

RESOLUTION NO. 28287

A RESOLUTION AUTHORIZING THE CHATTANOOGA FIRE DEPARTMENT TO ENTER INTO A CONTRACT WITH THE TENNESSEE VALLEY AUTHORITY (TVA) FOR FIRE PROTECTION, TECHNICAL RESCUE, AND HAZARDOUS MATERIAL RESPONSE SERVICES AT THE RACCOON MOUNTAIN PUMP STORAGE PLANT.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, it is hereby authorizing the Chattanooga Fire Department to enter into a contract with the Tennessee Valley Authority (TVA) for fire protection, technical rescue, and hazardous material response services at the Raccoon Mountain Pump Storage Plant.

Since the plant is outside the city limits, the TVA will reimburse the City for all fire protection, technical rescue, and hazardous material response services at the plant. The details of the response requirements and reimbursement to be received are outlined in the attached contract.

ADOPTED: June 23, 2015

/mem

**CONTRACT FOR FIRE PROTECTION, TECHNICAL RESCUE, AND HAZARDOUS
MATERIAL RESPONSE SERVICES
AT THE TVA RACCOON MOUNTAIN PUMP STORAGE PLANT**

This Contract for Fire Protection, Technical Rescue, and Hazardous Material Response Services at TVA Raccoon Mountain Pump Storage (this "Contract") is made by and between the Tennessee Valley Authority ("TVA") and City of Chattanooga ("City") (collectively "the Parties").

WHEREAS TVA desires fire prevention and suppression, technical rescue, and hazardous material response services and annual training and drills ("Fire Protection, technical rescue, and hazardous material response Services") at its TVA Raccoon Mountain Pump Storage Facility (the "Plant" which is located outside of the jurisdictional limits of the City); and

WHEREAS City maintains a fire department; and

WHEREAS City is willing and able to provide Fire Protection, technical rescue, and hazardous material response Services at the Plant;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

**I. FIRE PROTECTION, TECHNICAL RESCUE, AND HAZARDOUS MATERIAL
RESPONSE SERVICES**

- A. When, in the judgment of TVA, circumstances require firefighting personnel, vehicles, and equipment to provide Fire Protection, technical rescue, and hazardous material response Services at the Plant, TVA may call upon City to send such firefighting personnel, vehicles, and equipment and City shall, to the extent it is able, respond to TVA's request for such services.
- B. Notwithstanding Paragraph A above, City may, after consideration of all relevant facts, withhold sending and/or withdraw firefighting personnel, vehicles, and/or equipment if the highest ranking firefighting official reasonably determines such action is necessary to not jeopardize the overall fire protection of the jurisdiction of the City residents served by Department. In such situations, TVA expects a fair appraisal of the situation and an appropriate response. If and when City is unable to comply with TVA's requests for Fire Protection, technical rescue, and hazardous material response Services, the highest ranking firefighting official shall promptly notify TVA of its decision.
- C. Response times, from the time City receives a request for Fire Protection, technical rescue, and hazardous material response Services at the Plant until the first vehicle arrives

at the Plant, shall not exceed 10 minutes except in situations where inclement weather, traffic conditions or other events beyond City's control cause a delay.

- D. As part of the Fire Protection, technical rescue, and hazardous material response Services provided under this Contract, City shall, at mutually agreed upon times, participate in annual pre-fire planning tours to familiarize itself with the Plant and any additional training sessions, drills, and exercises as agreed upon by the Parties.
- E. City shall maintain in effect any necessary certifications and licenses – federal, state, local and otherwise - for the provision of Fire Protection, technical rescue, and hazardous material response Services and shall ensure all employees of City fulfill any applicable licensing requirements.

II. PAYMENT

- A. TVA shall reimburse City for all Fire Protection, technical rescue, and hazardous material response Services at the Plant as follows:
 - 1. for equipment, based on the rates set out in the published FEMA Schedule of Equipment Rates, which is attached and incorporated into this Contract;
 - 2. for officers and firefighters, \$19.52 for each hour spent at the Plant in response to a request for services by TVA under Section I. Travel time to and from the Plant shall not be reimbursed by TVA;
 - 3. for expendable materials, actual costs incurred in purchasing expendable materials.
- B. The rates for equipment referenced in paragraph II.A.1 are fixed and shall not be adjusted except as adjusted and published by FEMA. If the rates are adjusted by FEMA during the term of the Contract, the Contract will be amended to reflect the new rates. The new rates shall not take effect until both Parties have signed the Contract amendment and shall not apply to services performed before execution of the amendment, including services performed but not invoiced.
- C. The hourly rate for officers and fire fighters specified in Paragraph II.A.2 are fixed and shall not be adjusted during the term of the Contract.
- D. To receive reimbursement from TVA, City shall submit detailed, certified invoices that include the contract number and any applicable purchase order numbers, the type of service provided to TVA, the date of such service, and a breakdown of costs incurred for personnel, equipment, and materials. Time spent performing Fire Protection, technical rescue, and hazardous material response Services shall be rounded to the next whole hour and shall start at the time of arrival at the Plant and terminate when TVA instructs the responding personnel to return to their stations. City is not required to submit a specific form as its invoice, but all invoices shall include the information requested above. Failure to provide any of the requested information may result in a delay of payment of such invoice. Invoices that request reimbursement of expendable materials shall be

supported by documentation that reflects the actual costs incurred by City, such as receipts of purchase.

Invoices shall be sent to Accounts Payable via e-mail to accountspayable@tva.gov or via regular mail to:

Tennessee Valley Authority
Accounts Payable
P.O. Box 15500
Knoxville, TN 37901

TVA shall, within 45 days of receiving a detailed, certified invoice, reimburse City for services provided to TVA in accordance with the rates set out in this Contract.

- E. No minimum amount of work under this Contract is guaranteed. City expressly understands and agrees TVA shall not be liable for any amounts in excess of this monetary limit except pursuant to a fully executed written amendment to this Contract.

III. GENERAL TERMS AND CONDITIONS

- A. Personnel and equipment dispatched in response to a request from TVA shall operate under the immediate supervision and control of the senior firefighting official in charge of the dispatched personnel and equipment and under the general direction of TVA's senior firefighting official on duty at the scene of the fire.
- B. City may, in execution of the terms of this Contract, involve other fire protection and/or emergency response organizations through mutual-aid agreements, automatic-aid agreements, or subcontracts, or any applicable mutual-aid and emergency/disaster assistance statutes available at law. If such other parties are used, they shall be under City's control and, for purposes of this Contract, be considered agents of City as a governmental entity subject to the limits of liability under the Tennessee Governmental Tort Liability Act at TCA § 29-20-101 et. seq.
- C. TVA shall have the duty to defend and hold harmless City from and against any claim, demand, cause of action, liability, damages, judgment, or loss of whatever kind or nature, resulting from personal injury, including death, or property damage, where such injury, death, or damage (1) occurs on the Plant premises or to the extent that TVA's assistance and expertise shall be requested by City on an as-needed, mutual-aid basis for any technical rescue or emergency response incident occurring outside the Plant premises for which TVA can adequately provide such assistance and expertise, and (2) arises out of or results from the sole negligence of TVA or its agents and employees.
- D. Neither City nor any other person performing services under this Contract other than an actual employee of TVA shall be considered an agent or employee of the United States or TVA. Further, the United States of America, TVA, and their agents and employees assume no liability to City or any third party for any damages to property, both real and

personal, or personal injuries, including death, arising out of or in any way connected with the acts or omissions of City or any other persons. Any liability for any negligent acts or omissions of any City employee or any City agent is limited to the terms of the Tennessee Governmental Tort Liability Act at T.C.A. § 29-20-101 et. seq.

- E. No member of or delegate to Congress, resident commissioner, or any officer, employee, special government employee, or agent of TVA or City shall be admitted to any share or part of this Contract or to any benefit that may arise there from, but this provision shall not be construed to extend to a corporation or unit of government contracting for the benefit of itself or the public.
- F. This Contract is effective upon full execution by both Parties. The Contract shall be for five years from the date of execution. This Contract term shall not be extended or deemed to be extended except pursuant to a fully executed written amendment to the Contract. If either party wishes to terminate the contract prior to the end date, the terminating party must provide 30 days written notice to the other party.
- G. By entering into this Contract, City certifies that it and its employees meet all requirements to provide Fire Protection, technical rescue, and hazardous material response Services, including but not limited to licensure and training which is currently required for fire and emergency response workers under Tennessee or Federal law.
- H. This Contract is intended as a final expression of the Parties' agreement and as a complete and exclusive statement of the terms thereof. This Contract shall supersede all prior understandings, oral and written, between the Parties. This Contract may not be modified, altered, or changed except by a written amendment signed by all Parties hereto.

CITY OF CHATTANOOGA

TENNESSEE VALLEY AUTHORITY

Signature

Signature

Name

Name

Title

Title

Date

Date