

# CITY OF WABASHA AND TOWNSHIP OF GLASGOW FIRE SERVICE AGREEMENT

**THIS AGREEMENT** (“Agreement”), made and entered into this \_\_\_\_ day of February 2022, by and between the **CITY OF WABASHA**, a Municipal Corporation of Wabasha County, Minnesota (the “City”), and the **TOWNSHIP OF GLASGOW**, a Municipal Corporation of Wabasha County, Minnesota (the “Township”) (collectively the “parties”).

**WHEREAS**, the Township, deeming it advisable to have available for the benefit of its residents services of the City of Wabasha Fire Department, and the electors of the Township having pursuant to law, provided a fund for the furnishing of such fire service; and

**WHEREAS**, the City is willing to provide fire service to the Township through the City Fire Department and the Township agrees to purchase such service from the City by entering into an agreement containing the terms and conditions set forth herein.

**NOW, THEREFORE**, pursuant to Minnesota Law, it is hereby mutually agreed between the City and Township, as follows:

1. **Fire Service:** The City of Wabasha agrees to furnish fire protection to all that property located within the Township of Greenfield described as follows:
  - a. **All of Glasgow Township lining north of the Zumbro River:** said defined area in the Township of Glasgow hereinafter referred to as “Fire Protection Area”.

- a. **Allocation of Resources.** The parties understand the fire department officer in charge of the particular scene shall exercise judgment to determine, in consideration of all the established policies, guidelines, procedures, and practices, how best to allocate the available resources of the fire department under the circumstances of a given situation. Failure to provide fire services because of poor weather conditions or other conditions beyond the control of City shall not be deemed a breach of this Agreement.

- b. **No Guarantee.** The parties understand and agree City will endeavor to reasonably provide the services indicated above given the circumstances, but City makes no guarantees that the services it actually provides in a given situation will meet any particular criteria or standard. The City and its officers, employees and volunteer shall not be liable to Township or any other person for failure to furnish assistance under this agreement or for recalling assistance.

2. **Payments.** In consideration for the services extended by City to Township under this Agreement, Township shall compensate City as follows:

- a. **Contact Amount.** The Township agrees to make payments to the City in the amount of \$10,118.01. The contract amount shall be due and payable on or before said amount to be paid in equal semi-annual payments of \$5,059.01 due on the first day of July 2022 and on the

first day of December, 2022, 1% per month interest beginning following the due date, the parties hereto agree as follows:

The annual payment amount is based on the fire department's annual budget and allocated according to a formula based on the factors of the number of fire calls in the Township, the blended value of structures and land in the Township, and the amount of fees paid to the City by Township residents in the previous contract year.

b. **Insurance Proceeds.** Township will pay to the City all proceeds it receives from the State of Minnesota Fire Aid Insurance payments.

c. **Charges for Fire Calls-Payment.** Pursuant to Minn. Stat. §§ 366.011, 366.012, and 415.01 and City ordinance, persons or landowners requesting and receiving fire services may be billed directly by the City as provided herein and local ordinance. Additionally, if the person or landowner receiving fire services did not request services but a fire or other situation exists which, at the discretion of the fire department personnel in charge requires fire service, the person/landowner will be charged and billed. All persons/landowners will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a person's/landowner's insurance remains a debt of the person/landowner receiving the fire service.

The City shall bill the appropriate person/landowner for all fire calls. Parties billed have 60 days to pay. If the fire service charge is not paid by that time, the City will send a notice of delinquency. If the fire service charge remains unpaid for 30 days after this notice of delinquency, the City will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the City including but not limited to reasonable attorney fees and court costs. If the fire service charge remains unpaid for 30 after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid fire service charge to the county auditor in which the recipient of the services owns real property for collection with property taxes. The county auditor is responsible for emitting to the city all charges collected on behalf of the city. The City must give the property owner notice of its intent to certify the unpaid fire service charge by September 15.

f. **Delinquency.** If the annual payment is received after August 1<sup>st</sup> and January 1<sup>st</sup>, it shall be considered delinquent, and shall accrue interest at a rate of 1% per month.

3. **Emergency Service Charge.** Township, in its sole discretion, may exercise its authority to impose and collect an emergency service charge on those receiving emergency services, including fire services, within Township's Service Territory. City shall have no right to, or interest in, any service fees collected by Township. If Township imposes an emergency service charge it shall provide City a list of the specific types of information it determines it needs collected in order to successfully impose and collect the charge. City shall make a good faith effort to collect the requested information for each service call to the Service Territory and promptly provide Township with the information it collected.

4. **Service Territory.** City shall provide fire services as indicated in this Agreement to the area in Township described on the map which is attached hereto as Appendix A and made part of this agreement. The identified area shall constitute Township's Service Territory for the purposes of this Agreement.

5. **Term.** The term of this Agreement shall extend for a period of one year commencing on April 1, 2022 and ending on March 31, 2023, unless terminated earlier as provided herein.

6. **Ownership.** City owns the buildings and equipment associated with the fire department and the amounts paid by Township do not give rise to any ownership interest in, or responsibility toward, those items.

7. **City's Responsibilities.** In addition to any other obligations described herein, City shall:

a. Authorize and direct the City fire department to provide the fire services described herein to Township's Service Territory;

b. Maintain sufficient staffing to meet the reasonably foreseeable needs of the City and Township. The City will pay for all personnel and administrative costs (excluding Township's payments and contributions listed in Paragraph above) and training costs. The City retains control of Fire Department operations and personnel. Levels of staffing and the numbers of firefighters dispatched to a call shall be determined at the sole discretion of the City's Fire command;

c. Develop a detailed annual operational budget for the fire department for each year during the term of this Agreement by the Anniversary Date and present it to Township along with sufficient information to explain the items included in the budget figures;

d. Upon Township's request, provide Township access to financial and cost data related to the fire department for five years prior to the current service year;

e. Disclose to Township any proposed action City or the fire department intends to take that can reasonably be expected to effect the Insurance Services Office Fire Protection Grade in the Service Territory or City's ability to provide the fire services indicated above; and

f. Promptly disclose to Township any information City can reasonably anticipate will directly affect its ability to perform its obligations under this Agreement.

8. **Township's Responsibilities.** In addition to any other obligations described herein, Township shall:

a. Promptly pay City the Payment Amount as indicated above for the year of service, or a prorated share of the Payment Amount for the length of service actually

provided if the Agreement is terminated early and any other charges and contributions as provided in this Agreement;

b. Present a budget and levy proposal to the Town electors at each annual Township meeting during the term of this Agreement seeking authority to levy funds as needed to make payments as provided in this Agreement; and

c. Promptly disclose to City any information Township can reasonably anticipate will directly affect its ability to perform its obligations under this Agreement.

It is understood and agreed Township shall have no responsibility whatsoever toward the firefighters or other emergency personnel including any employment related issues such as training, supervision, performance reviews, discipline, compensation, benefits, insurance coverages, compliance with any employment related federal, state, and local laws and rules such as OSHA, ERISA, RLSA, FMLA, or any other employment related issues. It is further agreed Township has no responsibility, beyond paying the agreed upon payments as provided in this Agreement, for acquiring, operating, maintaining, housing, or replacing equipment as needed to provide the fire services described herein.

**9. Insurance Requirements.** City shall maintain general liability insurance for its services and shall include Township as an additional insured for the term of this Agreement and any extensions thereof. The City shall maintain insurance equal to or greater than the maximum liability applicable to municipalities as set forth in Minnesota Statutes, Section 466.04, subd. 1, as amended. City shall also maintain inland marine, automobile, and property insurance coverages. City shall provide Township proof of such insurance coverages and the additional insured endorsement naming the Township upon Township's request. City shall also maintain workers' compensation coverage as required by law.

**10. Indemnification.** City agrees to defend and indemnify Township against any claims brought or actions filed against Township or any officer, employee, or volunteer of Township for injury to, death of, or damage to the property of any third person or persons, arising from City's performance under this Agreement for services. Under no circumstances, however, shall City be required to pay on behalf of itself and Township, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466 applicable to any one party. The limits of liability for Township and City may not be added together to determine the maximum amount of liability for City. The intent of this subdivision is to impose on City a limited duty to defend and indemnify Township for claims arising out of the performance of this Agreement subject to the limits of liability under Minnesota Statutes, Chapter 466. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts between the parties and to permit liability claims against both parties from a single occurrence to be defended by a single attorney.

**11. Authorization.** The City and the Township warrant they have the appropriate statutory authority to undertake the obligations of this Agreement, that the persons signing this Agreement are authorized signatories for the entities represented, and that no further approvals, actions or ratifications are needed for the full enforceability of this Agreement against it; each

party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.

12. **No Waiver.** Nothing herein shall be construed to waive or limit any immunity from, or limitation on, liability available to either party, whether set forth in Minnesota Statutes, Chapter 466 or otherwise.

13. **Modification.** This writing contains the entire agreement between the parties and no alterations, variations, modifications, or waivers of the provisions of this Agreement are valid unless reduced to writing, signed by both City and Township and attached hereto.

14. **Subcontracting & Assignment.** City shall not subcontract or assign any portion of this Agreement to another without prior written permission from Township. Services provided to Township pursuant to a mutual aid agreement City has, or may enter into, with another entity does not constitute a subcontract or assignment requiring prior approval of Township so long as City remains primarily responsible for providing fire services to Township's Service Territory.

15. **Termination.** This Agreement may be terminated at anytime during its term by mutual agreement of the parties. Either party may terminate this Agreement by personally serving a 120 day written notice of termination on the other party. This Agreement shall terminate 120 days from the date of personal service of the written termination notice unless the party serving the notice withdraws the notice in writing before it is effective. If Township fails to pay for the service, charges and contributions as provided in this Agreement, City may terminate this agreement 60 days from the date of personal service of a written termination notice. Notice to City shall be served on the City administrator or City clerk if there is no City administrator, and notice to Township shall be served on the Township Clerk.

16. **Service Contract.** This is a service contract. The parties do not intend to undertake or create, and nothing herein shall be construed as creating, a joint powers agreement, joint venture, or joint enterprise between the parties. If, despite the forgoing, a court of competent jurisdiction finds such a relationship exists, the City and the Township shall be considered a single governmental entity, as provided in Minnesota Statutes, Section 471.59, subd. 1a, for the purposes of determining total liability.

17. **Minnesota Law Governs.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Minnesota. All proceedings related to this Agreement shall be venued in the State of Minnesota.

18. **Severability.** The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or otherwise unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement effective on the date indicated above.

**CITY OF WABASHA**

\_\_\_\_\_  
Emily Durand, Its Mayor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
Wendy Busch, Its City Clerk

\_\_\_\_\_  
Date

**TOWNSHIP OF \_\_\_\_\_**

\_\_\_\_\_  
\_\_\_\_\_, Its Chairperson or Supervisor

\_\_\_\_\_  
Date

Attest:

\_\_\_\_\_  
\_\_\_\_\_, It Township Clerk or Recorder

\_\_\_\_\_  
Date