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Interlocal Agreements

An Overview of the Interlocal Cooperation Act
Chapter 791 of the Texas Government Code

Or...how to keep the sheriff from hanging the lawyer over a “simple MOU.”

John C. Grace
Assistant City Attorney
City of Lubbock

INTERLOCAL AGREEMENTS

KNOWN BY MANY DIFFERENT NAMES:

- MOU
- LETTER AGREEMENT
- MUTUAL AID AGREEMENT
- JOINT OPERATION PLAN
- COOPERATION AGREEMENT

INTERLOCAL AGREEMENTS

A CONTRACTUAL AGREEMENT BETWEEN TWO OR MORE GOVERNMENTAL ENTITIES.

GOVERNED BY CHAPTER 791 OF THE TEXAS GOVERNMENT CODE

“THE INTERLOCAL COOPERATION ACT.”

MEMORANDUM OF UNDERSTANDING

TO: CHIEF BASS HOLE LAKE PD

FROM: CHIEF LPD

DATE: _____

UNTIL FURTHER NOTICE, BASS HOLE LAKE PD IS HEREBY
AUTHORIZED TO USE THE LPD COMMUNICATIONS (RADIO)
SYSTEM IN ACCORDANCE WITH LPD'S CURRENT POLICIES AND
PROCEDURES.

CHIEF OF POLICE, LPD

CHIEF OF POLICE, BHL

INTERLOCAL AGREEMENTS

STATUTORY REQUIREMENTS:

1. AUTHORIZED BY GOVERNING BODY
2. PURPOSE, TERMS, RIGHTS, AND DUTIES
3. “EACH PARTY PAYING FOR THE PERFORMANCE OF GOVERNMENTAL FUNCTIONS OR SERVICES MUST MAKE THOSE PAYMENTS FROM CURRENT REVENUES.”

INTERLOCAL AGREEMENTS

OTHER REQUIREMENTS:

1. AUTHORIZED TO PERFORM THE FUNCTIONS OR SERVICES CONTEMPLATED BY THE AGREEMENT
2. PARTIES MUST BE FAIRLY COMPENSATED

INTERLOCAL AGREEMENTS

OPTIONAL PROVISIONS:

- DISPUTE RESOLUTION
 - DISPUTE RESOLUTION AGREEMENT
 - TERMINATION CLAUSE
 - COMPLETED AT THE OUTSET

INTERLOCAL AGREEMENTS

OPTIONAL PROVISIONS:

- VENUE AND CHOICE OF LAW
- CREATION OF AN ADMINISTRATIVE AGENCY

INTERLOCAL AGREEMENTS

GENERAL TERMS FOR MOST GOVERNMENT CONTRACTS:

- NO JOINT ENTERPRISE
- PRESERVATION OF IMMUNITIES
- NO INDEMNIFICATION
- NOTICES
- TERMINATION

INTERLOCAL AGREEMENTS

GENERAL TERMS FOR MOST GOVERNMENT CONTRACTS:

- RENEWAL
 - “EVERGREEN” CLAUSE
 - CONTRACTUAL RENEWAL PROVISION
 - RENEWAL BY MUTUAL AGREEMENT
- AMENDMENTS

MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT IS ENTERED INTO IN ACCORDANCE WITH THE PROVISIONS OF THE INTERLOCAL COOPERATION ACT (CHAPTER 791 OF THE TEXAS GOVERNMENT CODE) BY THE CITY OF LUBBOCK, TEXAS, ON BEHALF OF ITS POLICE DEPARTMENT (HEREAFTER "CITY"), AND THE LUBBOCK COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER 2, ON BEHALF OF THE BASS HOLE LAKE POLICE DEPARTMENT (HEREAFTER "LAKE".)

PURPOSE: THE PURPOSE OF THIS INTERLOCAL AGREEMENT IS TO PROVIDE FOR RADIO COMMUNICATIONS BETWEEN THE OFFICERS OF THE LAKE'S POLICE OFFICERS AND BETWEEN THE LAKE'S POLICE OFFICERS AND OFFICERS OF THE LUBBOCK POLICE DEPARTMENT.

TERMS: LAKE WILL COMPLY WITH THE POLICIES AND PROCEDURES FOR USE OF THE CITY'S COMMUNICATIONS SYSTEM, AS SET FORTH IN THE POLICIES AND PROCEDURES OF THE LUBBOCK POLICE DEPARTMENT RADIO COMMUNICATIONS MANUAL (2016), ATTACHED HERETO AS **EXHIBIT A**.

RIGHTS: LAKE SHALL BE ENTITLED TO USE THE CITY'S RADIO COMMUNICATION FREQUENCIES AS A SUB-LICENSEE AND SHALL BE PERMITTED TO TRANSMIT AND RECEIVE OFFICIAL LAW ENFORCEMENT VOICE AND DATA COMMUNICATIONS.

DUTIES: CITY SHALL MAKE AVAILABLE TO THE LAKE ACCESS TO THE CITY'S RADIO COMMUNICATION FREQUENCIES AND SHALL ASSIST THE LAKE IN PROGRAMMING THE LAKE'S COMMUNICATION EQUIPMENT SO THAT IT IS CAPABLE OF TRANSMITTING AND RECEIVING ON THE CITY'S RADIO FREQUENCIES. CITY SHALL NOT BE RESPONSIBLE FOR ACQUISITION, INSTALLATION, PROGRAMMING OR MAINTENANCE OF THE LAKE'S COMMUNICATION EQUIPMENT.

FUNDING: EACH PARTY PAYING FOR THE PERFORMANCE OF GOVERNMENTAL FUNCTIONS OR SERVICES MUST MAKE THOSE PAYMENTS FROM CURRENT REVENUES.

NOTICES: NOTICES TO THE CITY SHALL BE BY SERVING THE CITY SECRETARY, POB 2000, LUBBOCK, TX 79457, WITH A COPY TO THE LUBBOCK CHIEF OF POLICE; AND TO THE LAKE BY SERVING THE SECRETARY OF THE LUBBOCK COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NUMBER 2, POB 1234, VILLAGE OF BASS HOLE LAKE, LUBBOCK, TX 79401, WITH A COPY TO THE BASS HOLE LAKE CHIEF OF POLICE.

NO JOINT VENTURE: THIS AGREEMENT IS NOT INTENDED TO, AND SHALL NOT BE CONSTRUED TO CREATE ANY JOINT ENTERPRISE BETWEEN THE PARTIES.

AGREED ON _____, 2016.

MAYOR, CITY OF LUBBOCK

CHAIR OF THE BOARD, LUBBOCK COUNTY WATER
CONTROL & IMPROVEMENT DISTRICT NUMBER 2

ATTACHMENT: EXHIBIT A (LUBBOCK POLICE DEPARTMENT RADIO COMMUNICATIONS MANUAL (2016))

INTERLOCAL AGREEMENTS

DEALING WITH BUREAUCRACIES

- SOMETIMES...YOU HAVE TO SAY NO.
- REVISE THE CONTRACT, APPROVE IT, AND SEND IT IN (AS A COUNTER-OFFER.)
- REMEMBER...BOTH SIDES HAVE TO BE GETTING SOMETHING “FAIR”

INTERLOCAL AGREEMENTS

SPECIAL PROVISIONS FOR SPECIFIC TYPES OF INTERLOCAL AGREEMENTS

- SECTION 791.006
- LIABILITY IN FIRE PROTECTION CONTRACT FOR PROVISION OF LAW ENFORCEMENT SERVICES

INTERLOCAL AGREEMENTS

SPECIAL PROVISIONS FOR SPECIFIC TYPES OF INTERLOCAL AGREEMENTS

- SECTIONS 791.021-.036
 - CORRECTION, JAIL, & CRIMINAL JUSTICE FACILITIES
 - PURCHASING
 - WATER & WASTE WATER FACILITIES
 - EMERGENCY ASSISTANCE
 - ROAD CONSTRUCTION

INTERLOCAL AGREEMENTS

SPECIAL PROVISIONS FOR SPECIFIC TYPES OF INTERLOCAL AGREEMENTS

- SECTIONS 791.021-.036
 - REGIONAL RECORDS FACILITIES
 - HEALTH CARE & HOSPITAL SERVICES
 - TRANSPORTATION INFRASTRUCTURE
 - MUNICIPAL STREET REPAIR
 - MAINTENANCE OF STATE HIGHWAYS

INTERLOCAL AGREEMENTS

SPECIAL PROVISIONS FOR SPECIFIC TYPES OF INTERLOCAL AGREEMENTS

- SECTIONS 791.021-.036
- RELIEF HIGHWAY AROUND CERTAIN MUNICIPALITIES (WITH NUCLEAR WASTE FACILITIES)
- HIGHER EDUCATION OR UNIVERSITY CONTRACTS
- TRAFFIC REGULATION IN SPECIAL DISTRICTS

INTERLOCAL AGREEMENTS

APPENDIX A - AMENDMENT TO AGREEMENT

CLARIFIES PARTIES

FUNDING STATEMENT

VENUE AND APPLICABLE LAW

PUBLIC INFORMATION

NO THIRD-PARTY BENEFICIARIES

NO PERSONAL LIABILITY

NO JOINT ENTERPRISE

NO INDEMNIFICATION

SOVEREIGN IMMUNITY ACKNOWLEDGED AND RETAINED



BE AN UNCOMMON LEADER.®



Government Law Section

EL PASO ROADSHOW



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Interlocal Agreements

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