

STATE OF TEXAS §
COUNTY OF FORT BEND §

**AGREEMENT FOR THE TRANSFER OF A HAZARDOUS RESPONSE TEAM
VEHICLE FROM FORT BEND COUNTY TO THE PECAN GROVE VOLUNTEER
FIRE DEPARTMENT PURSUANT TO THE HAZARDOUS MATERIAL RESPONSE
PROGRAM**

This Agreement to Transfer a Hazardous Response Team Vehicle from Fort Bend County to the Pecan Grove Volunteer Fire Department pursuant to the Hazardous Material Response Program (the “Agreement”) is entered into by and between Fort Bend County, (“County”), a body corporate and politic under the laws of the State of Texas, and Pecan Grove Volunteer Fire Department, (“PGVFD”), an incorporated volunteer fire department located in Fort Bend County, (hereinafter each referred to as a “party” or collectively as the “parties”).

WHEREAS, on September 26, 2017, the Fort Bend County Commissioners Court adopted the revised Fort Bend County Hazardous Material Response Program (the “Hazardous Material Response Program”), which is incorporated fully by reference; and

WHEREAS, the Hazardous Material Response Program establishes standard operating procedures concerning response levels to hazardous material incidents within Fort Bend County, and area within the Houston Galveston Area Council region; and

WHEREAS, the Hazardous Material Response Program authorizes the County’s Regional Hazardous Material Response Team (“HMRT”) vehicles to be assigned to local fire departments; and

WHEREAS, the Hazardous Material Response Program authorizes the replacement of HMRT vehicles; and

WHEREAS, PGVFD is a member of the HMRT and is currently assigned a HMRT vehicle (trailer); and

WHEREAS, the parties wish to replace the HMRT vehicle (trailer) currently assigned to the PGVFD (VIN: 1WC200G2552052216); and

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

1. **Replacement of a HMRT Vehicle.** The County will replace the HMRT vehicle (trailer) currently assigned to PGVFD with a 2022 model, 16 foot Cargo Wagon Enclosed Trailer, (VIN: 53FBE1626NF075735), (the “2022 Trailer”). PGVFD will return the HMRT vehicle (trailer), (VIN: 1WC200G2552052216), currently assigned to County.

PGVFD will use the 2022 Trailer in accordance with the Hazardous Material Response Program and applicable state and federal law. The County shall retain title to the 2022 Trailer. PGVFD will assume any and all liability and costs related to the use, or condition of the 2022 Trailer, including without limitation, daily operating costs (fuel, tires, oil, etc.), insurance, costs of maintenance and repairs, etc. PGVFD will return the 2022 Trailer to County: (1) when the 2022 Trailer is replaced pursuant to the Hazardous Material Response Program, or (2) upon request by the County.

2. **Hazardous Material Response Program.** The Hazardous Material Response Program remains in full force and has not been modified or amended by this Agreement. In the event of a conflict between this Agreement and the Hazardous Material Response Program, the Hazardous Material Response Program will control to the extent of the conflict. Nothing in this Agreement will be construed to limit PGVFD's ability to recover associated costs for incident response and mitigation efforts concerning Regional Hazardous Material incidents as described in Appendix B of the Hazardous Materials Response Program.
3. **Indemnification.** PGVFD agrees to save and hold the County harmless from any and all liability for injury or death of any person or damage to any property arising out of or in connection with any act or omission of the PGVFD performed under this Agreement.
4. **Liability.** Neither party waives or relinquishes any immunity from liability, limitation of liability, or defense on behalf of itself, its officers, employees, and agents provided by the Constitution and laws of the State of Texas as a result of its execution of this Agreement and the performance of the covenants contained herein.
5. **Applicable Law; Arbitration; Attorney Fees.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. County does not agree to submit disputes arising out of the Agreement to binding arbitration. County does not agree to pay any and/or all attorney fees incurred by PGVFD in any way associated with the Agreement. Each party paying for the performance of services must make those payments from current revenues available to the paying party.
6. **Modifications and Waivers.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.
7. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, PGVFD ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT

NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.

8. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.
9. **Compliance with Laws.** PGVFD shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, PGVFD shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.
10. **Successors and Assigns.**
 - a. This Agreement shall be binding on the heirs, successors and assigns of the parties hereto.
 - b. PGVFD shall not assign, sublet or transfer its interest or obligations in and under this Agreement without the prior, written consent of County.
 - c. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County.
11. **Public Information Act.** PGVFD expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by PGVFD shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.
12. **Independent Contractor.** In the performance of work or services hereunder, PGVFD shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of PGVFD or, where permitted, of its subcontractors. PGVFD and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.
13. **Captions.** The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

14. **Electronic and Digital Signatures.** The parties to this Agreement agree that any electronic and/or digital signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.

15. **Notices.**

15.1. Each party giving any notice or making any request, demand, or other communication (each, a “Notice”) pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

15.2. Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County Fire Marshal’s Office
Attn: Fire Marshal
1521 Eugene Heimann Circle #114
Richmond, Texas 77469

With a copy to: Fort Bend County
Attn: County Judge
301 Jackson Street
Richmond, Texas 77469

Fire Department: Pecan Grove Volunteer Fire Department
Attn: Fire Chief
727 Pitts Road
Richmond, Texas 77406

15.3. A Notice is effective only if the party giving or making the Notice has complied with subsections 15.1 and 15.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

15.3.1. If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

15.3.2. If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

(Execution Page Follows)

IN WITNESS WHEREOF, this Agreement is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Agreement and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will. This Agreement is effective upon execution by both parties.

FORT BEND COUNTY

KP George, County Judge

Date

ATTEST:

Laura Richard, County Clerk

REVIEWED:

Fort Bend County's Fire Marshal's Office

PECAN GROVE VOLUNTEER FIRE DEPARTMENT



Authorized Agent – Signature

Jerod Vontz
Authorized Agent- Printed Name

Fire Chief
Title

04/22/2022
Date