

**CITY OF KENYON and TOWN
2024 FIRE CONTRACT**

This contract is made and entered into this 1st day of April, 2024 (“Anniversary Date) between the City of Kenyon, 709 2nd St., Goodhue County, Minnesota, a public Corporation (“City”), and **Wheeling Township**, c/o Clerk; in Rice County, Minnesota, a public corporation (“Town”).

In consideration of the mutual promises and agreements hereinafter set forth the parties do hereby agree as follows:

1. **Fire Service.** Town agrees to purchase from City, and City agrees to provide Town, the following fire services: *(Check all those that apply)*

- | | |
|--|--|
| <input checked="" type="checkbox"/> Structural Firefighting | <input checked="" type="checkbox"/> Emergency Medical Services |
| <input checked="" type="checkbox"/> External Structural Firefighting | <input checked="" type="checkbox"/> Fire Scenes |
| <input checked="" type="checkbox"/> Interior Structural Firefighting | <input checked="" type="checkbox"/> Rescue Scenes |
| <input checked="" type="checkbox"/> Grass/Farmland/Forest Firefighting | <input checked="" type="checkbox"/> General Medicals |
| <input checked="" type="checkbox"/> General Firefighting | Level of Emergency Medical Response |
| <input checked="" type="checkbox"/> Vehicles & Equipment | <input checked="" type="checkbox"/> First Responder |
| <input checked="" type="checkbox"/> Carbon Monoxide Calls | <input type="checkbox"/> Emergency Medical Technician |
| <input checked="" type="checkbox"/> Other Non-Structural Firefighting | <input type="checkbox"/> Paramedic |
| <input checked="" type="checkbox"/> Rescue | <input type="checkbox"/> Fire Code Enforcement |
| <input checked="" type="checkbox"/> Vehicle & Equipment Extrication | <input checked="" type="checkbox"/> Hazardous Materials Response |
| <input checked="" type="checkbox"/> General Search & Rescue | Level of Hazardous Materials Response |
| <input checked="" type="checkbox"/> Confined Space Rescue | <input checked="" type="checkbox"/> First Responder, Awareness |
| <input checked="" type="checkbox"/> High Level Rescue | <input checked="" type="checkbox"/> First Responder, Operations |
| <input checked="" type="checkbox"/> Water Rescue | <input type="checkbox"/> HAZMAT Technician |
| <input checked="" type="checkbox"/> Diving/Recovery | <input type="checkbox"/> HAZMAT Specialist |
| | <input checked="" type="checkbox"/> Disaster Response |

The services indicated above are further explained, or limited, as follows:

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 contract.

b. **No Guarantee.** The parties understand and agree City will endeavor to provide the services indicated above to the best of its ability 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.

2. **Payment.** Town agrees to pay City annually during the term of this contract the Payment Amount determined annually according to the following formula:

The total cost of the fire department operational budget shall be divided between the City and the Towns as follows:

For 2018 and subsequent years: City is responsible for 51%, Towns in aggregate for 49%.

The following percentages relate specifically to Town in relation to the entire township territory to which City provides fire services as the primary service provider (e.g., the Town's Service Territory and all or any portions of other cities, towns, or unorganized territories included in the City's primary service area).

Number of Wheeling **Town** sections covered by this agreement: 6
Total number of all Town sections covered by this agreement: 118.5

Total: 6 divided by **118.5** = **5.06%** Town Cost Allocation
Sections covered *Total Town Sections*

Total Fire Department Annual Operational Budget for the upcoming year: \$ **221,181.00**

\$ 108,378.69 x **5.06%** = \$ **5,483.96**
Operational Budget *Town Cost Allocation* *Payment Amount*

City shall provide Town a written claim for the Payment Amount by February 1, of each year, with payment due in full by August 1.

- a. **Annual Meeting of Parties.** Town and City shall hold at least one joint meeting annually during term of this contract at least 60 days before February 1 to calculate the Payment Amount for the upcoming year, discuss Town's satisfaction with the service provided during the year, and to discuss such other issues as either party deems relevant to this contract. The meeting shall be held separately from any regular Town or City meeting and shall be attended by at least a quorum of each party's governing body.
3. **Emergency Service Charge.** City, 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 Town. Town shall have no right to, or interest in, any service fees collected by City. Pursuant to Minn. Stat. §366.011, §366.012, and City ordinance, the City agrees to send a written statement to the person(s) or property owner(s) requesting or receiving service. Additionally, if the person or property owner 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/property owner will be billed. Any billable amount of the fire charge not covered by a person's/property owner's insurance remains a debt of the person/property owner receiving the fire service. If the emergency service charge is not paid within 30 days after a notice of delinquency is sent to the recipient of the services, the city council can authorize the certification of the amount of the service charge to the county auditor, which will be collected along with property taxes levied against the property. The service charge is subject to all penalties and interest provided for the collection of property taxes.
4. **Service Territory.** City shall provide fire services as indicated in this contract to the area in Town described below and/or as indicated on a map which is attached hereto and made part of this contract. The identified area shall constitute the Town's Service Territory for the purposes of this contract.
5. **Term.** This contract shall commence on the effective date indicated above and shall expire 1 year from that date unless terminated earlier as provided herein.
6. **Ownership.** City owns the buildings and equipment associated with the Fire Department and the amounts paid by Town 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 Town's Service Territory;
- b. Develop a detailed annual operational budget for the fire department for each year during the term of this contract by the Anniversary Date and present it to Town along with sufficient information to explain the items included in the budget figures. The annual operational budget may contain a capital fund amount to be used for fire department tools and equipment upgrades and purchases. It shall not contain amounts for purchase or upgrade of land or buildings. Town contributions to any capital purchase or fund other than the stated shall be separate from this contract and shall be negotiated by the City with each Town separately;
- c. Upon Town's request, provide Town access to financial and cost data related to the fire department for five years prior to the current service year, including capital fund totals;
- d. Disclose to Town any proposed action City or the fire department intends to take that can reasonably be expected to affect the Insurance Services Office Fire Protection Grade in the Service Territory or City's ability to provide the fire services indicated above; and
- e. Promptly disclose to Town any information City can reasonably anticipate will directly affect its ability to perform its obligations under this contract.

8. **Town's Responsibilities.** In addition to any other obligations described herein, Town 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 contract is terminated early;
- b. Present a budget and levy proposal to the town electors at each annual town meeting during the term of this contract seeking authority to levy funds as needed to pay the "Payment Amount"; and
- c. Promptly disclose to City any information Town can reasonably anticipate will directly affect its ability to perform its obligations under this contract.

It is understood and agreed Town shall have no responsibility whatsoever toward the fighters 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 Town has no responsibility, beyond paying the agreed upon Payment Amount, 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 Town as an additional insured for the term of this contract and any extensions thereof. City shall also maintain inland marine, automobile, and property insurance coverages. City shall provide Town proof of such insurance coverages and the additional insured endorsement naming the Town annually by the anniversary date of this contract.

10. **Indemnification.** City agrees to defend and indemnify Town against any claims brought or actions filed against Town or any officer, employee, or volunteer of Town for injury to, death of, or damage to the property of any third person or persons, arising from City's performance under this contract for services. Under no circumstances, however, shall City be required to pay on behalf of itself and Town, 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 Town 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 Town for claims arising out of the performance of this contract 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. **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.
12. **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 Town, and attached hereto.
13. **Subcontracting & Assignment.** City shall not subcontract or assign any portion of this contract to another without prior written permission from Town. Services provided to Town 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 Town so long as City remains primarily responsible for providing fire services to Town's Service Territory.
14. **Termination.** This contract may be terminated at any time 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 Town fails to pay for the service according to the schedule established herein, City may terminate this agreement 60 days from the date of personal service of 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 Town shall be served on the Town clerk.
15. **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.
16. **Minnesota Law Governs.** This contract shall be governed by and construed in accordance with the internal laws of the State of Minnesota. All proceedings related to this contract shall be venued in the State of Minnesota.
17. **Severability.** The provisions of this contract shall be deemed severable. If any part of this contract is rendered void, invalid, or otherwise unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this contract.

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

Kenyon City

Wheeling Township

By its Mayor:

By its Chairperson:

Signature

Signature

Douglas Henke

Print Name

Print Name

Date

Date

Mark R. Vahlsing, City Administrator