

**INTERLOCAL AGREEMENT FOR
FLEET SERVICES AND FUEL**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

THIS AGREEMENT (“Agreement”) is entered into this _____ day of _____, _____, by and between **LACKLAND INDEPENDENT SCHOOL DISTRICT** (hereinafter "LISD") and **CITY OF SAN ANTONIO** (hereinafter "COSA"), both of which may be referred to herein collectively as the “Parties”, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code.

WITNESSETH:

Whereas, COSA operates and maintains its own fleet which includes the purchase and dispensing of fuel; and

Whereas, LISD, desires COSA to provide service and maintenance of LISD’s motor vehicles (including fuel and lubricants) at COSA’s Fleet service center; and

Whereas, service and maintenance of said vehicles is reasonably required and necessary for the operation of the vehicles; and

Whereas, the operation of said vehicles is necessary in order for LISD to serve persona and businesses residing or located within the boundaries of LISD, some or all of whom or which may also reside or be located within COSA’s boundaries; and

Whereas, COSA desires to provide such service to LISD; and

COSA’S City Council authorized the execution of this Agreement pursuant to Ordinance No. 20____ - ____ - ____ - _____, passed and approved _____, 20____.

NOW THEREFORE, the Parties agree as follows:

ARTICLE I. PURPOSE

The purpose of this Agreement is to state the terms and conditions by which COSA shall provide vehicle service and maintenance (including fuel and lubricants) to vehicles owned or leased by LISD and to set out the rate of compensation to be paid to COSA.

ARTICLE II. TERM

2.01 The term of this Agreement shall begin on the date it is executed by the last of the Parties to do so and shall terminate on the last day of the COSA Fiscal Year in which the Agreement is executed by the Parties, unless terminated earlier in accordance with 2.02 below, or extended in accordance with section 2.03 below.

2.02 This Agreement may be terminated, without penalty, by either party upon sixty (60) days written notice.

2.03 This Agreement may be extended on the same terms and conditions for up to five (5) one (1) year periods upon the consent of and written agreement between COSA and LISD. Any such extension shall be authorized in writing on COSA'S behalf by its Director, Building & Equipment Services, or designee, and by any authorized officer on behalf of LISD. Authorization of any such extension by COSA's City Council shall not be required.

ARTICLE III. SERVICES

3.01 COSA shall provide vehicle maintenance and service (including fuel and lubricants) upon and as requested by LISD. Each LISD vehicle shall be registered with COSA and maintenance and repair service shall be provided on a first come first served basis as long as COSA has excess capacity to provide such service. Nothing herein shall require COSA to provide services for which it does not have sufficient capabilities, resources and competency.

ARTICLE IV. COMPENSATION

4.01 LISD shall compensate COSA for maintenance and service (including fuel and lubricants) in the following amounts:

- | | |
|---|--|
| 1. Fuel Price (Diesel/Unleaded) | Fuel price paid by COSA PLUS a fuel service operational charge of \$0.13 per gallon |
| 2. Shop Billing Rate | \$ 81.00 per hour |
| 3. Car Wash | \$ 2.00 per car wash |
| 4. Parts | Parts price paid by COSA PLUS a parts operational charge of 22% |
| 5. Sublet | Sublet price paid by COSA PLUS a sublet operational charge of 10% |
| 6. Administrative fee for outside sales | \$ 14.00 x total vehicles set up in the fuel billing system (monthly) |
| 7. FOB (electronic fueling device) | \$ 6.50 each |

4.02 COSA will submit to LISD a monthly report of charges by COSA for goods and services provided pursuant to this Agreement. LISD shall submit to COSA payment in full for all charges stated in the monthly report. Such payment shall be made to COSA no later than 30 days from the date the monthly report is received by LISD. Should LISD dispute a portion of the charges on the monthly report LISD may not withhold payment of any undisputed portion, but shall submit payment for the undisputed charge as prescribed by this section.

4.03 COSA reserves the right to reject maintenance of LISD vehicles at COSA's sole discretion.

**ARTICLE V. INDEPENDENT CONTRACTOR STATUS;
NO THIRD PARTY BENEFICIARIES**

5.01 Nothing contained herein shall be deemed to create any relationship other than that of an independent contractor between COSA and LISD. Under no circumstances shall COSA, its directors, officers, employees, agents, successors or assigns, be deemed employees, agents, partners, successors, assigns or legal representatives of the LISD.

5.02 No Joint Enterprise – There is no intention on the part of the Parties to create or otherwise form a joint enterprise under or pursuant to this Agreement. The Parties are undertaking a governmental function or service in accordance with Chapter 791 of the Texas Government Code. The Parties do not have a pecuniary purpose, let alone a common one. The purpose of this Agreement is to further the public good, not to gain a profit.

5.03 COSA and LISD specifically agree that (1) this Agreement only affects rights and obligations between the Parties, and is in no way intended by the Parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entity may be in a contractual relationship with COSA or LISD, or both, or that such third parties may benefit incidentally by this Agreement; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either COSA or LISD.

ARTICLE VI. NOTICES AND ADDRESSES

All notices, invoices, statements and reports to LISD or COSA shall be deemed given when either delivered in person or deposited in the U.S. Mail, postage prepaid, certified mail, return receipt requested, addressed to the appropriate party at the following address:

If to LISD: Name, Title, Address for authorized officer

If to COSA: Jorge A. Perez
Director, Building & Equipment Services
111 Soledad Riverview Towers 16th Floor
San Antonio, Texas 78283

and

City Clerk
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

ARTICLE VII. ENTIRE AGREEMENT

This Agreement, together with its authorizing ordinance and its exhibits, if any, constitute the final and entire agreement between the Parties and contains all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties, unless same is in writing, dated subsequent to the date hereto, and duly executed by the Parties, in accordance with Article XIII. Amendments.

ARTICLE VIII. ASSIGNMENT

Neither this Agreement nor any rights, duties or obligations hereunder shall be assignable by either party without the prior written consent of the other party. Any such attempt at assignment without prior approval shall be void.

ARTICLE IX. TEXAS LAW TO APPLY

This Agreement is performable in Bexar County, Texas, and the validity of any of its terms or provisions, as well as the rights and duties of the Parties hereunder, shall be governed by the laws of the State of Texas. The Parties further agree that venue for any legal action, claim or dispute arising under this Agreement will be in Bexar County, Texas.

ARTICLE X. PAYMENTS FROM CURRENT REVENUES

10.01 Payment by LISD for the services provided pursuant to this Agreement shall be made from current revenues.

10.02 Prior to the execution of any extension of this Agreement, LISD must provide in its annual budget for that year, for the expenditure of funds for the services to be furnished by COSA as described herein.

10.03 Any other provision in this Agreement notwithstanding, this Agreement shall terminate in the event sufficient funds are not appropriated by either Party in any given year to meet that Party's fiscal obligations herein. Both Parties agree to and shall make all reasonable efforts to appropriate all necessary funds in each fiscal year to fulfill its respective duties and responsibilities hereunder.

ARTICLE XI. NO INDEMNIFICATION BY PARTIES

11.01 LISD and COSA acknowledge they are each political subdivisions of the State of Texas and are subject to, and comply with, the applicable provisions of the Texas Tort Claims Act, as set out in Civil

Practices and Remedies Code, Section 101.001 *et. seq.* and the remedies authorized therein regarding claims or causes of action that may be asserted by third parties for accidents, injuries or deaths.

11.02 LISD shall advise COSA in writing within 24 hours of any claim or demand against COSA known to LISD related to or arising out of LISD'S activities under this contract.

ARTICLE XII. AMENDMENT

No amendment, supplementation, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the parties and authorized by COSA City Council; except that the Agreement may be extended as authorized in Article II section 2.03 herein.

ARTICLE XIII. LEGAL CONSTRUCTION

In case any one 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 any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

EXECUTED IN DUPLICATE COPIES, EACH OF WHICH HAVE THE FORCE AND EFFECT OF AN ORIGINAL. TO BE EFFECTIVE FROM AND AFTER THE _____ DAY OF _____, 2014.

CITY OF SAN ANTONIO

LISD

Jorge A. Perez
Director, Building &
Equipment Services

Authorized Officer

Approved as to Form:

Robert Nordhaus
Assistant City Attorney