

**AGREEMENT BETWEEN PARKER COUNTY EMERGENCY  
SERVICES DISTRICT No. 3 AND  
HUDSON OAKS VOLUNTEER FIRE DEPARTMENT, INC.**

STATE OF TEXAS

COUNTY OF PARKER

This agreement ("Agreement") is made and entered into effective on the date executed below, by and between Parker County Emergency Services District No. 3 (the "District"), a political subdivision of the State of Texas operating under Article III, Section 48-e of the Texas Constitution and Chapter 775 of the Texas Health and Safety Code, and Hudson Oaks Volunteer Fire Department, Inc., a Texas non-profit corporation (the "Department").

**RECITALS:**

WHEREAS, the District is a legally constituted political subdivision of the State of Texas, located in Parker County, Texas, the boundaries of which are more particularly described on Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, the District has been created to make emergency services facilities and emergency services available to the property owners and residents of the District; and

WHEREAS, the Department has personnel that are available to provide emergency services to the property owners and residents of the District;

NOW, THEREFORE, in consideration of the premises and mutual covenants, obligations and conditions herein contained, the District and the Department, each acting by and through its undersigned, duly authorized representatives, hereby contract and agree as follows:

**ARTICLE I. Services to be provided to the District.** The Department agrees to provide emergency services to all persons and property within the District and those areas historically served by the District or its service providers as determined by the District, including response to life-threatening emergencies and rescue calls. The services to be provided to the District by the Department include, but are not limited to, the following:

A. **Personnel.** The Department will maintain a minimum active membership of ten (10) volunteer firefighters at all times. These personnel will:

1. Assist the District in providing emergency services within the District;
2. Work under the direction of the District Fire Chief or his designated officers during all District operations;
3. Assist the District with inspections associated with determining the causes of and prevention of fires and medical emergencies within the District;
4. Cause all volunteer firefighters of the Department to attend a minimum of 50 percent of the training provided by the District at the District's cost;

5. Cause all medical first responder personnel of the Department to maintain minimum State certifications as specified by Texas Department of State Health Services and the District's Standards of Care or other applicable standards of care;

6. Provide all manpower necessary for the proper performance of its obligations to the District under this Agreement;

7. Personnel operating under the District will conduct themselves according to standard policies and guidelines adopted by the District.

B. Administration. The Department will:

1. Assist the District in preparing and submitting all reports required of the District by the State Fire Marshal, Parker County Fire marshal, Texas Commission on Fire Protection, Texas Department of State Health Services, Texas Forest Service, Parker County Commissioner's Court or other required individuals or entities;

2. Assist the District in developing, publicizing and implementing a District-wide disaster plan;

3. Assist the District in preparing and providing a formal report on each response by Department members to all reported emergencies or requests for help;

4. Provide an annual budget for the Department and its operations, and submit the same to the Board of Commissioners of the District no later than September 1 of each year;

5. Provide an annual audit of the Department's finances and operations no later than July 1<sup>st</sup> for prior years activities; and

6. Maintain all of the Department's financial records according to generally accepted accounting principles, and provide the District with access to the Department's financial records, including income and expense statements, fund balances, and all sources of Department income, for review at any time during regular business hours.

C. Miscellaneous. The Department will:

1. Upon approval by the Board of Commissioners of the District, enter into mutual aid or other agreements with the county, neighboring fire districts, fire departments, or other emergency services organizations as necessary for reciprocal assistance and support, and turn over all funds, if any, received by the Department as a result of any such agreements to the District;

2. Provide a representative to serve on committees established by the District, if required by the District; and,

3. Provide a representative to the District that reports to and operates under the Chief of the District or other designated representative of the District.

ARTICLE II. Services to be provided to the Department. The District agrees to provide administrative services, equipment, facilities and apparatus necessary to provide emergency services within the District, and a continuing training program for all Department personnel. The services, equipment, facilities, apparatus and training to be provided to the Department by the District will include, but is not limited to, the following:

A. A continuing education and training program for all Department personnel that is based upon the National Fire Protection Association 1001 Standards for Fire Fighter Professional Qualifications, or other applicable standards;

B. Insurance coverage, as necessary, for all Department personnel during the conduct of District operations and activities that is sufficient to satisfy minimum legal requirements; and

C. The use of, if necessary and approved by the District, all apparatus, equipment and supplies that are necessary for fire suppression, fire prevention, hazardous materials response, emergency rescue, and EMS first responder operations that can be obtained by the District with funds available to the District, as determined by the Board of Commissioners.

ARTICLE III. District Boundaries. It is acknowledged and agreed that the District's current boundaries are described on Exhibit "A". In the event the boundaries of the District change, the District will provide notice of the change to the Department, and the Department will continue to provide emergency services to all persons and property within the District as its boundaries have been adjusted. It is understood and agreed that the District may from time-to-time designate areas within or without the District to which it or the Department may or may not respond. The District or Department may also provide services to other areas of Parker County under separate agreements.

ARTICLE IV. Exclusivity of Service. Except as specifically provided in this Article IV, the Department agrees that the services to be provided to the District under this Agreement will be exclusive, and that the Department will not enter into any agreements with any other political subdivisions of the State, individual, or entity to provide fire protection service or other emergency services, without the prior written approval of the District. Any funds received by the Department for any such agreements shall be the sole property of the District and immediately turned over to the District for its use. It is acknowledged that the Department has, prior to the effective date of this Agreement, entered into certain service exchange agreements and mutual aid agreements which provide for the exchange of fire protection services or the provision of back-up fire protection and emergency services to other political subdivisions or emergency services organizations. The Department may continue to provide services under those existing agreements and may, subject to the District's prior written approval, enter into such additional mutual aid agreements as may be determined to be in the best interests of the Department and the District. Except as provided above, any services rendered by the Department to political subdivisions other than the District may only be provided under the terms of an interlocal agreement entered into between the District and the political subdivision.

ARTICLE V.

A. Compensation. For and in consideration of the services to be provided and the agreements and obligations of the Department and the District under this Agreement, the Department will forward all funds received from fees, grants, subsidies or other income and all donations over the amount of \$500 to the District, except those funds which the District designates as available to the Department for member recruitment, retention and recognition; and/or to promote the mission of the District and Department with prior approval of the Chief. This sum may be amended year to year as the District desires based upon the needs of the District and taxes collected. The District will use all reasonable efforts to collect any unpaid taxes in accordance with the usual and customary collection procedures of the Parker County Tax Assessor-Collector's office, but will have no liability to the Department for any tax receipts that the District is unable to collect.

B. Volunteer Reimbursements. The District may at its discretion, provide approved reimbursements and nominal fees to volunteers for calls responded to and scheduled shifts worked. These amounts must fall within the Department of Labor's definition of acceptable compensation for volunteers without damaging the volunteer relationship. Members provided reimbursements and/or nominal fees will be approved by the Fire Chief and subject to his discretion and the approval of the District under its budget.

ARTICLE VI. Indemnity; Insurance. The District will, at all times during the term of this agreement, maintain in full force and effect liability insurance coverage to cover all reasonably anticipated risks of loss or damage, including risks of loss or damage which may arise due to actions under a mutual aid or interlocal agreement of the District and mutual aid agreements entered into by the Department as required by the District pursuant to the terms of Article I.C.1 of this agreement. The District will not be required to include coverage for pollution due to the negligent handling or disposal by the Department of any chemical substances. The insurance will be in amounts currently maintained by the District or the Department, or in an amount sufficient to cover the maximum liability of the District, the Department, or its volunteers, pursuant to the Texas Tort Claims Act or other applicable statute, and with carriers designated by the District. The Department and its volunteers will be named as an additional insureds on such policies. A certificate of insurance confirming the coverage will be maintained in the District files, and the policies will specifically provide that the coverage afforded under the policies may not be canceled or modified without at least thirty (30) days written notice to the District and the Department. The Department agrees that the District and its commissioners, officers, volunteers, agents, employees, and consultants will be free from all liability and claims for damages by reason of any injuries to any persons or property from any causes whatsoever arising out of the Department's operations outside the scope of this Agreement. The Department agrees to indemnify, defend, and hold harmless the District, its directors, officers, agents, employees, and consultants from all liabilities, charges, expense, and costs, including reasonable attorneys' fees for the defense thereof, arising as the result of any injury, damages, liabilities, claims, suits or losses occurring from or arising out of the Department's operations outside the scope of this Agreement or arising out of the Department's tax obligations. By entering into this Agreement, the parties acknowledge that the Department is an independent contractor, and the District and Department do not, and shall not be deemed to waive, any immunities, rights, or defenses either may have under state or federal laws,

rules, or regulations, specifically including sovereign immunity, qualified immunity, or the provisions of Chapter 775, Texas Health & Safety Code.

ARTICLE VII. Term and Termination. The term of this Agreement will be one (1) year, commencing October 1, 2008, and terminating September 30, 2009. In the event this Agreement is not renewed at the end of its term as stated herein, this Agreement shall remain in full force and effect after such expiration of this Agreement and shall be automatically renewed thereafter on a month-to-month basis until a new agreement is reached between the District and the Department or the Agreement is otherwise terminated by either party hereto. This Agreement shall remain in effect as stated above, until such time as either party desires to amend or terminate this Agreement, with or without cause. This Agreement may be terminated by either party by providing sixty (60) days written notice of termination to the other party, except as otherwise provided for herein. The parties agree that this Agreement will be reviewed every September.

ARTICLE VIII. Miscellaneous.

A. Entire Agreement; Amendments. This Agreement contains the entire agreement between the parties respecting its subject matter, and supersedes all prior understandings and agreements between the parties regarding such matters. This Agreement may not be modified or amended except by written agreement duly executed by the parties.

B. Authority. Each individual executing this Agreement represents that he or she has all necessary authority to execute this Agreement and to bind any entity on whose behalf he or she is signing.

C. Severability. If any provision of this Agreement is illegal, invalid or unenforceable under present or future laws, then, and in that event, it is the intention of the parties that the remainder of this Agreement will not be affected, and it is also the intention of the parties to this Agreement that in lieu of each provision of this Agreement that is illegal, invalid or unenforceable, there be added as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible, and be legal, valid and enforceable.

D. Waiver. Any failure by a party to insist, or any election by a party not to insist, upon strict performance by the other party of any of the terms, provisions or conditions of this Agreement will not be deemed to be a waiver of that term, provision or condition or of any other term, provision or condition, and the party will have the right at any time or times thereafter to insist upon strict performance of any and all of the terms, provisions and conditions of this Agreement.

E. Applicable Laws. This Agreement will be construed in accordance with the laws and constitution of the State of Texas. All obligations under this Agreement are performable in Parker County, Texas and venue for any action arising under this Agreement will be in Parker County, Texas.

F. Notice. Until changed by written notice given in accordance with the provisions of this Agreement, any notice required or permitted to be given under this Agreement may be given by certified mail, postage prepaid and return receipt requested or by hand delivery to the addresses shown below each party's signature.

G. Attorney's Fees. In the event that the Department breaches or is alleged to have breached this Agreement or upon default by the Department under this Agreement, and the District is required to retain an attorney to enforce the provisions of this Agreement, then the Department will be liable for and pay to the District all attorney's fees, costs of court, and expenses reasonably incurred to enforce the provisions of this Agreement.

H. District's Assumption of Certain Notes, Lease-Purchase, or Other Agreements. The District and the Department understand that certain vehicles or other equipment of the Department have been obtained through various notes, lease-purchase, or other agreements. It is the understanding and agreement of the parties hereto, that any such notes, lease-purchase, or other agreements will be assumed by the District, if possible, as soon as practical. The District reserves the right to not assume any indebtedness, in whatever form, of the Department that it does not consider necessary, in its sole discretion, for the provision of services by the District. Both parties agree to cooperate, execute, and deliver any additional documents and to perform any additional acts reasonably necessary or appropriate to carry out the intent of this section.

I. Bill of Sale. Upon the execution of this Agreement, and as a condition precedent to the District executing this Agreement, the Department will execute and return to the District the Bill of Sale attached hereto as Exhibit A.

AGREED AND ACCEPTED this the \_\_\_\_ day of January 2009.

PARKER COUNTY EMERGENCY  
SERVICES DISTRICT NO. 3

HUDSON OAKS VOLUNTEER  
FIRE DEPARTMENT

By: \_\_\_\_\_  
Judy Molenburg,  
President

By: \_\_\_\_\_  
Frank Figueroa,  
President

ATTEST:

\_\_\_\_\_  
Steve Deane,  
Secretary

\_\_\_\_\_  
Gene Smithwick  
Secretary