

WHEREAS, the Texas Interlocal Cooperation Act, contained in Chapter 791 of the Texas Government Code, authorizes Texas local governments to contract with one or more other local governments to perform governmental functions and services under the terms of said Act; and

WHEREAS, the proposed owner of Lot 8 owns an approximately 206.876 acre tract of land in the Joseph Dixon Survey, Abstract No. 275, in Fairview, Collin County, Texas, (the “Fairview Property”) which tract of land is immediately adjacent to and abutting the southern property line of Lot 8; and

WHEREAS, the proposed owner of Lot 8 desires to develop Lot 8 in conjunction with the development of the Fairview Property; and

WHEREAS, proposed owner of Lot 8 desires to extend Utility Lines from Lot 8 over, under, upon and across Lot 8 and the Fairview Property to connect such Utility Lines to Fairview’s utility systems and be provided utility services by and through Fairview’s utility systems including the provision of potable water and fire-flow water protection service to Lot 8; and

WHEREAS, the proposed owner of Lot 8 and the Fairview Property has approached the Municipalities regarding allowing Lot 8 to extend and connect Utility Lines to Fairview’s utility systems rather than McKinney’s utility systems due to the proximity of Lot 8 to the Fairview Property which property is under common ownership with said Lot 8; and

WHEREAS, McKinney is willing to allow the proposed owner of Lot 8, at no cost to McKinney, to extend Utility Lines and connect such Utility Lines to Fairview’s utility systems and obtain utility services from Fairview provided that Fairview is willing to

contract with the proposed owner of Lot 8 to provide such utility services specifically including potable water and fire-flow water protection service to Lot 8; and

WHEREAS, Fairview is willing to allow the proposed owner of Lot 8, at no cost to Fairview, to extend Utility Lines and connect such Utility Lines to Fairview's utility systems and obtain utility services from Fairview specifically including potable water and fire-flow water protection service to Lot 8; and

WHEREAS, the Municipalities mutually desire to enter into this Agreement to allow for the development of Lot 8 in combination with the Fairview Property and improve the safety of the residents of the Municipalities by providing a looped potable water system that can accommodate fire flow water supply to Lot 8;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein made and the benefits to each party resulting herefrom, McKinney and Fairview do hereby contract, covenant and agree as follows with respect to the extension and connection of Utility Lines to Fairview's utility systems and the provision of Utility Services as more particularly described herein for the mutual consideration stated herein, agree and understand as follows:

WITNESSETH:

I.

The term of this Agreement shall begin upon execution of this document by both of the Parties and shall automatically renew and extend from year to year until it is terminated by mutual consent of the Municipalities.

II.

Pursuant to Texas Government Code §791.011, the Municipalities hereby agree that the purpose of this Agreement is to ensure that certain governmental functions and services in the area of water, sanitary sewer and storm water utilities are performed. The Municipalities further agree that each of them is authorized to perform the functions and services individually.

III.

The Municipalities understand and specifically agree that this Agreement does not waive or release, and should not be considered or interpreted as a waiver or release of, McKinney's certificated area for the provision of water, sanitary sewer and/or storm water sewer or McKinney's right to provide utility services to Lot 8. The Municipalities also understand and specifically agree that this Agreement does not expand or increase Fairview's certificated area for the provision of water, sanitary sewer and/or storm water sewer into the corporate limits of McKinney.

IV.

The Municipalities further understand and specifically agree that this Agreement does not in any way alter, modify or change the corporate boundaries and extra-territorial jurisdiction of either McKinney or Fairview.

V.

Fairview agrees to cooperate with McKinney in the review, permitting, inspection, testing and final acceptance of Utility Lines extending from Lot 8 over, under, upon and across property situated within McKinney and Fairview and connecting to Fairview's utility systems. Fairview further agrees to final accept and thereafter operate and

maintain the Utility Lines installed to provide utility services to Lot 8 at no cost to McKinney.

VI.

Fairview also agrees to provide McKinney with notice regarding Fairview's final acceptance of the Utility Lines to serve Lot 8 and the provision of fire-flow water protection service to the fire hydrants along the frontage of Lot 8.

VII.

Fairview further agrees, at no cost to McKinney, to provide the proposed owner of Lot 8 with potable water, fire-flow water protection service, sanitary sewer and storm water sewer services and to bill the proposed owner of Lot 8, and/or such owner's successors-in-interest for all such utility services provided to Lot 8.

VIII.

McKinney agrees to require the proposed owner of Lot 8, at no cost to the Municipalities, to dedicate all such easements for the extension of Utility Lines over, under, upon and across Lot 8 and any other properties as may be required to provide utility services to Lot 8 jointly to Fairview and McKinney.

IX.

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the Municipalities hereto, shall be governed by the laws of the State of Texas. Further, this Agreement shall be performable in Collin County, Texas. Venue for any dispute under this Agreement shall be in Collin County, Texas.

X.

In the event that any portion of this Agreement shall be found to be contrary to law, it is the intent of the Municipalities hereto that the remaining portions shall remain valid and in full force and effect to the extent possible.

XI.

The undersigned officer and/or agents of the Municipalities hereto are the properly authorized officials who have the necessary authority to execute this Agreement on behalf of the Municipalities hereto, and each party hereby certifies to the other that any necessary resolutions extending said authority have been duly passed and are now in full force and effect.

XII.

This Agreement represents the entire agreement between McKinney and Fairview and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the governing bodies of both McKinney and Fairview or those authorized to sign on behalf of those governing bodies.

XIII.

This Agreement becomes effective when signed by the last party whose signing makes the respective Agreement fully executed.

XIV.

This Agreement may be terminated in whole or in part by McKinney or Fairview upon thirty (30) days written notice to the other party setting forth a substantial failure by the defaulting party to fulfill its obligations under this Agreement through no fault of the

terminating party. No such termination may be affected unless the defaulting party is given: [1] written notice of intent to terminate, setting forth the substantial failure to perform; [2] not less than thirty (30) calendar days to cure the failure; and, [3] an opportunity for consultation with the terminating party prior to termination. Notices shall be directed as follows:

For McKinney: Jason Gray, City Manager
City of McKinney, Texas
P.O. Box 517
222 N. Tennessee Street
McKinney, Texas 75069

Copy To: Sandy Hart, TRMC, CMC, City Secretary
City of McKinney, Texas
P.O. Box 517
222 N. Tennessee Street
McKinney, Texas 75069

For Fairview: John Godwin, Town Manager
Town of Fairview, Texas
Town Hall
372 Town Place
Fairview, Texas 75069

Copy To: Michelle Lewis Sirianni, Town Secretary
Town of Fairview, Texas
Town Hall
372 Town Place
Fairview, Texas 75069

[Remainder of page left blank intentionally.]

Executed in multiple originals this _____ day of _____, 2011.

CITY OF MCKINNEY, TEXAS
City of McKinney, Texas
P.O. Box 517
222 N. Tennessee Street
McKinney, Texas 75069

TOWN OF FAIRVIEW, TEXAS
Town of Fairview, Texas
Town Hall
372 Town Place
Fairview, Texas 75069

By: _____
Brian Loughmiller, MAYOR
City of McKinney, Texas

By: _____
Sim Israeloff, MAYOR
Town of Fairview, Texas

Acting by and on behalf of the
City of McKinney

Acting by and on behalf of the
the Town of Fairview

ATTEST:

ATTEST:

By: _____
Sandy Hart, TMRC, MMC
CITY SECRETARY

By: _____
Michelle Lewis Sirianni
TOWN SECRETARY

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Mark S. Houser, CITY ATTORNEY
City of McKinney, Texas

By: _____
Clark McCoy, TOWN ATTORNEY
Town of Fairview, Texas

EXHIBIT 1

LOT 8, BLOCK 1, COLUMBIA MEDICAL CAMPUS OF MCKINNEY William Hemphill Survey, Abstract No. 449 City of McKinney, Collin County, Texas

