

FIRE PROTECTION CONTRACT

TOWN OF PATTERSON WITH PATTERSON FIRE DEPARTMENT NO. 1, INC.

THIS AGREEMENT made as of the 1st day of January, 2017, by and between the TOWN OF PATTERSON, a municipal corporation of the State of New York, having an office and place of business at 1142 Route 311, Patterson, New York 12563 (hereinafter referred to as the “Town”); and the PATTERSON FIRE DEPARTMENT NO. 1, INC., having its business offices at 13 Burdick Road, Patterson, New York 12563 (hereinafter referred to as the “Fire Department”);

WHEREAS, there has been duly established in the Town of Patterson a fire protection district known as the Patterson Fire Protection District No. 1 (the “District”), which defines the principal service area for the Fire Department; and

WHEREAS, the Fire Department has proposed to provide fire protection, supplemental emergency ambulance, rescue and first aid (collectively referred to herein as “Fire Protection Services”) to the District for the term and for the compensation set forth below; and

WHEREAS, the Town and the Fire Department are desirous of entering into an agreement to provide Fire Protection Services to the District, and

1. The Town is a municipal corporation of the State of New York.
2. The Town desires to contract with the Fire Department for Fire Protection Services.
3. The Fire Department has the necessary qualifications to provide the services desired by the Town.
4. The Fire Department is willing to be employed by the Town, and the Town is willing to employ the Fire Department on the terms and conditions hereinafter set forth.
5. The Town has the necessary funds to pay the Fire Department pursuant to the terms of the Contract; and

WHEREAS, by Resolution dated _____, after a public hearing, the Town Board of the Town of Patterson awarded the Fire Department the contract to provide Fire Protection Services to the District; and

WHEREAS, the Fire Department agrees to furnish to the Town Fire Protection Services in the District for the 2017 calendar year, and the Town agrees on behalf of the District to pay the Fire Department the sum of SEVEN HUNDRED AND NINETY-ONE THOUSAND TWO HUNDRED AND TWO (\$791,202.00) DOLLARS AND NO/100 or its services for said year, subject to the provisions of Section 4, below;

NOW, in consideration of the mutual covenants contained herein, the Town and the Fire Department hereby agree that the terms and conditions of this Contract shall govern the agreement between the parties, and the parties hereto further agree as follows:

SECTION I - EMPLOYMENT

1. The members of the Fire Department, while engaged in the performance of their duties in answering, attending upon or returning from any call provided for by this Contract, shall have all the rights, privileges and immunities granted by the laws of the State of New York.

2. The Fire Department shall at all times during the period of this contract be subject to call for attendance upon any situation requiring Fire Protection Services occurring in the District. When notified of a call within the District, the Fire Department shall respond and attend upon the call without delay with suitable equipment and qualified personnel. Qualified personnel shall mean that the responding individual shall have met the minimum training standards based on the fire fighter's tasks or position in responding to the emergency. The minimum training standards shall be in accordance with the Putnam County Mutual Aid Plan dated January 2015 (Sec."R"). Upon arriving at the scene of the call the firepersons attending shall proceed diligently and, in every

reasonable way, attend to the circumstances of the call including the saving of life and property. Provided a system of mutual aid is in place, the failure of the Fire Department to respond to a call, or the failure of the Fire Department to respond to a call when multiple calls arise at or about the same time shall not constitute a breach of this Contract.

3. By the first day of September of each year, the Fire Department shall provide a copy of its budget for the following year, a fiscal year commencing January 1 to December 31, to the Town. The Town shall hold a public hearing and provide to the public the proposed contract along with the proposed contractual amount no later than the last day of October. Along with copies of the budget, a detailed breakdown of its capital plans shall be provided along with statements setting forth its reserves showing compliance with its capital plans. The capital plans or plan should detail the useful life of the Fire Department's real property, apparatus and equipment, anticipated capital repairs, maintenance or replacement needed and whether capital reserve funds have been established and what extent they are funded. Any singular item anticipated to be repaired, maintained or replaced at a cost greater than \$25,000 should be included in the capital plan.

4. The Fire Department shall, in accordance with Section 209-z of the General Municipal Law, have its records audited annually by an independent certified public accountant or firm of certified public accountants and within 180 days of the end of the Fire Department's fiscal term, it shall submit a copy of its audit report to the Town Board.

In the event that the Fire Department does not submit the certified annual audit described above, the Fire Department shall submit to the Town Comptroller the below referred items on a monthly basis until such time as the 2015 audit, the 2016 audit and the 2017 audit are both submitted to the Town Board.

- i. Monthly bank account statements for all Fire Department accounts;
- ii. All revenues received; and

iii. All expenses disbursed.

5. Following the approval by the Fire Department of a new member, the Fire Department shall submit the name of the new member along with a copy of the new member's application, arson investigation and sex offender registration (Pursuant to Article 6-c of Correction Law) to the Town Board for approval pursuant to Not-For-Profit Law 1402(c)(3). The submittal of information shall be made by 3:00pm on the Friday before the regularly scheduled meeting via fax or email to the Town Clerk and the request for approval will be acted upon without delay, but in no event later than the 30th day following receipt by the Town Clerk of the submittal of the new member information. Along with the request for approval of the new member, the Fire Department shall confirm in writing to the Town Board that the addition of the new member will not violate the terms of Paragraph 6 below.

6. The Fire Department must maintain an annual "active" membership containing no more than forty-five (45%) percent of its members living outside of the fire protection district. "Active" members are those members who meet the requirements of the Department's By-Laws but who also are physically able to respond to calls and to participate in drills and training. Prior to the commencement of the contract year, the Fire Department shall submit to the Town Board a list of all members of the Fire Department existing at that time along with their corresponding addresses and copies of their driver's license or other form of picture identification to confirm compliance with this provision. In the event that an active member moves out of the fire protection district, his or her's continued membership in the Department shall be subject to the approval of the Town Board in accordance with Not-for-Profit Law, Section 1402 (C)(3), which approval shall not be unreasonably withheld. Requests for approval by the Town Board, which shall contain the member's new address, shall be sent in accordance with Paragraph 5, above. The Town shall also be notified of the change of address of the members continually throughout the year in the event they need to

be contacted for LOSAP purposes.

7. Pursuant to Not-For-Profit Law Section 1402(f), by January 15 of each calendar year, the Fire Department shall make and file in the Putnam County Clerk's Office a verified certificate stating the names of the directors and officers of the corporation, containing an inventory of its property, a statement of its liabilities and that the corporation has not engaged, directly or indirectly, in any business other than that set forth in its certificate of incorporation. A copy of same shall be simultaneously filed with the Town Board.

8. By the 15th day of the month following the end of a quarter, a report shall be submitted to the Town Board, for the prior quarter, the volume and types of calls received broken out between fire and EMS and if mutual aid was required.

9. By March 1, the Fire Department shall submit a report to the Town Board along with copies of correlating sign in sheets setting forth the State point and Department point requirements of each member in the Department in order to confirm that the member has qualified for LOSAP benefits. The report shall be broken out by the categories delineated in Section 217 of the General Municipal Law or as otherwise defined by the Town's LOSAP plan.

10. By the 28th of February, the Fire Department shall submit its foreign insurance fund report for the calendar year 2016 with the New York State Comptroller providing an accounting of the funds received, and of expenditures made using foreign insurance funds. A copy shall also be filed with the Town.

SECTION 2-BEST EFFORTS OF FIRE DEPARTMENT

The Fire Department agrees that, at all times, it will faithfully, industriously and to the best of its ability, experience and talents perform all of the duties that may be required of and from it pursuant to express and implicit terms hereof, to the reasonable satisfaction of the Town.

SECTION 3 - TERMS OF EMPLOYMENT

Employment under this Contract shall commence as of January 1, 2017 and shall continue for a period of one (1) year until December 31, 2017, with each three month period constituting a quarter as follows; January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31.

SECTION 4-COMPENSATION OF FIRE DEPARTMENT

The Town, in consideration of the Fire Department faithfully complying with all the terms and conditions herein set forth, shall pay to the Fire Department and the Fire Department shall accept from the Town seventy (70%) percent of the contract sum by May 18, 2016 and the remaining thirty percent in accordance with Schedule A attached hereto, which contains a schedule and requirements. All monies charged hereunder shall be a charge upon the taxable property located in the Town.

SECTION 5-FIRE DEPARTMENT TO COMPLY WITH LAW

The Fire Department agrees to comply with the provisions of Sections 103-a and 103-b of the General Municipal Law and Section 139-b of the State Finance Law, regarding waiver of immunity when called before a Grand Jury. All other provisions of law required to be made a part of this Contract are hereby deemed incorporated herein. Performance under the terms and conditions of this Contract shall be subject to conformance with all applicable laws, rules and regulations in effect as of the date of this Contract including without limitation, the necessary reports and filings to be made under Section 519 of the Not For Profit Law and Sections 30-A and 33a of the General Municipal Law.

SECTION 6-ASSIGNMENT

This Contract may not be assigned by the Fire Department or its right, title and interest therein assigned, transferred, conveyed, sublet or disposed of without the prior consent, in writing, of the Town.

SECTION 7-REMEDIES

This Contract may be terminated upon a material breach which remains uncorrected after thirty (30) days written notice to the Fire Department by the Town sent by certified mail, return receipt requested. Upon termination, the Department shall remit its pro-rata share of that year's contract funds to the Town.

SECTION 8-ENTIRE AGREEMENT

It is understood that this Contract constitutes the entire agreement between the Fire Department and the Town. Should any part of this Contract be declared void by legal ruling, all other parts of this Contract shall remain in effect.

SECTION 9-INSURANCE/INDEMNIFICATION

The Fire Department, at its own cost and expense, shall provide a policy or policies of insurance customarily required for the operation of volunteer fire department including without limitation a policy of (a) directors and officers insurance covering the Fire Department administration; (b) general liability insurance providing for insurance coverage in a minimum aggregate amount of Two Million Dollars (\$2,000,000.00) and shall provide additional coverage in said certificate of insurance to include liability products and completed operations; and (c) to the extent that the Fire Department employs persons, workman's compensation insurance covering those

individuals. The Fire Department shall provide to the Town certificates of insurance evidencing the aforementioned coverage, naming it as an additional insured which shall contain provisions indicating that said policies may not be cancelled without at least 30 days notice to the Fire Department and the Town. Except for the workman's compensation insurance referred to above, the Town shall obtain workman's compensation insurance for the Department for the services to be provided hereunder. In connection with same, the Department shall report all incidents requiring a claim under workman's compensation to the Town via an incident report, which shall be filed no later than thirty-six hours after the report is made.

SECTION 10-NONDISCRIMINATION

During the term of this Contract, the Fire Department agrees that in accordance with Article 15 of the Executive law (also known as the Human Rights law) and all other state and federal statutory and constitutional non-discrimination provisions, the Fire Department will not discriminate against any volunteer or applicant because of race, creed, color, sex, national origin or marital status, except as permitted by law. The Fire Department is subject to possible termination of this Contract and forfeiture of all monies due hereunder for a violation of this clause.

SECTION 11-GOVERNING LAW

This Contract and the performance thereof shall be governed, interpreted, construed, and regulated by the laws of the State of New York.

SECTION 12-PARTIAL INVALIDITY

If any term, covenant, condition or provision of this Contract or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the

remainder of this Contract, or the application of such terms or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition and provision of this Contract shall be valid and be enforced to the fullest extent permitted by law.

SECTION 13-ENDORSEMENTS

No agreement, oral or written, respecting this Contract shall be binding upon either party unless in writing and attached hereto.

SECTION 14-NOTICE OF CLAIM

Service of a verified claim on the Town Clerk within ninety (90) days of accrual of a claim against the Town or completion of the work or portion thereof, whichever is earlier, and the expiration of forty (40) days thereafter shall be a condition precedent to the commencement by the Fire Department of any action or proceeding with respect to this Contract.

SECTION 15-COUNTERPARTS

This Contract is executed in four (4) counterpart originals, each of which shall constitute an original and all of which, when taken together, shall constitute one Contract.

SECTION 16 - RESOLUTION

This contract has been approved by a majority of the members of the Fire Department by Resolution adopted in accordance with the Fire Department By-Laws at either a regular or special meeting.

SECTION 17- COMPENSATION AND VFBL

The Town shall remain liable for benefits payable under the Volunteer Firefighter Benefits Law (VFBL) as required by Section 30 of the VFBL for “active members” of the Fire Department.

SECTION 18 - SANITATION

The Town of Patterson Garbage District #2 shall collect the trash and recyclable materials from the Patterson Fire Station at 13 Burdick Road, and the Patterson Fire Substation located at 161 Bullet Hole Road. The amount of \$200.00 per month shall be a charge against the budget for Fire Protection Services in the Town Budget to provide for trash collection. Collection shall occur once per week. The trash collected at these facilities shall be typical of household trash, and shall not include large bulk items, waste oil, hazardous chemicals, furniture, appliances, electronics or household waste from individual fire department members. Items listed by the Town as recyclable shall be separated from the trash and placed in a separate container for pickup.

SECTION 19 - NOTICES

All notices, requests, demands and other communications required or permitted to be given hereunder shall be in writing, and shall be deemed duly given if delivered by hand or mailed by a registered or certified mail, return receipt requested, to the parties at the following address:

Patterson Fire Department No. 1, Inc.
Attn: President
13 Burdick Road
Patterson, New York 12563

Town of Patterson
Attn: Town Board
1142 Route 311
PO Box 470
Patterson, New York 12563

ATTESTATION CLAUSE

IN WITNESS WHEREOF, the parties have executed this Contract on the date first above written.

THE TOWN OF PATTERSON

PATTERSON FIRE DEPARTMENT NO. 1, INC.

By: _____
Richard Williams, Supervisor

By: _____
Eleanora Smith, President

STATE OF NEW YORK)

ss:

COUNTY OF PUTNAM)

On the ___ day of _____, 2016, before me, the undersigned personally appeared Richard Williams, known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

STATE OF NEW YORK)

ss:

COUNTY OF PUTNAM)

On the ___ day of _____, 2016, before me, the undersigned personally appeared Eleanora Smith known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

FIRE DEPARTMENT CONTRACT COMPLIANCE CHECKLIST

- January By January 15 of each year, filing of verified certificate with County Clerk and Patterson Town Clerk. Certificate to contain: names of officers and directors; inventory of property; statement of liabilities and that corporation has not engaged in any business other than as stated in its Certificate of Incorporation.
- Annual Membership Roster with copies of Drivers Licenses for each member or other form of ID showing address of member.
- Quarterly report to Town Board for the prior quarter of call report (in arrears) with volume and types of calls received broken out between fire and EMS and whether mutual aid was used.
- February By Feb 28 of each year, filing of report of expenditure of foreign fire insurance funds. (GML 30a & 33-a).
- 70% of Total Contract Payment (Feb 28) if all prior reports and audits have been submitted to the Town in an acceptable form.
- March By March 1 report for LOSAP compliance setting forth State point and Dept. point requirements. Report shall be broken out by categories listed in 217 of GML.
- April Quarterly report to Town Board for the prior quarter of call report (in arrears) with volume and types of calls received broken out between fire and EMS and whether mutual aid was used.
- July Quarterly report to Town Board for the prior quarter of call report (in arrears) with volume and types of calls received broken out between fire and EMS and whether mutual aid was used.
- July 15th 15% payment if all prior reports and audits have been submitted to the Town in an acceptable form.
- September By September 1, Budget to be submitted to Town. Along with copies of the budget, a detailed breakdown of its capital plans shall be provided along with statements setting forth its reserves showing compliance with its capital plans. The capital plans or plan should detail the useful life of the Fire Department's real property, apparatus and equipment, anticipated capital repairs, maintenance or replacement needed and whether capital reserve funds have been established and what extent they are funded. Any singular item anticipated to be repaired, maintained or replaced at a cost greater than \$25,000 should be included in the capital plan.

15th of September 15% payment if all prior reports and audits have been submitted to the Town in an acceptable form.

September 28 Annual Audit to be Submitted to Town Board.

October Public Hearing on Contract for following year.

Quarterly report to Town Board for the prior quarter of call report (in arrears) with volume and types of calls received broken out between fire and ems and whether mutual aid was used.