

State of Texas

County of Hidalgo

### RURAL EMERGENCY SERVICES CONTRACT

THIS CONTRACT made on the 3<sup>rd</sup> day of March, 2008, by and between the COUNTY OF HIDALGO, TEXAS, hereinafter called County, and the Linn-San Manuel/TEXAS, a municipal corporation/non-incorporated area hereinafter called CITY/ENTITY, is made under authority of Chapter 352, Texas Local Government Code to be effective on the 3<sup>rd</sup> day of March, 2008.

#### I. TERMS

- A. This Contract shall be for a period commencing on January 1, 2008 and shall terminate on December 31, 2008.
- B. After December 31, 2008, this Contract unless terminated as provided elsewhere shall automatically be renewed on a month-to-month basis until re-negotiated by mutual consent of both parties. If the city has not signed and submitted its new contract, both parties agree that twenty-five (25%) of the total amount of any invoice shall be deducted from the invoice amount for any invoice received until a current contract has been submitted and approved.
- C. Either party has the option to terminate the terms of this Contract by written notification sixty (60) days prior to cancellation.
- ~~D. On December 31, 2008, at 11:59 P.M., this Contract will be terminated.~~
- E. The Rural Emergency Service Incident Report (Exhibit A) form must be utilized as part of the monthly report submitted to the county Fire Marshal.

#### II. DEFINITIONS

- A. **EMERGENCY SERVICES** - Services provided by the City/Entity in rural and incorporated areas within Hidalgo County, will be limited to the following:
  - 1. **Fire Fighting:**
    - a. **Structure** - Any construction, or any production or piece of work artificially built up or composed of parts joined together in some definite manner. That is built or constructed; an edifice or building of any kind.
    - b. **Explosions** - The act or an example of exploding the loud, sharp sound made by such.

- c. **Vehicular** - Something used as an instrument of conveyance: any conveyance used in transporting passengers or merchandise by land, water or air.
    - (i.) **Commercial Motor Vehicle** - A motor vehicle or combination of motor vehicles used to transport passengers or property that: has a gross combination weight rating of 26,001 or more pounds, including a towed unit with a gross vehicle weight rating of more than 10,000 pounds; has a gross vehicle weight rating of 26,001 or more pounds; is designed to transport 16 or more passengers, including the driver; or is transporting hazardous materials and is required to be placarded.
    - (ii.) **Passenger Car** - A motor vehicle other than a motorcycle, used to transport persons and designed to accommodate 8 or fewer passengers including the operator.
  - d. **Rubbish** - Anything discarded as refuse; garbage, worthless material.
  - e. **Natural Vegetation** - Present in or produced by nature. The plants of an area or region; plant life collectively.
  - f. **Electrical** - Pertaining to or operated by electricity, current used or regarded as a source of power.
  - g. **Natural gas/propane and petroleum based incidents** - A gaseous fuel, the state of matter distinguished from the solid and liquid states by very low density and viscosity, relatively great expansion and contraction with changes in pressure and temperature. Propane is a colorless gas, found in natural gas and petroleum widely used as a fuel.
2. **Vehicular Accidents** - All emergency extrications from entanglement and/or hazard material containment (i.e. fuel spills, train, and/or airplane.)
  3. **Search & Rescue Calls** - All emergency rescues of person(s) in water or all emergency rescue/extrication of person(s) from entanglement, entrapment, enclosed areas, elevators, building collapse; recovery of drowned victim(s).
  4. **Mass Casualty** - All emergency rescuing of victims (8 or more) from major incidents (i.e. airplane, school bus, commercial bus accidents).

5. **Assist Law Enforcement Agencies** - (i.e. D.P.S., Sheriff, State, Federal Officers and Hidalgo County Fire Marshal's Office)
  6. **Hazardous Materials Incidents** - Responding to incidents at the First Responder Operational Level as defined by Environmental Protection Agency and/or Texas commission on Environmental Quality.
  7. **Mutual Aid** - Situations where a City is requested to assist another city to perform Emergency Services pursuant to the provisions of Section VI.
  8. **Service Calls** - Unauthorized burning, smoke scare, mischievous or malicious calls, and system malfunctions requiring fire personnel to deal with the incident. (Investigation or standby for possible service due to a potential accident)
  9. **Good Intent Calls** - Emergency Calls where fire personnel were not required to deal with the incident. ( No services, investigation, or standby was needed)
- B. Response Area:**
1. **Rural Areas** - Non-incorporated areas of Hidalgo County, as they exist at time of execution thereof, and as they may be amended by reasons of annexation and/or de-annexation of property by any respective city.
  2. **Incorporated Areas** - Areas within Hidalgo County that exist at time of execution thereof, and as they may be amended by reasons of annexation and/or de-annexation of property by any respective city.
- C. Hidalgo County Fire Marshal** - Appointed by county and responsible for the administration of fire investigations, fire safety inspections, fire prevention activities, administration of Rural Fire Contract, and enforcement of County Fire Code.
- D. Deputy Fire Marshals** - Those officers designated by County Fire Marshal responsible for all duties which may be assigned by the County Fire Marshal.
- E. County Fire Investigators** - Those officers designated by County Fire Marshal responsible for all duties which may be assigned by the County Fire Marshal.
- F. Reimbursement Plan** - Method by which a city is reimbursed by the County for emergency services rendered in rural areas.
- G. Primary City** - Primary City/Entity is the City/Entity who is a party to a cooperative Agreement with the County to respond to the areas where the emergency occurred as per Section II, Paragraph A, of this Contract.

- H. Secondary City** - Secondary City is any City/Entity or group of cities who respond to emergency services of a Primary City to assist the Primary City in performing emergency services in the Rural Response District of the Primary City.
- I. Rural Response District** - The area designated for City/Entity to respond to under the provision of this Contract as described on Exhibit B attached thereto and Exhibit B may be amended from time-to-time pursuant to Section III, Paragraph B of this Contract.

### **III. CITY'S RESPONSIBILITIES**

- A.** City Entity hereby agrees to provide emergency services, if resources are available, in City's Rural Response District of Hidalgo County and other rural response areas within the County as may be required by County Fire Marshal.
- B.** City/Entity hereby agrees that their Rural Response District within the County of Hidalgo is the area as shown by the map, attached hereto as Exhibit A. Each City's/Entity's Rural Response District may be amended from time to time during the period of this Contract by annexation or de-annexation of property by respective city(s) or by agreement of the County Fire Marshal, and the Fire Chief(s) responsible for the existing Rural Response District. The Rural Response Districts will be provided to the 911 Emergency Coordinator and the Sheriff's Office. A map of the Rural Response District of all participating Cities/Entities shall be maintained and provided by the County Fire Marshal's Office.
- C.** City/Entity agrees to provide the County Fire Marshal with statistics, data, and all records necessary in order to be reimbursed by the County as herein provided. In the absence of a County Fire Marshal, reports shall be provided to the County Judge.
- D.** City/Entity will provide its own insurance for equipment and vehicles used in performing the above mentioned services. Emergency vehicles and fire fighting apparatus must be owned and /or managed by the Cities.

### **IV. COUNTY'S RESPONSIBILITIES**

- A.** Consideration for City's/Entity's Rural Emergency Services, County will reimburse in the manner provided for herein.
- B.** The County shall designate a person and office who shall be known as the County Fire Marshal and County Fire Marshal's Office and who shall have the following responsibilities.

1. Administration
  - a. Fire Safety Inspections
  - b. Plat/Plan Reviews
  - c. Commercial Building Inspections
  - d. Health Care Facility Inspections
  - e. Existing and New Construction Inspections
  - f. Development and Enforcement of County Fire Codes
  - g. Adult and Child Care Facilities
  - h. Burn permits for rural areas of the County
  
2. Investigations
  - a. Conduct Fire Investigations
  - b. Provide Information and Reports
  - c. Assists Sheriff in issuance of citations for fire code infractions
  
3. Fire Prevention
  - a. Plans, coordinates, and directs activities
  - b. Conducts Training as needed to fire departments
  - c. Acquires and maintains equipment
  - d. Conducts public education
  - e. Performs safety presentations
  
4. Rural Emergency Service Contract Administration
  
5. Administration of Deputy Fire Marshal(s)

## **V. LIABILITY**

- A. City/Entity and County agree pursuant to section 352.004 Texas Local Government Code, that the acts of any person or persons traveling to or from or in an manner as defined in Section III, shall be deemed as the acts of agents or employees of County in all respects, notwithstanding such person or persons may otherwise be employees or fire fighters of the City/Entity.
  
- B. The County of Hidalgo agrees that it will provide general liability insurance coverage for liabilities caused by vehicles, equipment, and personnel of City/Entity performing such services under this Agreement. City/Entity shall be responsible for any damage to its vehicles or equipment used in performing services under this Agreement. Each party agrees that it shall provide general liability insurance coverage for the action of their employees and firefighters. Nothing herein shall be construed to prevent either party from becoming self-insured.
  
- C. For unincorporated areas with the capabilities as defined in Section II which cannot acquire insurance independently, County also agrees to provide Workers' Compensation insurance to cover any such City/Entity firefighter as listed on a

schedule provided to County during the first two weeks of December of each year. This must be kept updated during each calendar year or coverage to apply. Any city/Entity which applies for and receives Workers' Compensation insurance coverage under the county policy agrees to implement the Hidalgo County Accident Prevention Plan. Each City/Entity agrees to provide to County on a monthly basis along with billings any documentation for all safety training as required by the Accident Prevention Plan as implemented, as well as documentation of completion of other State/Federal fire fighting requirements.

- D. If either party cannot acquire the insurance required herein, this Agreement shall be void and the parties shall renegotiate their respective obligations regarding emergency services in the rural areas of Hidalgo County at the time.

## VI. REIMBURSEMENT PLAN

- A. County shall reimburse City/Entity of services provided hereunder in a lump sum, with payments to be made monthly as follows:
1. City/Entity shall keep true and accurate records of all emergency services provided hereunder by City/Entity and shall submit monthly reports therefore to County Fire Marshal by the 15<sup>th</sup> day of the following month in which the emergency services were provided. If the 15<sup>th</sup> were to fall on a weekend or a holiday, the monthly reports would be due the next business day. The parties hereto agree that ten percent (10%) of the total amount of any invoice shall be deducted from the invoice amount for any invoice not received by the due date. Reporting is a prerequisite to receiving payments from County. The Rural Emergency Service Incident Report form(s) shall be required as part of the monthly report. Accident Prevention Plan documentation is required from any City/Entity which is utilizing the County Workers' Compensation policy, as itemized in Section V(c).
  2. County shall communicate and provide a written itemized list of emergency services not reimbursed to City/Entity and an explanation for disapproval to the fire chief of City/Entity.
  3. County Fire Marshal shall accumulate records of all emergency services provided by all cities within Hidalgo County and shall calculate the amount due each City/Entity.
    - a. Any and all disputes of City/Entity reports shall be addressed directly by the Fire Marshal and/or the reporting City/Entity.
    - b. If resolution of disputed emergency services can not be reached, the reporting City/Entity may appeal to the Hidalgo County Commissioners' Court.

4. For all emergency calls serviced by City(s)/Entity(s) within its emergency response district, City/Entity shall receive a monthly lump-sum payment for all services corresponding to that year, in accordance with the following payment schedule.
  - a. The rate of \$720.00 per call for the following calls shall apply during the term of this Contract.
    - i. **Fire Fighting** - Structure, Explosions, Natural gas/Propane and Petroleum base (these are incidents which involve a working fire upon arrival). Natural vegetation, Brush, Grass, Rubbish and/or Trash – (Anything over two acres, a city block 300' x 300').
    - ii. **Vehicle Fire** - Any commercial vehicle or 3 or more passenger vehicles which involve a working fire upon arrival.
    - iii. **Vehicular Accidents** - All emergency extractions from any entrapment and/or entanglement incident.
    - iv. **Rescue Calls** - All emergency rescues of person(s) in the water, all emergency rescue/extrication of person(s) from enclosed areas (i.e. elevators, building collapse).
    - v. **Mass Casualty** - All emergency rescues and/or recovery of victims (8 or more) from major incidents (i.e. airplane, school bus, commercial bus accidents).
    - vi. **Hazardous Materials Incidents** - Responding to incidents at the First Responder Operational Level as defined by Environmental Protection Agency and/or Texas Commission on Environmental Quality. (Fuel spill over 35 gals).
    - vii. **Situation where Secondary City/Entity** is required to respond on behalf of Primary City/Entity to perform emergency services pursuant to Section VI (4) above: Secondary City/Entity will be reimbursed as Primary City/Entity at the current rates.
    - viii. **Special Situations** - A situation in which the City/Entity performed in a manner that is not covered above, or for an extended period of time, the Fire Chief must explain in detail the type of incident and reasons for reimbursement.

(County Fire Marshal will decide on rate of reimbursement.)

- b. The rate of \$575.00 per call for the following calls shall apply during the term of this Contract:
  - 1. **Fire Fighting** - Vehicular Fire any passenger vehicle that involves a working fire upon arrival.
  
- c. The rate of \$345.00 per call for the following calls shall apply during the term of the Contract.
  - i. **Mutual Aid** - In the event of emergency, and the emergency is of such magnitude that the Primary City must declare a multiple alarm and must request assistance from a Secondary City, each Secondary City requested by Primary City to respond shall receive \$345.00 for services provided. The Fire Chief for the Primary City must provide an independent written document to the County Fire Marshal specifically identifying the requested Secondary City(s)/Entity(s) for the multiple alarms along with any other pertinent information related to the circumstances requiring the issuance of its need for a multiple alarm call and assistance. **(On scene-only the Fire Chief or Incident Commander of the Primary City shall request the need for mutual aid. From station - the dispatcher from the Primary City may request the need for mutual aid due to no response from the Primary City/Entity or as a directive from the Fire Chief or Incident Commander who is on scene. Other - an Hidalgo County Fire Marshal may request mutual aid at anytime whether or not on scene.) NO OTHER AGENCIES may notify fire departments for mutual aid.**
  - ii. **Wash Down** - Any petroleum base where there is no fire. (Fuel spill under 35 gals.)
  - iii. **Rescue Call** - Recovery of any drowned victim(s)
  - iv. **Fire Fighting** - Natural Vegetation (anything below two acres of fire)
  - v. **Trash/Rubbish** - Residential dumpster, residential trash pit

- vi. **Natural gas/propane and petroleum based incidents -**  
To shut off gas and/or stand by for utility company(s)  
**(Where there is no fire or location)**
  - vii. **Explosion -** Where there is no fire on location
  - viii. **Electrical -** Any Electrical Pole and/or Transformer  
Explosion. Electrical wire down. **(Where there is no fire  
at location)**
  - ix. **Assist Law Enforcement Agencies:** D.P.S., Sheriff, State,  
Federal Officers, and Hidalgo County Fire Marshal.  
**(Where there is no fire, Non-Emergency call(s))**
  - x. **Hazardous materials incident -** Responding to incidents  
at the First Responder Operational Level as defined by  
Environmental Protection Agency and/or Texas Natural  
Resource Conservation Commission. **(Under 35 gal.)**
- d. The rate of \$230.00 per call for the following calls shall apply  
during the term of this Contract:
- i. **Traffic Control -** Any calls strictly for traffic control  
duties.
- e. The rate of \$115.00 per call for the following calls shall apply  
during the term of this Contract:
- i. **Good Intent Calls -** Emergency Calls where fire personnel  
were not required to deal with the incident. (No services,  
investigation, or standby was needed.) Includes all fires  
that are out upon arrival.
  - ii. **Service Calls -** Unauthorized burning, smoke scare,  
mischievous or malicious calls, and system malfunctions  
requiring fire personnel to deal with the incident.  
(Investigation or standby for possible service due to  
potential accident)

## VII. ASSIGNMENT

In the event a Rural Fire District(s) is created for the rural, non-incorporated areas of Hidalgo County, this Contract may be assigned by County to such District, and City/Entity shall look solely to the District(s) to perform and assume all Obligations and Responsibilities of County hereunder.

## VIII. AUDIT

Any and all requests for reimbursement by City/Entity from County under this Contract shall be subject to audit by the County Auditor. Should County Auditor elect to audit City's/Entity's records pertaining to any request or claim for reimbursement hereunder, City/Entity agrees to furnish County Auditor any and all information requested by county Auditor. Should County Auditor determine any payments received by City/Entity were not properly claimed under the terms of this Contact, City/Entity agrees to remit the amount of payments so found by County Auditor to County within ten (10) days following the date of receipt of City/Entity of County Auditor's written determination of same.

## IX. MISCELLANEOUS

1. **Conflict with Applicable Law.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.
2. **No Waiver.** No waiver by any party hereto of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.
3. **Entire Agreement.** This Agreement contains the entire contract among the parties hereto, and each party acknowledges that no other party has made (either directly or through any agent or representative) any representations or agreements in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed.
4. **Texas Law to Apply.** This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hidalgo County, Texas. The parties hereby consent to personal jurisdiction in Hidalgo County, Texas.
5. **Notice.** Except as may be otherwise specifically provided in this Agreement, all notices, demands, request or communications required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been therefore specified by written notice delivered in accordance herewith:

If to City: Linn - SAN MANUEL VFD  
P. O. Box #72  
Linn, Texas 78563

If to County: County of Hidalgo  
Attn. County Judge  
100 East Cano, 2<sup>nd</sup> Floor  
P. O. Box 1356  
Edinburg, Texas 78540

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes of such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

6. **Additional Documents.** The parties hereto covenant and agree that they will execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.
7. **Successors.** This Agreement shall be binding upon and insure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.
8. **Assignment.** This Agreement shall not be assignable.
9. **Headings.** The headings and captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.
10. **Gender and Number.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate.
11. **Authority to Execute.** The execution and performance of this Agreement by each of the parties hereto has been duly authorized by all necessary laws, resolutions, ordinances or governing body action, and the Agreement constitutes the valid and enforceable obligations of the parties hereto in accordance with its terms.
12. **Performance of Government Functions.** Each party hereto is entering into this Agreement for the purpose of providing for governmental services or functions, and will pay for such services out of current revenues available to the paying party as herein provided.

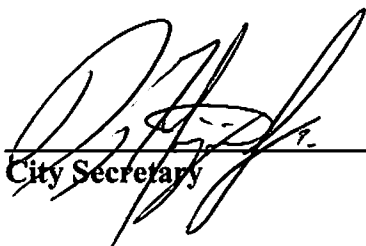
WITNESS THE HANDS OF THE PARTIES in duplicate  
originals effective as of the day and year first written above.

CITY OF

3/3/08  
Date:

LINN-SAN Manuel VFD  
By:

ATTEST:

  
\_\_\_\_\_  
City Secretary

COUNTY OF HIDALGO

\_\_\_\_\_  
Date:

\_\_\_\_\_  
J. D. Salinas, III, County Judge

ATTEST:

\_\_\_\_\_  
Arturo Guajardo, Jr., County Clerk

Approved as to Form:

Atlas & Hall, L.L.P.

  
\_\_\_\_\_  
By: Stephen L. Crain

