

**INTERLOCAL AGREEMENT
BETWEEN
WILLIAMSON COUNTY
AND
WILLIAMSON COUNTY EMERGENCY SERVICES DISTRICT NO. 3
FOR
ESTABLISHING EMS AMBULANCE AND PERSONNEL HOUSING
AT
THE HUTTO FIRE STATION No. 2
(Swindoll Lane off FM 1660)**

THIS AGREEMENT ("Agreement") is made and entered into by and between Williamson County, a political subdivision of the State of Texas (the "County"), and Williamson County Emergency Services District No. 3 ("ESD No. 3"), for establishing housing of County Emergency Medical Services ("EMS) and Personnel in the Hutto Fire Station No. 2 ("Station"). The County and ESD No. 3 are referred to collectively herein as the "Parties," or individually as a "Party."

WITNESSETH:

WHEREAS, this Agreement is authorized by Chapter 791 of the Texas Government Code; and

WHEREAS, the Parties are local governments as that term is defined in Section 791.011 of the Texas Government Code; and

WHEREAS, the Parties find that this Agreement is necessary for the benefit of the public; that each Party has the legal authority to perform and to provide the governmental function or service which is the subject matter of this Agreement; that any division of cost fairly compensates the performing Party for services performed under this Agreement; and the performance of this Agreement is in the common interest of both Parties; and

WHEREAS, the County desires to house Emergency Medical Services ("EMS") crews at a certain Hutto Fire Station, specifically, Fire Station No. 2 located at Swindoll Lane off FM 1660, Hutto, Texas; (the "Station") while such crews are not actively responding to an EMS call for service; and

WHEREAS, the County's ability to house EMS crews at the Station will enable County EMS crews to more effectively respond to locations that are in close proximity to the Station; and

WHEREAS, ESD No. 3 currently has available an area at the Station to serve the needs of a County EMS crew; and

WHEREAS, ESD No. 3 is willing to provide an area at the Station to the County as set forth herein and the County desires to occupy such area at the Station for the purposes set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the undersigned Parties agree as follows:

II. TERMS AND CONDITIONS

A. Primary Obligations of ESD No. 3. ESD No. 3 agrees to provide the County with the following:

1. One covered vehicle bay at the Station to house one County EMS ambulance;
2. The sole use of two bedrooms, one office space, an area in the vehicle bay for oxygen storage, and storage area for medical supplies; and
3. Reasonable shared use of one additional bedroom on an as needed basis and the reasonable usage of the common facilities in the Station, which shall include but not be limited to the dining area, day room(s), kitchen, laundry, supply closets, food locker, restrooms (bath/showers and toilets) as well as all amenities within the Station. ESD No. 3 shall determine, in cooperation with the County, what constitutes reasonable use by the County.

ESD No. 3 agrees to provide the County with the enjoyment and peaceful possession of the above-described areas during the term of this Agreement. In the event the above-described areas are not available in the Station, ESD No. 3 and County may agree upon alternative areas acceptable to both Parties.

B. Consideration. The County agrees to pay the amount of \$300,000.00 toward the construction costs of an ambulance bay and provide any necessary improvements to the EMS sole occupied space to prepare same as move-in ready.

C. Payment of County's Financial Contribution: The County's payment shall be upon completion of the project. Billing will also occur at the completion of the project by ESD No. 3, and payment for any invoice is due within thirty (30) days of receipt by The County's Auditor. Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code.

D. Term. This Agreement shall be effective upon the approval of the governing bodies of County and ESD No. 3, signed by the authorized individuals ("Effective Date"), and shall continue in force for ten (10) years or until such times as either Party terminates the Agreement as provided herein. After that initial term, this Agreement will automatically renew for successive terms of one (1) year each unless otherwise terminated as set out herein.

E.

- F. Removal of County's Improvements. Upon the termination of this Agreement, County shall remove its personal property and may remove any of the improvements that the County made to the Station, so long as the removal of such improvements does not unreasonably damage the Station. In the event any damage is caused during the removal of such improvements, the County shall be obligated to repair or cause to be repaired any damage resulting from the removal of its improvements, normal wear and tear excepted.
- G. Condition of the Station. The County shall not be responsible for maintaining and/or repairing: the Station' roof, foundation, parking, grounds, common areas, the structural soundness of the exterior walls, building exterior, electrical systems, plumbing systems, HVAC system, and all amenities within the Station. Except as noted above, the County shall repair, maintain and keep in a clean and neat condition all areas solely used by the County's EMS crew. The County and ESD No. 3 shall work in cooperation with one another in keeping the commonly used areas clean and neat.
- H. Use of Premises. The County may only use the designated areas of the Station for the express purposes set forth herein. Use of the Station for any other purpose, shall require the written consent of ESD No. 3. The County shall not make any alterations, additions, improvements, to the Station without the prior written consent of ESD No. 3. This includes the installation of any equipment. The County shall permit ESD No. 3 to enter, inspect, and make such repairs to its designated areas of the Station as often as ESD No. 3 reasonably desires at any reasonable time. The County agrees that it is solely responsible for making, at its sole cost, any alterations, additions, or improvements that are mandated by any and all state, federal and local accessibility legal requirements and that become necessary due solely to the County's use of the Station ("accessibility alterations"). In the event any alterations, additions, or improvements in or to the Station are made necessary by reason of the special use and occupancy by County and, provided that ESD No. 3 grants its prior written permission to County regarding such alterations, additions or improvements, County agrees that it will make all such alterations, additions, and improvements in or to the Station at its own expense and in compliance with all building codes, ordinances, and governmental regulations pertaining to such work, use, or occupancy.
- I. Utilities and Service. ESD No. 3 shall provide and maintain, at its sole cost, the mains, conduits and other facilities necessary to dispose of garbage, water, gas, electricity, telephone, cable, internet services and sewage service to the Station. If any of the equipment or machinery necessary or useful for the provision of any of the above services breaks down or for any cause ceases to function properly, ESD No. 3 shall use reasonable diligence to repair the same promptly. If any of the area solely occupied by a County's EMS crew is in need of maintenance or repairs as solely determined by ESD No. 3, the County shall be financially responsible for any maintenance and/or repairs other than the above described services.
- J. Damage or Injury. ESD No. 3 and County agree that if either of them is solely negligent in causing real or personal property damage or personal injury to the other that such party

will pay for the actual cost and expenses incurred for such damage or injury to the extent permitted by law.

- K. Default. Either Party's failure to comply with any provision of this Agreement shall be considered a default. In the event that either Party defaults under this Agreement, the non-defaulting Party shall give the defaulting Party written notice specifying such default. If the defaulting Party has not cured such default within thirty (30) days after its receipt of such written notice, or, if the default cannot with due diligence be cured within a 30-day period and the defaulting Party has not commenced and proceeded diligently to cure such default, then the non-defaulting Party may terminate this Agreement. It is not a waiver of default if the non-defaulting Party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Agreement does not preclude pursuit of other remedies that may be available in this Agreement and/or under the law. The Parties have a duty to mitigate damages.

III. GENERAL PROVISIONS

- A. Payments. Any payment made by a Party pursuant to this Agreement shall be made out of current revenues available to said Party as required by the Interlocal Cooperation Act. The Parties agree that there will be no monthly rental cost associated with this Agreement. Any payments for goods and services shall be governed by Chapter 2251 of the Texas Government Code, the Texas Prompt Payment Act.
- B. Approval by Governing Bodies. This Agreement has been approved by the governing bodies of Williamson County and of ESD No. 3.
- C. Tax Exempt. County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes under Texas Tax Code Ann. § 151.309, as amended, and the services subject hereof are being secured for use by County. Exemption certificates will be provided upon request.
- D. Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the Parties shall be construed and enforced in accordance therewith. The Parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.
- E. Notices. Any notice to be given hereunder shall be in writing and may be affected by personal delivery, in writing or by registered or certified mail, return receipt requested, addressed to the proper Party, at the following address:

ESD No. 3: Williamson County Emergency Services District No. 3
P.O. Box 175
Hutto, Texas 78634

With Copy to: Scott D. Kerwood, Fire Chief
Hutto Fire Department
501 Exchange Blvd.
Hutto, Texas 78674

County: Williamson County Judge
710 Main Street, Suite 101
Georgetown, Texas 78626

With Copy to: Williamson County EMS
c/o: Mike Knipstein, Director
P.O. Box 873
Georgetown, Texas 78627

F. Venue and Governing Law. Each Party to this Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

G. Dispute Resolution. The parties to this Agreement will work together in good faith to resolve any controversy, dispute or claim between them which arises out of or relates to this Agreement, whether stated in tort, contract, statute, claim for benefits, bad faith, professional liability or otherwise ("Claim"). If the parties are unable to resolve the Claim within thirty (30) days following the date in which one party sent written notice of the Claim to the other party, and if a party wishes to pursue the Claim, such Claim shall be addressed through non-binding mediation under the Commercial Mediation Rules of the American Arbitration Association ("AAA"). A single mediator engaged in the practice of law, who is knowledgeable about subject matter of this Agreement, will conduct the mediation under the then current rules of the AAA. Any mediation under this Agreement shall be conducted in Williamson County, Texas. All costs involved in the mediation shall be borne equally between the parties, except that each party shall bear its own attorneys' fees. Nothing herein is intended to prevent either party from seeking any other remedy available at law including seeking redress in a court of competent jurisdiction. This provision shall survive the termination of this Agreement.

H. Termination for Convenience.

1.) The County may terminate this Agreement for convenience and without cause or further liability upon one hundred eighty (180) days written notice to ESD No. 3.

2.) Following the expiration of five (5) years from the date of final completion of construction of the Station, the ESD No. 3 may terminate this Agreement for convenience with or without cause or further liability upon one hundred eighty (180) days written notice to County, and the ESD No. 3 subject to the reimbursement provision set forth in Paragraph III, Subsection (I) of this Agreement.

3.) All parties to the contract may terminate upon written mutual consent signed and dated by all parties to this agreement setting forth the agreed upon date of termination.


4.) After the initial term of ten (10) years is completed, all parties to the contract may terminate this Agreement for convenience and without cause or further liability upon one hundred eighty (180) days written notice to the other party.

- I. Reimbursement of Funds. Despite the agreed upon financial contribution by the County set forth above in Paragraph II, Subsection (B), ESD NO. 3 agrees to return a pro rata portion of funds to the County of the monies distributed to ESD NO. 3 if the Parties fail to achieve the intended long-term relationship or ESD NO. 3 exercises its termination for convenience option during years six through ten (6-10) of the initial term. Specifically, one half of the County's financial contribution or \$150,000.00 must be returned by ESD No. 3 if it exercises termination for convenience or opts out in year six (6), and each subsequent year will be reduced by \$30,000.00 in reimbursement obligation by ESD No. 3 if it exercises its termination for convenience or opts out in years seven through ten (7-10) as follows: ESD No. 3 shall reimburse the County \$120,000.00 if it exercises termination for convenience or opts out in year seven (7); ESD No. 3 shall reimburse the County \$90,000.00 if it exercises termination for convenience or opts out in year eight (8); ESD No. 3 shall reimburse the County \$60,000.00 if it exercises termination for convenience or opts out in year nine (9); and ESD No. 3 shall reimburse the County \$30,000.00 if it exercises termination for convenience or opts out in year ten (10) without completing the initial term.
- J. No Third-Party Beneficiaries. This Agreement is for the sole and exclusive benefit of the Parties hereto, and nothing in this Agreement, express or implied, is intended to confer or shall be construed as conferring upon any other person any rights, remedies or any other type or types of benefits.
- K. Relationship of the Parties. Each Party to this Agreement, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one Party shall not be deemed or construed to be the employees or agents of the other Party for any purposes whatsoever.
- L. No Waiver of Immunities. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to the Parties, their past or present officers, employees, or agents or employees, nor to create any legal rights or claim on behalf of any third Party. The Parties do not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

- M. Non-Appropriation and Fiscal Funding. The obligations of the Parties under this Agreement do not constitute a general obligation or indebtedness of either Party for which such Party is obligated to levy, pledge, or collect any form of taxation. It is understood and agreed that County shall have the right to terminate this Agreement at the end of any County fiscal year if the governing body of County does not appropriate sufficient funds as determined by County's budget for the fiscal year in question. County may effect such termination by giving written notice of termination at the end of its then-current fiscal year.
- N. No Agency Relationship: It is understood and agreed that County shall not in any sense be considered a partner or joint venture with ESD No. 3, nor shall any of the parties in any manner hold themselves out as an agent or official representative of The County.
- O. Entire Agreement. This Agreement represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, or agreements, either oral or written. This Agreement may be amended only by written instrument signed by each Party to this Agreement. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND THIS AGREEMENT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE WILLIAMSON COUNTY COMMISSIONERS COURT.

EXECUTED TO BE EFFECTIVE this 28 day of February, 2019.

WILLIAMSON COUNTY, TEXAS
 By: _____
 Bill Gravell Jr.

WILLIAMSON COUNTY ESD #3
 By: 
 Bill Brown

Title: Williamson County Judge

Title: Board President

Date: _____

Date: 28 February 2019