

**LOAN AGREEMENT
CITY OF FRESNO, CALIFORNIA**

THIS AGREEMENT is made and entered into effective the ____ day of _____, by and between the CITY OF FRESNO, a California municipal corporation, acting through its Fire Department ("CITY"), and the FIRE INVESTIGATIVE STRIKE TEAM ("FIST").

RECITALS

WHEREAS, CITY is currently in possession of and using the property listed in **Schedule A** ("Property"), consisting of a vehicle specially equipped to accommodate a canine unit; and

WHEREAS, FIST is the owner of the property and desires to loan the Property to CITY until a date to be determined in the future; and

WHEREAS, CITY desires to retain possession and use of the Property in exchange for providing maintenance, repairs, and protection of the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and of the covenants, conditions, and promises hereinafter contained to be kept and performed by the respective parties, it is mutually agreed as follows:

1. Scope of Loan. FIST hereby loans to CITY, and the CITY hereby loans from the FIST, upon the terms and conditions hereinafter set forth, the Property listed in **Schedule A**, which is attached hereto and made a part hereof.

2. Time for Performance and Termination of Agreement. This Agreement shall be effective from the date first set forth above and shall continue for the duration of the FIST canine program, or until sooner terminated and revoked in accordance with this Agreement.

Either party may terminate this Agreement by written notice to the other party, effective not less than 60 days after receipt, without further liability.

3. Ownership of the Property. FIST shall retain title to and ownership of the Property at all times.

4. Care of the Property. In consideration of the loan of the Property, CITY shall provide for the maintenance protection and repair of the Property during the period of the loan, and shall provide to FIST an annual inventory of the Property, including its current condition and other information as requested by FIST. No cash payments to FIST shall be required except as provided in Sections 9 or 11.

CITY shall maintain the Property in good condition and repair at its own expense, and make all necessary replacements of components and parts during the term of the loan. In addition, all fuel and lubricants shall be furnished by CITY.

5. Alteration to the Property. CITY and FIST agree that CITY may alter the Property by installing the following:

- a. Radio communication equipment;
- b. Toughbook;
- c. Fuel ring for access to CITY fuel stations;
- d. Decals marking the Property as a canine unit; and
- e. Emergency markers.

CITY shall make no additional changes or alterations to the Property except with the written consent of FIST. CITY shall be responsible for handling, storing, and disposing of any hazardous materials in accordance with Federal, State, and Local Public Laws and Regulations. CITY acknowledges full responsibility for compliance with all law and regulations.

6. No Assignment. CITY shall not mortgage, pledge, assign, transfer, sublet, or part with possession of any portion of the Property to any third party, either directly or indirectly; and the CITY shall not cause any of the property to be encumbered, seized, taken in execution, attached, destroyed, or injured.

7. Responsibility for Property. While the Property is in City's possession, CITY shall be solely responsible for Property until it is returned to FIST as described in Section 9. The property shall be returned in as good condition as when received, reasonable wear and tear excepted. If CITY fails to return the property, CITY shall pay to FIST the amount specified in Schedule A as the value of the property, less the amount determined by the parties to represent reasonable wear and tear for the period during which the property was usable. If CITY returns the property in other than as good condition as when received, reasonable wear and tear excepted, CITY shall pay to FIST the amount necessary to place the property in such condition. If it is determined by the FIST that the property cannot be placed in such condition, CITY shall pay to FIST the amount specified in Schedule A as the value of the Property, less both the amount determined by FIST to represent reasonable wear and tear for the period during which the Property was usable and the scrap value of Property.

8. Insurance. Each party shall be responsible for providing insurance policies or self-insurance programs to fund liabilities on the property it owns. Evidence of insurance, Certificates of Insurance or other similar documentations shall be provided under this agreement.

9. Return of the Property. On or about the last day of the term of this loan, CITY shall return the property to FIST at a location to be designated by the parties. In the event of revocation of this loan, CITY shall return the Property as soon after such revocation as can be accomplished. The Property is loaned without operators.

10. Right of First Refusal. Should FIST decide to divest itself of the Property on loan, CITY shall have the right-of-first-refusal to purchase the Property at its fair market value.

11. Indemnity. CITY shall indemnify, hold harmless and defend FIST and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by FIST, CITY or any other person, and from any and all

claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of CITY or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement; provided nothing herein shall constitute a waiver by CITY of governmental immunities including California Government Code section 810 et seq.

FIST shall indemnify, hold harmless and defend CITY and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by the CITY, FIST or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of FIST or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement; provided nothing herein shall constitute a waiver by FIST of governmental immunities including California Government Code section 810 et seq. FIST agrees that this Agreement shall in no way act to abrogate or waive any immunities available to CITY under the Tort Claims Act of the State of California.

In the event of concurrent negligence on the part of CITY or any of its officers, officials, employees, agents or volunteers, and FIST or any of its officers, officials, employees, agents or volunteers, the liability for any and all such claims, demands and actions in law or equity for such losses, fines, penalties, forfeitures, costs and damages shall be apportioned under the State of California's theory of comparative negligence as presently established or as may be modified hereafter.

This section shall survive termination or expiration of this Agreement.

12. Right to Inspect Property. With no less than 24 hours' notice, FIST shall have access to the site on which the Property is situated, for the purposes of inspecting or inventorying the same, or for the purpose of removing the same in the event or termination or revocation of this Agreement.

13. Contingency Fees. No person or agency action for or on behalf of CITY to solicit or obtain this loan shall be paid any commission, percentage, brokerage, or contingent fee in any way connected with this loan.

14. Dispute Resolution. The parties desire, if possible, to resolve disputes, controversies, and claims ("Disputes") arising out of this Agreement without litigation. To that end at the written request of a party, each party shall appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any Dispute arising under this Agreement. The parties intend that these negotiations be conducted by non-lawyer, business representative. The discussions shall be left to the discretion of the representative.

A. If the negotiations do not resolve the Dispute within sixty (60) days of the initial written request, the Dispute may be submitted to non-binding mediation with a mediator chosen by mutual agreement of the parties.

B. Each party shall bear its own cost of these dispute resolution procedures. The parties shall equally share the fees of the mediation and the mediator.

15. Notification to Parties. Except as otherwise specified in this loan, all notices to either of the parties to this Agreement shall be sufficient if mailed in a sealed postpaid envelope addressed as follows:

To FIST:
Fire Investigative Strike Team
Attn: Eric Watkins
Battalion Chief
210 S Academy Ave
Sanger, CA 93657
Phone: 559-493-4320
FAX: 559-875-7451

To the CITY:
Fresno Fire Department
Attn: Christy Cronin
Senior Accountant Auditor
911 H Street
Fresno, CA 93721
Phone: 559-621-4009
FAX: 559-498-1070

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in the County of Fresno, State of California.

CITY OF FRESNO,
a California municipal corporation

Fire Investigative Strike Team
a Non-Profit Group

By: _____
Name
Title

By: [Signature]
Name: Eric Watkins

Title: Treasurer
(if corporation or LLC, Board
Chair, Pres. or Vice Pres.)

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____

By: _____
Deputy

Name: _____

APPROVED AS TO FORM:
City Attorney's Office

Title: _____
(if corporation or LLC, CFO, Treasurer,
Secretary or Assistant Secretary)

By: [Signature]
Amanda B. Freeman Date 1/30/15
Deputy City Attorney

Any Applicable Professional License:
Number: _____
Name: _____
Date of Issuance: _____

Attachment: Schedule "A"

**SCHEDULE A
Property**

Estimated Fair Market Value:	\$13,195
Mileage:	30,708
Year:	2006
Make:	Ford
Model:	Expedition
Vehicle Identification Number:	1FMPU13546LA56896
License Plate:	FIST K9
Inventory:	See photos









