

# 25E  
AGENDA ITEM

FORT BEND COUNTY FY 2009  
COMMISSIONERS COURT AGENDA REQUEST FORM  
Return Completed Form by E-Mail to: Agenda Coordinator, County Judge's Office

Date Submitted: September 17, 2009 Submitted By: Michael Gutierrez  
Department: Comm. Pct. #1  
Court Agenda Date: September 22, 2009 Phone Number: 281-633-7687

**SUMMARY OF ITEM:** Take all appropriate action on the Agreement For Fire Protection Services between Fort Bend County and the Fresno Volunteer Fire Department for an amount not to exceed \$47, 086, funded by the BFI tipping fees. (Fund: Fresno Arcola Projects)

**RENEWAL AGREEMENT/APPOINTMENT** YES  NO   
**REVIEWED BY COUNTY ATTORNEY'S OFFICE:** YES  NO

List Supporting Documents Attached: *Agreement For Fire Protection Services*

**FINANCIAL SUMMARY:**

**BUDGETED ITEM:** YES  NO

**FUNDNG SOURCE:** Accounting Unit: \_\_\_\_\_ Account Number: \_\_\_\_\_  
Activity (If Applicable): \_\_\_\_\_

**DESCRIPTION OF LAWSOM ACCOUNT:** \_\_\_\_\_

**Instructions to submit Agenda Request Form:**

- Completely fill out agenda form: incomplete forms will not be processed.
- Agenda Request Forms should be submitted by e-mail, fax, or inter-office mail, and all back-up information must be provided by Wednesday at 2:00 p.m. to all those listed below.
- All original back-up must be received in the County Judge's Office by 2:00 p.m. on Wednesday.

**DISTRIBUTION:**

Original Form Submitted with back up to County Judge's Office  (✓ when completed)  
If by E-Mail to [ospindon@co.fort-bend.tx.us](mailto:ospindon@co.fort-bend.tx.us) If by Fax to (281) 341-8609

Distribute copies with back-up to all listed below. If by fax, send to numbers below:

<input type="checkbox"/> Auditor (281-341-3774)	<input type="checkbox"/> Comm. Pct. 1 (281-342-0587)
<input type="checkbox"/> Budget Officer (281-344-3954)	<input checked="" type="checkbox"/> Comm. Pct. 2 (281-403-8009)
<input type="checkbox"/> Facilities/Planning (281-633-7022)	<input checked="" type="checkbox"/> Comm. Pct. 3 (281-242-9060)
<input type="checkbox"/> Purchasing Agent (281-341-8642)	<input checked="" type="checkbox"/> Comm. Pct. 4 (281-980-9077)
<input type="checkbox"/> Information Technology (281-341-4526)	<input checked="" type="checkbox"/> County Clerk (281-341-8697)
<input type="checkbox"/> Other:	<input checked="" type="checkbox"/> County Atty (281-341-4557)

**RECOMMENDATION / ACTION REQUESTED:**

Special Handling Requested (specify):

10-1-09 2 orig's. ret. to Michael at Comm. Pct. 1

THE STATE OF TEXAS §  
                                  §  
COUNTY OF FORT BEND §

KNOW ALL MEN BY THESE PRESENTS:

AGREEMENT FOR FIRE PROTECTION SERVICES

THIS AGREEMENT, is made and entered into by and between Fort Bend County, a body corporate and politic under the laws of the State of Texas, acting by and through its governing body the Commissioners Court, hereinafter called "County," and the Fresno Volunteer Fire Department, a non-profit, Texas corporation, hereinafter referred to as "Fresno" to provide fire protection to the residents of unincorporated area near Fresno, Texas.

WITNESSETH:

WHEREAS, County may contract with an incorporated volunteer fire department that is located within the county to provide fire protection to an area of the county that is located outside the municipalities of the county pursuant to Section 352.001 of the TEXAS LOCAL GOVERNMENT CODE;

WHEREAS, the Commissioners' Court of Fort Bend County finds that it is in the public interest and serves the general welfare of the community to provide funding to Fresno to assist with Fresno's efforts to provide fire protection;

WHEREAS, the Commissioners Court of Fort Bend County finds that by entering into this Agreement with Fresno, County will be promoting public safety and furthering its serving its citizens;

NOW, THEREFORE, for and in consideration of the mutual covenants, agreements and benefits to the parties herein named, it is hereby agreed as follows:

ARTICLE I.  
INCORPORATION OF PREAMBLE

The parties affirm that all of the matters set forth in the preamble are true and correct and hereby incorporate said preamble as a material part of this Agreement.


ARTICLE II.  
SERVICES

Fresno shall provide fire protection services to the residents of the unincorporated area near Fresno, Texas in accordance with Chapter 352 of the TEXAS LOCAL GOVERNMENT CODE.

ARTICLE III.  
CONSIDERATION

- 3.01 As consideration for this Agreement, County will pay to Fresno an amount not to exceed FORTY SEVEN THOUSAND EIGHTY SIX DOLLARS (\$47,086.00), payable in equal quarterly installments of ELEVEN THOUSAND SEVEN HUNDRED SEVENTY ONE AND 50/100 DOLLARS (\$11, 771.50) each upon invoice. County will pay within thirty (30) days from County's receipt of each invoice.
- 3.02 Fresno shall, at reasonable times, afford County access to the books and records of account, wherever located, as they relate to the funding provided herein.

  
County

  
Fresno

ARTICLE IV.  
TERM

- 4.01 This Agreement shall be for a twelve month term commencing October 1, 2009 and continuing through September 30, 2010.
- 4.02 This Agreement may be terminated without cause prior to the expiration of the term herein at the option of either County or Fresno upon the giving of thirty (30) days written notice to the other party in the manner and form provided for herein. The termination of the Agreement will be effective upon the last day of the month in which the expiration of the thirty (30) day period occurs.

ARTICLE V.  
ASSIGNMENT

FRESNO WILL NOT, IN WHOLE OR IN PART, TRANSFER, ASSIGN, ALL OR ANY PORTION, ABANDON, OR OTHERWISE DISPOSE OF ITS RIGHTS UNDER THIS AGREEMENT, WITHOUT THE PRIOR EXPRESS WRITTEN CONSENT OF COMMISSIONERS' COURT.

ARTICLE VI.  
NOTICE

- 6.01 Any notice required or permitted hereunder to be given, shall be given by registered or certified United States Mail, return receipt requested, postage prepaid, addressed to:

To County:  
Fort Bend County  
301 Jackson, 7<sup>th</sup> Floor  
Richmond, Texas 77469  
Attn: County Judge

To Fresno:  
Fresno Volunteer Fire Department  
P.O. Box 185  
Fresno, Texas 77545  
Attn.: Fire Chief

- 6.02 Notice will be considered given and completed upon deposit of notice in the U.S. Mail.
- 6.03 Notwithstanding anything to the contrary herein contained, County is not precluded from giving actual notice to Fresno in any manner.
- 6.04 Any change to Fresno's addresses will be in writing, signed by Fresno, and will be delivered to the Commissioners Court of the County.

ARTICLE VII.  
INDEMINIFICATION

- 7.01 **FRESNO EXPRESSLY AGREES TO INDEMNIFY AND HOLD COUNTY, ITS AGENTS, EMPLOYEES AND OFFICERS (THE FOREGOING ARE COLLECTIVELY REFERRED TO HEREIN AS "COUNTY"), HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS AND RELATED EXPENSES IN ANY MANNER WHATSOEVER, ARISING OUT OF THE SERVICES AND ALL EVENTS AND/OR ACTIVITIES OF FRESNO, ITS OFFICERS, EMPLOYEES, FRESNO, REPRESENTATIVES, MEMBERS, AGENTS, GUESTS, INVITEES AND VOLUNTEERS INCIDENT TO THIS AGREEMENT.**

7.02 **FRESNO WILL INDEMNIFY AND PROTECT THE COUNTY FROM THE ALLEGED JOINT, CONCURRENT OR SOLE NEGLIGENCE, OR OTHER FAULT OF FRESNO.**

ARTICLE VIII.  
FRESNO IS AN INDEPENDENT CONTRACTOR

- 8.01 In the performance of work or services under this Agreement, Fresno 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 Fresno, or where permitted, its subcontractors.
- 8.02 Fresno 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.

ARTICLE IX.  
MISCELLANEOUS

- 9.01 Except as otherwise provided for herein, all consents, rules, and regulations as provided for herein by the County shall only be those approved or adopted by the Commissioners' Court of Fort Bend County, Texas.
- 9.02 Wherever the phrase "Commissioners Court" is used herein, it refers to the Commissioners' Court of Fort Bend County.
- 9.03 If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.
- 9.04 Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.
- 9.05 No member, official, or employee of County shall be personally liable to Fresno or any successor in interest, in the event of any default or breach by County or for any amount which may become due to Fresno, its successors, or on any obligations under the terms of this Agreement.
- 9.06 This Agreement shall be governed by the laws of the State of Texas. Venue for all purposes is the County of Fort Bend, Texas.

ARTICLE X.  
FRESNO REPRESENTATIONS AND ACKNOWLEDGEMENTS

- 10.01 Fresno warrants and represents unto County that:
- A. Fresno is a duly organized and existing legal entity, in good standing in the state of Texas; and
  - B. Fresno has full right and authority to execute, deliver and perform this Agreement; and
  - C. The person executing this Agreement on behalf of Fresno was authorized to do so; and
  - D. That prior to County's execution of this Agreement, Fresno will deliver to County satisfactory evidence of the person executing this Agreements authority to execute this Agreement on behalf of Fresno.

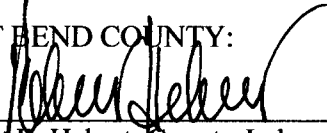
ARTICLE XI  
ENTIRE AGREEMENT

- 11.01 This Agreement constitutes the entire Agreement of the parties on the subject matter hereof and may not be changed, modified, discharged or extended except by written instrument duly executed by the County, acting through its Commissioners Court, and Fresno.
- 11.02 Fresno hereby agrees that no representations or grants or rights or privileges shall be binding upon County unless expressed in writing in this Agreement.
- 11.03 Any oral representations or modifications concerning this instrument will be of no force or effect excepting a subsequent modification in writing signed by all the parties hereto.

ARTICLE XII.  
EXECUTION

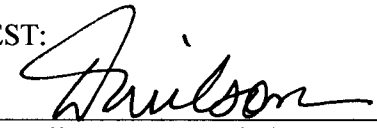
IN TESTIMONY AND WITNESS OF WHICH this Agreement has been executed in duplicate originals as follows:

FORT BEND COUNTY:

  
\_\_\_\_\_  
Robert E. Hebert, County Judge

Date: September 22, 2009

ATTEST:

  
\_\_\_\_\_  
Dianne Wilson, County Clerk


FRESNO VOLUNTEER FIRE DEPARTMENT

  
\_\_\_\_\_  
Paul Hamilton, Fire Chief

Date: 9/17/09

Auditor's Certificate

I hereby certify that funds in the amount of \$47,086.00 are available to pay the County's obligation within the foregoing Agreement for the provision of Services.

  
\_\_\_\_\_  
Ed Sturdivant, County Auditor