

WESTCOM COMMUNICATIONS CENTER INTERLOCAL **SERVICE AGREEMENT**

This Agreement is made and entered into between **HARRIS-FORT BEND EMERGENCY SERVICES DISTRICT NO. 100** also doing business as **Westcom** (referred to herein as "ESD 100" or "WestCom") and **FORT BEND COUNTY FIRE MARSHAL** (also referred to herein as a "Provider") for ESD 100 to provide Emergency Communications Services on this, ____ day of _____, 2024. ESD 100 and Provider are sometimes referred to herein as "Party" or the "Parties." In consideration of the mutual promises contained in the Agreement, the Parties hereto agree as follows:

1. SERVICES PROVIDED

1.1 ESD 100 will provide emergency communication services through its Emergency Communications Center ("WestCom Center"). The WestCom Center will receive emergency and non-emergency communications directed to the Provider and will dispatch the Provider's personnel and equipment, by appropriate means, within the Provider's geographic area in response to such communications (the "Services"). These Services will be provided twenty-four (24) hours a day, seven (7) days a week, fifty-two (52) weeks a year, for the duration of this Agreement, without interruption for any reason, including natural or manmade disasters, with the following exceptions: (1) A compromise in the structural integrity of the building(s) materially impairing the ability to deliver the Services, (2) a fatal infrastructure failure from whatever cause, (3) or force majeure.

1.2 The term "*force majeure*" as used in Section 1.1 above shall mean that neither Party shall be held responsible for any delay or failure to perform any part of this Agreement to the extent such delay or failure results from any cause beyond its reasonable control and without the fault or negligence of the Party claiming excusable delay or failure to perform, such as acts of God, acts of war or terrorism, extraordinary acts of the United States of America or any state, territory or political subdivision thereof, fires, storms, floods, epidemics, riots, work stoppages, strikes (work stoppages and/or strikes of any of the Parties to this Agreement are specifically excluded from the language of this section), embargoes, government restrictions, adverse weather or events of nature, pandemics or riots that interfere with a Party's operations.

1.3 Upon an occurrence of an event of force majeure, ESD 100 cannot ensure uninterrupted Services and there may be periods where Services are delayed, limited or not available. The Party whose performance is prevented, hindered, or delayed by a force majeure event shall promptly notify the other Party of the occurrence of the force majeure event and describe in reasonable detail the nature of the force majeure event.

1.4 ESD 100 will develop redundancy in its systems to help ensure non-interruption of the Services in the event one system is disabled. The Services will be of the same quality and performed at the same level as those provided by the personnel of ESD 100. All personnel will be trained to meet or exceed ESD 100's standards of competency and professionalism. ESD 100 will abide by all applicable laws, rules, and regulations to the best of their ability. ESD 100 will, as reasonably required, (i) enhance Services, (ii) provide updated technology

and (iii) provide updated protocols to reflect best practices in the industry.

2. SERVICE FEES

2.1 The Provider will pay a Dispatch Service Fee of Twenty Dollars (\$20.00) for each fire rescue, EMS, and other calls for service which are dispatched by ESD 100 for the Provider. Charges for Dispatch Service Fees will be billed quarterly.

2.2 In addition to the per call fee above, beginning January 1, 2025, Provider will be billed an annual technology base fee in the amount of \$ 1,577.47 "Technology Base Fee"), which is based on the anticipated 200 incidents per year. This fee may be adjusted based on actual incident history. ESD 100 agrees to provide written notice of any proposed fee increase at least ninety (90) days prior to the anniversary date on which such increases would go into effect.

3. RENEWAL

This Agreement will renew automatically for successive one (1) year periods unless either Party provides written notice of termination to the other at least ninety (90) days prior to the next successive anniversary date. Either Party may voluntarily terminate this Agreement at any time with a minimum of a 90-day notice. Any early termination by Provider shall entitle the Provider to a prorated refund of any or all current year Technology Base Fees calculated as of the last day the Notice of Termination becomes effective or calculated at the time the Provider ceases to receive the Services from ESD 100, whichever date is later.

4. PROVIDER DEFAULT

4.1 Payment of all fees by Provider shall be due and payable within forty-five (45) days of invoicing to Provider. Failure to pay within the forty-five (45) day period is an event of default. Upon notice to the Provider of such event of default, the Provider shall cure such default within forty-five (45) days of written notice of default. Failure to cure such default within the time specified may result in the termination of Services by ESD 100 under this Agreement. The rate of interest on past due accounts and any other sums owed to ESD 100 is five (5) percent per annum, or the rate of interest as calculated pursuant to Texas Government Code, Section 2251.025(b).

4.2 Upon the full and complete payment of all sums due and owing under this Agreement, ESD 100 may, but is not obliged to, resume Services under this Agreement. As a condition of resumption of Services, ESD 100 may require a deposit not to exceed the total annual (or annualized) charges paid by Provider for the preceding year. Under no circumstance is ESD 100 obligated to resume Services to a defaulting provider, regardless of whether said provider pays its account in full. Any decision by ESD 100 to decline a resumption of Services shall in no way act as a waiver or obstacle to ESD 100's right to recover sums due and owing through and including the date of default.

5. OBLIGATIONS OF ESD 100 AND PROVIDER

5.1 ESD 100 and Provider will maintain in full force and effect general liability insurance in an amount sufficient to satisfy a judgment against it up to and including the limits of its statutory liability. In no event shall either Party have general liability insurance in an amount less than ONE MILLION DOLLARS (\$1,000,000).

5.2 ESD 100 and Provider will hold each other harmless for all claims arising out of each Party's own respective acts of negligence, but not otherwise.

5.3 ESD 100 will maintain all records required by law and will permit examination and dissemination of said records in accordance with Texas law or a subpoena issued pursuant to Texas law.

6. GOVERNING LAWS

The obligations of ESD 100 and Provider shall be construed and enforced in accordance with the laws of the State of Texas. Venue of any claim, suit or dispute arising under this Agreement shall be exclusively in Fort Bend County, Texas. The prevailing Party in any dispute, claim or suit arising hereunder shall recover its reasonable attorney's fees and expenses of litigation from the other Party in such amount that the Court may determine.

7. NOTICE

Any notice to be given under this Agreement shall be either delivered personally or mailed by postage prepaid certified mail. Unless otherwise specified in writing all notices and other communications in writing shall be given to the respective parties at the addresses set forth on the signature page of this Agreement. Any such notice shall also be copied to:

Mr. David Manley
Coveler & Peeler, P.C.
820 Gessner, Suite 1710
Houston, Texas 77024
manley@coveler.com

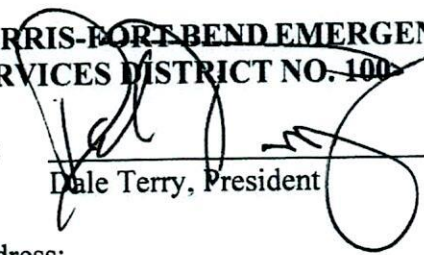
8. ENTIRE AGREEMENT

This Agreement and any amendments thereto, contain the entire agreement between ESD 100 and the Provider for Services. No variations, modifications, or changes shall be binding upon Provider unless it is in writing, signed by both Parties, and approved by the ESD 100 Board and Provider Board.

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

**HARRIS-FORT BEND EMERGENCY
SERVICES DISTRICT NO. 100**

By:


Dale Terry, President

Address:

Harris-Fort Bend Emergency
Services District No. 100
Attn: Mr. Ryan McKnight
16005 Bellaire Blvd.
Houston, Texas 77083

FORT BEND COUNTY FIRE MARSHAL

By:


Justin Jurek, Fire Marshal

Address:

Fort Bend Fire Marshal
Attn: Fire Marshal
301 Jackson Street
Richmond, Texas 77469