STATE OF TEXAS

COUNTY OF TRAVIS

INTERLOCAL AGREEMENT FOR FIRE PROTECTION SERVICE

This Interlocal Agreement for Fire Protection Service is between the City of Austin, a Texas home rule municipality ("Austin") and the City of Sunset Valley, a Texas general law municipality ("Sunset Valley").

Recitals

Sunset Valley wishes to enter into an agreement with Austin to obtain fire protection services to areas or locations within Sunset Valley and Sunset Valley's Extra Territorial Jurisdiction (ETJ).

Austin wishes to provide fire fighting services and first responder medical services to Sunset Valley and Sunset Valley's ETJ in exchange for the compensation described herein.

Sunset Valley and Austin are entering into this Agreement in accordance with the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code.

Agreement

In consideration of their mutual covenants and the benefits received by each party, Sunset Valley and Austin agree as follows:

I. Term

The term of this Agreement is one year, beginning on October 1, 2008, and ending on September 30, 2009. The parties, upon written agreement, have the option to renew this Agreement for three (3) additional one (1) year periods.

II. Equipment and Personnel

All equipment used by Austin in carrying out this Agreement will be owned by or under contract with Austin. All personnel acting for Austin under this Agreement will be employees of Austin.

III. Scope of Services

Austin will provide the following services:

(a) Austin will make Fire Fighting and Fire Fighter EMS First Response Services ("Services")

available within the corporate limits of Sunset Valley and the Sunset Valley ETJ ("the Service Area") 24 hours a day, 7 days a week.

(b) Austin will dispatch appropriate equipment and personnel for fire fighting operations, rescue operations, emergency medical first response, hazardous materials response, and other emergency responses upon notification either by Sunset Valley or from the public of a need for services within the Service Area. Austin will dispatch fire fighter medical first response personnel to begin emergency medical care upon notification either by Sunset Valley or from the public of a need for services within the Service Area.

(c) It is agreed that the Austin Fire Department's strategic and tactical guidelines will be used when making responses in the Service Area. Austin may unilaterally amend the Austin Fire Department's strategic and tactical guidelines at any time. Austin will provide a copy of the Austin Fire Department's strategic and tactical guidelines and copies of all amendments to Sunset Valley.

(d) The Austin Fire Department (AFD) shall maintain a seven (7) minute or less average annual response time to emergency calls in the Service Area. The response time shall be defined as the elapsed time from AFD dispatch of the units to the arrival of the first AFD unit at the scene of the emergency. The calculation of the average response time will include only calls that result in the first AFD unit arriving at the emergency scene under Code 3 (lights and sirens).

(e) AFD shall coordinate with Sunset Valley Police, Public Works, Administration, Finance municipal departments in relation to fire protection services, fire fighting, medical emergencies, and rescue calls. Sunset Valley municipal departments shall adhere to the incident command protocols used by AFD at emergency events.

(f) Austin fire fighters dispatched for fire fighting operations under this Agreement will respond wearing protective fire fighting clothing.

(g) With the exception of hazardous materials alarms, AFD shall not use any subcontractor to provide Services without prior written approval of the Sunset Valley City Council or prior verbal approval of the Sunset Valley Mayor or designee. The AFD hazardous materials alarm response service shall provide only stabilization of a life safety threat, not hazardous materials clean-up or site restoration. AFD's on-scene commander at a hazardous materials alarm may determine that a qualified contractor is required to clean up the hazardous materials. Sunset Valley shall be solely responsible for paying for any clean-up costs associated with a hazardous materials alarm, and Austin shall have no financial responsibility for any such clean-up costs.

(h) Upon request from Sunset Valley, AFD shall provide technical assistance to Sunset Valley

in developing a wild land fire protection plan, water rescue plan, water system planning for fire protection, training, maintenance of emergency equipment, and involvement in community programs**.**

IV. ISO RE-EVALUATION

The parties acknowledge that Sunset Valley has arranged for enhanced infrastructure for delivery of water service provided by Austin for the express purpose of improving the availability of water for firefighting purposes. In connection therewith, Sunset Valley has recently installed a water line and associated appurtenances to its water well system that provides water for a portion of the territory in the city limits of Sunset Valley, comprising the residential streets, Sunset Trail, Reese Road, Lone Oak Trail, and Pillow Road (the "High Rated Territory"). Such recently installed infrastructure includes water lines, valves, and equipment to conveniently bypass access of water from Sunset Valley's water well system to a direct water feed supplied by Austin to Sunset Valley through Austin's water supply system, for use in fire fighting operations. Sunset Valley will cooperate in providing to Austin and Austin's fire fighters access at all times to all such infrastructure and equipment for conversion to Austin's water supply system for use in fighting fires in the High Rated Territory within Sunset Valley. Austin shall notify its fire fighting personnel in stations serving Sunset Valley of the location and use of such infrastructure and equipment which shall be used by Austin fire fighters as a standard operating procedure in the event of a fire in the High Rated Territory. Sunset Valley shall be responsible to maintain its infrastructure and equipment in good operating order. Austin and Sunset Valley shall cooperate in arranging, planning and preparing for an Insurance Services Organization (ISO) field visit to reevaluate the Public Protection Classification rating for Sunset Valley, including the High Rated Territory. In furtherance thereof, Sunset Valley and Austin shall each assign an employee(s) to help coordinate the preparation for and scheduling of all information and acts necessary for the reevaluation of Sunset Valley’s Public Protection Classification rating.

V. Consideration

In consideration of the services provided under this Agreement, Sunset Valley shall pay Austin an amount to be determined by multiplying the Fire Protection Tax Rate, calculated as described below, for the then current fiscal year by the assessed valuation of the City of Sunset Valley and Sunset Valley’s ETJ, as calculated by the Travis County Appraisal District (TCAD). Sunset Valley shall pay Austin the full amount due in one installment due by September 1st of each year.

The Fire Protection Tax Rate will be determined each year by dividing the current fiscal year Austin Fire Department amended budget, as approved by the Austin City Council, by the combined assessed valuations of Austin and Sunset Valley and Sunset Valley's ETJ, as calculated by TCAD.

VI. Codes and Inspections

Austin has adopted the 2003 International Fire and Building Codes and the 2006 International Residential Code (the "Adopted Codes"). Sunset Valley shall adopt codes that are compatible with the Adopted Codes within ninety (90) days of the effective date of the Agreement. In addition, Austin has adopted local amendments to the Adopted Codes. Within sixty (60) days after a date Austin provides specific notice to Sunset Valley of a need for adoption by Sunset Valley of similar local amendment(s) that are compatible with Austin's designated local amendment(s), Sunset Valley shall adopt such a compatible local amendment(s). There shall be no limit on the number of times Austin may provide notice of such local amendments. Adoption of updated codes and designated local amendments by Austin will be followed by the adoption of compatible updated codes and designated local amendments by Sunset Valley within ninety (90) days after Austin provides notice of the need therefor. Failure by Sunset Valley to adopt compatible codes and/or designated local amendments within the above-described time periods is considered a breach of this Agreement.

AFD shall provide inspections associated with fire prevention and fire cause determination within the Service Area and AFD and Sunset Valley shall mutually develop investigative protocols. Sunset Valley shall grant jurisdiction to AFD Arson Investigators, to the extent allowed by law, at fire events in the Service Area and AFD Arson Investigators may, at their discretion, and to the extent allowed by law, request assistance from Sunset Valley, county, state, and/or federal resources in the course of investigations in the Service Area. Austin and AFD shall not be responsible for any costs associated with services provided by Sunset Valley, county, state, and/or federal resources.

VII. Training

AFD will comply with the training and reporting requirements of the Texas Commission on Fire Protection, the Texas Department of Health, the Texas Commission on Environmental Quality, the United States Occupational Safety and Health Act, and the Environmental Protection Agency for paid firefighters. Copies of written training reports produced by AFD for a certifying agency will be available to Sunset Valley upon request.

All AFD personnel providing service as medical first responders will operate in a manner

consistent with the "Standards of Care" promulgated by the Medical Director of the Austin/Travis County Emergency Medical Services System.

Austin will provide training to employees of Sunset Valley on the Incident Command System and Hazardous Materials recognition at a location determined by Sunset Valley.

VIII. Liability and Insurance

Sunset Valley and Austin agree that the provision of fire protection services is at the discretion of a municipality and is not a governmental service required of a municipality. Section 791.006 (Liability in Fire Protection Contract) of the Texas Government Code relating to Interlocal Cooperation Contracts provides that civil liability remains with the governmental unit that would have been responsible or providing the services in the absence of the contract. Since Sunset Valley is voluntarily assuming responsibility for providing fire protection services and is seeking to provide fire protection services by contract, Austin and AFD will not assume any liability for Services provided to Sunset Valley under this Agreement.

Sunset Valley and Austin agree that the act of any person or persons while fighting fires or providing firefighting and emergency medical services, traveling to or from the emergency scene, or in any manner furnishing Services under this Agreement in the Service Area shall be considered as the act of Sunset Valley, even if the person or persons may be an employee of Austin.

All liability to third parties shall be the responsibility of Sunset Valley, except to the limit of a claim by an employee of Austin that is covered by workers compensation.

Throughout the term of this Agreement, Sunset Valley shall provide and maintain:

(a) Commercial General Liability Insurance with a minimum bodily injury and property damage of $1,000,000 per occurrence, including contractual liability coverage.

(b) Business Automobile Liability Insurance on all owned, non-owned or hired vehicular equipment of at least $1,000,000 combined single limit (CSL) per occurrence for bodily injury and property damage.

The policies shall include endorsements in favor of Austin: waiver of subrogation, thirty (30) days notice of cancellation and Austin listed as an additional insured.

Sunset Valley shall provide AFD a certificate of coverage issued by the insurer(s). Sunset Valley shall not permit cause any insurance to be cancelled nor permit any insurance to lapse during the term of this Agreement.

IX. Immunity or Defense

It is expressly understood that Sunset Valley and Austin do not waive, and shall not be deemed to waive, any immunity or defense that would otherwise be available to them against claims arising in the exercise of their governmental powers and functions. Nothing in this Agreement, including but not limited to Paragraph VII, shall be construed to create a right or a ground of recovery for any third party.

X. Records and Reports

Austin shall make and keep records for each incident response made under this Agreement, and the following information for a specific incident response will be provided to an authorized representative of Sunset Valley upon request: the time of (1) the receipt of the notification of the emergency, (2) the dispatch of the call, and (3) the arrival of the responding units at the emergency scene. Austin shall provide an annual incident response report to Sunset Valley. Upon request, a representative of AFD will attend public meetings of the Sunset Valley City Council to present information on any emergency call within the Service Area. The parties agree that information that is confidential by law, including patient information, will not be presented. With respect to responses made by AFD within the Service Area, AFD shall prepare and submit all reports required by law, including reports required by the State Fire Marshal, and the Texas Department of Health. The parties will meet upon the request of either party to discuss the services provided under this Agreement.

XI. Termination

A. Termination Without Cause

For the period October 1 through December 31, 2008, either party may terminate this Agreement at any time, without cause, by giving not less than thirty (30) days written notice. Beginning on January 1, 2009, either party may terminate this Agreement at any time, without cause, by giving not less than one hundred and twenty (120) days written notice.

B. Termination With Cause

If either party breaches an obligation under this Agreement, the other party may terminate the Agreement by sending written notice of termination, to be effective thirty (30) days after the date of the notice, unless the breach is cured to the non-breaching party's reasonable satisfaction within the thirty (30) day period. The parties may agree in writing to extend the period permitted for cure of the breach.

C. Payment if Terminated Prior to Expiration

If this Agreement is terminated for any reason prior to its expiration, Sunset Valley shall pay Austin for services rendered through the termination date, and such pro-rated payment shall be submitted to Austin no later than thirty (30) days following the effective date of termination. Austin shall retain all monies paid for services rendered through the termination date.

XII. Entire Agreement

All oral and written agreements between the parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement are contained in this Agreement. The parties acknowledge that this Agreement can only be amended in a writing executed by an authorized representative of each party.

XIII. Severability

If any provision of this Agreement is held invalid by a court of competent jurisdiction, that holding (1) shall not invalidate the remainder of this Agreement, (2) shall be limited to the specific parts of this Agreement described in that holding, and (3) shall not affect the validity of this Agreement in any other way or in any other instance.

XIV. Governing Law

This Agreement shall be governed by all applicable federal, state, and municipal laws including the provisions of the Texas Constitution, Art. 11, Sec. 5, and both parties agree to comply with all applicable laws in performing obligations under this Agreement. Where there is conflict between regulations or policies of Sunset Valley and Austin, Austin's regulations or policies shall prevail. Venue for any dispute arising under this Agreement shall be in Travis County, Texas.

XV. Availability of Funding

The parties agree that Sunset Valley's payments under this Agreement must be made from current revenues available to Sunset Valley. Failure to appropriate sufficient funds to pay for services shall not be deemed a default, but Sunset Valley agrees to notify Austin within two (2) business days if its governing body does not appropriate sufficient funds to pay for a renewal term when it approves its annual budget, and this Agreement shall terminate on the last day for which funds were appropriated for

this Agreement**.** The parties further agree that this Agreement imposes no financial obligations upon Austin.

XVI. Notices

All written notices and/or payments required to be submitted to either party shall be sent to the addresses set forth below:

City of Austin

City of Austin Fire Chief
4201 Ed Bluestein Blvd
Austin, Texas 78721

City of Sunset Valley

Mayor
2 Lone Oak Trail

Austin, Texas 78745

Copy to
Director, Financial and Administrative Services
City of Sunset Valley
2 Lone Oak Trail
Austin, Texas 78745

Copy to:
Kay Boccella, Assistant City Attorney
City of Austin Law Department
301 West Second, Fourth Floor
Austin, Texas 78701

CITY OF SUNSET VALLEY

By_____

Its_____

Date_____

CITY OF AUSTIN

By_____

Its_____

Date_____