THE STATE OF TEXAS §
§
COUNTY OF FORT BEND §

**AGREEMENT FOR ADDITIONAL LAW ENFORCEMENT SERVICES BETWEEN FORT BEND COUNTY AND FIRST COLONY COMMUNITY SERVICES ASSOCIATION, INC.**

This Agreement, made and entered into by and between Fort Bend County, Texas, a body corporate and politic acting herein by and through its Commissioners Court ("County"), and FIRST COLONY COMMUNITY SERVICES ASSOCIATION, INC. ("ASSOCIATION").

**WITNESSETH:**

WHEREAS, the County and the ASSOCIATION desire to further promote public safety and to protect the public interest by having the County provide additional law enforcement services to a certain Area in Fort Bend County, Texas, generally referred to as ASSOCIATION, as authorized by Section 351.061, Texas Local Government Code;

WHEREAS, the County and the ASSOCIATION acknowledge that County shall collect 100 percent of the cost for supplying the law enforcement services, less the amount prorated for time divided between service to ASSOCIATION and service to County;

WHEREAS, the County and the ASSOCIATION agree that payment for law enforcement services shall be 95% all of the costs and additional expenses the County will incur for providing such additional law enforcement services for the contract period and that the 5% not assessed to the ASSOCIATION is the amount prorated for time divided between service to the ASSOCIATION and service to County;

WHEREAS, the Fort Bend County Constable, Precinct 4 ("Law Enforcement Official") has law enforcement authority in the ASSOCIATION's geographical area; and

WHEREAS, the County and the Law Enforcement Official desire to provide said additional law enforcement services.

NOW THEREFORE, in consideration of the mutual promises and representations herein contained, the parties hereby agree as follows:

**ARTICLE I.**
**DEFINITIONS**

For the purpose of this Agreement, the following terms shall mean:

1. Area. That Area herein referred to generally as First Colony Community Services Association, Inc. In no event shall the defined Area exceed the geographical area represented by the ASSOCIATION or the jurisdictional boundaries of the County.
2. Contract Deputy(ies). Means the additional Deputy(ies) (whether one or more) provided by the County to the ASSOCIATION to provide the additional law enforcement services contemplated and provided for in this Agreement.



2/10/2016 - Two originals sent to Vicki Flynt, Constable Pct. 4.

3. Equipment. Includes but is not limited to: vehicles, uniforms, cellular phones, radios and all other materials and items necessary to carry out the terms of this Agreement.
4. Working Time. Means the usual or normal hours (including overtime) that a Contract Deputy(ies) is required by the Law Enforcement Official to work in any calendar month. In addition, working time includes ninety five percent (95%) of the time the Contract Deputy(ies) is on vacation leave, is on sick leave and receives workers' compensation benefits.

## ARTICLE II.
## PURPOSE

The purpose of this Agreement is for the County to authorize (but not require) the Law Enforcement Official to provide additional law enforcement personnel to the designated Area under the terms and conditions herein contained. By signing this Agreement the Law Enforcement Official agrees to provide the services referred to in Article IV under the terms and conditions herein contained.

## ARTICLE III.
## TERM

The term of this Agreement shall be effective at 12:01 a.m **October 1, 2015 (or, if later, on the date signed by County)** and expire on **September 30, 2016** at 11:59 p.m., unless sooner terminated pursuant to the terms herein contained.

A. It is expressly understood and agreed to by the parties that the period or term of this Agreement may be terminated without cause at any time by either party giving to the other party at least thirty (30) days advance written notice of its intent to terminate, specifying in the notice the effective date of the termination. Such notice shall be given by certified mail, return receipt requested, and shall be effective when mailed to the address stated herein.

B. It is expressly understood and agreed to by the Parties that if this Agreement expires before a new Agreement is executed services will continue, on a month to month basis, per the same terms of this Agreement but subject to retroactive adjustment for any subsequent Agreement.

C. It is expressly understood and agreed to by the parties that, notwithstanding the ability of either party to terminate this Agreement upon thirty (30) days written notice, this Agreement may be terminated by the County, with or without notice to the ASSOCIATION, at any time after the ASSOCIATION has defaulted in the payment of any obligation hereunder.

D. It is expressly understood and agreed to by the parties that if the ASSOCIATION shall at any time be in default of any obligation hereunder, the ASSOCIATION shall be liable to the County for any and all expenses incurred by the County as a result of such default, including, but not limited to, attorney's fees, costs of court and interest at the rate of one percent (1%) simple interest per month, on all past due amounts.

E. The amount of expenses incurred and interest accrued, if any, shall be deemed to be in addition to any money due for law enforcement services rendered hereunder. If the term of this Agreement is terminated at any time other than at the end of a contract month, the monthly installment payment for such month shall be prorated.

## ARTICLE IV.
## CONTRACT DEPUTY(IES)

A. The County, by and through the Law Enforcement Official's Office, agrees to provide the ASSOCIATION with **the number of Contract Deputy(ies) shown on Exhibit "A,"** to the Area who will devote at least 95% of working time related to the ASSOCIATION's geographical area.

B. The Contract Deputy(ies) shall perform his/her duties under this Agreement in full compliance with the appropriate Fort Bend County policies and the policies and procedures of the Law Enforcement Official's Office.

C. The Law Enforcement Official, or his representative, shall use reasonable effort to notify the ASSOCIATION at least ten (10) days in advance of the vacation time to be taken by a Contract Deputy(ies).

D. The Law Enforcement Official, or his representative, shall use reasonable effort to notify the ASSOCIATION as soon as possible when a Contract Deputy(ies) is on sick leave.

E. The Contract Deputy(ies) shall perform law enforcement services in the ASSOCIATION's geographical location which may include, but are not limited to: patrolling, preparing reports, appearing in court, arresting persons and transporting suspects.

F. Scheduling and delivery of contract services provided herein shall be managed between the Law Enforcement Official and the ASSOCIATION.

G. The Contract Deputy(ies) shall submit written copies of any felony offense reports and subsequent copies of investigative reports to the Fort Bend County Sheriff's Office.

H. In the event the Area is within the incorporated limits of a municipality, the Contract Deputy(ies) shall also submit written copies of any felony offense reports and subsequent copies of investigative reports to the municipal police department that serves the Area.

## ARTICLE V.
## AUTHORITY AND COUNTY'S PEROGATIVE TO APPOINT CONTRACT DEPUTY(IES)

A. It is expressly understood and agreed to by the parties that the Contract Deputy(ies), if any, shall be subject to the control and supervision of the Law Enforcement Official to the same extent as the Law Enforcement Official's other deputies, and that the Contract Deputy(ies), if any, shall have no duty or obligation to the ASSOCIATION or the residents of the Area other than those duties and obligations that the Law Enforcement Official's deputies have to the public generally.

B. The Law Enforcement Official hereby expressly retains full and complete authority to supervise the Contract Deputy(ies) and, in an emergency, determined solely at the Law Enforcement Official's discretion, may assign any Contract Deputy(ies) to duties other than those to be performed pursuant to this Agreement.

C. It is expressly understood and agreed to by the parties that this Agreement is not intended (nor shall it be construed) to obligate the County and/or the Law Enforcement Official in any

manner, *whatsoever*, to assign the Contract Deputy(ies) to devote any portion of his/her Working Time to the Area.

D. It is expressly understood and agreed to by the parties that:

1. In the event the Law Enforcement Official does not assign the Contract Deputy(ies) to devote at least 95% of his/her Working Time to the Area;
2. In the event the Contract Deputy(ies) is removed from the Area by the Law Enforcement Official; and/or
3. If for some other reason the Contract Deputy(ies) does not devote at least 95% of his/her Working Time to the Area for the term of this Agreement; then and in that event, Fort Bend County shall have no liability *whatsoever* to the ASSOCIATION and/or the residents of the Area, other than to credit the ASSOCIATION an appropriate refund, if any be due, as provided for herein.

## ARTICLE VI.
## COUNTY EMPLOYEES

A. The Contract Deputy(ies) performing duties under this Agreement shall at all times remain a county employee subject to the same rights and responsibilities as the Law Enforcement Official's other deputies.

B. The County agrees that the Contract Deputy(ies) shall perform the services described herein in accordance with the appropriate Fort Bend County policies and the policies and procedures of the Law Enforcement Official's Office; provided, however, that, while Fort Bend County shall be responsible for the acts and omissions of its employees, such responsibility shall be subject to the terms, provisions and limitations of the Constitution and of the laws of the State of Texas and, particularly, TEX. CIV. PRAC. & REM. §101.001, et. seq., the Texas Tort Claims Act. THERE ARE NO WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THIS AGREEMENT OR ANY SERVICES PROVIDED BY COUNTY OR THE LAW ENFORCEMENT OFFICIAL TO THE ASSOCIATION, AND COUNTY AND THE LAW ENFORCEMENT OFFICIAL EXPRESSLY DISCLAIM ANY SUCH WARRANTIES AND CONDITIONS.

C. The Law Enforcement Official retains sole and independent authority regarding the hiring, supervision, discipline, and termination of the Contract Deputy(ies).

## ARTICLE VII.
## INCREASES

A. The ASSOCIATION agrees to pay 95% of any and all increases in the Contract Deputy(ies)'s salary, allowances, benefits, etc. that may occur during the term of this Agreement, including, but not limited to:

1. Social Security;
2. Medicare;
3. Retirement;
4. Workers Compensation/unemployment;
5. Health and Life Insurance;
6. Certification pay;
7. Any overtime incurred at the request of the ASSOCIATION;
8. Any overtime incurred because of circumstances related to the Area;

9. Death and Dismemberment Insurance; and/or
10. Cost of Living Adjustments.

B. Salary. Upon notice by the County to the ASSOCIATION of any such increases and/or additional expenses (whether included on Exhibit "A" or not), the ASSOCIATION shall pay said increased salary, allowances, benefits, additional expenses etc., in accordance with the provisions contained herein.

## ARTICLE VIII.
## PAYMENT BY ASSOCIATION

A. All payments shall be made payable to Fort Bend County and shall be delivered to the Fort Bend County Treasurer, P.O. Box 1202, Richmond, Texas 77406-1202.

B. The ASSOCIATION agrees to pay Fort Bend County in accordance with Contract Deputy(ies) Cost Worksheet for all presently known expenses beginning the effective date of this contract. See attached Exhibit "A." Both parties acknowledge and agree that the expenses shown therein are an **estimated amount**, used by Fort Bend County to assess 95% (ninety five percent )of the cost to the County for supplying the additional law enforcement services ("Contract Amount").

C. The ASSOCIATION hereby expressly agrees to pay for 95% of all costs incurred by the County for providing the services hereunder, regardless of whether said expenses are set forth in Exhibit A, including but not limited to, Contract Deputy(ies) overtime, uniforms, equipment, portable cellular phones, vehicles, vehicle maintenance and/or vehicle appearance. Said Cost to be 95% of the allocated costs as determined by the County Auditor.

D. Additional equipment not calculated in Exhibit "A", but determined by the Law Enforcement Official to be necessary to carry out the terms of this Agreement, shall be obtained by:

1. Purchase of the equipment by County with County funds which shall be reimbursed by ASSOCIATION in accordance with Article VIII of this Agreement;
2. Purchase of the equipment by ASSOCIATION who shall donate it to the County provided that the equipment meets the County's standards and is approved by the Law Enforcement Official before being used by the Contract Deputy(ies); or
3. Purchase by County with advance funds provided by ASSOCIATION.

E. The manner in which additional equipment will be purchased is solely within County's discretion.

F. In the event that a single additional equipment purchase will exceed $500.00, ASSOCIATION will be notified of the need for the equipment and allowed 96 hours to object to the purchase.

1. During the objection period, contract services will be provided, as long as the Law Enforcement Official determines that service is feasible.
2. If ASSOCIATION objects to the purchase, County shall have the option to terminate this agreement without notice.
3. ASSOCIATION will not be credited for services not performed due to equipment issues.

G. Any equipment purchased pursuant to this Agreement shall forever become and remains the sole property of the County, regardless of County's election in Article VIII (D) of this Agreement and shall remain property of the County, even upon termination of this Agreement for any reason.

H. Actual cost of contract will be reviewed at least semiannually and no more than quarterly, at the discretion of the Fort Bend County Auditor. Proper notification of any changes will be sent no later than thirty (30) days following the end of the period being reported. Payment by the ASSOCIATION shall be due and payable, without demand, no later than the first day of the month in which the service is provided. Payment shall be made in equal monthly installments subject to any adjustments as provided herein.

I. It is expressly understood and agreed to by the parties that if a payment due under the terms of this Agreement is not received by County within thirty (30) days of the due date, the County is authorized to terminate this Agreement without further notice. Failure of County to make demand for payments due shall not be a waiver of the ASSOCIATION's obligations to make timely payments.

J. If any installment is for a fraction of a contract month, the amount of such installment shall be appropriately prorated.

## ARTICLE IX.
## ASSIGNMENTS

This Agreement is not assignable.

## ARTICLE X.
## INDEMNITY AND HOLD HARMLESS

**A. THE ASSOCIATION AGREES TO AND SHALL INDEMNIFY, SAVE AND HOLD HARMLESS AND DEFEND THE COUNTY, ITS OFFICIALS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES (WHETHER 1ST PARTY OR 3RD PARTY) AND RELATED COSTS, FOR PERSONAL INJURY DEATH OR PROPERTY DAMAGE, DESTRUCTION OR LOSS ARISING OUT OF OR CONNECTED IN ANY WAY WITH THE PERFORMANCE OF THE ASSOCIATION'S RESPONSIBILITIES UNDER THIS AGREEMENT, WHERE SUCH PERSONAL INJURY, DEATH OR PROPERTY DAMAGE, DESTRUCTION OR LOSS IS CAUSED BY THE ASSOCIATION'S SOLE NEGLIGENCE OR ITS SOLE INTENTIONAL ACT OR OMISSION OR WHERE SUCH PERSONAL INJURY , DEATH, OR PROPERTY DAMAGE, DESTRUCTION, OR LOSS IS CAUSED BY THE JOINT NEGLIGENCE OF THE ASSOCIATION AND ANY OTHER PERSON, OR ENTITY OR THE JOINT INTENTIONAL ACT OR OMISSION OF THE ASSOCIATION AND OTHER PERSON OR ENTITY.**

B. The ASSOCIATION shall furnish County with insurance certificates(s) and a copy of each policy that is in effect as of the effective date of this Agreement for verification and approval by the County Risk Management Department. The Association shall provide County subsequent insurance certificates throughout the term of the Agreement upon request. The Association shall carry 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 independent contractors, and contractual liability each at $1,000,000 per occurrence. Coverages shall be written on per occurrence

forms. Policies shall name the County, its elected and appointed officials, agents and employees as additional insureds.

## ARTICLE XI.
## SEVERABILITY

The provisions of this Agreement are severable, and if any word, phrase, clause, sentence, paragraph, section or other part of this Agreement or the application thereof, to any person or circumstance, shall ever be held by any court or regulatory authority of competent jurisdiction, to be invalid, illegal or unconstitutional for any reason, the remainder of this Agreement shall not be affected thereby, unless, in the sole opinion of the County, the purposes of this Agreement have been rendered useless.

## ARTICLE XII.
## ENTIRE AGREEMENT; REQUIREMENT OF A WRITING

A. It is understood and agreed to by the parties that the entire Agreement of the parties is contained herein and in the attached Exhibit "A" and that this Agreement supersedes all prior communications and negotiations among the parties, oral or written, relating to the subject matter hereof as well as any previous Agreements presently in effect between the parties relating to the subject matter hereof.

B. Any modifications, alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties.

## ARTICLE XIII.
## NOTICE

A. Any notice required or permitted under this Agreement shall be sent, postage prepaid, certified or registered mail, or delivered in person or by facsimile, with verification, as follows:

To the **County**:
Fort Bend County
401 Jackson, First Floor
Richmond, Texas 77469

To the **ASSOCIATION**:
First Colony Community Services Association, Inc.
Sweetwater
4350 Austin Parkway
Sugar Land, TX 77479

B. Any Party may designate a different address by giving at least ten (10) days written notice to the other party in the manner provided above.

## ARTICLE XIV.
## THIRD PARTY APPROVAL MAY BE REQUIRED

A. In the event that the Area lies within the corporate limits of any incorporated city, it is understood and agreed to by the parties that this Agreement is subject to the approval of the governing body of the incorporated city ("City") within which corporate limits the Area lies.

B. Such approval must occur by the 30th day after the date this Agreement is received by the City.

C. It is further understood and agreed to by the parties that, upon thirty (30) days written notice from the City to the County, this approval may be withdrawn and, thereby, this Agreement terminated.

## ARTICLE XV.
## EXECUTION

IN WITNESS WHEREOF, the parties put their hands to this Agreement on the dates indicated below.

**FORT BEND COUNTY**

Robert E. Hebert, County Judge

Date: February 9, 2016

ATTEST: Laura Richard

Laura Richard, County Clerk

Approved:

Law Enforcement Official

Printed Name: TREVER J. NEHLS

Agency: Ft Bend County Dept

COMMISSIONERS COURT STATE OF TEXAS FORT BEND COUNTY, TEXAS

**FIRST COLONY COMMUNITY SERVICES ASSOCIATION, INC.**

By: Amy A Keller

Title: Executive Director

Date: 10 October 2015.

**CITY OF SUGAR LAND**

By:

Title: City Manager

Date: 12-01-2015

ATTEST: Glenda Sundermann

Approved as to form*:

Michelle Rangel, Assistant County Attorney

*By law, the County Attorney's Office may only advise or approve contracts or legal documents on behalf of the County. 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 the County. Our approval of this document was offered solely for the benefit of the County. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney.

**Attachment: Exhibit "A" – Cost Estimate Sheet**

I:/Agreements/2016/contractdeputy/Association:First Colony.Sweetwater: 3042- (090115)

# Fort Bend County
## Constable #4 Contract Deputy Budget Proposal
## First Colony - Sweetwater
### For the 12 Month Period of
### October 1, 2015 through September 30, 2016

| Description | Estimated Costs |
|---|---|
| Salary (3) 40/80 Hour Deputy | 250,410 |
| Holiday | 11,560 |
| Leave | - |
| Overtime | - |
| 4.14% Cost of Living | 10,850 |
| Certification | 11,140 |
| Longevity | 1,870 |
| FICA/Medicare | 21,870 |
| Retirement | 33,700 |
| Group Insurance | 57,810 |
| Workers' Comp./Unemployment | 10,860 |
| Total Salary & Fringe Benefits | 410,070 |
| | |
| Fees | 2,280 |
| Administration Fee | 20,500 |
| Travel | |
| Officer Training | 250 |
| Other Rentals/Leases | |
| Office Supplies | |
| Operating Supplies | |
| Materials & Supplies | 380 |
| Officer Training Supplies | 750 |
| Uniforms | 3,750 |
| Property & Equipment | |
| Communications Equipment | |
| Fuel | 16,170 |
| Automobile Capital Mileage | 15,890 |
| Automobile Maintenance & Repair | 6,410 |
| Total Estimated Cost | 476,450 |
| 95% of Estimated Cost | 452,630 |
| Monthly Payment* | 37,720 |

*Payments are due by the 1st of the month in which services will be received.

*All costs estimated in Exhibit A are subject to adjustment by the Fort Bend County Auditor in accordance with the terms of the executed Agreement. Actual cost of the contract will be reviewed at least semiannually and no more than quarterly, at the discretion of the Fort Bend County Auditor. The review and notice of payment changes shall be sent to the Association's contacts listed below:*

ckelley@firstcolony.org
Email Address

Cary A Kelley
Name

dpepping@firstcolony.org
Email Address

Doug Pepping
Name

Initial

EXHIBIT A

SM
7/31/2015

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295



Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY**

**CERTIFICATION OF FILING**

**Certificate Number:**
2016-2660

**Date Filed:**
01/12/2016

**Date Acknowledged:**

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

First Colony Community Association
Sugar Land, TX United States

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

Fort Bend County

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

CDC4-16FIRSTCOL
Security Patrol in Sweetwater Neighborhoods

| 4 Name of Interested Party | City, State, Country (place of business) | Nature of interest (check applicable) | |
|---|---|---|---|
| | | Controlling | Intermediary |
| Pepping, Doug | Sugar Land, TX United States | | X |
| Kelley, Cary | Sugar Land, TX United States | | X |
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| | | | |

**5 Check only if there is NO Interested Party.** ☐

**6 AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

LYNN K. HAIST
Notary Public, State of Texas
My Commission Expires
August 27, 2016

Finance Mgr
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Doug Pepping, this the 12th day of January, 2016, to certify which, witness my hand and seal of office.

Lynn K Haist — Signature of officer administering oath
Lynn K Haist — Printed name of officer administering oath
Notary Public — Title of officer administering oath

# CERTIFICATE OF INTERESTED PARTIES

**FORM 1295**



Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY**
**CERTIFICATION OF FILING**

**Certificate Number:**
2016-2660

**Date Filed:**
01/12/2016

**Date Acknowledged:**
02/09/2016

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

First Colony Community Association
Sugar Land, TX United States

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Fort Bend County

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the goods or services to be provided under the contract.**

CDC4-16FIRSTCOL
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| | | Controlling | Intermediary |
| Pepping, Doug | Sugar Land, TX United States | | X |
| Kelley, Cary | Sugar Land, TX United States | | X |
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**5 Check only if there is NO Interested Party.** ☐

**6 AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

_____
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20_____, to certify which, witness my hand and seal of office.

_____ _____ _____
Signature of officer administering oath | Printed name of officer administering oath | Title of officer administering oath