

Exhibit "B"
Performance Statement
Tyler county emergency District #2
and
Spurger Volunteer Fire Department

Department shall, in connection with fire fighting and emergency rescue programs within the Tyler County Emergency Services District #2 jurisdiction:

- 1. Provide equipment, personnel, supplies, materials, ect. in order to ;**
 - a) conduct fire prevention and emergency rescue training and education,**
 - b) respond to request for assistance in the event of fire and/or rescue emergencies.**
- 2. Assure fire prevention, fire fighting, and rescue personnel are properly trained and qualified for the levels of service required herein.**
- 3. Assure adequate qualified personnel are available in order that at least two (2) persons respond to each fire call and two (2) persons respond to each rescue or medical assist call.**
- 4. Provide adequate fully equipped and operating fire fighting vehicles and equipment to respond to each fire call.**
- 5. Conduct within each calendar year not less than:**
 - a) one (1) fire prevention workshop for the public,**
 - b) one (1) fire prevention class for the Spurger School System,**
 - c) twelve (12) fire prevention and/or fire fighting training sessions for the Spurger Volunteer Fire Department**
- 6. Prepare and submit for ESD#2 review, a proposed budget showing all revenues and expenditures for the next fiscal year.**
- 7. Prepare and submit such financial, administrative, and reports and other information as required including but not limited to:**
 - a) A monthly report of activities,**
 - b) A monthly financial report showing all receipts and expenditures and comparing both against the percentage of the fiscal year that has elapsed.**
 - c) An annual financial audit to be submit to the ESD#2 after the end of the fiscal year.**

**Agreement for Fire Protection Services
Tyler County Emergency Service District # 2
And
Spurger Volunteer Fire Department
In
State of Texas
County of Tyler**

Section 1 Parties to the Agreement

This Agreement is made by and between the Tyler County Emergency Service District #2 (hereinafter the “ESD#2”) and the Spurger Volunteer Fire Department (hereinafter the “Department”).

Section 2. Agreement Period

This Agreement shall commence on January 1, 2023 and unless terminated earlier, shall end on December 31, 2023, provided, however, said agreement shall continue thereafter on a year to year basis unless terminated by either party upon ninety (90) days written notice to the other party.

Section 3. Department Performance

Department shall, in a satisfactory manner as determined by ESD#2, operate a fire prevention, protection and fighting operation as well as an emergency rescue program to the geographic area of the community as identified by the ESD#2 Map attached as “Exhibit A”. Department shall perform all activities with the terms of the performance statement attached hereto as “Exhibit B” and with all other terms of this agreement.

Section 4. ESD#2 Obligations

Measure of liability for Payment to Department

- a) **In consideration of Department’s satisfactory performance of this agreement, ESD#2 shall, subject to the limitations set forth in this agreement, reimburse Department for the actual allowable costs incurred in performance of this agreement.**
- b) **ESD#2’s obligation under this section is contingent upon the actual receipt by ESD#2 of tax funds from Tyler County Tax Office, which performs the service of collection of taxes for the ESD#2. ESD#2 acknowledges that it has and will continue to set tax rates, which if paid by the property owners, will be sufficient to the costs properly incurred by Department under this agreement in the amounts agreed to below:**
 - **Agreement Amount: The agreement amount shall be that amount that is annually established and budgeted by the ESD#2 after consultation with the Department concerning its needs and with the Tyler County Tax Collector concerning probable tax revenues at various rates.**
 - **It is understood by all parties the ESD#2 will not reimburse Department for costs in excess of the amount that is established and budgeted annually by the ESD#2 and appropriated to Department, but it is acknowledged that Department may have other sources of funds with which to assist in the financing its operations.**

- c) **ESD#2 shall not reimburse Department for cost which have not been reported to ESD# 2 within sixty (60) days following the end of the fiscal year in which the cost were incurred or within ninety (90) days following the termination of this agreement.**
- d) **ESD#2 shall not reimburse Department for cost incurred before the commencement or after the termination of this agreement.**
- e) **ESD#2 may offset and withhold any amount owed to Department under this agreement against any money owed by Department to ESD#2 arising under this or any other agreement between the parties.**

Excess Payments

Department shall refund to ESD#2, within fifteen (15) days after ESD#2 requests, any money paid to Department by ESD#2 which ESD#2 determines has resulted in an over-payment to Department or has not been spent strictly in accordance with the terms of this agreement.

Section 5. Method of Payment

Department may request payment by submitting to ESD#2 in care of the ESD#2's treasurer, a letter or other type of request, either of which must contain the following information: the amount which is being requested; the budget account or accounts against which any and all costs have been incurred; documentation of all costs which have been incurred and for which reimbursement is being requested in every particular with the agreement under which they were procured and that the invoices are true and correct.

Section 6. Termination

- a) **ESD#2 or Department may terminate this agreement, in whole or in part, at any time either determines that cause exists for such termination. The party requesting termination shall give written notice ninety (90) days prior to the date of termination. The notice shall state the reason for termination and the portion of the agreement to be terminated.**
- b) **ESD#2 may immediately suspend performance of this agreement, without advance notice to Department, if ESD#2 identifies possible instances of fraud, abuse, fiscal mismanagement, or other serious deficiencies in Department's performance.**
- c) **The suspension or termination of this agreement by ESD#2 shall not relieve Department of any then existing liability to ESD#2.**

Section 7. Changes and Amendments

Except as otherwise specifically provided, any change in the terms of this agreement shall be made by an amendment in writing and by both parties.

Section 8. Independent Contactor

It is understood and agreed that Department is an independent contractor. Department agrees to hold ESD#2 harmless and indemnify it against any disallowed costs or any other claims which may be asserted by any third party occurring in connection with the services to be performed by Department under this agreement.

Section 9. Conflict of Interest/ Nepotism

Department represents to ESD#2 that neither it nor any member of its governing body presently has, or shall acquire, any interest, direct or indirect, which would conflict in any manner or degree with the proper performance of this agreement. No person having such interest shall be a member of the Department or shall be a member of Department's governing body.

Section 10. Compliance with the Law

Department shall comply with all regulations applicable to volunteer fire departments and to emergency rescue operations as applicable and with all federal, state, and local laws and regulations applicable to this agreement, precedence shall be given to the laws and regulations.

Section 11. Legal Authority

- a) Department represents that it possesses the practical ability and legal authority to enter into this agreement, receive and manage the funds authorized by this agreement, and to perform the services Department is obligated to perform hereunder.**
- b) The person signing this agreement on behalf of Department warrants that he/she has been duly authorized by Department to execute this agreement on behalf of Department and to bind Department to all terms herein set forth.**
- c) The person signing this agreement on behalf of ESD#2 warrants that he/she has been duly authorized by ESD#2 to execute this agreement on behalf of ESD#2 and to bind ESD#2 to all terms herein set forth.**

Section 12.

Department shall submit the following reports to ESD#2:

By the end of each monthly reporting period , the Department shall submit a report of receipts and expenditures. This report shall indicate the budget account against which each receipt is to be credited and each expenditure is to be charged. In addition to the financial activities, the monthly report shall include the number of responses to fires and other emergencies.

Within one-hundred-twenty(120) days after the end of the fiscal year, the Department shall provide a complete financial report showing all financial data, statements and reports required to comply with generally accepted auditing standards and an administrative report giving the total of all activities of the year.

Section 13. Dissolution of Department/ESD#2

Title to all property now owned or to be acquired by Department shall remain with the Department, but in the event of dissolution of Department any equipment or property acquired with funds provided by ESD#2 shall revert to ESD#2. In the event of dissolution of ESD#2 , title to all property now owned or to be acquired by Department shall remain solely with the Department.

Section 14. Coordination of Activities

- a) At least one ESD#2 Commissioner shall each month attend and participate, but have no vote, in the regular training session of Department.
- b) At least one active member of Department shall attend and participate, but have no vote in each regular Board meeting of the ESD#2


Section 15. Oral and Written Agreements

All prior oral and written agreements relating to the subject matter of this agreement have been reduced to writing and are incorporated in this agreement.

This Agreement is executed and signed on this 15 th day of _December_ 2022 to be effective as of January 1, 2023

Tyler County Emergency
Service District #2

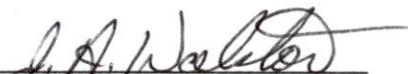
Spurger Volunteer
Fire Department



ESD#2 Board President



Fire Chief

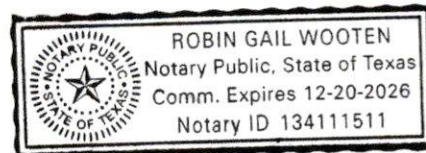



ESD#2 Secretary



Assist. Fire Chief

(seal)





Notary Public