

**INTERLOCAL AGREEMENT
FOR
EMERGENCY MASS NOTIFICATION SYSTEM**

THE STATE OF TEXAS §
COUNTY OF WISE §

FISCAL YEAR 2018-2019

THIS INTERLOCAL AGREEMENT ("Agreement") is made and entered into by and between Wise County, a political subdivision of the State of Texas; to be carried out by Wise County Office of Emergency Management (the "WCOEM"), and the City of Boyd, Texas, a municipal corporation within Wise County ("City"), for establishing the use of the emergency mass notification system within the boundaries of said City.

RECITALS

WHEREAS, Texas Government Code, Chapter 791, the Texas Interlocal Cooperation Act, provides that one or more public agencies may contract with each other for governmental functions and services, including police protection services; public health and welfare; administrative functions; and other governmental functions in which the contracting Parties are mutually interested, in order to provide a governmental function or service that each Party to the contract is authorized to perform individually;

WHEREAS, Wise County has established an emergency alerting system, and;

WHEREAS, Wise County has contracted with CivicReady to provide cost effective Emergency Notification Services on behalf of participating local jurisdictions, and;

WHEREAS, the purpose of this system is to alert large numbers of citizens within a specific geographic area of important information for public safety purposes, and;

WHEREAS, in the event of a large-scale emergency or incident, the alerting system would benefit the citizens of Wise County by providing critical information in a timely fashion, and;

WHEREAS, the City of agrees to this arrangement regarding the use of the CivicReady;

NOW, THEREFORE in consideration of the above recitals, mutual benefits and promises each to the other made herein, the parties named above do hereby agree as follows:

PUBLIC PURPOSE

City, under its current system, contracts for mass emergency notification system. This system is designed to align the interest of the City with those of the community it serves. In order to facilitate the City's system, City hereby engages WCOEM to provide mass emergency notification system to the City through the WCOEM's contract with CivicReady, provided this service does not impede reasonable protection and coverage for the WCOEM jurisdiction.

SERVICES

- a. As used in this Agreement, the term "City's service area" shall mean the city limits of the City and legally bound or extended service areas.
- b. In the event of a disaster or emergency, as determined by the appropriate authority having jurisdiction under applicable law, the WCOEM will fully cooperate and assist the City, or any other authority having jurisdiction, in the provision of the Services set forth herein.
- c. In the event of a disaster or emergency that extends beyond the city limits of the City and legally bound or extended service area, the County will have primary authority over emergency notifications as determined by the consolidated alerting protocol.
- d. The City will work with WCOEM in the development of the consolidated warning protocol. The protocol is not valid without the mutual consent of WCOEM and the City representative as determined by the signatures of the EMC and City representative. The consolidated warning protocol can be changed at any time with the mutual consent of WCOEM and the City representative.

COMPENSATION

- a. The City agrees to pay the county \$500, out of the current available funds, for the use of the mass notification system.
- b. The County will bill the City at the start of each fiscal year during the term of this agreement. The City will provide payment to the County Treasurer no later than 30 days after receiving the invoice.

INDEPENDENT CONTRACTOR

WCOEM shall at all times be an independent contractor. Nothing in this Agreement shall at any time be construed so as to create the relationship of employer and employee, principal and agent, partnership, or joint venture as between WCOEM and City. Neither party shall have any authority to incur any obligation or bind or commit the other party to any agreement, contract, or commitment or to waive, modify, or amend any rights of either party under any agreement, contract, or commitment, except as expressly authorized in writing by other party. Neither party shall in any manner be answerable or accountable for: (i) any violation by the other party of any federal, state or local laws, regulations, ordinances, rules or orders; or (ii) for any injury, loss or damage arising from or out of any act or omission of the other party.

GENERAL APPORTIONMENT OF RESPONSIBILITY AND IMMUNITY

In the event of joint or concurrent negligence of the parties, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without, however, waiving any governmental immunity available to either party individually under Texas law. The City shall be responsible for its sole negligence. The County shall be responsible for its sole negligence. The provisions of this paragraph are solely for the benefit of the parties hereto and are not intended to create or grant any rights, contractual or otherwise, to any other person.

UNDER NO CIRCUMSTANCES SHALL EITHER PARTY HERETO BE LIABLE TO THE OTHER PARTY FOR ANY ATTORNEY FEES, SPECIAL, INDIRECT, CONSEQUENTIAL, OR EXEMPLARY OR PUNITIVE DAMAGES.

TERM AND RENEWAL

The effective date of this agreement shall be the later of October 1, 2018 or the date both parties have signed and executed this document within the County's 2018-2019 fiscal year. The contract term shall be for one (1) year and expire at 11:59 pm September 30, 2018. This agreement will automatically renew at midnight October 1st, 2019 and every year thereafter this initial term

unless a thirty (30) day notice of cancellation is sent prior to the expiration of the annual term. Renewal may be subject to a 3% fee increase as set forth by the vendor.

NOTICE OF NONAPPROPRIATION

If, for any fiscal year, WCOEM fails to appropriate funds in amounts sufficient to pay or perform its obligations under this Agreement, WCOEM shall endeavor to provide thirty (30) days notice of its intent not to appropriate the necessary funds for its performance of obligations under this Agreement.

TERMINATION

A. By Mutual Agreement: This Agreement may be terminated by mutual agreement of the City and the County, as evidenced by a written termination agreement.

B. For Nonappropriation of funds: As mentioned above, if the Parties fails to appropriate funds necessary for performance of the obligations under this Agreement, the other Party may terminate this Agreement.

C. By Either party: This agreement may be terminated at any time for convenience upon sixty (60) days written notice to the other party.

D. Default: In the event a party to this agreement fails to perform an obligation set forth herein, the aggrieved party shall give the defaulting party a sixty (60) day written notice of default with an opportunity to cure such default within that time period. If defaulting party fails to cure such default during the stated period, the Agreement shall terminate and the City shall assume responsibility for its emergency mass notification services.

DISPUTE RESOLUTION

A. Dispute Resolution Process. Before commencing formal legal proceedings concerning any dispute arising under or relating to this Agreement, or any breach thereof, the Parties agree to observe the following Dispute Resolution Process.

B. Notice. The disputing party shall file a written complaint which contains sufficient detail to clearly identify the problems giving rise to the dispute, and the responding Party shall have a reasonable opportunity to respond, in accordance with the default procedures.

C. First Resolution Meeting. After consulting with and obtaining input from the appropriate individuals so as to facilitate a complete discussion and proposed solution, the Parties shall schedule a meeting and designate representatives to attend such meeting to attempt to facilitate an agreed resolution.

D. Second Resolution Meeting. If the Parties' designated representatives cannot reach an agreed resolution, the following representatives shall meet to discuss the matter: City: City Manager and/or Mayor; County: County Commissioner and/or County Judge.

E. Successful Resolution. If resolution is made it shall be reduced to a written agreement to be approved by each side's governing body. If approved, the written agreement will become an

amendment to the original agreement. However, it will not supersede any term or condition except those dealing with the subject matter of the dispute.

F. Unsuccessful Resolution. If all above options are completed and the Parties are unable to reach a resolution, either Party may pursue all legal and equitable remedies available to it under Texas law.

GENERAL PROVISIONS

A. Severability Clause. The Parties intend for the various provisions of this Agreement to be severable so the invalidity, if any, of one or more sections of this Agreement shall not affect the validity of the remaining provisions of the Agreement.

B. Counterparts. This document may be executed in any number of original signature counterparts, each of which shall for all purposes be deemed an original, and all such counterparts shall constitute one and the same document.

C. Notices.

To County: Any Notice permitted or required to be given to the County hereunder must be in writing and may be given by Certified United States Mail, Return Receipt

Requested, postage prepaid, addressed to:

Wise County Treasurer

P.O. BOX 554

Decatur, Texas 76234

To City: Any notice permitted or required to be given to the City hereunder must be in writing and may be given by Certified United States Mail, Return Receipt Requested, postage prepaid, addressed to:

City of Boyd
PO Box 216
Boyd, TX 76233

Any notice permitted or required to be given hereunder shall be deemed to have been given upon deposit of the notice in the United States Mail as aforesaid.

D. Authority of Signatories. 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.

E. Governing Law/ Venue. This Agreement shall be interpreted in accordance with the laws of the State of Texas and Wise County is the proper venue for any action regarding this contract.

F. Permits and Licenses. The parties shall be responsible for and hold any and all required federal, state, and local licenses required to perform the duties under this Agreement, as may be required of that party. In addition, such party will make all necessary payments for licenses and permits to conduct its business and duties under this Agreement. Each party will assure that all necessary renewals are made by it as necessary and in a timely manner.

G. Notice of Litigation. Within seventy-two (72) hours after receipt of notice or knowledge of litigation affecting the Services provided under this Agreement, the City, WCOEM, or either parties' officers or employees, the party receiving such notice shall notify the other party of the same.

H. Entirety of the Agreement and Modifications: This agreement represents the entire and integrated agreement between the City and the County and supersedes all prior negotiations, representations and/or agreements, either written or oral. This agreement may be amended only by mutual agreement of the parties made in writing.

THIS EMERGENCY MASS NOTIFICATION SERVICE AGREEMENT is made and entered into as of the 1st day of October, 2018 or the dates signified below by and between the CITY and WISE COUNTY to be performed by WISE COUNTY OFFICE OF EMERGENCY MANAGEMENT, ("WCOEM").

CITY OF Boyd

Date: 9-17-18

By: Brody E Nelson

Title: Mayor

WISE COUNTY

Date: 8-22-18

By: [Signature]

WISE COUNTY JUDGE

By: [Signature]

**Wise County Emergency Management
Coordinator**