

AGREEMENT FOR FIRE PROTECTION, FIRST RESPONDER, RESCUE AND INSPECTION SERVICES

This Agreement for Fire Protection, First Responder, Rescue and Inspection Services ("Agreement") is made by and between the **City of La Crosse**, Wisconsin ("**City**") and the **Town of Medary**, Wisconsin ("**Town**") on _____, 2025 (collectively the "Parties") and is made effective January 1, 2025.

WHEREAS, the City has a full-time Fire Department that provides fire protection, first responder, rescue and inspection services.

WHEREAS, the Town is adjacent to the City and desires fire protection, first responder, rescue and inspection services from the City for all Town properties, citizens and guests located within the area described in **Exhibit A**.

WHEREAS, the Parties had previously executed an Agreement for Fire Protection, First Responder, Rescue and Inspection Services on or about November 14, 2019, (the "2019 Agreement").

WHEREAS, the Parties desire to change certain terms and provisions of the 2019 Agreement.

WHEREAS, the Parties wish to set forth their respective commitments, understandings, rights and obligations as more fully described herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein exchanged, and other good and valuable consideration, the Parties agree as follows:

1. Commencing on January 1, 2025 and ending on December 31, 2029 at 11:59 pm (the "Term"), the City will provide fire protection, first responder and rescue services to all alarms received from the Town, for the Service Area. Additionally, the City will also provide fire inspections services in accordance with Wis. Admin. Code § SPS 314 to the Service Area for the Term of the Agreement. During the Term of this Agreement, the Service Area shall be all Town properties described in **Exhibit A**.

2. In consideration for the fire protection, first responder and rescue services provided herein, the Town shall pay the City:

a. Beginning in 2025 and continuing annually, an amount calculated by the following method.

(1) The City shall calculate the equalized assessed value of the Town (the "Town's EAV").

(2) The City shall calculate the equalized assessed value of the City (the "City's EAV").

- (3) The total equalized assessed value of both municipalities (the "Total EAV") shall be calculated by adding the Town's EAV and the City's EAV.
 - (4) The Town's EAV shall be divided by the Total EAV. The quotient shall be known as the Town's equalized assessed value percentage (the "Town's EAV Percentage").
 - (5) The City's annual operating budget for its Fire Department shall be multiplied by the Town's EAV Percentage. The product shall be the Town's annual cost of fire protection, first responder, and rescue services (the "Town's Annual Cost").
 - (6) For each contract year, the Town's Annual Cost to be paid to the City shall be adjusted in five percent (5%) increments. In year 2025, the Town shall only pay to the City thirty-five percent (35%) of the Town's Annual Cost. In each subsequent year, the Town shall pay to the City an additional five (5%) until the Town has achieved paying one hundred percent (100%) of the Town's Annual Cost. Once the Town is paying one hundred percent (100%) of the Town's Annual Cost, the Town shall continue to pay one hundred percent (100%) of the Town's Annual Cost to the City for the remainder of the Agreement. The Town's Annual Cost multiplied by the applicable annual percentage shall be the Town's payment for fire protection, first responder, and rescue services (the "Payment for Fire Services").
 - (7) The Town shall pay the City the Payment for Fire Services within thirty (30) days of invoice from the City.
 - (8) Attached to this Agreement as **Exhibit B** is an illustrative calculation of the method provided in this Section 2.a., using illustrative values. These values and figures are used solely for illustrating the method of calculation provided in this section and are not intended to indicate in any way what the actual calculation for any contract year shall be. The amount of the Payment for Fire Services for any given contract year, calculated as provided in this section, shall be binding on the Parties.
- b. The City's standard inspection fees as determined in the City's fee schedule, as amended and superseded from time to time. A copy of the current fire inspection fees is attached as **Exhibit C**. Payment shall be received within thirty (30) days of invoice.
 - c. For each contract year and continuing annually, the equal amount received from the annual Wisconsin Department of Safety and Professional Services (the "DSPS") 2% fire funding payment pursuant to Wis. Stat. § 101.575, as amended or superseded. Payment to the City will be due within sixty (60) days of Town's receipt of payment from

the DSPS. This amount of funds paid to the City will be applied directly to the City's Fire Department operating budget to support eligible Fire Department needs in accordance with applicable law. The Town shall take all necessary steps to timely qualify and apply for such funding from DSPS.

3. The City agrees to make available for such services all of the equipment at its disposal, as well as adequate available staffing. The Fire Chief, or designee of the Fire Department, is vested with the discretion to determine what service and equipment is necessary and is further vested with discretion as to responding to simultaneous fires within the City and other municipalities served. In exercising discretion, the Fire Chief, or designee, shall give equal consideration in prioritization to Town incidents compared to City incidents based upon generally accepted fire service risk management principles. The City shall in no way be liable for the exercise of such discretion and the determination by the Fire Chief not to answer any alarm provided, however, that an agent designated by the Town shall be notified by the City that the City is engaged in incident response beyond available resource capacity within its own limits or any other municipality that the City has a contract with and the Fire Chief has decided that the City cannot safely respond to the alarm of the Town. Existing mutual aid agreements with neighboring agencies will be requested at the discretion of the Fire Chief, or designee of the Fire Department, to respond to the potential of multiple simultaneous incidents that exceed available resources and response will be prioritized to the best abilities of available partnering mutual aid resources.

4. The City shall assume liability for Worker's Compensation of its employees, loss to its equipment and property and its intentional and negligent misconduct. The Town shall assume general liability for the services provided in this Agreement and indemnify, hold harmless and defend the City, its officers, employees and agents. The Town shall obtain and maintain an insurance policy for general liability that is primary, non-contributory and waives subrogation against the City. The Town's general liability policy shall be written to include the requirements identified in **Exhibit E**.

5. The Town shall hold harmless and indemnify the City from any third-party claim or loss, against the City, arising from any incident that occurs on properties that for the reason of slope, structure setback from roadway, lack of fire hydrant water supply, grade or weight capacity of driveway, width of driveway, overhang of buildings or trees, or other property design and access features that delay, impede or prohibit access to the property by the City's Fire Department equipment or otherwise adversely affect or impede accepted Fire Department tactical procedures or policies.

6. The 2019 Agreement provided for certain amounts of previous Town payments to be placed in a special fund for the possible future construction of a fire station. To this end, the City only received payments for fire inspection fees and the WDSPS fire funding payments found under Sections 2b and c during the 2019 Agreement. Due to the impracticality of constructing a new fire station at this time, the Parties agree that the amounts placed in the special fund shall be disbursed to the City for payment for services already rendered in the 2019 Agreement upon execution of this Agreement.

7. The Town may terminate this Agreement at any time for convenience upon the occurrence of all the following conditions:

- a. Town shall provide one hundred eighty (180) days advanced written notice of its termination of the Agreement to the City.
- b. Prior to termination of the Agreement, the Town shall pay the City the Town's Annual Cost for the current year of the contract, less any Payments for Fire Services received by the City in the current year of the contract. Attached to this Agreement as **Exhibit D** is an illustrative calculation by the method provided in this Agreement, using illustrative values. These values and figures are used solely for illustrating the method of calculation provided in this section and are not intended to indicate in any way what the actual calculation for any contract year shall be. The amount of the payment for any given contract year, calculated as provided in this section, shall be binding on the Parties.

8. Any references in this Agreement to any particular agency, organization or officials shall be interpreted as applying to any successor agency, organization or official or to any other agency, organization or official to which contemplated functions are transferred by statute or ordinance. Any references in this Agreement to any particular statute, ordinance, or other law shall be interpreted as applying to such statute, ordinance, or other law as recreated or amended from time to time.

9. This Agreement and any dispute arising from or related to this Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Wisconsin.

10. If any term or provision of this Agreement is reviewed by a court or other judicial or quasi-judicial entity, such entity shall treat this Agreement as having been jointly drafted by both Parties with equal bargaining strength.

11. All notices, requests, consents, demands, waivers or other communication required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or mailed first class, postage prepaid, by registered or certified mail as follows:

If to the Town, to:

Town of Medary
Attn: Town Clerk
N3393 Smith Valley Road
La Crosse, WI 54601

If to the City, to:

City of La Crosse
Attn: City Clerk
400 La Crosse Street
La Crosse, WI 54601

With a copy to:

City of La Crosse
Attn: Fire Chief

400 La Crosse Street
La Crosse, WI 54601

Notice shall be deemed given for all purposes five (5) days after deposit in the United States mail, and the date of postmark on the receipt for such article conclusively shall be deemed the date of deposit.

12. Any dispute arising out of or relating to this Agreement, including the alleged breach, termination, validity, interpretation and performance thereof (the "Dispute") shall be resolved with the following procedures:

- a. Upon written notice of any Dispute, the Parties shall attempt to resolve it promptly by negotiation between individuals who have authority to settle the Dispute on behalf of the Parties and this process should be completed within sixty (60) days (the "Negotiation").
- b. If the Dispute has not been resolved by Negotiation in accordance with Section 12.a., then the Parties shall proceed to mediation unless the Parties at the time of the Dispute agree to a different timeframe. A "Notice of Mediation" shall be served, signifying that the Negotiation was not successful and to commence the mediation process. The mediator shall be agreed on by the Parties or, if they are unable to agree, selected by the Circuit Court of La Crosse County, on application of either Party. The mediation session shall be held within thirty (30) days of the retention of the mediator, and last for at least one full mediation day, before any Party has the option to withdraw from the process. The Parties may agree to continue the mediation process beyond one day, until there is a settlement agreement, or one Party (or the mediator) states that there is no reason to continue because of an impasse that cannot be overcome and sends a notice of termination of mediation. All reasonable efforts will be made to complete the mediation within thirty (30) days of the first mediation session. During the course of mediation, no Party can assert the failure to fully comply with Section 12(a), as a reason not to proceed or to delay the mediation. The service of the Notice of Mediation shall stay the running of any applicable statute of limitation regarding the Dispute until thirty (30) days after the Parties agree that the mediation is concluded or the mediator issues a Notice of Impasse. Each Party shall bear an equal share of the mediation cost unless the Parties agree otherwise. All communications, both written and oral, during the Negotiation and Mediation phases are confidential and shall be treated as settlement negotiations for purposes of applicable rules of evidence; however, documents generated in the ordinary course of business prior to the Dispute, that would otherwise be discoverable, do not become confidential simply because they are used in the Negotiation and/or Mediation process. The process shall be confidential based on terms acceptable to the mediator and/or mediation service provider.

- c. If the Parties cannot resolve the Dispute by mediation, after reasonable efforts, either Party may demand arbitration conducted in accordance with chapter 788, Wis. Stat., or any successor statute, by a single arbitrator, chosen by mutual agreement of the Parties, or if they do not agree, by the Circuit Court for La Crosse County, on application of either Party. The arbitrator shall be an attorney with at least ten (10) years experience. The Party demanding arbitration shall bear all the costs of arbitration. Chapter 788, Wis. Stat., or any successor statute, shall govern the arbitration proceeding, except that the Parties waive any right to trial by jury if a dispute concerning the arbitration proceeding is resolved by a court. Each Party is hereby authorized to file a copy of this Section in any proceeding as conclusive evidence of this waiver of jury trial by the other Party.
- d. In the event of a Dispute, each Party shall have all remedies available at law or in equity.

13. This Agreement is intended to be solely between the Parties. Nothing in this Agreement nor the performance of the Parties hereunder, accords any third party any legal or equitable rights whatsoever which may be enforced by any nonparty to the Agreement.

14. This Agreement may be executed in severable counterparts, each of which may be deemed an original and all such counterparts together shall constitute one and the same agreement.

15. The Preamble and Recitals to this Agreement are incorporated into, and made a part of, this Agreement by reference.

16. This Agreement and referenced Exhibits constitute the entire agreement between the Parties and shall supersede all previous communications and commitments, whether written or verbal, between the Parties regarding the subject matter of this Agreement. No agreement or understanding changing, modifying or extending this Agreement shall be binding on either Party unless memorialized in a writing signed by both Parties' authorized representatives.

IN WITNESS, the Parties to this Agreement have caused this instrument to be signed and sealed by duly authorized representatives of the City and Town.

Town of Medary

By: _____
Steve Elsen, Chairperson

By: _____
Diane Elsen, Town Clerk

Subscribed and sworn before me
this _____ day of _____, 2025

Notary Public, State of _____
My Commission: _____

City of La Crosse

By: _____
Shaundel Washington-Spivey, Mayor

By: _____
Nikki Elsen, City Clerk

Subscribed and sworn before me
this _____ day of _____, 2025

Notary Public, State of _____
My Commission: _____