

Interlocal Cooperation Agreement between City of Penitas and County of Hidalgo, Texas.

STATE OF TEXAS

COUNTY OF HIDALGO

This Interlocal Cooperation Agreement is made on the 19 day of September, by and between the COUNTY OF HIDALGO, TEXAS, hereafter called County, and the City of Penitas, TEXAS, a municipal corporation/non incorporated area hereinafter called CITY/ENTITY, is made under the authority of Chapter 791.001, Texas Government Code to be effective on the 19 day of September, 2017.

Entity and County are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Government Code 791.001 et seq., which authorizes local governments to contract with each other to perform Governmental functions under the terms of the Act.

**1.0 TERMS**

- 1.1 This contract shall be for a period commencing on **September 19, 2017**, and shall terminate on **January 1, 2019**.
- 1.2 After **January 1, 2019**, this Contract, unless terminated as provided elsewhere shall be renewed on a month-to-month basis, under the same terms and conditions of this agreement, until re-negotiated by mutual consent of both parties.
- 1.3 Either party has the option to terminate this Contract without cause by written notification, to the other on sixty (60) day notice.
- 1.4 The Rural Emergency Service Incident Report (Exhibit "A") form must be utilized as part of the monthly report submitted to the County Fire Marshal or his designee.

**2.0 DEFINITIONS**

**COUNTY FIRE MARSHAL** – the person appointed by the Commissioners Court in accordance with LGC 352 who is responsible for the administration of fire investigations, fire safety inspections, and fire prevention activities, administration of the Rural Emergency Services Contract and enforcement of the most recently adopted International Fire Code. This is a Sworn position.

**ENTITY** - Parent organization of Fire Department whose members are full time, part time, paid or unpaid volunteers and for the purposes of this contract includes any elements from any public works department that are requested or deployed to assist with the suppression, control or extinguishment of a fire.

**COUNTY FIRE INVESTIGATORS** – Those officers designated as such, by the County Fire Marshal that are responsible for all duties which may be assigned by the County Fire Marshal.

**CHIEF DEPUTY / DEPUTY FIRE MARSHAL** – Those officers designated and commissioned by the County Fire Marshal that are responsible for all duties which may be assigned by the County Fire Marshal.

**INCORPORATED AREA** - any area(s) 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.

**MUTUAL AID** – A Primary Entity response to an emergency event where the situation is of such magnitude , either upon arrival or during the actual response, that the primary city/entity must declare a multiple alarm and request response from one or more Secondary Entity(s) and such assistance is necessary to control, extinguish, or otherwise assist with the response. This includes any element of public works that is called upon to help mitigate the emergency. The call for additional resources made by the Primary Entity from the Secondary Entity may be based on the extenuating circumstances, and may be made by the on-scene incident commander, and must go through a dispatch point with approval from the most senior officer that is on duty for the Entity. The Fire Marshal may authorize and/or request mutual aid at any time whether or not on-scene, when the request is made directly to them.

**OPERATIONAL PERIOD** – 12 hour standard as recognized by the National Incident Management system.

**PRIMARY ENTITY** – an Entity who is a party to an agreement with the County that is assigned to respond as the lead fire-based response agency to an area where the emergency occurred as per an agreement. This may be based on geographical assignments or capability.

**RESPONSE AREA** – the geographical area assigned to the Secondary Entity within the rural areas of the County, wherein the respective Secondary Entity shall assist in response to an emergency call for service.

**RURAL AREA** – any non-incorporated areas within Hidalgo County, as they exist at the time of execution thereof, and as they may be amended by reasons of annexation and/or de-annexation of property by any respective city or any incorporated area within Hidalgo County that does not provide its own emergency services or response.

**RURAL RESPONSE DISTRICT** – The area designated for the respective Primary Entity and/or Secondary Entity for emergency response within a delineated geographical area as depicted and described in Exhibit “B”, attached hereof. The rural response district may be amended from time to time pursuant to Section 3.2.

**SECONDARY ENTITY** – an Entity who is a party to an agreement the County and is assigned or requested to respond to assist the Primary City/Entity in emergency fire response to an area where the emergency occurred (Mutual Aid). The response may occur anywhere within the rural County and may be based on geographical assignment or capability **EXCLUDING all aid to other Jurisdictions in their city limits.**

### **3.0 ENTITY/ SECONDARY ENTITY RESPONSIBILITIES**

3.1 Entity hereby agrees to provide emergency fire response assistance services to Primary City(s)/Entity(s) as a secondary resource, if resources are available, to the geographically assigned Rural Response District, within the County, as may be required by the County Fire Marshal or otherwise as delineated within this contract.

- 3.2 Entity hereby agrees to the designation of Secondary Entity (response) within their designated Rural Response District as depicted in the attached map, as Exhibit "B". Each Entity Rural Response District may be amended from time to time during the period of this contract by annexation or de-annexation of property by any respective city(s), or by agreement of the County Fire Marshal, and Fire Chief(s) responsible for the existing Rural Response District. The Response Districts and assigned Entity will be provided to the designated 911 Coordinator and the Sheriff's Office. A map depicting the Rural Response Districts of all participating Entity(s) shall be maintained and provided upon request by the County Fire Marshal, at their designated office.
- 3.3 Entity hereby agrees to seek authorization from the County Fire Marshal **PRIOR** to responding to a call outside of the Rural Response Districts' geographical area as delineated and depicted in Exhibit "B".
- 3.4 Entity hereby agrees to provide the County Fire Marshal, with any and all records, reports, and documents, to include, but not limited to, statistics, data, calls for service records, dispatch logs, and any other records or other documents necessary. In the absence of the Fire Marshal, said records, reports, and documents may be provided to the County Judge or his designee.
- 3.5 Entity agrees that in multi-agency response calls, the communications interoperability radio channels will be used as primary communications with the designated incident commander. The Incident Commander or assigned communications officer may designate user and sub-user groups as necessary.
- 3.6 Entity agrees to allow the County Fire Marshal, full access to any and all operational communications frequencies / talk groups, that the Entity operates on and authorize the County Fire Marshal to use those frequencies/talk groups during a response to a designated emergency situation that the Entity responds to. This will include assigning user-identification numbers (if available) to any County Fire Marshal communications radio.
- 3.7 Entity agrees to practice NIMS/ICS during any multi-agency – multi-tiered response.
- 3.8 Entity agrees to provide its' own insurance for equipment, vehicles, and personnel used in performing any of the services described herein. Emergency vehicles and fire-fighting equipment must be owned and/or managed by the Entity. Entity agrees to provide proof of current and adequate vehicle, equipment and workmen's compensation insurance to the County upon submission of this contract or upon request from the County Fire Marshal.
- 3.9 During extended operations as designated by the Incident Commander, the Entity agrees to provide adequate hydration and sustenance for its firefighters/emergency response personnel.
- 3.10 Entity agrees that it will not cause, create or allow any type of "roving-patrols" or "smoke-hunting / chasing" operations by full-time employees, volunteers or paid-volunteers, in an effort to seek out emergency responses. Any simple trash burning calls will be referred to the appropriate law enforcement agency, i.e.. Fire Marshal, Constable Office or Sheriff's Office, unless the Roving

preventive fire patrol activity is requested and authorized by the Fire Marshal in writing during an emergency situation, burn ban period, or fireworks ban period.

## COUNTY RESPONSIBILITIES

4.1 The County shall designate a person and office that shall be known as the County Fire Marshal and County Fire Marshal's Office, who shall have the following responsibilities;

### 4.1.1 ADMINISTRATION

- a. Administration of Fire Marshal's Office
- b. Cause Burn Ban Signs (during designated times) to be displayed in conspicuous locations at all major roadway entrances to the County.
- c. Commercial Building Inspections
- d. Fire Safety Inspections
- e. Adult and Child Day Care Facility Inspections
- f. Health Care Facility Inspections
- g. Existing and New Construction Inspections
- h. Implementation and Enforcement of the most current version of the International Fire Code.
- i. Issuance and Regulation of Burn Permits in Rural County areas
- j. Monitor weather conditions and cause burn bans and fireworks bans to be enacted by the Commissioners Court, as appropriate.
- k. Plat/Plan Reviews and approvals

### 4.1.2 INVESTIGATIONS

- a. Conduct Fire Investigations
- b. Assist and guide other law enforcement agencies with Fire Code violations and enforcement.
- c. Provide Information and Reports

- d. Provide assistance to municipal departments with Fire Investigations, upon request.
- e. Issue Citations, make arrests, and file criminal cases as appropriate.

#### **4.1.3 FIRE PREVENTION**

- a. Plan, coordinate and direct activities.
- b. Conduct and participate in training with all Fire Departments.
- c. Acquire and maintain equipment.
- d. Conduct public education.
- e. Perform fire safety presentations.

#### **4.1.4 ADMINISTER RURAL EMERGENCY SERVICES CONTRACT**

- a. Shall determine if a Rural Response District may respond to a call outside of the Rural Response Districts' geographical area as delineated and depicted in Exhibit "B".

#### **4.1.5 RESPONSE**

- a. When requested, respond to a fire scene within a reasonable time to conduct an investigation into the cause of the fire.
- b. Will respond to any major incidents.
- c. Will integrate into the NIMS/ICS structure as appropriate
- d. Will assist the Incident Commander with any duties as assigned.
- e. Will provide Law Enforcement assistance/coordination as needed

### **5.0 LIABILITY**

- 5.1 Entity and County agree pursuant to Section 352.004, Texas Local Government Code that the acts of any person or persons travelling to or from or in a manner as defined in Section 3, shall be deemed as the acts of agents or employees of the County in all

respects, notwithstanding such person or persons may otherwise be employees or firefighters of the Entity.

- 5.2 The County of Hidalgo and Entity agree that they will provide general liability insurance coverage for liabilities caused by vehicles, equipment, and personnel. 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 respective employees and firefighters.
- 5.3 Nothing herein shall be construed to prevent either party from becoming self-insured. Each Entity participating and entering into this contract must provide written proof of insurance to the County when submitting the contract for approval. Upon request by the County or its duly authorized representative, the Entity must provide documentation of completion of any other State or Federal fire-fighting training requirements.
- 5.4 If either party cannot acquire the insurance required herein, this Agreement shall be void and the parties shall negotiate their respective obligations regarding emergency services response in the rural areas of Hidalgo County at the time. If at any time during the year the respective Entity loses its insurance capacity, it must immediately report this to the Fire Marshal and cease any responses to their assigned Rural Response District.

#### **6.0. 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 Entity shall look solely to the District(s) to perform and assume all Obligations and Responsibilities of County.

#### **7.0. MISCELLANEOUS**

- 7.1 **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 the 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.

**7.2 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.

**7.3 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 indirectly 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. This Agreement supersedes any and all agreements by and between the parties hereto. All previous agreements concerning the subject matter hereof between the parties are terminated as of the date of this Agreement.

**7.4 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.

**7.5 NOTICE.** Except as may be otherwise specifically provided in this Agreement, all notices, demands, request for 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 pre-paid 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 Entity

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, Texas \_\_\_\_\_

If to County: County of Hidalgo  
Ramon Garcia, County Judge  
100 E. Cano St. 2<sup>nd</sup> Floor, Edinburg, Texas 78539 or  
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.

- 7.6 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.
- 7.7 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.
- 7.8 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.
- 7.9 GENDER and NUMBER.** All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine, or neutral gender, and the singular shall include the plural whenever and as often as may be appropriate.
- 7.10 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.
- 7.11 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.
- 7.12 IMMUNITIES.** Nothing in this Agreement is intended to and County does not hereby waive, release or relinquish any right to assert any of the defenses County enjoys by virtue of the state or federal constitution, laws, rules or regulations, and any sovereign, official or qualified immunity available to County as to any claim or action of any person, entity, or individual against County.

**7.13 MUTUAL INDEMNIFICATION.** Without waiving its sovereign immunity, and to the extent provided by law, each party shall indemnify and hold harmless each other, its officers, officials, and employees from and against all claims and liabilities of any nature or kind, including costs and expenses for or on account of any claims, damages, losses, or expenses of any character whatsoever resulting in whole or in part from the negligent performance or omission of either party's employees or representatives connected with the activities described herein.

**WITNESS THE HANDS OF THE PARTIES**

**(In duplicate originals effective on the day both parties' signatures are executed.)**

<b>City of Penitas</b>	
_____	_____
<b>By:</b>	<b>Date</b>
<b>ATTEST:</b>	
_____	
<b>Board Secretary</b>	

<b>COUNTY OF HIDALGO</b>	
_____	_____
<b>Ramon Garcia, County Judge</b>	<b>Date</b>

**ATTEST:**

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**Arturo Guajardo, Jr., County Clerk**

**Approved as to Form:**

**Office of Criminal District Attorney's Office  
Ricardo Rodriguez, Jr.**

**By:** \_\_\_\_\_  
**Victor M. Garza, Assistant District Attorney**

# EXHIBIT “A”

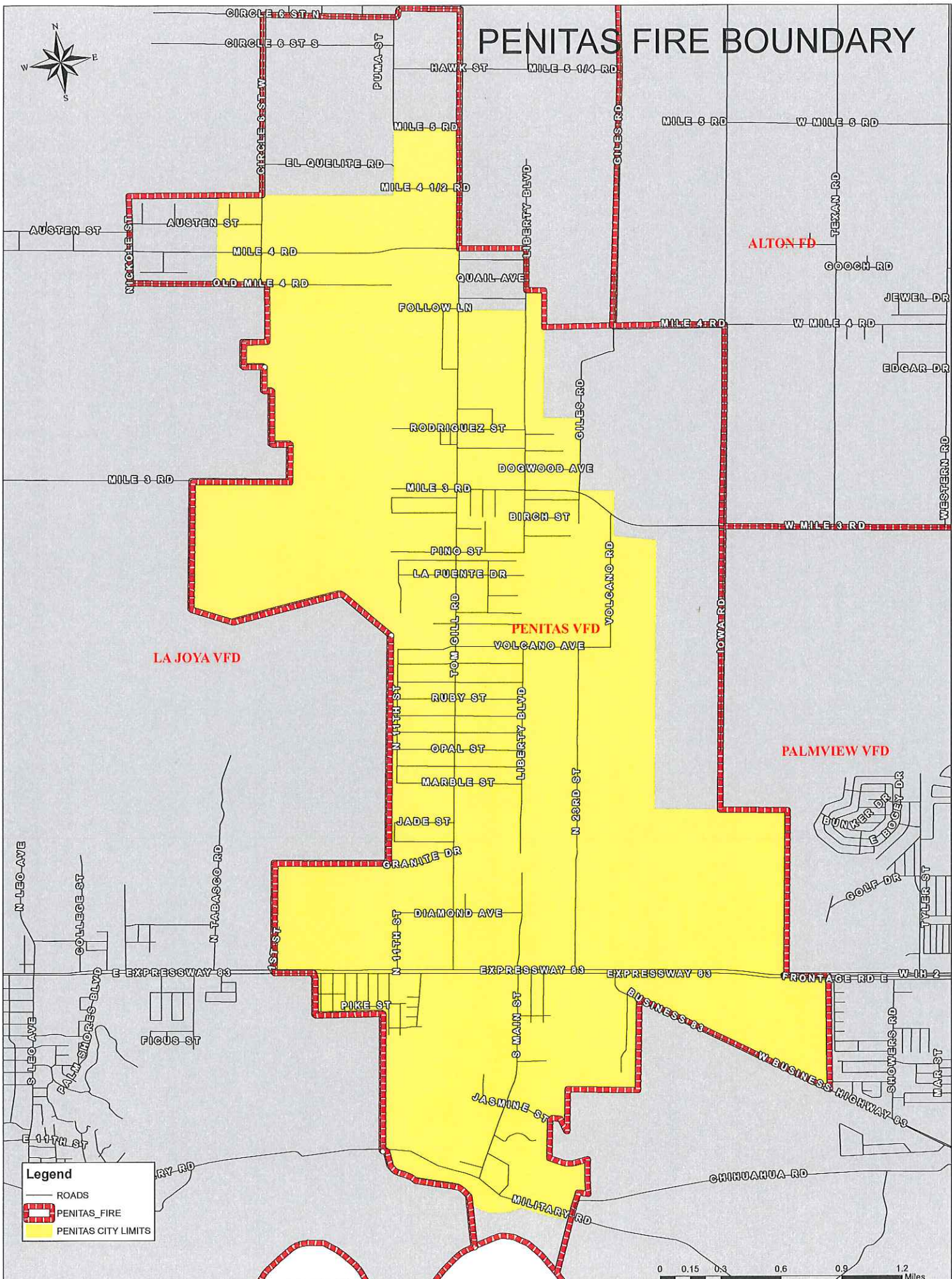
## **Rural Emergency Service Incident Report**

(FORM MUST BE COMPLETED IN INK OR TYPED ON ALL INCIDENTS FOR REIMBURSEMENT) (Exhibit A)

DEPARTMENT: _____		COUNTY INCIDENT: _____	
DATE: _____	ALARM TIME: _____	ARRIVAL TIME: _____	DEPART TIME: _____
SITUATION REPORTED: _____		SITUATION FOUND: _____	
MUTUAL AID: _____ GIVEN: _____ RECEIVED: _____ DEPARTMENT: _____		_____ NON-APPLICABLE DEPARTMENT: _____	
CALLER NAME: _____		REQUESTING PERSON: _____	
CALLER NAME: _____			
CALLER ADDRESS: _____		OTHER: _____	PHONE: _____
CALLER PHONE: _____		WALK-IN: _____	
INCIDENT LOCATION: _____			
OCCUPANT NAME: _____		OWNER NAME: _____	
OWNER ADDRESS: _____			
OWNER PHONE #: _____		OCCUPANT PHONE #: _____	
INCIDENT CAUSE: _____			
TYPE OF ACTION TAKEN: _____			
UNITS RESPONDING: _____		UNITS COMMITTED: _____	
# OF PERSONNEL: _____	MILEAGE (ROUND TRIP): _____	ADVISED COUNTY FIRE MARSHAL: YES _____ NO: _____	
COMMENTS: _____ _____ _____			
INCIDENT COMMANDER: _____		REPORT PREPARED BY: _____	
ESTIMATED \$ LOSS: _____		ATTEST: _____ FIRE CHIEF	

# **EXHIBIT “B”**

# PENITAS FIRE BOUNDARY



**Legend**

- ROADS
- PENITAS\_FIRE
- PENITAS CITY LIMITS

