

TOWN OF ADDISON, TEXAS

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE TOWN OF ADDISON AND THE CITY OF CARROLLTON FOR THE USE OF CARROLLTON'S FLEET SERVICE GARAGE FOR THE MAINTENANCE AND REPAIR OF FIRE-FIGHTING AND EMERGENCY VEHICLES AND EQUIPMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 791 of the Texas Government Code provides authorization for local governments to contract with one another to provide governmental functions and services; and

WHEREAS, the Town of Addison, Texas desires to contract with the City of Carrollton, Texas for purposes of utilizing a garage dedicated to fleet service for the maintenance and repair of Addison fire-fighting and emergency vehicles and equipment; and

WHEREAS, these services are a governmental function and service pursuant to § 791.003 of the Texas Government Code.

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

Section 1. The Interlocal Agreement with the City of Carrollton for the use of Carrollton's fleet service garage for the maintenance and repair of fire-fighting and emergency vehicles and equipment, attached as **Exhibit A** and incorporated herein, is hereby approved and the City Manager is authorized to execute the agreement.

Section 2. This Resolution shall take effect from and after its date of adoption.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this the 26th day of March 2019.

Joe Chow, Mayor

ATTEST:

By: _____
Irma Parker, City Secretary

APPROVED AS TO FORM:

By: _____
Brenda N. McDonald, City Attorney

EXHIBIT A

STATE OF TEXAS	§	
	§	INTERLOCAL AGREEMENT
DALLAS COUNTY	§	

This Interlocal Agreement (“**Agreement**”) is entered into by and between the Town of Addison (“**Addison**”) and the City of Carrollton, Texas (“**Carrollton**”), acting by and through their duly authorized officials. Both Addison and Carrollton are adopting this Agreement upon by and through authorization of their respective governing bodies as provided herein and may be referred to in this Agreement individually as indicated above and collectively as “Parties”; and

WHEREAS, Carrollton owns and operates a garage dedicated to fleet service (“Garage”); and

WHEREAS, Addison desires to contract with Carrollton for the purposes of utilizing the Garage for the maintenance and repair of Addison fire-fighting and emergency vehicles and equipment (“Services”); and

WHEREAS, Carrollton understands the need and agrees to aid Addison in this matter; and

WHEREAS, Chapter 791 of the Texas Government Code provides authorization for local governments to contract with one another to provide governmental functions and services; and

WHEREAS, the Services are a governmental function and service pursuant to §791.003, and

WHEREAS, Addison and Carrollton find it is in the public interest to enter into this Agreement.

NOW, THEREFORE, Addison and Carrollton, for the mutual consideration hereinafter stated, agree and understand as follows:

1. **DEFINITIONS.** Whenever used in this Agreement, the following terms shall have the following meaning ascribed to them:

“Effective Date” October 1, 2018.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a Party, as applicable, including, without limitations, acts of God or the public enemy, war, riot, civil commotion, insurrection, adverse weather, government or de facto governmental action or inaction (unless caused by negligence or omissions of such Party), fires, explosions, floods, strikes, slowdowns or work stoppages, shortage of materials or labor, that directly and materially affect a Party’s performance under this Agreement.

2. **PURPOSE.** The purpose of this Agreement is to provide the terms and conditions under which the City of Carrollton agrees to provide for the maintenance and repair of Addison fire-fighting and emergency vehicles and equipment.

3. **TERM.** The initial term of this Agreement shall be for a term of one (1) year, beginning on October 1, 2018 and expiring on September 30, 2019 (“Initial Term”). Following the Initial Term, unless written notice is given by either party hereto to the other not less than ninety (90) days before the expiration of this Agreement, it shall be automatically renewed for an additional period of twelve (12) months from such expiration date and shall be automatically renewed thereafter for one additional twelve (12) month period for a maximum of five (5) renewal terms unless canceled by written notice given not less than ninety (90) days before the expiration of any such renewal period.
4. **TERMINATION.** Notwithstanding anything to the contrary, either party may terminate this Agreement at any time by providing 90 days written notice to the other party. Any failure by Addison to timely pay any amounts due under the provisions of this Agreement shall be a material breach of this Agreement and Carrollton may terminate this Agreement for such breach immediately.
5. **RIGHTS AND OBLIGATIONS OF CARROLLTON**
 - a. Carrollton shall provide the Services at the Carrollton fleet maintenance garage.
 - b. Carrollton shall instruct the third-party certified vehicle and equipment maintenance provider to provide the same level of service to Addison fire-fighting and emergency vehicles and equipment as it does for Carrollton.
 - c. The certified vehicle and equipment maintenance provider will bill Addison directly for services provided.
6. **RIGHTS AND OBLIGATIONS OF ADDISON**
 - a. Addison shall pay invoices received in accordance with the Texas Prompt Payment Act.
 - b. Addison shall at all times be responsible for submitting the appropriate documentation with a request for Services to the certified vehicle and equipment maintenance provider, and shall oversee the completion of the Services requested.
 - c. Addison shall be responsible for the delivery and pick-up of fire-fighting or emergency vehicles or equipment requiring services.
7. **INSURANCE**
 - a. Each Party shall, during the term of this Agreement, obtain and maintain insurance coverage required by this section. Limits of insurance required by this section can be in any combination of underlying and excess coverage inclusive of self-insured retention.
 1. commercial general liability insurance with a minimum limit of \$1,000,000 per occurrence and \$2,000,000 aggregate;
 2. commercial automobile insurance covering any automobile used in performance of this Agreement with a minimum limit of \$1,000,000 per accident;
 3. workers’ compensation insurance at statutory limits; and
 4. employers liability insurance with minimum limits of \$1,000,000 per accident, \$1,000,000 each employee by disease and \$1,000,000 policy limit by disease.

- b. All insurance and certificate(s) of insurance shall contain the following provisions:
 - 1. name the other Party, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance;
 - 2. provide for at least thirty (30) days prior written notice to the other Party for cancellation or non-renewal of the insurance;
 - 3. provide for a waiver of subrogation against the other Party for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance. Each Party shall provide written notice to the other Party of any material change of, or to, the insurance required herein.
 - c. All insurance companies providing insurance coverage required by this section shall be authorized to transact business in Texas and rated an "A" by AM Best or other equivalent rating service.
 - d. A certificate of insurance evidencing insurance coverage required by this section shall be submitted by each Party as prescribed in this Agreement.
 - e. Copies of all endorsements, additional insured endorsement and waiver of subrogation endorsement shall be submitted by each Party as prescribed in this Agreement.
8. **SOVEREIGN IMMUNITY.** Neither party to this Agreement waives any claim of sovereign immunity because of its participation in this Agreement. Nothing in this agreement shall be construed as creating any right or obligation to any third party.
9. **LIABILITY.** Each Party, to the extent allowed by law and without waiving any rights, defenses or protections provided therein, agrees to be responsible for its own acts of negligence. In the event of joint or concurrent negligence of the Parties, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas without, however, waiving any governmental immunity or defense available to any Party individually under Texas law. Carrollton shall be responsible for its sole negligence. Addison shall be responsible for its sole negligence. The provisions of this Agreement are solely for the benefit of the Parties hereto and does not create or grant any rights, contractual or otherwise, to any other person or entity.
10. **WORKER'S COMPENSATION.** Each party shall be responsible for its own action and those of its employees and is responsible for complying with the Texas Workers Compensation Act. To the extent permitted by law, and without waiving sovereign immunity, each party shall be responsible for any and all claims, demands, suits, actions, damages and causes for action relating or arising out of or in any way connected with its own actions and the actions of its personnel in performing the responsibilities under this Agreement.
11. **AMENDMENT.** This Agreement may be amended by the mutual written agreement of both parties hereto. The parties agree to enter an amended Agreement in order to comply with any legislative changes related to this Agreement, or due to a determination by a court of competent jurisdiction or other governmental authority that would cause any provision of this Agreement to be out of compliance with current law.

12. **SEVERABILITY**. In the event anyone or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.
13. **GOVERNING LAW**. The validity of this Agreement and any of its terms and provisions as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas; and venue for any action concerning this Agreement shall be and remain in the State District Court of Dallas County, Texas.
14. **FORCE MAJEURE**. In the event that any party shall be prevented from performing any of its obligations under this Agreement by any act of God, war, riot, civil commotion, strikes, fires, flood or by the occurrence of any event beyond the control of such party, then such party shall be excused from the performance of the obligations under this Agreement but only during such period of Force Majeure.
15. **ENTIRE AGREEMENT**. This Agreement represents the entire agreement among the parties with respect to the subject matter covered by this Agreement. There is no other collateral, oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.
16. **RECITALS**. The recitals to this Agreement are incorporated herein.
17. **COUNTERPARTS**. This Agreement may be executed in any number of counterparts, each of whom shall be deemed an original and constitute one and the same instrument.
18. **VALIDITY AND ENFORCEABILITY**. If any current or future legal limitations affect the validity or enforceability of a provision of this Agreement, then the legal limitations are made a part of this Agreement and shall operate to amend this Agreement to the minimum extent necessary to bring this Agreement into conformity with the requirements of the limitations, and so modified, this Agreement shall continue in full force and effect.
19. **THIRD PARTIES**. This Agreement is intended to inure only to the benefit of the Parties hereto. This Agreement is not intended to create, nor shall be deemed or construed to create any rights in third parties.
20. **HEADINGS**. The headings at the beginning of the various provisions of this Agreement have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing this Agreement.
21. **NOTICES**. Any notice, communication, invoice or report required or permitted pursuant to this Agreement shall be in writing and shall be effective when personally delivered or three (3) days after being mailed by United States Mail, certified, return receipt requested, to the respective parties at the address set forth below:

TOWN OF ADDISON
5300 Belt Line Road
Dallas, Texas 75254
Attention: City Manager

CITY OF CARROLLTON
1945 E. Jackson Road
Carrollton, TX 75006
Attention: City Manager

Any party may change its address by giving written notice to the other party.

AUTHORIZED and approved by the City Council of the City of Carrollton, Texas, at its meeting held on the _____ day of _____ 2019, and executed by the City Manager.

CITY OR CARROLLTON, TEXAS

Erin Rinehart, City Manager

ATTEST:

Laurie Garber, City Secretary

APPROVED AS TO FORM:

Susan Keller, Assistant City Attorney

AUTHORIZED and approved by the City Council of the Town of Addison, Texas, at its meeting held on the _____ day of _____ 2019, and executed by the City Manager.

TOWN OF ADDISON, TEXAS

Wesley S. Pierson, City Manager

ATTEST:

Irma Parker, City Secretary

APPROVED AS TO FORM:

Brenda N. McDonald, City Attorney