

STATE OF TEXAS §
 § **FIRST AMENDED AND RESTATED**
COUNTY OF COLLIN § **INTERLOCAL COOPERATION AGREEMENT**

This First Amended and Restated Interlocal Cooperation Agreement (the "Agreement") is made and entered into by and between the City of Lucas, Texas, ("City") and the Seis Lagos Utility District ("Seis Lagos"), (each a " Party" and collectively the "Parties"), acting by and through their authorized officers.

RECITALS:

WHEREAS, the Parties previously entered into that certain Interlocal Cooperation Agreement dated June 4, 2015, for purposes of providing Emergency Services (as defined in Section 1.1 below) to the District and to provide for an annual compensation rate for Emergency Services (the "Original Agreement");

WHEREAS, the Parties desire to amend and restate the Original Agreement to extend the Term of the Original Agreement; and

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

WHEREAS, the Parties further desire to secure the benefits of the protection of life and property from fire or explosion by entering into this Agreement for establishing investigative resources to conduct the cause and origin investigation of fires and explosions to perform any latent criminal investigations resulting from said fires or explosions; and

WHEREAS, each Party shall make the payments required under this Agreement from current available revenue.

NOW THEREFORE, in consideration the foregoing and on the terms and conditions hereinafter set forth, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Article I
Firefighting and Emergency Services

1.1 Upon the request of Seis Lagos or upon receipt of a call for Emergency Services within the scope of services to be provided hereunder, the City shall, based upon availability, dispatch firefighting, emergency medical service, disaster support, and related equipment and personnel ("Emergency Services") to any point designated within the territorial limits of Seis Lagos. The details as to the amounts and types of assistance to be dispatched and/or employed, methods of dispatching and communications, personnel training and operations procedures shall be within the discretion of the Fire Chief of the City of Lucas.

1.2 The dispatch of equipment and personnel pursuant to this Agreement is subject

to the following conditions:

- (a) The City shall extend its 911 emergency call and dispatch system to Seis Lagos.
- (b) The City will provide the same level and quality of service in performing the terms of this Agreement as are provided in the corporate boundaries of the City. Nothing contained in this Agreement, however, shall require the City to construct new facilities, purchase new equipment or retain additional personnel where, in the discretion of the Fire Chief and/or City Manager sufficient equipment, personnel and facilities exist or are available to accommodate appropriate levels of readiness and protection. The City does not guaranty the effectiveness or quality of service and expressly disclaims any warranties, implied or otherwise, regarding effectiveness or quality; and
- (c) Seis Lagos agrees to provide the City with a copy of the latest official map of Seis Lagos following execution of, and for the duration of, this Agreement.

Article II Term and Termination

2.1 This Agreement shall be for a period of one (1) year commencing on October 1, 2020 (the "Effective Date") and shall automatically renew for successive terms of one (1) year each on the anniversary of the Effective Date (the "Renewal Date"), unless Seis Lagos provides written notice of its intent not to renew within One Hundred Twenty (120) days in advance of the Renewal Date.

2.2 Except as provided in Section 2.3, either Party may terminate this Agreement by giving the other Party 160 days advance written notice of its intent to terminate.

2.3 If Seis Lagos fails to make the payments (the "Annual Contract Amount") as provided in Article III, the City may terminate this Agreement after providing written notice to Seis Lagos that payment has not been received; and, if Seis Lagos fails to tender payment within fifteen (15) business days of receipt of said notice, the City shall send written notice that the Agreement has been terminated.

Article III Costs for Services

3.1 Seis Lagos agrees to pay the City an Annual Contract Amount for Emergency Services based upon a fiscal year with an October 1 start date, to be calculated each fiscal year as follows:

- (a) The calculation for the Annual Contract Amount will use the most recent audited expenses attributed to the Lucas Fire Department as indicated in the "Statement of Revenues, Expenditures and Changes" under the Lucas Fire Department expenditures category in the City of Lucas Comprehensive Annual Financial Report multiplied by the percentage of homes served by the Lucas Fire Department attributed to the Seis Lagos Utility District. The percentage is calculated by using the number of single-family residences contained in the Collin Central Appraisal District certified tax roll published in late July each year labeled "Single-Family Residence". The above calculation is illustrated by the following formula:

A= Number of Single-Family Residences in Seis Lagos Utility District per Collin Central Appraisal District

B= Number of Single-Family Residences in the City of Lucas per Collin Central Appraisal District

$$\frac{A}{(A + B)} = \text{percentage attributable to Seis Lagos}$$

- (b) Additionally, Seis Lagos Utility District will pay to the City actual costs associated with annual dispatch charges charged to Lucas by the dispatch service provider based on population estimates. Population shall be calculated by taking the number of single-family residences in Seis Lagos per Collin Central Appraisal District multiplied by 3.5. This amount shall be invoiced annually with payment delivered to the City within thirty (30) days of receipt of said invoice.
- (c) The Annual Contract Amount for the annual period that will start October 1 of each year shall be made in one payment delivered to the City prior to September 1 of the then current year.
- (d) If this Agreement is terminated by Seis Lagos as provided herein, the Annual Contract Amount to be paid by Seis Lagos during the then current year shall be forfeited. If this Agreement is terminated by Lucas as provided herein, the Annual Contract Amount shall be pro-rated, and the City shall reimburse Seis Lagos for that portion of the year in which services were not provided. This reimbursement shall be made within sixty (60) days of the last date of service.

Article IV Independent Contractor

The Parties intend that the City, in performing services specified in this Agreement, shall act as an independent contractor of Seis Lagos and the City shall have control of its work and the manner in which it is to be performed. No employee, agent or

representative of the City shall be deemed to be an employee, agent, or representative of Seis Lagos.

Article V Sovereign Immunity

The Parties hereto are political subdivisions of the State of Texas, each of which has official and sovereign immunity. Nothing contained within this Agreement shall in any way be regarded or interpreted as a waiver of such immunity nor shall any provisions of this Agreement be deemed to create any rights to any person not a signatory hereto.

Article VI Liability

6.1 The City has and will maintain in full force and effect policies of public liability insurance covering all Parties in the event of loss, damage or injury, to persons or property which may arise from the provision of service under this Agreement. The Parties agree that they shall be responsible for civil liabilities in the manner provided by Section 791.006(a) of the Texas Interlocal Cooperation Act. The provisions of this paragraph are solely for the benefit of the Parties hereto and are not intended to create or grant any rights, controlled or otherwise, to any third person or entity. The provisions of this paragraph shall survive the termination or expiration of this Agreement.

6.2 In the event a person performing duties pursuant to this Agreement shall be cited as a defendant to any state or federal civil lawsuit arising out of his or her official acts while performing duties pursuant to the terms of this Agreement, such person shall be entitled to the same benefits and/or defenses that are provided by the Party's insurance carrier that he or she would be entitled to receive and/or assert had such civil action arisen out of an official act within the scope of his or her employment as an employee of the Party.

Article VII Miscellaneous

7.1 Assignment and Entire Agreement. This Agreement may not be assigned by any Party hereto without the prior written consent of the other Party. No assignment, delegation of duties or subcontract under this Agreement shall be effective without the prior written consent of the other Party hereto. This Agreement is the entire agreement of the Parties regarding the subject matter stated herein. There is no other collateral or oral agreement among the Parties that in any way relates to the subject matter of this Agreement.

7.2 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 exclusive venue for any action arising as a result of this Agreement shall be in a state court of proper jurisdiction in Collin County, Texas.

7.3 Severability. In the event that 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 the other provisions, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in this Agreement.

7.4 Amendment. This Agreement may be amended only by the mutual written agreement of the Parties.

7.5 Current Revenues. All costs or expenses by any Party as a result of this Agreement shall be paid from the current revenues available to the Party.

7.6 Recitals and Authority to Sign. The recitals of this Agreement are incorporated herein. The signatories to this Agreement each represent and warrant they have been granted the requisite authority, by resolution, ordinance, order or other proper formal action of the governing body of each, to execute this agreement and bind the public entity on whose behalf he/she signs.

7.7 Notice. Any notice permitted or required to be sent under this Agreement must be in writing and may be served by depositing same in the United States Mail, addressed to the Party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such Party via a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the Parties shall be as follows:

If to City, to

Joni Clarke
City Manager
665 Country Club Road
Lucas, Texas 75002
Phone: 972-727-8999

If to Seis Lagos, to

Brian Holmes
President
Seis Lagos Utility District
224 Seis Lagos Trail
Wylie, Texas 75098
Phone: 972-442-6875

7.8 Representations. Each signatory represents this Agreement has been read by the Party for which this Agreement is executed and that such Party has had an opportunity to confer with its legal counsel.

7.9 Drafting Provisions. This Agreement shall be deemed drafted equally by all Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to

be construed against any Party shall not apply. Headings in this Agreement are for the convenience of the Parties and are not intended to be used in construing this document.

7.10 Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

(signature page to follow)

EXECUTED this 6 day of August, 2020.

City of Lucas, Texas

By: [Signature]
Jim Oik, Mayor

Attest:

By: [Signature]
Stacy Henderson, City Secretary

Approved as to Form:

By: [Signature]
Joseph J. Gorfida, Jr., City Attorney
(06-08-2020:TM 116089)

EXECUTED this 9 day of July, 2020.

Seis Lagos Utility District

By: [Signature]
Name: BRIAN HOLMES
Title: PRESIDENT B.O.D. SEIS LAGOS UTILITY DISTRICT

Attest:

By: [Signature]
Name: DORIS VINSON
Title: OFFICE MANAGER