

STATE OF TEXAS
COUNTY OF TARRANT

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**INTERLOCAL AGREEMENT FOR
STREET LIGHTS ADJACENT TO
WALKER CREEK ELEMENTARY**

This **INTERLOCAL AGREEMENT** FOR STREET LIGHT MAINTENANCE AND OPERATION (the "Agreement") is made and entered into by and between the **City of North Richland Hills** ("City" or "NRH") a home rule municipality of Tarrant County, Texas, acting herein by and through its duly authorized City Council, and **Birdville Independent School District** ("BISD" or "Entity"), acting herein by and through its duly authorized Board of Trustees, herein individually referred to as a "Party" and collectively referred to herein as the "Parties."

RECITALS:

WHEREAS, this Interlocal Agreement is made under the authority granted by and pursuant to Chapter 791 of the Texas Government Code which authorizes NRH and Entity to enter into this Agreement for purposes of achieving mutual governmental functions; and

WHEREAS, BISD installed ten street lights adjacent to Walker Creek Elementary along Bridge Street and Parker Boulevard (the "Street Lights") in the 2006-2007 school year that are connected to the school's power supply; and,

WHEREAS, both parties agree that installation of the street lights was a requirement of development and that they serve a public benefit; and,

WHEREAS, Oncor Electric Delivery will not allow the existing lights and their underground infrastructure to be absorbed into the Oncor street light system; and,

WHEREAS, the City of North Richland Hills seeks to acquire control over the operation of these lights, and is willing to cover the cost of operation and maintenance of the lights; and,

WHEREAS, the governing body of City and BISD have each authorized the execution of this Agreement.

NOW, THEREFORE, for the consideration and mutual promises set forth herein, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

I.

INCORPORATION

The Recitals set forth above are hereby incorporated into this Interlocal Agreement as if written herein.

II.

PURPOSE

The purpose of this Interlocal Agreement is to authorize the City of NRH to assume operational control over and provide maintenance for the Street Lights.

III.

RESPONSIBILITIES OF THE PARTIES

- (i) City agrees to pay for the cost of an electric sub-meter to be installed on an interior wall of Walker Creek Elementary.
- (ii) City agrees to coordinate installation of the meter with BISD and both parties agree that the work shall be performed by a Contractor approved by both entities.
- (iii) City agrees to reimburse BISD for the electric charges associated with the street lights, as measured by the aforementioned electric meter. City shall not be liable for any taxes under this Agreement.
- (iv) Following installation of the meter, BISD agrees to grant the City reasonable access to the meter and electric control room on BISD premises to perform repairs and maintenance.

IV.

TERM AND TERMINATION

This Agreement shall begin upon execution by the Parties and shall remain in full force and effect until either Party terminates the Agreement in writing by providing the other Party with ninety (90) days advance written notice. Such notice shall be given to the other party at the address set forth below.

V.

COMPENSATION

City agrees to pay an amount up to \$2,500 for the installation of the electric sub-meter and an amount not to exceed \$2,500 annually for electric charges and any related costs. Meter readings will be taken quarterly, and the City will pay each invoice within 30-days of receipt. The Parties will review the electric charges and related costs annually to ensure that the annual amount paid by City is adequate to cover the charges and related costs. Each party paying for the performance of government functions or services under this Agreement must make those payments from current revenues available to the paying party. Unless otherwise mutually agreed to by the parties in writing, NRH shall not incur any additional costs under this Agreement.

VI.

NOTICES

Notices shall be given as follows:

To BISD:

John Hughes
Birdville Independent School District
Director of Facilities Management
3126 Carson Street
Haltom City, TX 76117
(817) 547-5601 (Office)
john.hughes@birdvilleschools.net

To City:

Caroline Waggoner
City of North Richland Hills
Director of Public Works
4301 City Point Drive
North Richland Hills, TX 76180
(817) 427-6400
clwaggoner@nrhtx.com

VII.

IMMUNITY

It is expressly understood and agreed that in the execution of this Agreement, no party waives nor shall be deemed hereby to waive any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

VIII.

LIABILITY

Each party agrees to be liable for any damages or loss caused, or that may be caused, by its own negligence, omission or intentional misconduct. The term party shall include employees, officers, agents, subcontractors, consultants, representatives, and volunteers of the respective party. Nothing in the performance of this Agreement shall impose any liability for claims against either party other than for claims for which the Texas Tort Claims Act may impose liability.

IX.

SUCCESSORS AND ASSIGNS

Entity shall not assign, sublet, subcontract or transfer its interest in this Agreement without the prior written consent of NRH, which such consent shall not unreasonably be withheld. Any assignment, delegation of duties or subcontract under this Agreement in violation of this provision is void.

X.

FORCE MAJEURE

The parties shall exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but shall not be held liable for any delay or omission in performance due to force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any government law, ordinance or regulation, acts of God, acts of the public enemy, fires, strikes, lockouts, natural disasters, wars, riots, material or labor restrictions by any governmental authority, transportation problems and/or any other similar causes.

XI.

REMEDIES

No right or remedy granted herein or reserved to the parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Agreement may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Agreement.

XII.

SEVERABILITY

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Agreement are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

XIII.

APPLICABLE LAW / VENUE

This Agreement is entered into subject to the Interlocal Cooperation Act, the governing charters and or ordinances of the City and Entity, as they may be amended from time to time, and is subject to and is to be construed, governed and enforced under all applicable Texas and Federal law. The parties agree and covenant that this Agreement will be enforceable in North Richland Hills, Texas, and that if legal action is necessary to enforce this Agreement, exclusive venue will lie in Tarrant County, Texas.

XIV.

ENTIRE AGREEMENT

This Agreement embodies the complete agreement of the parties hereto superseding all oral or written previous and contemporary agreements between the parties relating to matters herein; and except as otherwise provided herein, cannot be modified without written agreement of the parties.

XV.

AUTHORIZATION

The undersigned officers and/or agents are properly authorized to execute this Agreement on behalf of the parties hereto and each party hereby certifies to the other that any necessary resolutions or actions extending such authority have been duly passed and are now in full force and effect.

XVI.

RELATIONSHIP OF THE PARTIES

It is expressly understood that the employees, methods, facilities and equipment of NRH shall at all times be under its exclusive authority, direction and control. It is understood that the employees, methods, facilities, and equipment of Entity shall at all times be under its exclusive authority, direction and control.

CITY OF NORTH RICHLAND HILLS:

BIRDVILLE INDEPENDENT SCHOOL DISTRICT:

Mark Hindman, City Manager

Name, Title

Date: _____

Date: _____

APPROVED TO FORM AND LEGALITY:

APPROVED TO FORM AND LEGALITY:

Maleshia B. McGinnis, City Attorney

Tom Myers, Attorney for BISD

ATTEST:

Alicia Richardson, City Secretary