearms Instructor Meeting.
- All firearms instructors must have completed a Firearms Instructor Information Sheet on file along with a copy of their instructor Certificate of Training.
- The agency must have a signed Interlocal Agreement on file.

Failure of an agency to meet any of the criteria listed above or of any term of this Agreement will result in that agency being disqualified from using the firing range facility until such time the criteria can be met.

ARTICLE III

INDEMNITY

3.1 TO THE EXTENT ALLOWABLE BY LAW, THE PARTICIPATING ENTITY (INDEMNITOR) WILL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS,

AGENTS, SERVANTS, AND EMPLOYEES FOR AND AGAINST ANY AND ALL SUITS ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, ACTIONS, LOSSES, DAMAGES, INJURIES, (INCLUDING DEATH), COSTS, EXPENSES, AND ATTORNEY FEES, OF EVERY KIND AND NATURE (WHETHER BASED UPON TORT, BREACH OF CONTRACT, FAILURE TO OBTAIN WORKER'S COMPENSATION INSURANCE, OR OTHERWISE) INCLUDING BUT NOT LIMITED TO, ATTORNEYS FEES, COURT COSTS AND LEGAL EXPENSES, ARISING OUT OF, ON ACCOUNT OF OR RESULTING FROM (1) ANY ACTUAL OR ALLEGED INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF INDEMNITOR, (2) THE PERFORMANCE OF, ATTEMPTED PERFORMANCE OF, OR FAILURE TO PERFORM, ITS OBLIGATIONS PURSUANT TO THIS AGREEMENT BY INDEMNITOR, (3) INDEMNITOR'S INVOLVEMENT IN THE SPECIFIED SERVICES UNDER THIS AGREEMENT, (4) THE BREACH OF ANY OF THE REQUIREMENTS AND PROVISIONS OF THIS AGREEMENT OR ANY FAILURE OF INDEMNITOR IN ANY RESPECT TO COMPLY WITH AND PERFORM ALL THE REQUIREMENTS AND PROVISIONS HEREIN; (5) ANY TERMS OR CONDITIONS OR PROVISIONS OR UNDERLYING PROVISIONS OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, ANY PREMISES OR SPECIAL DEFECT KNOWN OR UNKNOWN TO INDEMNITEES, AND ANY INJURY TO INDIVIDUALS PRESENT DURING INDEMNITOR'S INVOLVEMENT UNDER THE TERMS AND CONDITIONS OF THE SERVICES AND THIS AGREEMENT, INCLUDING WILLFUL ACTS SUCH AS ASSAULT; (6) BODILY INJURY OR ILLNESS, SICKNESS OR DISEASE OR DEATH, WHETHER KNOWN OR UNKNOWN, INCLUDING BUT NOT LIMITED TO EXPOSURE TO ANY DISEASE BY ANY MANNER OR METHOD WHATSOEVER; OR (7) ANY COMBINATION OF (1). (2).(3).(4).(5) AND (6).

INDEMNITOR FURTHER AGREES TO DEFEND (AT THE ELECTION OF INDEMNITEES) AT ITS SOLE COST AND EXPENSE AGAINST ANY CLAIM, DEMAND, ACTION OR SUIT FOR WHICH INDEMNIFICATION IS PROVIDED HEREUNDER. THE INDEMNIFICATION OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR INDEMNITOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. APPROVAL AND ACCEPTANCE OF ACTS OF INDEMNITOR UNDER THIS AGREEMENT BY INDEMNITEES SHALL NOT CONSTITUTE NOR BE DEEMED A RELEASE OF THE RESPONSIBILITY AND LIABILITY OF INDEMNITOR FOR THEIR OBLIGATIONS UNDER THIS AGREEMENT; NOR SHALL SUCH APPROVAL AND ACCEPTANCE BE DEEMED TO BE AN ASSUMPTION OF SUCH RESPONSIBILITY BY THE INDEMNITEES FOR ANY DEFECT, ERROR OR OMISSION IN THE OBLIGATIONS PERFORMED BY INDEMNITOR IN THIS REGARD. INDEMNITOR SHALL DEFEND, HOLD HARMLESS, AND INDEMNIFY THE INDEMNITEES FOR DAMAGES RESULTING FROM SUCH DEFECTS, ERRORS, OR OMISSIONS.

ARTICLE IV.

TERM

4.1 This Agreement shall be effective on the 1st day of October, 2021 and shall continue for five (5) years unless terminated by written agreement of both parties. The City reserves the right to cease operations of the Facility at any time.

ARTICLE V.

MISCELLANEOUS

5.1 SEVERABILITY: The Parties agree that in the event any provision of this Agreement is held by a court of competent jurisdiction to be in contradiction of any laws of the State of Texas or the United States, the Parties will immediately rectify the offending portions of this Agreement. The remainder of the Agreement shall be in full force and effect.

5.2 ENTIRE AGREEMENT & AMENDMENT: This agreement constitutes the entire agreement between the Parties hereto, and supersedes all their oral and written negotiations, agreements, and understandings of every kind. The Parties understand, agree, and declare that no promise, warranty, statement, or representation of any kind whatsoever, which is not expressly stated in this Agreement, has been made by any Party hereto or its officer, employees, or other agents to induce execution of this Agreement. No modification, amendment, novation, renewal, or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the Parties

5.3 Venue and Choice of Law. This Agreement shall be performable in Fort Bend County, Texas and venue for any legal dispute is in Fort Bend County, Texas.

5.4 NOTICE. Any notice given shall be in writing and may be affected by personal delivery, or by registered or certified mail, return receipt requested at the address of the respective Parties indicated below:

Chief Jonathan White
Rosenberg Police Department
2120 4th Street
Rosenberg, Texas 77471
jowhite@rosenbergtx.gov

Fort Bend County Sheriff
1840 Richmond Pkwy
Richmond, Texas 77469
Address for notice may be changed at anytime by delivering written notice of change to the other Parties in accordance with the notice requirements of this section.

5.5 ATTORNEY FEES. In any lawsuit concerning this Agreement, the Party's shall be responsible for their own attorney's fees.

5.6 COMPLIANCE WITH APPLICABLE LAWS: The Parties hereby agree to comply with all ordinances, laws, rules, regulations, and lawful orders of any public authority. Specifically, nothing in this Agreement is intended to conflict with the City of Rosenberg code of ordinances.

5.7 SOVEREIGN IMMUNITY. This Agreement is expressly made subject to each Party's Governmental Immunity, including, without limitation, Title 5 of the Texas Civil Practice and Remedies Code and all applicable State and federal laws. The Parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability, or a waiver of any tort limitation, that either Party has by operation of law, or otherwise. Nothing in this Agreement is intended to benefit any third-party beneficiary.

5.8 INSURANCE. The parties agree that they will have at all times during the initial term, or any renewal term of this agreement maintain in full force and effect insurance, including workers' compensation insurance for its employees, or self -insurance, to the extent permitted by applicable law under a plan of self-insurance that is also maintained in accordance with sound accounting practices.

5.9 RELATIONSHIP OF THE PARTIES. Each Party is an independent contractor and not an agent, servant, joint enterpriser, joint venturer, or employee of the other Party. DC PD and County agree and acknowledge that each entity shall be 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.

5.10 FISCAL FUNDING CLAUSE. Notwithstanding any provisions contained in this Agreement, the obligations of the Parties under this Agreement are expressly contingent upon the availability of funding appropriation and allotment of funds by the Texas State Legislature ("Legislature") and allocation of funds by the Parties' respective governing bodies.

5.11 SIGNATURE. All parties represent that each has the full right, power, and authority to enter and perform this Agreement in accordance with all of the terms and conditions herein, and that the execution and delivery of this Agreement is made by authorized representatives of the parties to validly and legally bind the parties to all terms, performance, and provisions set forth in this Agreement.

EXECUTED THIS _____ DAY OF _____, 2021. ("Effective Date")

By: _____
KP George
Fort Bend County Judge

By: _____
City of Rosenberg
Rosenberg Police Chief
Rosenberg Police Department

Approved as to Form:

Judith El Masri
Randle Law Office Ltd., LLC
City Attorney - City of Rosenberg