

**FIRST AMENDMENT TO INTERLOCAL AGREEMENT FOR
LAW ENFORCEMENT SERVICES**

THE STATE OF TEXAS

COUNTY OF WILLIAMSON

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This First Amendment To Interlocal Agreement For Law Enforcement Services ("First Amendment") is entered into as of July 19, 2011, by and between BRUSHY CREEK MUNICIPAL UTILITY DISTRICT, a Texas conservation and reclamation district (hereinafter called the "District") and WILLIAMSON COUNTY, TEXAS (hereinafter called the "County").

RECITALS

A. Whereas, the District and County entered into that certain Interlocal Agreement for Law Enforcement Services executed by the County on March 25, 2010 (the "Agreement") setting forth the terms and conditions pursuant to which the County agreed to provide additional law enforcement services within the territorial confines of the District; and

B. Whereas, the Parties desire to extend the term of the Agreement.

AGREEMENT

For and in consideration of the mutual promises, covenants, obligations and benefits of this First Amendment, the sufficiency of which is hereby acknowledged by the Parties, the District and the County contract and agree as follows:

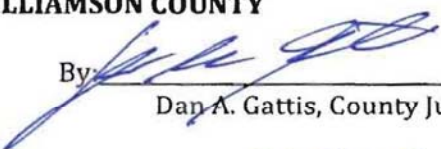
Section 1. Extension of Term. The Parties agree that effective as of the expiration of its original term, the Agreement shall remain in full force and effect through September 30, 2012. The Agreement may thereafter be renewed annually with the written consent of the County and the District, such consent being obtained by the Parties at least thirty (30) days prior to the expiration of the then current term.

Section 2. Effect on Prior Agreement. Except as specifically modified by this First Amendment, all terms and conditions of the Agreement shall remain in full force and effect.

Section 3. Capitalized Terms. Except as specifically defined herein, all capitalized terms in this First Amendment shall have the meanings set forth in the Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be signed, sealed and attested by their duly authorized officers, as of the last date of execution below.

WILLIAMSON COUNTY

By: 

Dan A. Gattis, County Judge

Date Signed: 7-4-11

APPROVED AS TO FORM AND SUBSTANCE:

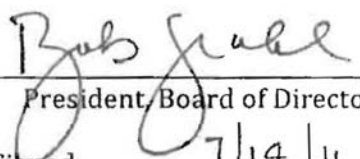
WILLIAMSON COUNTY ELECTED OFFICIAL

By: _____

James R. Wilson, Sheriff

Date Signed: _____

BRUSHY CREEK MUNICIPAL UTILITY DISTRICT

By: 

President, Board of Directors

Date Signed: 7/14/11

ATTEST:



Secretary, Board of Directors

**INTERLOCAL AGREEMENT FOR
LAW ENFORCEMENT SERVICES
BETWEEN WILLIAMSON COUNTY, TEXAS AND THE
BRUSHY CREEK MUNICIPAL UTILITY DISTRICT**

This Agreement is made and entered into by and between **Williamson County, Texas**, hereinafter referred to as the "County," acting by and through its governing body, the Williamson County Commissioners Court and **Brushy Creek Municipal Utility District** (the "District"), a municipal utility district operating pursuant to Chapters 49 and 54 of the Texas Water Code. The District and the County are referred to collectively herein as the "Parties").

RECITALS:

The predominant purpose of this Agreement is to provide additional law enforcement services to ensure the peace and safety of the citizens of Williamson County particularly within the territorial confines of the District and to provide such a public benefit through the deployment of County property and personnel as deemed appropriate by the undersigned Williamson County elected official (the "Elected Official").

The Parties stipulate that the purpose of this Agreement is the performance of governmental functions and services as set out in the Texas Government Code Section 791.003(a), (d), (k), and (n).

Pursuant to Texas Water Code Section 49.216(a) (3), the District may contract to employ peace officers with the power to make arrests, among other things and to prevent or abate the commission of any offense against the laws of the State of Texas. The County is authorized to provide law enforcement services to the District pursuant to Texas Government Code Section 791.011(c) (2).

The Parties further covenant that all payments mandated by this Agreement do fairly compensate the County for the furnishing of law enforcement services.

NOW THEREFORE, The County and the District, in consideration of the mutual covenants and agreements herein contained, mutually agree as follows:

I.

TERM

1.1 The services to be performed under this Agreement shall commence on _____, 20____, and shall continue thereafter for one (1) year, unless terminated sooner in accordance with other provisions of this Agreement. This Agreement may be renewed annually with the written consent of the County and the District, such consent being obtained by the parties at least thirty (30) days prior to the expiration of the then current term.

II.

SERVICES

2.1 The County affirms and approves the authority of the Elected Official to provide one or more peace officers, as deemed appropriate by the Elected Official, to devote a primary portion of their working time, with the total number of hours per month to be set forth in this agreement and, thereafter, may be adjusted by the District as set forth below, to provide law enforcement services within the District's geographical area (the "Area"). It is intent of this Agreement that the peace officers' working time should be spent in the Area. From time to time, the District may request that the Elected Official adjust the working time spent in the District's Area and the monthly billings shall be adjusted accordingly.

2.2 County and Elected Official agree that the patrol services to be furnished pursuant to this Agreement are in addition to the regular on-duty peace officer services furnished within the area of the District, and that in no event shall the services furnished hereunder alter, impact or lessen the routine patrol services that are otherwise provided in the District.

2.3 As used herein, the phrase "working time" means those hours designated by the Elected Official in which its commissioned peace officers are assigned to provide additional law enforcement services in the Area pursuant to this Agreement. During such working time, the peace officers shall perform law enforcement services as normally provided when working directly for the Elected Official. The Elected Official shall retain control and supervision of the peace officers performing services under this Agreement to the same extent as the Elected Official does with its other peace officers that are working outside the District's Area. The peace officers must always comply with the laws of the State of Texas and act within the scope of the General Orders and Standard Operating Procedures of the Elected Official's office. The peace officers cannot enforce "district policies" or "house rules" of the District; provided, however, the peace officers shall enforce District Rules and Regulations adopted pursuant to Section 54.205(4) of the Texas Water Code and published in accordance with Sections 54.206 through 54.208 of the Texas Water Code.

2.4 The District understands and agrees that if emergency circumstances arise during the time in which a peace officer is providing services for the District and such peace officer must leave to respond to said emergency, the peace officer will be temporarily leaving the District's Area and will not be paid by the District while responding to such emergency. Nor shall the time associated with responding to such emergency be included within the number of monthly working hours furnished by peace officers within the Area under this Agreement. When the emergency assignment is completed, the peace officer will return to the District's Area and continue to provide the services contemplated by this Agreement.

2.5 Although the peace officers shall at all times remain under the control and supervision of the Elected Official, Elected Official agrees as follows with respect to the additional law enforcement services to be furnished by the peace officers under this Agreement:

a. Elected Official shall ensure that peace officers are familiar with the boundaries of the District, and that the services performed under this Agreement are undertaken within the District's boundaries only.

b. The Elected Official (and/or the County's coordinator) shall coordinate with the District the hours during which the additional patrol services are performed

within the District under this Agreement. It is the mutual intention of the parties that the patrol services performed under this Agreement shall be undertaken during "high crime time" periods and peak periods identified by the District.

c. The Elected Official (and/or the County's coordinator) shall use good faith efforts to minimize the turnover of peace officers that provide additional patrol services within the District pursuant to this Agreement. It is the intent of the parties that by establishing a relationship and familiarity with the residents, employees, and circumstances of the District, a peace officer will be better able to identify and investigate suspicious or potential criminal activity.

III.

SPECIAL CONSIDERATIONS

3.1 The peace officers providing services to the Area will spend approximately one hundred and fifty (_150_) hours per month of working time in the service Area. Provided that the Elected Official has additional peace officers that are readily available to provide additional services hereunder, the number of working hours of the peace officers may be increased from time to time by the District by providing ten (10) calendar day's written request for additional services to the County's coordinator. The District may also decrease the above referenced number of working hours per month by providing thirty (30) calendar day's written notice thereof to the County's coordinator. Upon any such adjustment, the District's monthly pay obligation shall be adjusted accordingly.

3.2 The District shall designate a liaison representative for the sole purpose of maintaining communication between the District and the County and its coordinator. The County's coordinator shall serve as the County's point of contact for the District and shall assist the District with any issues that arise between the District and the County.

3.3 The County's coordinator shall be responsible for assigning peace officers to provide the law enforcement services in the Area for the District. The County's coordinator will also track the amount of time that the peace officers spend providing the services to the District hereunder.

3.4 It is understood and agreed by the parties that peace officers shall in no sense be considered an employee or agent of the District, and the District will have no liability relating to any action taken by any peace officer while providing services under this Agreement. The County agrees that for purposes of Section 791.006 of the Texas Government Code, responsibility for any civil liability arising out of the services furnished under this Agreement shall remain with Williamson County, and not the District. The District shall not be responsible for, and shall not withhold or pay any federal, state or local income tax, nor payroll tax of any kind, on behalf of the peace officers. The County shall be responsible for the filing and payment of all income related taxes associated with the services performed by the peace officers under this Agreement. The peace officers shall not be treated as an employee of the District with respect to the services performed hereunder for federal or state tax purposes, for workers compensation purposes, or for any other purposes.

3.5 The County agrees that each peace officer will be properly insured while operating the patrol vehicle in accordance with Section 612.005(b) of the Texas Government Code, and any other applicable laws.

IV.

CONSIDERATION FOR SERVICES

4.1 The District agrees to pay to the County the sum of Forty Five and 43/100 Dollars (\$45.43) per hour of time served by a peace officer within the Area pursuant to this Agreement for the District. Said amount shall compensate the County for the working time of the peace officer and the fully equipped patrol vehicle that is being utilized by such peace officer.

4.2 The District shall not pay a monthly coordinator scheduling fee for the time spent by County's coordinator on coordinating and managing the services that are being provided hereunder. In the event the District is not obligated to pay a coordinator fee hereunder, such fee for coordination services will be absorbed in the hourly rates paid to the County for performing services for the District hereunder.

4.3 The County shall invoice the District monthly for all amounts due for the prior month and the District shall pay, within fifteen (15) calendar days from the date of the invoice, all amounts due. All payments shall be made to the Williamson County Auditor's Office, Attn: Finance Director, 710 Main Street, Suite 301, Georgetown, Texas 78626. Interest charges for any late payments shall be paid by the District in accordance with Chapter 2251 of the Texas Government Code.

V.

BREACH AND TERMINATION

5.1 If either party commits an Event of Breach (a breach of any of the covenants, terms and/or conditions of this Agreement), the non-breaching party shall deliver written notice of such Event of Breach to the breaching party. Such notice must specify the nature of the Event of Breach and inform the breaching party that unless the Event of Breach is cured within thirty (30) days of receipt of the notice, additional steps may be taken to terminate this Agreement. If the breaching party begins a good faith attempt to cure the Event of Breach within thirty (30) days, then and in that instance, the thirty (30) day period may be extended by the non-breaching party, so long as the breaching party continues to prosecute a cure diligently to completion and continues to make a good faith attempt to cure the Event of Breach. If, in the opinion of the non-breaching party, the breaching party does not cure the breach within thirty (30) days or otherwise fails to make any diligent attempt to correct the Event of Breach, the breaching party shall be deemed to be in breach and the non-breaching party may, in addition to seeking any remedies available at law or in equity, terminate this Agreement.

5.2 Either party may terminate this Agreement prior to the expiration of the term set forth above, without cause, upon thirty (30) day's prior written notice to the other party.

VI.
NOTICE

6.1 Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been received by the appropriate Party at the following addresses:

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

With a copy to the
Elected Official:

Attn: _____

To the District: Brushy Creek Municipal Utility District
Attn: General Manager
16318 Great Oaks Drive
Round Rock, Texas 78681

With a copy to: Freeman & Corbett
Attn: Tony Corbett
8500 Bluffstone Cove, Suite B-104
Austin, Texas 78759

6.2 Any party may designate a different address by giving the other parties ten days' written notice.

VII.
MISCELLANEOUS PROVISIONS

7.1 No Third Party Beneficiaries. No term or provision of this Agreement is intended to, or shall, create any rights in any person, firm, corporation, or other entity not a party hereto, and no such person or entity shall have any cause of action hereunder.

7.2 No Other Relationship. No term or provision in this Agreement is intended to create a partnership, joint venture, or agency arrangement between the Parties.

7.3 Current Revenues. Pursuant to Section 791.011(d)(3) of the Texas Government Code, each Party performing services or furnishing services pursuant to this Agreement shall do so with funds available from current revenues of the Party.

7.4 Immunity. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to the either party, their past or present officers, employees, or agents, nor to create any legal rights or claim on behalf of any third party.

Neither party waives, modifies, or alters 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.

7.5 Governing Law and Venue. The Parties agree that this Agreement and all disputes arising thereunder shall be governed by the laws of the State of Texas, and that exclusive venue for any action arising under this Agreement shall be in Williamson County, Texas.

7.6 Force Majeure. Notwithstanding any other provisions of this Agreement to the contrary, no failure, delay or default in performance of any obligation hereunder shall constitute an event of default or a breach of this Agreement if such failure to perform, delay or default arises out of causes beyond the control and without the fault or negligence of the Party otherwise chargeable with failure, delay or default; including but not limited to acts of God, acts of public enemy, civil war, insurrection, riots, fires, floods, explosion, theft, earthquakes, natural disasters or other casualties, strikes or other labor troubles, which in any way restrict the performance under this Agreement by the Parties.

7.7 Right to Audit. Both Parties agree that the other Party or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of the other Party which are directly pertinent to the services to be performed under this Agreement by such other Party for the purposes of making audits, examinations, excerpts, and transcriptions. The Parties agree that the other Party shall have access during normal working hours to all necessary facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The Party performing the audit shall give the other Party reasonable advance notice of intended audits.

7.8 Approval. This Agreement has been duly and properly approved by each Party's governing body and constitutes a binding obligation on each Party.

7.9 Assignment, Successors and Assigns. Except as otherwise provided in this Agreement, a Party may not assign this Agreement or subcontract the performance of services without first obtaining the written consent of the other Party. This Agreement shall be binding upon and inure to the benefit of parties hereto and their respective successors and assigns.

7.10 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 either Party shall have the right to terminate this Agreement at the end of either Party's fiscal year if the governing body of Party does not appropriate sufficient funds as determined by Party's budget for the fiscal year in question. Party may effect such termination by giving other the other Party written notice of termination at the end of its then-current fiscal year.

7.11 Non-Waiver. A Party's failure or delay to exercise a right or remedy does not constitute a waiver of the right or remedy. An exercise of a right or remedy under this Agreement does not preclude the exercise of another right or remedy. Rights and remedies under

this Agreement are cumulative and are not exclusive of other rights or remedies provided by law.

7.12 Paragraph Headings. The various paragraph headings are inserted for convenience of reference only, and shall not affect the meaning or interpretation of this Agreement or any section thereof.

7.13 Severability. The Parties agree that in the event any provision of this Agreement is declared invalid by a court of competent jurisdiction that part of the Agreement is severable and the decree shall not affect the remainder of the Agreement. The remainder of the Agreement shall be and continue in full force and effect.

7.14 Open Meetings Act. The Parties hereby represent and affirm that this Agreement was adopted in an open meeting held in compliance with the Texas Open Meetings Act (Tex. Gov. Code, Ch. 551), as amended.

7.15 Counterparts. This Agreement may be executed in multiple counterparts which, when taken together, shall be considered as one original.

7.16 Entire Agreement. This Agreement constitutes the entire agreement of the Parties regarding the subject matter contained herein. The Parties may not modify or amend this Agreement, except by written agreement approved by the governing bodies of each Party and duly executed by both Parties.

WILLIAMSON COUNTY

By: 
Dan A. Gattis, County Judge

Date signed: Aug 4, 2011

APPROVED AS TO FORM AND SUBSTANCE:

WILLIAMSON COUNTY ELECTED OFFICIAL

By: _____

Printed Name: _____

Name of
Agency/
Elected Office: _____

Date signed: _____, 20____

BRUSHY CREEK MUNICIPAL UTILITY
DISTRICT

Cristine A. Yackle
By: Cristine Yackle

Title: President of the Board of Directors

Date signed: MARCH 12, 2010