

CONTRACT

**BY AND BETWEEN
NORTH SMITHFIELD FIRE AND RESCUE SERVICE, INC.
AND
TOWN OF NORTH SMITHFIELD**

July 1, 2008 through June 30, 2010

THIS CONTRACT is made and entered into this by and between the Town of North Smithfield (the "Town"), a municipal corporation created by the General Assembly of Rhode Island with its principle office located in the Memorial Town Building, Slatersville, Rhode Island, hereinafter called the Town and the North Smithfield Fire and Rescue Service, Inc. (the "Fire Department") a Rhode Island corporation with its principle office located at 1470 Providence Pike in said Town of North Smithfield.

WITNESS, the Town and the Fire Department, for the consideration hereinafter named, mutually agree as follows:

1. THE WORK TO BE DONE.

The Fire Department agrees to provide to the public:

- A. Fire safety protection;
- B. Maintenance and operation of fire alarm system;
- C. Maintenance and operation of central fire and rescue dispatch system;
- D. Proper response to emergency fire calls, with fire apparatus for the Town of North Smithfield;
- E. Proper response to emergency medical calls, with a R.I. state certified vehicle;
- F. Enforcement of the fire prevention and fire protection laws; and
- G. Both parties agree that the Fire Department may enter into agreements with other Fire Departments for mutual aid and support, such costs to be assumed by the Town.

2. MINIMUM STAFFING.

The Fire Department and Town agree that the Fire Department shall provide a minimum staff of twenty-one (21) full-time fire personnel.

3. AUDIT.

As a non-profit corporation in the Town of North Smithfield receiving funds appropriated as approved in the annual Town Budget by the Town Council, the Fire Department shall comply with the annual request of the Town Council to submit to it an audit report for the preceding fiscal year prepared by an independent public accountant licensed by the State of Rhode Island and prepared in accordance with generally accepted accounting principles. Said report shall also include a letter from the auditors containing a statement that they have read this Contract and that in their opinion the Fire Department has complied with its fiscal provisions. Said audit report shall be submitted to the Town Administrator within one hundred eighty (180) days after the end of the fiscal year.

4. PAYMENT FOR SERVICES.

In consideration of the performance of this Contract the Town agrees to pay, and the Fire Department agrees to accept as compensation for its services provided, as outlined in Sections 1 and 2, the amount as indicated in Exhibit 1 attached hereto and made part hereof, said amount to represent the base funding amount for the fiscal year indicated. The amount stated in Exhibit 1 shall reflect:

- (a) For the fiscal year beginning July 1, 2008, a 4.25% increase from the base funding amount of the prior year (2007-08);
- (b) For the fiscal year beginning July 1, 2009, not less than a 4.00% increase from the base funding amount of the prior year (2008-09);

5. APPLICATION FOR PAYMENT.

The Town agrees to pay the Fire Department for its personnel and operating expenses and for the performance of services as outlined in Article 1, including staffing levels as indicated in Article 2, the agreed upon negotiated sum as indicated in Exhibit 1 attached hereto and made part hereof. Application for payment shall be made in a form as agreed between the Town and Fire Department and as included in Exhibit 2 attached hereto and made part hereof.

Schedule of Payments.

Payments shall be made as follows:

- 1. First payment by July 20, 2008 for 2/12th of the amount budgeted and shown in Exhibit 1;
- 2. Second payment of 1/12th by September 10, 2008; and
- 3. Each successive payment in the amount of 1/12th by the 10th of each month. In the event that a regular Town Council Meeting is not scheduled before the 10th day of any month, payments due hereunder shall be tendered the next business day after the Town Council Meeting.

No payments under the above schedule shall be made to the Fire Department unless and until the required financial statement is completed in good faith and received by the Town.

6. EXTRAORDINARY EXPENSES.

A. The Town recognizes that, due to the nature of the work performed by Fire Department personnel, the Fire Department may incur "extraordinary expenses" in the form of increased overtime, medical expenses, etc., or other personnel-related expenses that have not been included in the normal operating budget of the Fire Department resulting from job-related injuries resulting in long-term illnesses, injuries or disability. The Fire Department and the Town therefore agree that upon occurrence of an event relating to an employee of the Fire Department that may qualify under the provisions of RIGL 45-19-1, et seq., the Fire Department will immediately (within 72 hours) notify the Town of said illness, injury or disability and the effects on said employee and the Fire Department to the reasonable extent known at the time. The Town's obligation incurred under this paragraph shall exist for the reasonable duration of the injury (despite the term of this contract), and until such time as the employee is no longer legally entitled to benefits. Nonetheless, no assumption by the town of any obligations under RIGL 45-19-1 is here assumed or implied by this contract.

B. The Fire Department shall submit to the town administrator itemized documentation substantiating such extraordinary expenses for reimbursement to the Fire Department or for direct payment by the town. The town administrator shall refer the documents, bills and invoices to the town council for approval consistent with the provisions and requirements of paragraph 6A, herein. Town council approval shall not be unreasonably withheld.

C. In addition, the parties recognize that there may also be extraordinary expenses incurred due to an emergency, an act of God and/or unforeseen circumstances which have not been contemplated by the parties. In such an event, the parties agree to enter into good faith efforts to promptly resolve any such expense issues.

D. Except for those obligations specifically assumed in paragraph 6.A., above, for the term of this contract, it is recognized that the Town hereby explicitly disclaims any liability or assumption of responsibility for all claims against NSFRS of any nature and kind for injury, compensation or damages of any kind made by present, future or former firefighters, employees, agents, officers, directors or members of NSFRS, or its predecessor organization(s), claimed or unclaimed as of the date of this agreement, or such claims by any other person, firm or corporation at any time, including but not limited to pending claims and/or lawsuits.

7. TERM.

This Contract shall commence on July 1, 2008, and shall terminate on June 30, 2010, unless terminated prior thereto in accordance with Sections 8 and 9 herein.

8. COMPLIANCE.

The parties agree that the Fire Department will at all times be in compliance with the terms and conditions of this Contract. The Town reserves the right, and the Fire Department agrees, that the Town may, periodically and without notice, inspect and monitor the day to day activities of the Fire Department to insure the compliance of the Fire Department to this Contract. Said inspection shall be carried out by the Town Administrator and/or his designee(s).

If the Fire Department is found to not be in compliance then: (1) the Town shall give notice to the Fire Department of their non-compliance and the Fire Department shall take such action as needed to bring them into compliance with the terms of this Contract within a reasonable period of time; or (2) the Town may terminate said Contract as set forth herein with the approval of the Town Council.

Further, the Town's failure to remit funds in accordance with Sections 4, 5 and 6 herein shall be grounds for termination of said Contract.

9. TERMINATION OF CONTRACT.

The Town and the Fire Department agree that:

A. Should the Fire Department be judged bankrupt; or shall be petitioned into, or be a petitioner for, or be a party debtor, in the bankruptcy court; or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency or for any other reason; or if it should persistently or repeatedly refuse or should fail, except for good cause, to provide the Town of North Smithfield with the obligations of Section 1, above, or persistently disregard laws, ordinances or the reasonable instructions of the Town Council or otherwise be guilty of a substantial violation of any provision of this Contract, then the Town, deeming that sufficient cause exists to justify such action, may without prejudice to any other right or remedy and after giving the Fire Department seven (7) days written notice, terminate this contract with the Fire Department.

B. Any material non-compliance with the terms of this Contract (notwithstanding any other contractual term herein) by either the Town or Fire Department shall be considered a breach of this Contract and subject to termination with seven (7) days prior written notice.

C. It is further agreed by both parties that in the event of termination of this Contract, the Fire Department shall not be entitled to receive any further payment

from the Town and the Town shall not be entitled to receive further services from the Fire Department, with the exception of consequential damages which may have been sustained by the non-breaching party.

D. The town in its sole discretion may terminate this contract upon thirty (30) days notice in furtherance of the establishment of a municipal fire department.

E. This contract is not assignable by either party except upon written consent duly authorized by the other party to this contract.

10. OTHER AGREEMENTS.

The Town and Fire Department mutually agree that:

A. Insuring and other agreements.

The Fire Department shall maintain as per other agreements, those agreements relating to Town owned equipment and/or appurtenances which do hereby become part of this contract, and also the requirement and agreement that the Fire Department will maintain the appropriate insurances on the personal property, vehicles, real property and equipment in their possession, as well as medical coverages and liability insurance. The types and amounts of coverages shall be as approved by the Town prior to the execution of this contract, and the Fire Department shall provide copies of such policies to the Town upon execution of this Contract.

B. Repairs and maintenance.

Any routine and non-routine maintenance and repairs required to Town owned vehicles, as well as fuel for all Fire Department vehicles, shall become the responsibility of the Town of North Smithfield. No such amounts shall be included in the Fire Department's budget for repairs and maintenance.

Absent exigent circumstances, prior approval for repairs is required, along with full documentation of the necessity of said repairs including estimates of the work to be done, and any other relevant information regarding the necessity for maintaining the value and use of these vehicles, must be presented to the Finance Director. The Town will be responsible for any such expenditures. No funds will be advanced to the Department for vehicle fuel or repairs to Town owned vehicles.

If non-routine or emergency type repairs are required, the Fire Chief can procure immediate corrective action with the approval of the Finance Director and after the recommendation of the Public Safety Director.

C. Inspection and other fees.

Retention of fees collected in accordance with the enforcement or fire prevention and fire prevention laws, e.g., fire alarm system, smoke and carbon monoxide inspections shall remain with the Fire Department's restricted account. The amount of the fees charged shall be subject to review and approval by the public safety director in his discretion. Plan review fees shall be paid to the Town and the Fire Department shall be compensated \$100.00 per review.

D. Third-party billing.

Nothing herein shall be construed to prohibit the Fire Department from recouping incremental costs from third parties for services provided to them, to be collected and distributed in accordance with the current contract dated February 14, 2000.

IN WITNESSETH WHEREOF, the Town of North Smithfield has caused its corporate seal to be hereto affixed and these presents to be signed, in its name and on its behalf by _____, its Town Administrator, duly authorized, and the North Smithfield Fire and Rescue Service, Inc. has caused its corporate seal to be hereto affixed and these presents to be signed in its name and on its behalf by its President, Paul Shatraw and its Fire Chief, Joel D. Jillson, duly authorized.

WITNESSED BY:

TOWN OF NORTH SMITHFIELD

By: _____
Town Administrator

As duly authorized by the Town Council for
the Town of North Smithfield

Dated: _____

WITNESSED AS TO BOTH BY:

NORTH SMITHFIELD FIRE AND
RESCUE SERVICE, INC.

By: _____
Joel D. Jillson, Fire Chief

By: _____
Paul Shatraw, Chairperson

Both as duly authorized by and on
behalf of the North Smithfield Fire
and Rescue Service, Inc. a Rhode
Island Corporation

Dated: _____

EXHIBIT I

The Town of North Smithfield agrees to pay the North Smithfield Fire and Rescue Service, Inc., under Article IV of the contract as follows:

Fiscal Year 2008-2009

\$2,309,392.00

And

Fiscal Year 2009-2010

Not less than \$2,401,768