

STATE OF TEXAS §

COUNTY OF ECTOR §

**CITY OF ODESSA AND ECISD
INTERLOCAL AGREEMENT
DISPOSAL OF EXCESS RAW SEWAGE**

This Agreement is made and entered into by and between Ector Independent School District, hereinafter referred to as "ECISD", and the City of Odessa, a home rule municipal corporation, organized and existing under the laws of the State of Texas, hereinafter referred to as "City".

RECITALS

WHEREAS, Chapter 791 of the Government Code of the State of Texas, authorizes interlocal contracts between two governmental entities; and

WHEREAS, the parties to the interlocal agreement are independently authorized to perform the functions or services contemplated by the agreement; and

WHEREAS, the agreement is to be approved by the governing bodies of each participating entity; and

WHEREAS, the agreement states the purpose, terms, rights, and duties of the contracting parties; and

WHEREAS, the consideration is an amount that fairly compensates the performing party for the services performed;

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual premises, covenants, obligations and benefits in this Agreement, including the above recitals, ECISD and City agree as follows:

**I.
SPECIAL PROVISIONS**

- 1.1 ECISD may dispose of excess raw sewage in the City's collection system in accordance with the provisions of the Sewage Quality Control Ordinance and other applicable ordinances at a City designated disposal site at a time and frequency mutually agreeable to both parties.
- 1.2 ECISD shall be required to use a TCEQ registered hauler to transport the raw sewage.
- 1.3 ECISD shall not co-mingle incompatible wastes.
- 1.4 The maximum disposal amount by ECISD shall be 10,000 gallons per week.
- 1.5 ECISD shall be responsible for paying the TCEQ registered hauler all costs associated with the transport. City shall be paid for sewage treatment costs by the hauler upon the disposal of the raw sewage into the City's system.
- 1.6 **Term and Termination:** The initial term of this Agreement shall begin when the Agreement is approved by the governing bodies of both ECISD and City and shall continue until terminated by either party providing thirty (30) days written notice to the other party.

- 1.7 **Reporting:** ECISD shall provide a monthly report including but not limited to the amount of disposal and days of disposal in a manner mutually agreeable to both parties.

II. GENERAL PROVISIONS

- 2.1 **Venue:** The obligations of the parties to this Agreement are performable in Ector County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Ector County, Texas.
- 2.2 **Legal Construction:** In case 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 any other provision thereof, and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.
- 2.3 **Assignment:** This Agreement cannot be assigned without the prior written consent of the other party.
- 2.4 **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
- 2.5 **Captions:** The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
- 2.6 **Non-Discriminatory Policy:** Parties agree that as to all of the programs and activities arising out of this Agreement, they shall comply fully with all Civil Rights Acts and specifically will not discriminate against any person on the basis of race, color, national origin, sex or by reason of being disabled.
- 2.7 **Entire Agreement:** This Agreement embodies the complete Agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties.
- 2.8 **Force Majeure:** Neither of the parties shall be required to perform any term, condition or covenant in this agreement so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods and any other cause not reasonably within the control of such party except as herein provided and which by the exercise of due diligence such party is unable, wholly or in part, to prevent or overcome.
- 2.9 **Independent Contractor:** In performing services under this Agreement, the relationship between the parties is that of an independent contractor, and the parties by the execution of this Agreement do not change that independent status. No term or provision of this Agreement or act of a party in the performance of this Agreement shall be construed as making that party or its employees the agents, servants, or employees of the other party or make the project a joint-enterprise.
- 2.10 **Liability:** The liability of the parties, if any, shall be assumed by each party in accordance with the laws of the State of Texas, without waiving any governmental immunity available to the parties under Texas law, or without waiving any defenses of the parties under Texas law.
- 2.11 **Interlocal Agreement:** This Agreement shall satisfy any requirements for an Interlocal Agreement and shall rescind and supersede any prior agreements of the parties that are in conflict. Both parties find that the services provided by each party are of equal value and

the providing of such services constitutes a fair exchange of consideration.

EXECUTED this the _____ day of _____, 2012.

"ECISD"
ECTOR COUNTY INDEPENDENT
SCHOOL DISTRICT

By: _____

ATTEST:

"CITY"
CITY OF ODESSA

By: _____

Richard Morton, City Manager

ATTEST:

Norma Aguilar-Grimaldo, City Secretary

APPROVED AS TO FORM:

Larry Long, City Attorney

(ECISD)

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BEFORE ME, the undersigned authority, on this day personally appeared _____ (person's name), known to me (or proved to me on the oath of _____ or through _____ [description of identity card or other document]) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that ____ executed the same in the capacity stated, as the act of the said Ector County Independent School District for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL of office this ____ day of _____, A.D., 2012.

Notary Public in and for the State of Texas

(CITY)

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BEFORE ME, the undersigned authority, on this day personally appeared **Richard Morton**, City Manager of the City of Odessa, Texas, a municipal corporation of Ector County, Texas, known to me to be the person and officer whose name is subscribed to the foregoing instrument, an acknowledged to me that the same was the act of the said City of Odessa, a municipal corporation, and that he executed the same as the act of said City of Odessa for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL of office this the ____ day of _____, A.D., 2012.

Notary Public in and for the State of Texas