

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF SAN MARCOS AND TEXAS STATE
UNIVERSITY FOR A TEMPORARY WATER CONNECTION
TO PROVIDE BACKUP SERVICE FOR FIRE SUPPRESSION**

The City of San Marcos ("City") and Texas State University ("Texas State") enter into this Interlocal Agreement ("Agreement") under the authority of the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code, as amended ("Act").

Section 1. Purpose of Agreement

The purpose of this Agreement is to provide a temporary back-up source of water for fire suppression to Texas State while the Texas State's West Campus Elevated Water Tower ("Storage Tank") is out of service for maintenance. This water connection is temporary and will be available only while the Storage Tank is out of service for maintenance.

Section 2. Scope of Services and Payment

a) Texas State agrees to:

1. Design and construct all piping and components including, among other items, a meter, pressure regulating valve, and backflow preventer.
2. To permit the City to review all relevant designs and construction documents.
3. Use the temporary water connection only in the event of a fire and only if the Texas State public water system cannot maintain adequate pressure in its system.
4. Complete and file all required documentation with the Texas Commission on Environmental Quality (TCEQ).

b) The City agrees to:

1. Provide a service capable of providing 1800 gallons per minute of water for two (2) hours with a minimum pressure of 20 pounds per square inch at the metering point.
2. Waive standard water connection fees.

c) Both the City and Texas State agree:

1. To work collaboratively to develop mutually acceptable engineering plans and specifications and construction methods in a timely manner.
2. To work collaboratively on development of required TCEQ information.
3. The City is not responsible for sanitary control beyond the physical interconnection.
4. The valves will be returned to and remain in the Closed position at the conclusion of this Agreement. Upon completion of Storage Tank maintenance project, Texas State will notify the City in writing that access to the temporary water connection is no longer necessary.

d) Payment

1. Texas State agrees to be responsible for all costs incurred by it, and any reasonable costs incurred by the City directly related to providing access to the temporary water connection. Texas State will reimburse the City for such costs after receiving a written explanation of the costs and a detailed invoice. The City will contact Texas State prior to the costs being incurred to inform them of the work required by the City. Texas State will also reimburse the City for any reasonable costs associated with TCEQ filings.
2. Texas State agrees to pay for any water usage in accordance with the City's prevailing commercial rates.
3. Texas State will pay undisputed invoices in accordance with the Prompt Payment Provisions of Texas Government Code 2251.

Section 3. Term

The term of this Agreement shall begin on the Effective Date as set forth in this Agreement below and will continue until the earlier of when Texas State returns its Storage Tank to service or 24 months.

Section 4. Miscellaneous Provisions

1. Interlocal Cooperation: The City and Texas State agree to cooperate with each other in good faith at all times during the term of this Agreement in order to achieve the purposes of this Agreement. Each party to this Agreement acknowledges and represents that this Agreement has been executed by its duly authorized representative.
2. Entire Agreement: This Agreement contains the entire agreement between the parties and supersedes all prior understandings and agreements between the parties regarding such matters. This Agreement may not be modified or amended except by written agreement executed by both parties. Neither party may assign this Agreement without the written consent of the other party.
3. Interpretation: The parties acknowledge and confirm that this Agreement has been entered into pursuant to the authority granted under the Act. All terms and conditions are to be construed and interpreted consistently with the Act.
4. Invalid Provision: Should any provision in this Agreement be found or deemed to be invalid, this Agreement will be construed as not containing the provision and, all other provisions which are otherwise lawful, will remain in full force and effect, and, to this end, the provisions of this Agreement are declared to be severable.
5. Choice of Law and Place of Performance: This Agreement is governed by the law of the State of Texas. Performance and all matters related thereto shall be in Hays County, Texas.
6. Termination: Either party may terminate this Agreement for convenience by giving 30 days advance written notice to the other party.

7. Dispute Resolution: The parties will use the dispute resolution process provided for in CHAPTER 2260 of the TEXAS GOVERNMENT CODE to attempt to resolve a dispute under this Agreement.
8. Authority to Contract: Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations.
9. Waiver: Failure of any party, at any time, to enforce a provision of this Agreement shall in no way constitute a waiver of that provision nor in any way affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.
10. Headings, Gender, Number: The article headings are used in this Agreement for convenience and reference purposes only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement and shall have no meaning or effect upon its interpretation. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.
11. Agreement Read: The parties acknowledge that they have had opportunity to consult with counsel of their choice and have read, understand and intend to be bound by the terms and conditions of this Agreement.
12. Multiple Originals: It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.
13. Exhibits/attachments: Any exhibits and/or attachments attached to this Agreement are incorporated by reference into this Agreement as though included verbatim herein. In the event of any conflict between this Agreement and the provisions of any exhibit or attachment to this Agreement, this Agreement will govern and control.
14. Funding: The obligations of the parties are subject to the annual appropriation of funds during the fiscal year in which the obligation arises. Funds have been appropriated for obligations of the parties for the current fiscal year. In the event sufficient funds are not appropriated for either parties' financial obligations under this Agreement, this Agreement may be terminated without recourse by either party.
15. Sovereign Immunity: Notwithstanding any provision of this Agreement, nothing herein shall be construed as a waiver by either party of its constitutional, statutory or common law rights, privileges, immunities or defenses. To the extent the terms of this paragraph

conflicts with any other provision in this Agreement, the terms of this paragraph shall control.

16. **Current Revenues:** Each party paying for the performance of governmental functions or services under this Agreement must make those payments from current revenues available to the paying party.
17. **Public Information Act:** It shall be the independent responsibility of the City and University to comply with the provisions of Chapter 552, Texas Government Code (the "Public Information Act"), as those provisions apply to the Parties' respective information. The City is not authorized to receive public information requests or take any action under the Public Information Act on behalf of University. Likewise, the University is not authorized to receive public information requests or take any other action under the Public Information Act on behalf of the City.

This Agreement will take effect immediately upon the last date of execution by both parties hereof (the "Effective Date") and will inure to the benefit and be binding upon the administrators, successors and assigns of the parties hereto.

City of San Marcos:

Texas State University:

By: _____

By: _____

Name: Stephanie Reyes

Name: _____

Title: City Manager

Title: _____

Date: _____

Date: _____