

# FIRE PROTECTION AGREEMENT

**THIS AGREEMENT**, made the \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the Town of Constable, a municipality situated in the County of Franklin, State of New York (hereinafter "Town") and the Constable Volunteer Firemen, Inc., a not-for-profit corporation situated in the County of Franklin, State of New York (hereinafter "Fire Department").

## WITNESSETH

**WHEREAS**, there has been duly established in said Town of Constable, County of Franklin and State of New York a fire protection district, known as the "Constable Volunteer Fire Protection District" encompassing all of the territory in the said Town, as such territory is more fully described in the resolution establishing such district and duly adopted by the Town Board of the Town of Constable, New York on or about January 5, 1952;

**WHEREAS**, Fire Department maintains its headquarters within such fire protection district;

**WHEREAS**, Town Law Section 184 permits a Town to contract with a fire department maintaining adequate and suitable apparatus and appliances for the furnishing of fire protection and rescue services in such fire protection district; and

**WHEREAS**, a public hearing has been duly held in accordance with the Town Law on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions herein contained, the parties hereto mutually agree as follows:

### 1. PROVISION OF FIRE PROTECTION SERVICES

Fire Department will provide Town with fire protection services capable of responding to fire related emergencies on an on-going basis within the fire protection district. Fire protection shall include responding to structure fires, wild land fires, fire alarms and carbon monoxide alarms, hazardous materials calls and spills (at an awareness level), assistance on ambulance calls when requested, search and rescue, traffic control at accidents, downed tree & wire calls, gas and other odor calls, and non-emergency assists of homeowners, and fire prevention activities. Fire protection shall not include inspections of buildings and properties in the fire protection district. While the fire department may choose to provide EMS and general ambulance services, this Agreement does guarantee or cover those services.

### 2. TERM

The term of this Agreement shall commence on January \_\_\_\_\_, 2024 and shall continue until December 31, 2024.

3. COMPENSATION AND VFBL

Town shall remain liable for benefits payable under the Volunteer Firefighters' Benefit Law (VFBL) as required by Section 30 of the UVBL.

Town shall pay the Fire Department the amount of eighty-two thousand, four hundred, thirty-five dollars (\$82,435). Payment shall be made in two equal payments of forty-one thousand, two hundred seventeen dollars and fifty cents (\$41,217.50) at the Town Board meetings in February 2024 and July 2024. In the event the Fire Department, between February and July feels it necessary to receive an additional payment prior to July, 2024, the Fire Department will provide financial proof to the Town that such an advance payment is needed prior to July, 2024. Upon receipt of such financial proof, the Town will review the same and will, at the Town's discretion, make such an advance payment to the Fire Department.

All monies charged hereunder shall be a charge upon the taxable property located in the fire protection district.

4. HOLD HARMLESS

Town recognizes that Fire Department is staffed by volunteers and that the Fire Department can only make reasonable efforts to recruit and retain volunteers. Town agrees to hold Fire Department harmless for Fire Department's failure to provide sufficient manpower at any single incident.

The Town shall not be held responsible for any losses or damages to the fire apparatus of the Fire Department sustained in answering such calls.

5. INSURANCE

- A. Fire Department shall at all times during the period of this Agreement maintain and keep in force a public liability insurance policy for injury to persons and property, including wrongful death, with a combined single limit of at least \$2,000,000 representing both property damage and bodily injury coverage, with said policy of insurance naming the Town of Constable as an additional insured on a primary and non-contributory basis. The limit on Automobile Liability Coverage shall be no less than \$1,000,000 with an umbrella of at least \$2,000,000, for coverage in total of no less than \$3,000,000.
- B. Town shall make arrangements for VFBL coverage and benefits through the County of Franklin and cancer insurance as required by law.
- C. Fire Department shall provide the Town with certificates of insurance evidencing the aforementioned coverages on an annual basis and/or as may be requested by the Town. Fire Department shall name the Town as additional insured in the Fire Department's insurance policy. Fire Department shall ensure that the Town receives notices of any termination or suspension of such insurance or change of insurance carrier.

- D. Fire Department agrees to defend, indemnify and hold harmless the Town from any and all claims, liability, causes of action and damages, losses or expenses arising out of operation of, and services performed by, Fire Department pursuant to the terms of this Agreement, except for any such obligations imposed upon the Town by law which are or may be deemed non-delegable, including but not limited to VFBL.

6. REPORTING REQUIREMENTS

- A. At the February Town Board meeting, the Fire Department will present to the Town an accounting of all actual expenditures and revenues against the budget amounts for the prior year.
- B. Fire Department shall on a quarterly basis submit to the Town Board and accounting of the expenditures from the Town funds. This shall include but not be limited to invoices, copies of cancelled checks, receipts and bank statements.
- C. Fire Department shall, in person, at the August Town Board meeting, present a proposed budget request for the following year. At that time the Fire Department will provide the Town with the following required reporting as outlined in Section 184 of the NYS Town Manual.
  - 1. Fire Department's most recent annual report of directors pursuant to section five hundred nineteen of the not-for-profit corporation law.
  - 2. Fire Department's most recent verified certificate pursuant to subdivision (f) of section 1400 of the not-for-profit corporation law.
  - 3. Fire Department's most recent IRS Form 990.
  - 4. Fire Department's most recent annual report pursuant to section 30-a of the general municipal law.

7. GROUND FOR TERMINATION

- A. Fire Department may terminate this Agreement upon the Town's failure to deliver the monies due Fire Department under this Agreement by the date due, so long as Fire Department provides fourteen (14) days written notice delivered registered or certified mail, return receipt requested, to the Town of the date it will cease providing services. If the Town remits such funds to the Fire Department during this fourteen (14) day notice period, Fire Department shall not terminate services.
- B. Town may terminate this Agreement upon the loss or suspension of Fire Department's ability to deliver fire protection services. Within fourteen (14) days written notice of termination of services, delivered registered or certified mail, return receipt requested, to the Fire Department from the Town, Fire Department will reimburse the Town the pro-rated balance of taxpayer funds based on date of

notice receipt. Fire Department will ensure that they retain sufficient taxpayer funds to reimburse the Town for the pro-rated balance of the terminated Agreement period.

9. NOTICES

Except where specifically outlined in other sections of this Agreement, 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 mail by registered or certified mail, return receipt requested, to the parties at the following address:

Town of Constable  
Attn: Supervisor  
PO Box 39  
15964 State Route 30-N  
Constable, NY 12926

Constable Volunteer Fire Department, Inc.  
Attn: President  
1136 State Route 122  
Constable, NY 12926

10. SAVINGS CLAUSE

If any provision of this Agreement is determined to be legally invalid, inoperative or unenforceable, only that particular provision shall be affected, such determination shall have no effect whatsoever on any other provision of this Agreement, and all other provisions shall remain in full force and effect. Should the law be amended such that any term of this Agreement shall be rendered null and void or unenforceable, or should the law require of provision in this Agreement that is not presently recited, such agreement shall be deemed amended as of the effective date of the amendment to the law.

11. WAIVER

No delay or failure to exercise any remedy or right occurring upon any default shall be construed as a waiver of such remedy or right, or acquiescence in such default, or shall in affect any subsequent default of the same or a different nature. All rights and remedies herein conferred shall be in addition to and not exclusive of any and all other rights or remedies now or hereafter existing at law or in equity.

12. HEADINGS

All headings and captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and shall in no way define, limit, extend or describe the scope or intent of any provision hereof.

13. FURTHER ASSURANCES

The parties shall execute and deliver all documents, provide all information and take or forbear

from all such action as may be necessary or appropriate to achieve the purposes set forth in this Agreement.

14. BINDING EFFECT

In the event that this Agreement expires before the next Agreement can be negotiated, the terms and provisions of this Agreement will remain in full force and effect only upon written agreement of both parties.

15. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

16. NO ASSIGNMENT

Neither party may assign, transfer, convey or otherwise dispose of the Agreement without the written consent of the other party.

17. ENTIRE AGREEMENT

This Agreement is the entire agreement among the parties, and shall not be changed, except by a writing, signed by the party to be charged. This Agreement shall supersede all prior agreements between the parties.

IN WITNESS WHEREOF, the parties hereto have set their respective hands and seals as of the day and year first written above.

Town of Constable

Constable Volunteer Firemen, Inc.

By: \_\_\_\_\_  
Supervisor

By: \_\_\_\_\_  
President

Councilperson

\_\_\_\_\_  
Director

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Attested by the Town Clerk of the  
Town of Constable, New York