

RESOLUTION NO. 2017-73

A RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT WITH A CONSORTIUM OF LOCAL GOVERNMENTAL ENTITIES REGARDING THE FUNDING OF A BREATH ALCOHOL TECHNICAL SUPERVISOR

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LEAGUE CITY, TEXAS, as follows:

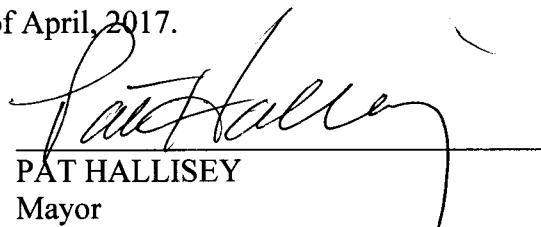
Section 1. The City authorizes an Interlocal Agreement in substantially the same form as Exhibit A, which is attached and incorporated herein, with a consortium of local governmental entities regarding the funding of a Breath Alcohol Technical Supervisor.

Section 2. The City Manager or his designee is authorized to execute all documents necessary to complete this transaction.

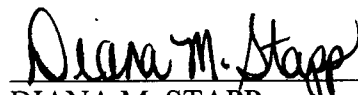
Section 3. All resolutions and agreements and parts of resolutions and agreements in conflict herewith are hereby repealed to the extent of the conflict only.

Section 4. It is hereby found and determined that the meeting at which this resolution was passed was open to the public and that advance public notice of the time, place and purpose of said meeting was given as required by law.

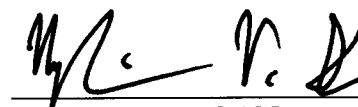
PASSED AND APPROVED the 25th day of April, 2017.

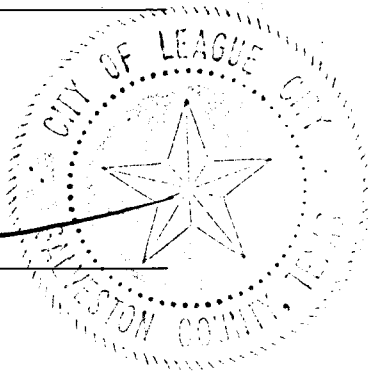

PAT HALLISEY
Mayor

ATTEST:


DIANA M. STAPP
City Secretary

APPROVED AS TO FORM:


NGHIEM V. DOAN
City Attorney



**INTERLOCAL CONTRACTUAL AGREEMENT
CONCERNING BREATH ALCOHOL TECHNICAL SUPERVISOR**

This Agreement is entered into on the 10th day of April, 2017, by and between the CITY OF LEAGUE CITY, TEXAS, a home rule City existing in Galveston and Harris Counties, Texas, (hereinafter sometimes called "COLC") and the following governmental entities (hereinafter collectively called "Other Agencies"): the COUNTY OF GALVESTON, TEXAS acting on behalf of the offices of its Criminal District Attorney and its Sheriff, a Texas County; the CITY OF WEBSTER, a home rule City in Harris County, Texas; the CITY OF SEABROOK, TEXAS, a home rule City in Harris County, Texas; the CITY OF SOUTH HOUSTON, TEXAS, a home rule City in Harris County, Texas; the CITY OF TEXAS CITY, TEXAS, a home rule City in Galveston County, Texas; the CITY OF PEARLAND, TEXAS, a home rule City in Brazoria, Fort Bend, and Harris Counties, Texas; and the CITY OF FRIENDSWOOD, TEXAS, a home rule City in Galveston and Harris Counties, Texas; pursuant to the Interlocal Cooperation Act of Texas (Chapter 791, Texas Government Code).

WITNESS:

WHEREAS, all of the parties hereto have need for the services of a Breath Alcohol Technical Supervisor (hereinafter sometimes called "BATS") certified by the Scientific Director of the Alcohol Testing Program for the Texas Department of Public Safety (hereinafter "DPS") and for an Evidential Breath Alcohol Instrument ("Instrument") certified by the same DPS Scientific Director) for use in law enforcement and prosecution of Driving While Intoxicated (hereinafter "DWI") offenses; and

WHEREAS, DPS is willing to provide each of the parties hereto (1) the services of a BATS who is a DPS employee, and (2) an Instrument, in exchange for reimbursement of DPS's costs to employ said BATS (\$100,000 annually), but DPS desires to be contractually bound to only one agency; and

WHEREAS, there are significant savings to be realized by the parties hereto to jointly secure the services of a BATS and to share the costs thereof equally among COLC and Other Agencies; and

WHEREAS, COLC and Other Agencies are agreeable to having COLC be the sole entity to contract with DPS to secure the services of the BATS and an Instrument for each agency, but all parties agree to evenly share the costs of the BATS;

NOW THEREFORE, for consideration hereinafter stated the parties do hereby agree as follows:

I. DUTIES OF OTHER AGENCIES

- A. Other Agencies shall each pay annually to COLC its equal share of the \$100,000 reimbursement for the BATS, as provided herein, within thirty (30) days of receiving an invoice for such from COLC.
- B. Other Agencies agree to comply with all rules, regulations, and/or requirements of DPS regarding (1) providing a suitable facility in which to secure and operate an

Instrument; (2) operation and maintenance of the Instrument; and (3) training of personnel to properly operate the Instrument to administer breath alcohol tests.

II. DUTIES OF COLC

- A. COLC shall enter into a contract with DPS to secure the services of a BATS in substantially the same form as the contract attached hereto as Exhibit A ("DPS Contract"). COLC shall use its best efforts to keep the DPS Contract or a renewal thereof in effect during the period that this Agreement is in effect.
- B. COLC shall send invoices to the Other Agencies during the first week of each March during the term of this Agreement, for their share of the annual \$100,000 reimbursement for the BATS. COLC shall collect payments from the Other Agencies and shall remit to DPS the total of eight thousand three hundred thirty-three dollars and thirty-three cents (\$8,333.33) each month during the term of this Agreement.
- C. COLC agrees to comply with all rules, regulations, and/or requirements of DPS regarding (1) providing a suitable facility in which to secure and operate an Instrument; (2) operation and maintenance of the Instrument; and (3) training of personnel to properly operate the Instrument to administer breath alcohol tests.

III. TERM OF AGREEMENT

The term of this Agreement shall be for a period of sixty (60) months commencing April 1, 2017 and continuing until March 31, 2022. Thereafter this Agreement shall automatically renew under these same terms for successive one (1) year periods unless terminated as provided herein.

IV. TERMINATION

This Agreement will be terminated and of no further force and effect upon the occurrence of one of the following triggers:

- A. The DPS Contract ceases to be in force and effect, whether by termination or nonrenewal of the term thereof.
- B. If COLC receives within any thirty (30) day period written requests from six (6) of the Other Agencies that this Agreement be terminated, COLC shall give DPS a written notice to terminate the DPS Contract. This Agreement will be terminated effective the date that the DPS Contract terminates.
- C. COLC withdraws from this Agreement as provided below.
- D. Six (6) of the Other Agencies withdraw from this Agreement as provided below.

Upon the effective date of termination, any prepaid funds not required to be remitted to DPS pursuant to the DPS Contract shall be will be refunded by COLC to the party that paid said funds within thirty (30) days of a written request for such refund.

V. WITHDRAWAL OF PARTIES

Any party hereto may withdraw its participation from this Agreement as provided below.

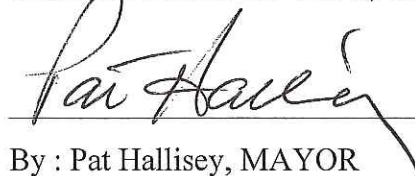
- A. If DPS removes any Instrument such that a party hereto has no Instrument at any of its facilities, that party may withdraw from this Agreement such that it is no longer obligated to pay its share for the BATS. This right to withdraw shall NOT arise if DPS removed the Instrument(s) for good cause, such as the failure of the affected agency to secure, operate, or maintain said Instrument or to properly train its personnel pursuant to DPS requirements.
- B. Should any of the Other Agencies find that a material deficiency exists in the performance of services provided by the BATS, such deficiency may be reported to COLC in writing, which shall convey any such report to DPS. If the deficiency is not corrected within thirty (30) days of being conveyed to DPS, the reporting party may withdraw from this Agreement and no longer be obligated to pay its share for the BATS.
- C. Should any of the parties hereto desire to withdraw from this Agreement for convenience, it may do so but will remain obligated to pay its share for the BATS until the expiration of the then current term, unless all other parties agree to jointly and equally assume the withdrawing party's payment obligation.

VI. APPROPRIATIONS


To the extent permitted by the laws and Constitution of the State of Texas, all parties shall be obligated to make payments under this Agreement from funds budgeted and appropriated for the purpose. In conformance with Texas Government Code Section 791.011(d)(3), each payment due from a party to COLC for services provided herein are payable from the party's then current revenues.

VII. SIGNATURES

CITY OF LEAGUE CITY, TEXAS


By : Pat Hallisey, MAYOR

ATTEST:


City Secretary, City of League City

CITY OF WEBSTER

By: Donna Rogers, MAYOR

ATTEST:

City Secretary, City of Webster

V. WITHDRAWAL OF PARTIES

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- A. If DPS removes any Instrument such that a party hereto has no Instrument at any of its facilities, that party may withdraw from this Agreement such that it is no longer obligated to pay its share for the BATS. This right to withdraw shall NOT arise if DPS removed the Instrument(s) for good cause, such as the failure of the affected agency to secure, operate, or maintain said Instrument or to properly train its personnel pursuant to DPS requirements.
- B. Should any of the Other Agencies find that a material deficiency exists in the performance of services provided by the BATS, such deficiency may be reported to COLC in writing, which shall convey any such report to DPS. If the deficiency is not corrected within thirty (30) days of being conveyed to DPS, the reporting party may withdraw from this Agreement and no longer be obligated to pay its share for the BATS.
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ATTEST:

City Secretary, City of League City

CITY OF WEBSTER


By: Donna Rogers, MAYOR

ATTEST:


City Secretary, City of Webster

CITY OF SEABROOK, TEXAS

D.J. Miller
By: Glenn Royal, MAYOR *Pro Tem*
D.J. Miller

ATTEST:

City Secretary, City of Seabrook

CITY OF SOUTH HOUSTON, TEXAS

By: Joe Soto, MAYOR

ATTEST:

City Secretary, City of South Houston

CITY OF FRIENDSWOOD, TEXAS

By: Kevin M. Holland, MAYOR

ATTEST:

CITY OF TEXAS CITY, TEXAS

By: Matt Doyle, MAYOR

ATTEST:

City Secretary, City of Texas City

CITY OF PEARLAND, TEXAS

By: Tom Reid, MAYOR

ATTEST:

City Secretary, City of Pearland

GALVESTON COUNTY, TEXAS

By: Mark Henry, COUNTY JUDGE

ATTEST:

City Secretary, City of League City

CITY OF SEABROOK, TEXAS

By: Glenn Royal, MAYOR

ATTEST:

City Secretary, City of Seabrook

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CITY OF TEXAS CITY, TEXAS



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By: Tom Reid, MAYOR

ATTEST:

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GALVESTON COUNTY, TEXAS

By: Mark Henry, COUNTY JUDGE

ATTEST:

Galveston County Clerk

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City Secretary, City of Seabrook

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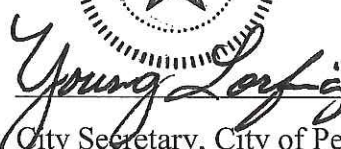
ATTEST:

City Secretary, City of Texas City

CITY OF PEARLAND, TEXAS



By: Tom Reid, MAYOR

ATTEST: 

City Secretary, City of Pearland

GALVESTON COUNTY, TEXAS

By: Mark Henry, COUNTY JUDGE

ATTEST:

Galveston County Clerk

**INTERLOCAL CONTRACTUAL AGREEMENT
CONCERNING BREATH ALCOHOL TECHNICAL SUPERVISOR**

This Agreement is entered into on the 3rd day of April, 2017, by and between the CITY OF LEAGUE CITY, TEXAS, a home rule City existing in Galveston and Harris Counties, Texas, (hereinafter sometimes called "COLC") and the following governmental entities (hereinafter collectively called "Other Agencies"): the COUNTY OF GALVESTON, TEXAS acting on behalf of the offices of its Criminal District Attorney and its Sheriff, a Texas County; the CITY OF WEBSTER, a home rule City in Harris County, Texas; the CITY OF SEABROOK, TEXAS, a home rule City in Harris County, Texas; the CITY OF SOUTH HOUSTON, TEXAS, a home rule City in Harris County, Texas; the CITY OF TEXAS CITY, TEXAS, a home rule City in Galveston County, Texas; the CITY OF PEARLAND, TEXAS, a home rule City in Brazoria, Fort Bend, and Harris Counties, Texas; and the CITY OF FRIENDSWOOD, TEXAS, a home rule City in Galveston and Harris Counties, Texas; pursuant to the Interlocal Cooperation Act of Texas (Chapter 791, Texas Government Code).

WITNESS:

WHEREAS, all of the parties hereto have need for the services of a Breath Alcohol Technical Supervisor (hereinafter sometimes called "BATS") certified by the Scientific Director of the Alcohol Testing Program for the Texas Department of Public Safety (hereinafter "DPS") and for an Evidential Breath Alcohol Instrument ("Instrument") certified by the same DPS Scientific Director) for use in law enforcement and prosecution of Driving While Intoxicated (hereinafter "DWI") offenses; and

WHEREAS, DPS is willing to provide each of the parties hereto (1) the services of a BATS who is a DPS employee, and (2) an Instrument, in exchange for reimbursement of DPS's costs to employ said BATS (\$100,000 annually), but DPS desires to be contractually bound to only one agency; and

WHEREAS, there are significant savings to be realized by the parties hereto to jointly secure the services of a BATS and to share the costs thereof equally among COLC and Other Agencies; and

WHEREAS, COLC and Other Agencies are agreeable to having COLC be the sole entity to contract with DPS to secure the services of the BATS and an Instrument for each agency, but all parties agree to evenly share the costs of the BATS;

NOW THEREFORE, for consideration hereinafter stated the parties do hereby agree as follows:

I. DUTIES OF OTHER AGENCIES

- A. Other Agencies shall each pay annually to COLC its equal share of the \$100,000 reimbursement for the BATS, as provided herein, within thirty (30) days of receiving an invoice for such from COLC.
- B. Other Agencies agree to comply with all rules, regulations, and/or requirements of DPS regarding (1) providing a suitable facility in which to secure and operate an

Instrument; (2) operation and maintenance of the Instrument; and (3) training of personnel to properly operate the Instrument to administer breath alcohol tests.

II. DUTIES OF COLC

- A. COLC shall enter into a contract with DPS to secure the services of a BATS in substantially the same form as the contract attached hereto as Exhibit A ("DPS Contract"). COLC shall use its best efforts to keep the DPS Contract or a renewal thereof in effect during the period that this Agreement is in effect.
- B. COLC shall send invoices to the Other Agencies during the first week of each March during the term of this Agreement, for their share of the annual \$100,000 reimbursement for the BATS. COLC shall collect payments from the Other Agencies and, along with COLC's equal share of the annual \$100,000 reimbursement, shall remit to DPS the total of eight thousand three hundred thirty-three dollars and thirty-three cents (\$8,333.33) each month during the term of this Agreement.
- C. COLC agrees to comply with all rules, regulations, and/or requirements of DPS regarding (1) providing a suitable facility in which to secure and operate an Instrument; (2) operation and maintenance of the Instrument; and (3) training of personnel to properly operate the Instrument to administer breath alcohol tests.

III. TERM OF AGREEMENT

The term of this Agreement shall be for a period of sixty (60) months commencing April 1, 2017 and continuing until March 31, 2022. Thereafter this Agreement shall automatically renew under these same terms for successive one (1) year periods unless terminated as provided herein. This Agreement hereby terminates the prior Agreement for technical supervisors between the Other Agencies and COLC. COLC agrees to refund or credit any unused payments for services to the party that paid said funds.

IV. TERMINATION

This Agreement will be terminated and of no further force and effect upon the occurrence of one of the following triggers:

- A. The DPS Contract ceases to be in force and effect, whether by termination or nonrenewal of the term thereof.
- B. If COLC receives within any thirty (30) day period written requests from six (6) of the Other Agencies that this Agreement be terminated, COLC shall give DPS a written notice to terminate the DPS Contract. This Agreement will be terminated effective the date that the DPS Contract terminates.
- C. COLC withdraws from this Agreement as provided below.
- D. Six (6) of the Other Agencies withdraw from this Agreement as provided below.

Upon the effective date of termination, any prepaid funds not required to be remitted to DPS pursuant to the DPS Contract shall be refunded by COLC to the party that paid said funds within thirty (30) days of a written request for such refund.

V. WITHDRAWAL OF PARTIES

Any party hereto may withdraw its participation from this Agreement as provided below.

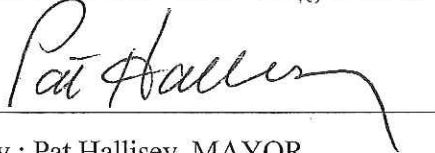
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- B. Should any of the Other Agencies find that a material deficiency exists in the performance of services provided by the BATS, such deficiency may be reported to COLC in writing, which shall convey any such report to DPS. If the deficiency is not corrected within thirty (30) days of being conveyed to DPS, the reporting party may withdraw from this Agreement and no longer be obligated to pay its share for the BATS.
- C. Should any of the parties hereto desire to withdraw from this Agreement for convenience, it may do so but will remain obligated to pay its share for the BATS until the expiration of the then current term, unless all other parties agree to jointly and equally assume the withdrawing party's payment obligation.

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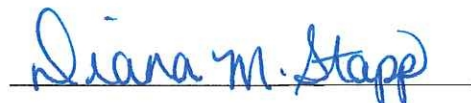
VII. SIGNATURES

CITY OF LEAGUE CITY, TEXAS



By : Pat Hallisey, MAYOR

ATTEST:



City Secretary, City of League City

CITY OF WEBSTER

By: Donna Rogers, MAYOR

ATTEST:

City Secretary, City of Webster

CITY OF SEABROOK, TEXAS

By: Glenn Royal, MAYOR

ATTEST:

City Secretary, City of Seabrook

CITY OF SOUTH HOUSTON, TEXAS

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CITY OF FRIENDSWOOD, TEXAS

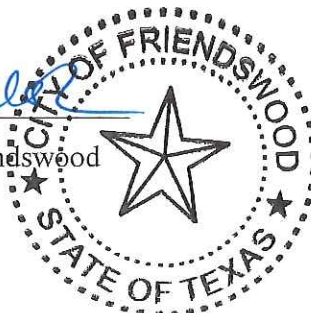


By: Kevin M. Holland, MAYOR

ATTEST:



City Secretary, City of Friendswood



CITY OF TEXAS CITY, TEXAS

By: Matt Doyle, MAYOR

ATTEST:

City Secretary, City of Texas City

CITY OF PEARLAND, TEXAS

By: Tom Reid, MAYOR

ATTEST:

City Secretary, City of Pearland

GALVESTON COUNTY, TEXAS

By: Mark Henry, COUNTY JUDGE

ATTEST:

Galveston County Clerk

EXHIBIT A

INTERLOCAL AGREEMENT

Contract Number: 405-LES-16-0052

THE STATE OF TEXAS COUNTY OF TRAVIS

THIS AGREEMENT is entered into by and between the Texas Department of Public Safety, hereinafter "the Department", and City of League City, a home rule city existing in the Counties of Galveston and Harris Counties, under the laws of the State of Texas, hereinafter "the City", under the authority granted and in compliance with the provisions of Chapter 791 of the Government Code.

I. RECITALS:

The City desires to obtain technical supervisory services in order to comply with the requirements of Transportation Code Chapters 524 and 724, in connection with obtaining evidence to be used in the trial of criminal and civil actions or proceedings.

The Department is legally authorized to perform technical supervisory services for the City.

This Agreement is made and entered into by and between the City and the Department pursuant to the Interlocal Cooperation Act, Government Code Chapter 791.

II. STATEMENT OF SERVICES TO BE PERFORMED:

A. Duties of the Department. The Department will provide the services of one (1) technical supervisor certified by the Scientific Director of the Alcohol Testing Program of the Department paid for by the City. The technical supervisor will perform the following functions:

1. Inspect, certify, calibrate, and maintain evidential breath alcohol testing instruments;
2. Supervise the operation of the evidential breath testing instruments and associated equipment in consultation with the City;
3. Provide expert testimony concerning the evidential breath testing instruments and associated equipment and testing techniques that are under the supervision of the technical supervisors of the Department;
4. Provide technical advice to prosecutors and law enforcement agencies;

5. Check and prepare chemicals used for testing when necessary;
6. Perform other duties as necessary to enable evidence obtained from evidential breath alcohol testing instruments to be admissible in criminal and civil proceedings; and
7. Provide annual supplemental training and retraining of certified breath alcohol testing operators.
8. Maintain records and reports required by the Scientific Director and comply with requests for records and data including, but not limited to subpoenas, discovery, and public information act requests for records held by the Department; and
9. Maintain as many evidential testing sites in the cities of League City, Webster, Seabrook, South Houston, Texas City, Friendswood, Pearland, and the County of Galveston, as necessary for the success of the breath alcohol testing program.

B. Duties of the City. The City is responsible for the following functions:

1. Initial training and certification of breath alcohol testing operators;
2. When necessary, provide suitable classroom style facilities to the Department for supplemental training and retraining of certified breath alcohol test operators;
3. Where applicable, provide physical space to be used as breath alcohol instrument test site locations which is suitable for evidential breath alcohol testing; and
4. Comply with the Texas Breath Alcohol Testing Regulations.

III. AGREEMENT AMOUNT

The total amount of this Agreement will not exceed \$100,000.00 in the first year and \$100,000 for each year in renewal. The parties agree that these amounts fairly compensate the performance of the Agreement.

IV. LIMIT OF APPROPRIATION

DPS understands and agrees, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that DPS may become entitled to for the Services performed under this Agreement, and the total maximum sum that the City will become liable to pay to DPS under this Agreement, will not under any conditions, circumstances or interpretations thereof exceed the sum of \$100,000.00. Notwithstanding anything to the contrary, or that may be construed to the contrary, the City's liability under the terms and provisions of this Agreement is limited to this sum. When all the funds so certified are expended, DPS' sole and exclusive remedy will be to terminate the Agreement.

1 With regard to the renewal of this Agreement, the City has not allocated any
2 funds for any renewal period beyond the current fiscal year. Therefore, any
3 renewal is subject to the future allocation and certification of funds for the
4 renewal period and in accordance with the terms and conditions of this
5 Agreement.

6
7 **V. TERM OF THE AGREEMENT**
8

9 The period of performance for this Agreement begins on the date of execution by
10 both parties and is effective for one year. It will automatically renew for one year
11 terms thereafter. This agreement supersedes any previous agreements for
12 technical supervisors between the Department and the City. Either party may
13 terminate the Agreement at any time and for any reason, including convenience,
14 after providing the other party written notice at least thirty (30) days prior to the
15 effective date of termination.

16
17 **VI. PAYMENT FOR SERVICES**
18

19 The Department will submit to the City's project officer identified in Paragraph VIII
20 a monthly invoice, in the amount of \$8,333.33 per month. The City will pay each
21 invoice in compliance with State law. The City will pay for services received with
22 a voucher, direct deposit, or other method as agreed upon by both parties and
23 allowed by the uniform statewide accounting system. Payments will be made
24 from current revenues available to the City.

25
26 **VII. WRITTEN MODIFICATION**
27

28 No modification or amendment to this Agreement will become valid unless in
29 writing and signed by both parties.

30
31 **VIII. PROJECT OFFICERS**
32

33 For purposes of this Agreement, the following project officers will receive all
34 required notices by certified mail, facsimile, or electronic mail as follows:
35
36
37

For the City:	For the Department:
Michael Kramm	Mack Cowan
555 West Walker	PO Box 4087
League City, Texas 77573	MSC 0570
	Austin, TX 78773
Telephone: 281-338-4163	Telephone: 512/424-5202
Fax: 281-332-3147	Fax: 512/424-5210
E-mail: Michael.Kramm@lcpd.com	E-mail: mack.cowan@dps.texas.gov

1 **IX. OTHER CERTIFICATIONS AND SIGNATORY AUTHORITY**

2
3 The City further certifies that it has the authority to contract for the above referenced
4 services by authority granted in its home-rule charter adopted pursuant to Article XI,
5 Section 5, of the Texas Constitution.

6
7 The Department further certifies that it has the authority to perform the above
8 referenced services by authority granted in Transportation Code Chapter 724 and
9 Government Code Chapter 411.

10
11 Each party signing this Agreement hereby represents and warrants that it has full
12 authority to do so.

13
14
15 **CITY OF LEAGUE CITY**

16 **DEPARTMENT OF PUBLIC SAFETY**

17
18
19
20 By: _____
21 (Authorized Signature)

22
23
24
25 By: _____
26 (Authorized Signature)

27
28 John Baumgartner

29 Robert J. Bodisch, Sr.

30
31
32 City Manager

Deputy Director, Homeland Security and
Services