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STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

**1ST AMENDMENT TO AGREEMENT BETWEEN FORT BEND COUNTY AND
FRESNO VOLUNTEER FIRE DEPARTMENT
FOR FIRE PROTECTION IN UNINCORPORATED FORT BEND COUNTY**

This **FIRST AMENDMENT** to the Agreement for Fire Protection in Unincorporated Fort Bend County (hereinafter, the "Agreement"), attached hereto as Exhibit "A," and made a part hereof for all purposes, is entered into by and between **FORT BEND COUNTY, TEXAS**, (hereinafter referred to as "County") a body politic, acting herein by and through its Commissioners Court and Fresno Volunteer Fire Department (hereinafter, the "VFD") and states as follows:

WHEREAS on or about August 27, 2013, the Fort Bend County Commissioners Court terminated the Fresno/Arcola Advisory Committee, who was originally created to disburse funds from the County's BFI Tipping Fee account to directly benefit the Fresno/Arcola area;

WHEREAS on or about August 27, 2013, the Fort Bend County Commissioners Court authorized Commissioner Precinct One to recommend expenditures in place of Fresno/Arcola Advisory Committee;

WHEREAS the current Commissioner Precinct One now hereby recommends additional payment to the VFD as a direct benefit to the Fresno/Arcola area and as compensation for the services rendered per the Agreement executed between County and VFD on or about October 7, 2014 for fires services; and

NOW THEREFORE, for and in consideration of the mutual benefits to be derived by the parties hereto, County and VFD agree to the following:

1. County shall pay VFD an additional amount of \$37,418.00 for services provided under Section 2.2 of this Agreement, funding source to be exclusively from the County's BFI tipping fees account.
2. County shall remit payment within 60 days of execution of this Amendment.
3. The additional compensation is for the 2014-2015 contract year only and shall not automatically renew.
4. All terms and conditions of the Agreement, including any addenda, not modified in this First Amendment shall remain in full force and effect and for the term of the Agreement; and
5. If there is a conflict between this First Amendment and any prior executed document that the provisions of this First Amendment shall prevail.

IN TESTIMONY OF WHICH, THIS FIRST AMENDMENT shall be effective upon execution of County.

FORT BEND COUNTY

By: _____

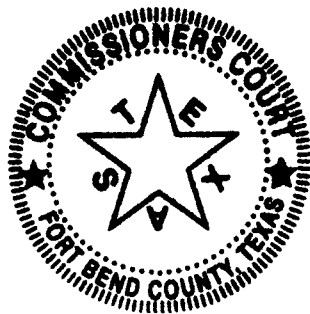
Robert E. Hebert, County Judge

Date: _____

2-10-2015

ATTEST:

Laura Richard, County Clerk



FRESNO VOLUNTEER FIRE DEPARTMENT

By: _____

Signature

Printed name & title

Date: _____

1/29/15

Auditor's Certificate

I hereby certify that funds in the amount of \$37,418.00 are available to pay the County's obligation within the foregoing Agreement for the provision of Services.

Ed Sturdivant, County Auditor

Attachments: Exhibit A – October 7, 2014 Fire Services Agreement

I/2015 agreements/fire marshal 01.22.15

Exhibit A

October 7, 2014 Fire Services Agreement



December 19, 2014

Michael Gutierrez
Arcola Fresno Advisory Council
Fort Bend County
1517 Eugene Heimann Circle, Suite 300
Richmond, Texas 77469

RE: Fresno Fire Station Attendant Funding

To Commissioner Morrison, Precinct 1:

First, I want to thank you for your continued support of the station day attendant project. This program has been a great benefit to the community since it provides immediate response capability during weekday normal business hours to the various incidents without having to wait for neighboring fire departments mutual aid response. The weekday normal business hours are the department's most venerable time due to the fact most members are at their personal jobs.

Therefore, we are submitting another request to fund the project another year, for the period of Oct. 1, 2014 through Sept. 31, 2015. We are requesting the same amount as submitted last year, \$37,418.00.

If you have any questions, please feel free to contact me.

Regards,

Paul Hamilton

Board of Directors, Paul Hamilton

PO Box 185

(281) 835-5960

Fresno, Texas 77545

THE STATE OF TEXAS §

§

COUNTY OF FORT BEND §

**AGREEMENT BETWEEN FORT BEND COUNTY
AND FRESNO VOLUNTEER FIRE DEPARTMENT
FOR FIRE PROTECTION IN UNINCORPORATED FORT BEND COUNTY**

THIS Agreement for Fire Services ("Agreement") is entered into by and between County of Fort Bend by and through the Fort Bend County Fire Marshal (hereinafter referred to as "County") and Fresno Volunteer Fire Department (hereinafter referred to as "VFD").

WHEREAS, Fresno Volunteer Fire Department is an incorporated volunteer fire department located in Fort Bend County, and

WHEREAS, the Texas Local Government Code, 352.001 authorizes County to enter into an agreement with an incorporated volunteer fire department to provide fire protection to an area of the county that is located outside the municipalities in the county.

NOW, THEREFORE, it is mutually agreed by the Parties hereto to enter into this Agreement upon the following terms:

SECTION ONE

TERM

- 1.1 The term of this agreement shall be from **October 1, 2014** and continuing through **September 30, 2015**.
- 1.2 This Agreement shall automatically renew each October 1, for additional one year terms unless terminated by either party.
- 1.3 Renewals will be on the same terms and conditions set forth herein, except for the rate of compensation which is subject to annual review and recalculation by County.
- 1.4 Either party may terminate this Agreement, with or without cause, by giving at least ten (10) days written notice to the other party.

SECTION TWO

FIRE CALLS IN UNINCORPORATED FORT BEND COUNTY

- 2.1 During the term of this agreement, the VFD agrees to furnish fire protection, firefighting, and assistance and assistance in emergency medical services to the unincorporated surrounding areas in Fort Bend County.
- 2.2 It is hereby agreed and understood that the fire protection, firefighting and assistance in emergency medical services to be furnished by the VFD under this agreement shall include, but not be limited to, the following: Answering all calls for help and assistance in extinguishing fires in the area designated in this Agreement; furnishing firefighting personnel, equipment and supplies to fight all fires; and answering all calls and furnishing firefighting personnel, equipment and supplies to protect persons and property which are

endangered by fires; provided that the above described personnel, equipment and supplies are not otherwise engaged in firefighting.

- 2.3 County shall compensate VFD as follows:
- a. County agrees to pay VFD an Annual Payment of \$217,000 for services provided under Section 2.2 of this Agreement.
 - b. The Annual Payment shall be made in one lump sum, no later than December 31, of each year.
 - c. Rate of compensation for automatic renewals shall remain the amount stated in Section 2.3 unless VFD is otherwise advised by County prior to October 1 of each year.
- 2.4 The VFD shall observe and comply with all Federal, State, County and VFD laws, rules, ordinances and regulations in any manner affecting the conduct of the services herein provided and performance of all obligations undertaken by this agreement. Specifically, the performance of this agreement shall comply with any and all requirements of the Americans with Disabilities Act of 1990, 42 USC.
- 2.5 It is expressly understood that the County has funds specifically allocated to fully discharge its obligation under this agreement. To the extent required by law, County agrees that the act of a person who, in carrying out a county's authority to provide fire protection, furnishes fire protection to a county resident, who lives outside the municipalities in the county, is considered to be the act of an agent of the County.
- 2.6 It is further agreed that in the performance of all obligations under taken by this Agreement, the VFD has the right to supervise, manage, control and direct the performance of fire protection, firefighting, and assistance of emergency medical services. However, the County Fire Marshal shall maintain and coordinate the work of the various fire-fighting and fire prevention units in the unincorporated area of the county per incident.
- 2.7 The VFD agrees to utilize the County's online reporting system to document all service provided under this Agreement. County reserves the right to perform an audit of all books and records of the VFD as they may relate to the performance of this Agreement at any time. The VFD shall maintain accurate records at all times. Upon ten days' notice, the VFD shall provide County reasonable access to VFD's records to verify conformance to the terms of this Agreement.

SECTION THREE INDEMNIFICATION

To the extent permitted by law and except where otherwise noted herein, the VFD agrees to save and hold the County harmless from 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 VFD performed under this Agreement. To the extent permitted by law, the County agrees to save and hold the VFD harmless from 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 County performed under this Agreement.

SECTION FOUR
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.

SECTION FIVE
PAYMENTS FROM CURRENT REVENUES

All payments by a party for services must be made from current revenues available to such party.

SECTION SIX
FAIR COMPENSATION

All payments made by one party to the other party for the performance of governmental functions or services is in an amount that fairly compensates the performing party for the services or functions performed under this Agreement.

SECTION SEVEN
SEVERABILITY

The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held to be invalid or contrary to the law by a court of competent jurisdiction or contrary to any rule or regulation in the remaining portions of the Agreement, it will not affect, impair, or invalidate this Agreement as a whole or any provision hereof not declared to be invalid or contrary to law. However, upon the occurrence of such event, either party may terminate this Agreement forthwith upon the delivery of written notice of termination to the other party.

SECTION EIGHT
ENTIRE AGREEMENT; REQUIREMENT OF WRITING

- 8.1 It is understood and agreed that the entire Agreement of the parties is contained herein and that this Agreement supersedes all oral Agreements and negotiations between the parties relating to the subject matter hereof as well as any previous Agreement presently in effect between the parties relating to the subject matter hereof.
- 8.2 Any alterations, amendments, deletions, or waivers of the provisions of this Agreement will be valid only when expressed in writing and duly signed by the parties.
- 8.3 No party hereto may make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other party hereto.

SECTION NINE
APPLICABLE LAW

- 9.1 It is understood that the terms and conditions of this Agreement are governed by the laws of the State of Texas, except with regard to choice of law provisions.
- 9.2 Venue for the litigation of any dispute arising out of this Agreement shall be in Fort Bend County, Texas, and in no other location.

SECTION TEN
COMPLIANCE WITH LAWS AND REGULATIONS

Both parties will abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the respective obligations of each party herein, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules or regulations constitutes a material breach of this Agreement, and entitles either party to terminate this Agreement immediately upon delivery of written notice to the other party.

SECTION ELEVEN
NOTICES

- 11.1 All notices required or permitted hereunder must be in writing and will be deemed delivered on the third day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the respective other party at the address below or at such other address as the other party may have theretofore prescribed by notice to the sending party.
- 11.2 Either party may change its respective addresses by providing at least fifteen (15) days written notice to the other party.
- 11.3 Notice to the VFD shall be sent to:
 - Fresno Volunteer Fire Department
 - Attention: Fire Chief
 - 4525 FM 521
 - Fresno, TX 77545
- 11.4 Notice to the County shall be sent to:
 - Fort Bend County
 - 401 Jackson
 - Richmond, Texas 77469
 - Attention: County Judge

With a copy to:

 - Fort Bend County Fire Marshal
 - 1521 Eugene Heimann Circle #114
 - Richmond, TX 77469
- 11.5 The parties may change their respective addresses and each may specify as its address any other address by providing at least fifteen (15) days written notice to the other party.

SECTION TWELVE
EXECUTION

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the 7 day of OCT, 2013.⁴

FORT BEND COUNTY

Robert E. Hebert
Robert E. Hebert, County Judge

10-7-14
Date

ATTEST: *Dianne Wilson*
Dianne Wilson, County Clerk

10-7-14
Date



Reviewed: *Mark Featrowski*
Mark Featrowski
Fort Bend County Fire Marshal

VFD
M. Toney
Signature

9/17/14
Date

Chris Toney
Printed Name

9/17/14
Date

Reviewed: *M. Toney*
Fire Chief

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$ _____ to accomplish and pay the obligation of Fort Bend County under this Agreement.

Robert Edward Sturdivant, County Auditor