

EXHIBIT**"A"****THE STATE OF TEXAS****§****KNOW ALL BY THESE PRESENTS:****COUNTY OF WILLIAMSON****§****§**

**INTERLOCAL AGREEMENT FOR
FIRE PROTECTION AND EMERGENCY SERVICES
BETWEEN THE CITY OF ROUND ROCK, TEXAS AND
WILLIAMSON COUNTY EMERGENCY SERVICES DISTRICT NO. 9**

This Interlocal Agreement (the "Agreement") is made and entered into by and between the CITY OF ROUND ROCK, TEXAS (the "City"), a home-rule municipal corporation of the State of Texas, and WILLIAMSON COUNTY EMERGENCY SERVICES DISTRICT NO. 9 (the "District"), a political subdivision of the State of Texas. The City and the District are herein referred to as "the Parties."

WHEREAS, Texas Health and Safety Code, Chapter 775, Section 775.031(a)(9), Section 775.033, and other applicable law, authorizes the District to enter into contracts with municipalities or other entities for making emergency services available to the District; and

WHEREAS, Texas Government Code, Chapter 791, Texas Interlocal Cooperation Act, Sections 791.003(3)(B), and 791.003(4)(A) allow local governments, including special districts, to contract with one another to perform governmental functions and services, including fire protection; and

WHEREAS, the Board of Emergency Services Commissioners of the District desires to contract with the City to provide certain fire protection and emergency services to the residences and businesses located within the confines of the Williamson County Emergency Services District No. 9; and

WHEREAS, entry into this Agreement would be mutually beneficial and not detrimental to the City; and

WHEREAS, entry into this Agreement would be mutually beneficial and not detrimental to the District:

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

**I.
PURPOSE**

The purpose of this Agreement is to provide for certain fire protection, emergency medical first responder services, and other enumerated related services to the residences and businesses located within the District not served by other contracted service providers of the District. Exhibit "A," attached hereto and incorporated herein by reference for all purposes, shall describe and establish the Designated Area with Williamson County Emergency Services

District No. 9 for which the City, by virtue of this Agreement, has primary responsibility for the provision of services as defined herein and in attachments hereto.

II. DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth herein:

EMS Services: Emergency medical first responder services pursuant to the Williamson County Emergency Medical Services First Responder program.

Fire Services: Fire suppression, prevention of fire spread, hazardous materials control, rescue, and other emergency services to the public as necessary and as dispatched.

III. TERM

The term of this Agreement shall be from October 1, 2015 through September 30, 2016 ("Initial Term"), unless otherwise terminated hereunder, or if a new agreement is entered into by the parties hereto, this Agreement shall automatically renew after the Initial Term for successive one (1) year terms. It is understood and expressly agreed that the Parties cannot commit funds for any future fiscal year after the Initial Term, and that this Agreement does not commit the Parties to commit funds for future fiscal years.

IV. OBLIGATIONS OF THE CITY

The City shall provide the Fire Services and EMS Services set forth herein to the District on a 24-hour per day, 7-day per week basis, such services being provided at the level of response and in the same manner it does to the City, except to the extent modified in writing by the parties. In addition, City shall enter into automatic aid and other agreements between all entities contracting with the District on terms acceptable to the City to provide emergency services to ensure appropriate response for all incidents to which the City is dispatched hereunder.

V. OBLIGATIONS OF THE DISTRICT

The District shall pay the City, in return for and in consideration of the services and agreements contained herein, the following:

Contingent upon the fact that services to Vista Oaks MUD, Parkside at Mayfield Ranch, the Williamson County Park, and Stonehurst are actually being provided by the Sam Bass Volunteer Fire Department Inc. or Leander Fire Department ("Excluded Areas"), compensation paid by the District for the services provided by the City shall be calculated as follows:

For that portion of the District except the Excluded Areas: \$0.09 per \$100.00 of taxable value times 100% of the Certified Taxable Value by Williamson Central Appraisal District; plus \$0.09 per \$100.00 of taxable value times 80% of the Taxable Value Under Review by Williamson Central Appraisal District, ("WCAD")

In August of each year, or as soon as reasonably possible after the Certified Appraisal Rolls are issued by WCAD, the District shall estimate the total collections for the covered areas as outlined above using the certified tax roll provided by WCAD. The estimated total collections divided by four shall equal the quarterly payments due for the upcoming fiscal year. The contract year starts October 1 and terminates on September 30 of the following year. The calculated payments for the upcoming fiscal year shall be provided to the City no later than August 15 of each year, or as soon as reasonably possible after the Certified Appraisal Rolls are issued by WCAD.

Payments for each calendar quarter shall be paid in advance by the District to the City. From the date a quarterly payment becomes due, the District shall have thirty (30) days in which to pay same, subject to applicable law.

True-Up Provision:

It is expressly understood and agreed by the Parties that the Total Taxable Value (the certified taxable value plus adjustments to the tax roll) will fluctuate during the fiscal year as taxable values are adjusted by the Williamson Central Appraisal District. Accordingly, the Parties agree that, within sixty (60) days following the close of each fiscal year, payments by the District to the City made during that year will be adjusted to reflect adjustments to the Total Taxable Value by the Williamson Central Appraisal District during the year so that the City is paid at least:

\$0.09 per \$100.00 taxable value on the Total Taxable Value of the District minus the Total Taxable Value of Excluded Areas (prorated for the applicable service period).

In making the end-of-year adjustments, the District shall provide the City with official documentation from the Williamson Central Appraisal District to support the adjustment.

Pass-Through of Designated Funds:

The Parties expressly acknowledge and agree that collection rates and total taxable values can and do vary from time to time. Funds collected by the District above the compensation rates delineated in this Agreement, such funds being designated by the District for emergency services, shall be passed through to the City in the manner established in this Agreement. Such funds shall be allocated to the service providers on a pro-rated basis within sixty (60) days of each of the end of the District's fiscal years. The audited financial statements and budget of the District shall be made available, upon request, to the service providers in order to support the year-end funds distribution.

All payments due and owing at any time by the District to the City shall be timely made to the following address: Attention: Chief Financial Officer, City of Round Rock, 221 East Main Street, Round Rock, Texas 78664.

The District, in making all payments pursuant to this Agreement for governmental functions and services, shall make such payments from current revenues of the District. All payments made hereunder shall be for maintenance and operations only, and pursuant to Section 775.073, the District shall obtain no ownership interest in the City's real or personal property, unless agreed to in writing by the parties.

VI. EQUIPMENT AND PERSONNEL

The City shall be responsible for provision of all necessary equipment, including firefighting equipment, and personnel necessary to accomplish the services required hereunder, unless otherwise agreed to in writing by the parties hereto.

The City shall remain responsible for registration, licensing, inspection, repair, maintenance, and operation of such equipment, and for any damages, injuries, or deaths resulting from the use of such equipment, including motor vehicles. Further, the City shall remain responsible for the payment of all salaries, benefits, insurance or other funds necessary for the personnel who provide services hereunder, as well as the certification, licensing, or other actions required by any governmental or regulatory authority, specifically including but not limited to the Texas Commission on Fire Protection and/or the Texas Department of State Health Services, for the services provided hereunder.

The Parties expressly acknowledge and agree that the District shall not accrue or acquire any equity or ownership interest in any such equipment or personnel, and the City shall not accrue or acquire any equity or ownership interest in the District's property.

The Parties expressly acknowledge and agree that nothing in this Agreement shall be construed so as to make the other Party a partner, joint venturer, joint investor, or insurer of the other Party or its operations hereunder.

VII. REPORTS

The City shall use reasonable efforts to maintain accurate run reports of each incident to which it responds in its Designated Area hereunder. Such reports, or a summary thereof, shall be provided to the District within twenty (20) days of request and at each Regular Meeting of the District's Board of Emergency Services Commissioners.

The City shall provide a monthly report to the District detailing numbers and types of responses to which the City responded in the Designated Area during the previous month and any other pertinent information related to the City's performance under this Agreement.

Anticipating possible subsequent yearly service by the City to the District, the Parties agree to meet during the term hereof to discuss growth projections for the Designated Area.

VIII. LIABILITY

The Parties expressly acknowledge and agree that the District has no power to control or supervise the manner and means chosen by the City to carry out the services specified in this Agreement, and that the District shall have no liability for any intentional or negligent acts or omissions of the City or its Fire Department. To the extent authorized by law, the City further agrees to indemnify the District for any loss or expense (including but not limited to attorney's fees) incurred as a result of any claim against the District by any person or entity, should such claim be based upon any intentional or negligent act or omission by the City which is not related to the provision of the services specified in this Agreement. Specifically citing Texas Government Code Section 791.006(a-1), to the extent authorized by law, the City shall fully indemnify and hold the District, as well as its commissioners, officials, agents, volunteers, and employees, harmless from any and all civil liability or other claims of any type or nature whatsoever, specifically including but not limited to negligence, gross negligence, or intentional acts or omissions, and all attorney's fees and related costs, made on account of any loss or damages through personal injuries, deaths, property, or other damages, arising directly or indirectly out of the negligence, gross negligence, or the intentional acts or omissions of the City or its officials, agents, employees, or representatives, in performing the services required under this Agreement. The City is solely responsible for the acts or omissions of its officials, agents, employees, or representatives in performing the services required under this agreement, and the assignment of liability is intended to be different than liability otherwise assigned under Section 791.006(a), Texas Government Code.

The Parties expressly agree that, in the execution of this Agreement, neither Party waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of its powers or functions or pursuant to the Texas Tort Claims Act or other applicable statutes, laws, rules, or regulations.

IX. TERMINATION; DEFAULT

Termination. Either Party has the right to terminate this Agreement, in whole or in part, for convenience and without cause, at any time upon one hundred eighty (180) days' written notice to the other Party. Upon termination, each party shall immediately return to the other party any real or personal property that party may have of the other party. Termination under this section shall not relieve the District of its obligation to pay for services which occurred prior to termination, on a pro-rated basis to the date of termination, subject to applicable law.

Default by the Parties. In the event of default by either of the Parties, the non-defaulting Party has the right to terminate this Agreement, in whole or in part, for cause, if the non-defaulting Party provides the defaulting Party with written notice of such default and the defaulting Party fails to cure such default to the satisfaction of the non-defaulting Party within

sixty (60) business days of receipt of such notice (or a greater time if permitted by the non-defaulting Party). The termination of this Agreement for default shall extinguish all rights, duties, and obligations of the Parties to each other hereunder. Termination under this section shall not relieve the District of its obligation to pay for services which occurred prior to termination, on a pro-rated basis to the date of termination. The allegation of default shall not relieve either Party from its respective obligations hereunder until such time as this Agreement has been actually terminated as set forth herein, and such obligations shall survive the termination of this Agreement.

X. NOTICE

All notices, demands and requests, including invoices which may be given or which are required to be given by either Party to the other, and any exercise of a right of termination provided by this Agreement, shall be in writing and shall be deemed effective when: (i) personally delivered to the intended recipient; (ii) three (3) days after being sent, by certified or registered mail, return receipt requested, addressed to the intended recipient at the address specified below; (iii) delivered in person to the address set forth below for the Party to whom the notice was given; (iv) deposited into the custody of a recognized overnight delivery service such as Federal Express Corporation, Emery, or Lone Star Overnight, addressed to such Party at the address specified below; or (v) sent by facsimile, telegram or telex, provided that receipt for such facsimile, telegram or telex is verified by the sender and followed by a notice sent in accordance with one of the other provisions set forth above. For purposes of this section, the addresses of the Parties for all notices are as follows (unless changed by similar notice in writing given by the particular person whose address is to be changed):

City of Round Rock

Attention: City Manager
221 East Main Street
Round Rock, Texas 78664

and to:

Attention: City Attorney
309 East Main Street
Round Rock, Texas 78664

and to:

Attention: Fire Chief
203 Commerce Boulevard
Round Rock, Texas 78664

Williamson County Emergency Services District No. 9

Attention: President

Williamson County Emergency Services District No. 9
P. O. Box 8608
Round Rock, Texas 78683

and to:

Attention: Secretary
Williamson County Emergency Services District No. 9
P. O. Box 8608
Round Rock, Texas 78683

and to:

Ken Campbell
Burns Anderson Jury & Brenner, L.L.P.
Post Office Box 26300
Austin, Texas 78755-6300

XI. DISPUTE RESOLUTION

If a dispute arises under this Agreement, the Parties agree to first try to resolve the dispute by referring same to the City Manager of Round Rock and to the President of Williamson County Emergency Services District No. 9. The Parties hereby expressly agree that no claims or disputes between the Parties arising out of or relating to this Agreement or a breach thereof shall be decided by any arbitration proceeding, including without limitation, any proceeding under the Federal Arbitration Act (9 USC Section 1-14) or any applicable state arbitration statute.

XII. MISCELLANEOUS PROVISIONS

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.

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

Current Revenues. Pursuant to Section 791.011(d)(3) of the Texas Government Code, each Party performing services or furnishing aid pursuant to this Agreement shall do so with funds available from current revenues of the Party. No Party shall have any liability for the failure to expend funds to provide aid hereunder.

No Waiver of Defenses. No Party to this Agreement waives or relinquishes any immunity or defense on behalf of itself, its officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants contained within.

Amendment. Amendment of this Agreement may only be by mutual written consent of the Parties.

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.

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.

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.

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

Assignment. 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.

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, and such obligations may be terminated at the end of a Party's fiscal year if the governing body of such Party does not appropriate sufficient funds to continue the services provided under this Agreement.

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.

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.

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.

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.

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

Effective Date. This Agreement is made to be effective on the latest date accompanying the signatures below.

APPROVED by the City Council, City of Round Rock, Texas, in its meeting held on the ____ day of _____, 2016, and executed by its authorized representative.

CITY OF ROUND ROCK, TEXAS

By: _____
Alan McGraw, Mayor

Date Signed: _____

ATTEST:

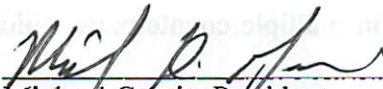
FOR CITY, APPROVED AS TO FORM:

SARA WHITE, City Secretary

STEPHAN L. SHEETS, City Attorney

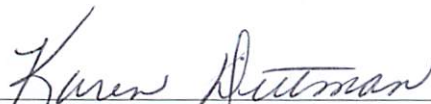
APPROVED by the Williamson County Emergency Services District No. 9 in its meeting held on the 1st day of April, 2015, and executed by its authorized representative. 16

WILLIAMSON COUNTY EMERGENCY SERVICES DISTRICT NO. 9

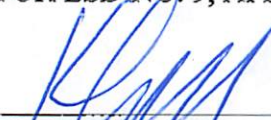
By: 
Michael Garcia, President

Date Signed: 4-1-16

ATTEST:


Karen Dittman, Secretary

FOR ESD NO. 9, APPROVED AS TO FORM:


KEN CAMPBELL, District's Attorney