

**WEBB COUNTY/U.L., LLC., FIRE-FIGHTING EQUIPMENT
AND FIRE TRUCK MAINTENANCE, REPAIR & SERVICE
FEE AGREEMENT**

This Agreement is hereby entered into by and between Webb County, Texas ("County"), and U.L., LLC., for a fire truck and fire-fighting equipment maintenance, repairs and services fee agreement.

WHEREAS, in order to properly provide for the health, safety, and general welfare of its citizens in the critical area of emergency fire protection in Webb County, it is of the utmost importance to Webb County that it ensures that at all times during the term of this Agreement, U.L., LLC., as the service provider adheres, without deviation, to such specifications and that U.L., LLC., shall fully perform its obligations pursuant to this Agreement in a timely manner;

WHEREAS, for the reasons stated, both parties acknowledge that it is both prudent and appropriate that this Agreement contain provisions providing for severe and immediate remedies for the County if U.L., LLC., fails to adhere to the specifications or if U.L., LLC., breaches any of its obligations pursuant to this Agreement;

NOW, THEREFORE, Incorporating the foregoing recitals by reference, the parties hereby agree as follows;

- I. GENERAL DESCRIPTION OF MAINTENANCE, REPAIR SERVICES, COSTS AND FEES.** The County does hereby retain U.L., LLC., to provide Webb County and its Webb County volunteer Fire Department with fire truck and fire-fighting equipment, including aerial and ground ladder maintenance and repair services, as per the price quotes and/or maintenance, repair and/or service fees set forth in Exhibits "B&C" herein. The maintenance, repair and service fees attached to this agreement shall be subject to the terms and upon the conditions herein stated. In consideration for the rendition of the services described herein on the part of U.L., LLC., the County does hereby agree to pay the service fees, repair costs, maintenance fees and/or price quotes as set forth in Exhibits "B&C". Said sums shall be paid by the County upon receipt of a monthly invoice from U.L., LLC., for the services rendered during the preceding month.
- II. TERM.** The primary term of the agreement shall be for a three (3) year period, commencing on the 28th day of March, 2023 and shall expire on the 27th day of March, 2026.
- III. Jurisdiction/Venue.** This contract is made subject to the charter, orders and/or ordinances of the COUNTY, as amended, and all applicable laws of the State of Texas. This contract is performable in Webb County, Texas, and venue for any legal action under this contract shall lie exclusively in Webb County, Texas; State District Court. In construing this contract, the laws and court decisions of the State of Texas shall control.
- IV. Indemnification.** CONTRACTOR agrees that the indemnity provided for in this paragraph shall not apply to any liability resulting from the sole negligence of COUNTY, its officers, agents, employees or separate contractors, and in the event of joint and concurrent negligence of both the CONTRACTOR and COUNTY, responsibility, if any, shall be apportioned comparatively in accordance with the laws of the State of Texas, without waiving any governmental immunity available to the COUNTY under Texas law and without waiving any defenses of the parties under Texas law. 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 or entity.

- V. Records Retention Requirement.** All of Contractor's records shall remain the property of the COUNTY, **however**, CONTRACTOR shall be permitted to retain copies of documented services and records provided to Webb County and/or the Webb County Volunteer Fire Department. By execution of this contract and in consideration of the fee for services to be paid under the contract, CONTRACTOR hereby conveys, transfers and assigns to COUNTY all rights to work performed. CONTRACTOR shall retain all records relating to this contract for three (3) years following termination, during which time COUNTY reserves the right to audit such records at its election.
- VI. Independent Contractor.** In performing services under this contract, the relationship between County and CONTRACTOR is that of an independent contractor. CONTRACTOR shall exercise independent **judgment** in performing duties under this contract and is solely responsible for setting working hours, scheduling or prioritizing the work flow and determining how the work is to be prepared. No term or provision of this contract shall be construed as making CONTRACTOR the agent, servant or employee of COUNTY, or making CONTRACTOR or any of its employees eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which COUNTY provides its employees.
- VII. Prohibition against Assignment.** There shall be no assignment or transfer of this Contract without the prior written consent of both parties hereto.
- VIII. Waiver.** The failure on the part of any party to exercise or to delay in exercising, and no course of dealing with respect to any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law or in equity, except as expressly set forth herein.
- IX. Severability.** Each paragraph and provision hereof is severable from the entire Contract and if any provision is declared invalid, the remaining provisions shall nevertheless remain in effect.
- X. Headings.** The headings used herein are for convenience of reference only and shall not constitute a part hereof or affect the construction or interpretation hereof.
- XI. Terminology and Definitions.** All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural and the plural shall include the singular.
- XII. Rule of Construction.** The parties hereto acknowledge that each party and its legal counsel have reviewed and revised this contract, and the parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this contract or any amendments or exhibits hereto.
- XIII. Immunity.** Webb County does not waive or relinquish any immunity or defense on behalf of themselves, their trustees, commissioners, council members, officers, employees and agents as a result of the execution of this Contract and performance of the functions and obligations described herein.
- XIV. Legal Compliance.** The parties hereto agree to comply fully with all applicable federal, state and local statutes, ordinances, rules, and regulations in connection with the services contemplated under this contract. In the event that any of the parties hereto are required by law or regulation to perform any act inconsistent with this contract, or to cease performing any act required by this contract, this contract shall be deemed to have been modified to conform to the requirements of such law, regulation or rule.

- XV. Entire Agreement.** This Contract incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Contract. No other prior agreement or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless signed by both parties and attached hereto and/or embodied herein.
- XVI. Amendment.** No changes to this Contract shall be made except upon written agreement of both parties.
- XVII. Confidentiality.** Any confidential information provided to or developed by Contractor in the performance of this Contract shall be kept confidential, unless otherwise provided by law, and shall not be made available to any individual or organization without the prior written approval of the County. This contract is subject to the Texas Public Information Act in accordance with Chapter 552 of the Texas Government Code.
- XVIII. Counterparts.** This Contract may be executed in any number of and by the different parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same document.
- XIX. Terminology and Definitions.** All personal pronouns used herein, whether used in the masculine, feminine, or neutral, shall include all other genders; the singular shall include the plural and the plural shall include the singular.
- XX. Insurance.** Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include products/completed operations (\$1,000,000 products/completed operations aggregate), and XCU (Explosion, Collapse, Underground) hazards. Coverage must be written on an occurrence form. Contractual Liability must be maintained covering the Contractors obligations contained in the contract.
- a. Commercial Automobile Liability insurance at minimum combined single limits of 1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.
 - b. Errors & Omissions coverage may not be required for all services. If The Webb County deems such coverage necessary, the following conditions will apply:
 - i. Professional Liability with minimum limits of \$1,000,000 or higher, depending on the type, size, and scope of services.
 - ii. This coverage must be maintained for at least two (2) years after the project is completed. If coverage is written on a claims-made basis, a policy retroactive date equivalent to the inception date of the contract (or earlier) must be maintained during the full term the contract.

PLEASE NOTE: The required limits may be satisfied by any combination of primary, excess, or umbrella liability insurances, provided the primary policy complies with the above requirements and the excess umbrella is following-form. The Contractor may maintain reasonable and customary deductibles, subject to approval by the Webb County.

- a. Any Subcontractor(s) hired by the Contractor shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this

provision. The Webb County accepts no responsibility arising from the conduct, or lack of conduct, of the subcontractor.

- b. A Comprehensive General Liability insurance form may be used in lieu of a Commercial General Liability insurance form. In this event, coverage must be written on an occurrence basis, at limits of \$1,000,000 each-occurrence, combined single limit, and coverage must include a broad form Comprehensive General Liability Endorsement, products/completed operations, XCU hazards, and contractual liability.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting the following:

- a. Sets forth all endorsements and insurance coverages according to requirements and instructions contained herein.
- b. Shall specifically set forth the notice-of-cancellation or termination provisions to the Webb County.

XXI. AUDITS. At any reasonable time during normal business hours, Webb County, or its duly authorized representatives, shall have the right to enter the offices of U.L., LLC., in order to inspect or audit financial books and records. At such times, the County, or its duly authorized representatives, shall have the right to inspect any records it deems necessary and appropriate to conduct such an audit; including but not limited to: (i) all billings and invoices; (ii) all personnel records; (iii) all equipment maintenance records; (iv) all payroll tax records; (v) all correspondence files; and (vi) all accountant's work papers pertaining to Webb County. The County shall have a right to copy, at its own expense, any records pertaining to County emergency business. The cost of any such audit shall be borne by the County

- (1) The execution of this Agreement and the performance of its obligations pursuant to this Agreement will not violate the terms of any other agreement;
- (2) It has reviewed this Agreement with its attorney and has been fully apprised of the legal effect of the terms and conditions of this Agreement;
- (3) All of the above warranties and representations are true and correct as of the date of this Agreement and will remain true and correct throughout the term of this Agreement.

XXII. DEFAULT. The following are events of default by U.L., LLC., under this Agreement:

- (1) U.L., LLC.'s failure to comply with any obligation it is required to provide to Webb County in accordance with the terms of this Agreement;
- (2) U.L., LLC.'s failure to fully and timely perform any of its obligations pursuant to the terms of this Agreement;
- (3) Specifically enforce the provisions of this Agreement by means of a decree from a court of competent jurisdiction;
- (4) The insolvency, or transfer in fraud of creditors, or assignment for the benefit of creditors by U.L., LLC.'s, or any of its principals;

- (5) The filing by U.L., LLC.'s, or any of its principals, of a petition for bankruptcy, or the adjudication of U.L., LLC.'s, or any of its principals, as bankrupt or insolvent in proceedings filed against U.L., LLC.'s, or any of its principals;
- (6) The appointment of a receiver for all or substantially all the assets of U.L., LLC.'s or any of its principals;
- (7) The transfer, conveyance, sale, gift or assignment by the principals of U.L., LLC.'s of ownership of any portion of the assets and business of U.L., LLC. This does not prevent the transfer of shares of the business between the principals existing at the time of the execution of this Agreement.);
- (8) The involuntary conveyance or transfer of ownership of any portion of the assets and business of U.L., LLC.

XXIII. NOTICES. Any notice required hereunder shall be deemed received by the party to be notified whenever a letter containing such notice is deposited with the United States Postal Service, certified mail, return receipt requested, with proper postage affixed thereto and addressed to the party to be notified in the following manner:

Webb County:
Webb County Judge
1000 Houston Street, 3rd Floor
Laredo, Texas 78040

With copies to:

Webb County Fire Chief Ricardo Rangel
7210 E. Saunders St.
Laredo, Texas 78040

General Counsel Civil
Legal Division
1000 Houston St., 2nd Floor Laredo,
Texas 78040

XXIV. MISCELLANEOUS.

- (1) No waiver by the County of any violation or event of default shall be deemed or constitute a waiver of any other violation or event of default herein contained. Forbearance by the county to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or constructed to constitute a waiver of such default.
- (2) Words of any gender used in this Agreement shall be held to include the plural unless the context otherwise requires.
- (3) The captions are inserted in this Agreement for convenience only and in no way define, limit or described the scope of intent of this Agreement, or any provision hereof, nor in any way affect the interpretation of this Agreement.
- (4) This agreement may not be altered, changed or amended except by an instrument in writing signed by both parties.
- (5) If any provision of this agreement is found to be illegal, invalid or unenforceable, the remaining

provisions of this agreement shall continue as if such illegal, invalid, or unenforceable provision was not part of this Agreement.

- (6) This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and shall be enforced in Webb County, Texas.
- (7) There shall be no assignment or transfer of this Agreement without the prior written consent of both parties hereto.
- (8) Webb County does not waive or relinquish any immunity or defense on behalf of themselves, their trustees, commissioners, council members, officers, employees and agents as a result of the execution of this Agreement and performance of the functions and obligations described herein.

IN WITNESS WHEREOF, we have hereunto set our hands on this the ___ day of March, 2023

WEBB COUNTY

U.L., LLC.

Tano E. Tijerina
Webb County Judge

ATTESTED:

Margie Ramirez Ibarra
Webb County Clerk

APPROVED AS TO FORM:

Ray Rodriguez
Assistant General Counsel
Civil Legal Division*

*By law, the Civil Legal Division may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

Passed and approved by the Webb County Commissioners Court On March 27th, 2023; Item No. .