



CITY OF WASHINGTON, ILLINOIS
City Council Agenda Communication

Meeting Date: October 19, 2020

Prepared By: Ray Forsythe, City Administrator

Agenda Item: Memorandum of Agreement between the City of Washington and the Washington Fire Department

Explanation: The City of Washington and the Washington Volunteer Fire Department and Rescue Squad, Inc. entered into an Agreement effective November 1, 2017 through October 31, 2020 to provide fire protection services and ambulance and emergency medical services. Due to outstanding negotiations with other entities that could impact the new contract, both parties agree that a 6-week extension is warranted.

Fiscal Impact: FY 2021-2024 Budgets will reflect the negotiated terms of a new contract.

Recommendation/Committee Discussion Summary: Staff recommends approval. This item is included on the October 19th Public Safety Committee.

Action Requested: Approval of the Memorandum of Agreement between the City of Washington and the Washington Volunteer Fire Department and Rescue Squad, Inc. for fire Protection Services and for the Ambulance and Emergency Medical Services.

Attachment: Memorandum of Agreement

**MEMORANDUM OF AGREEMENT
BETWEEN
CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS
AND
WASHINGTON VOLUNTEER FIRE DEPARTMENT
AND RESCUE SQUAD, INC.
FOR FIRE PROTECTION SERVICES AND FOR THE
AMBULANCE AND EMERGENCY MEDICAL SERVICES**

This Agreement is made this 19th day of October, 2020, and effective as of the first day of November 2020 by and between the **City of Washington, Tazewell County, Illinois**, an Illinois home rule municipal corporation (hereinafter referred to as the "City") and the **Washington Volunteer Fire Department and Rescue Squad, Inc.**, an Illinois not-for-profit corporation (hereinafter referred to as the "Department").

WHEREAS, the parties entered into an Agreement effective November 1, 2017 through October 31, 2020. The Agreement is attached herein as Exhibit A;

WHEREAS, the City and the Department wish to extend the Agreement for a six-week period; and

THEREFORE, BE IT RESOLVED, THAT THE Agreement between the City and the Department herein referred to as Exhibit A is extended for a six-week period of time effective November 1, 2020 through December 14, 2020.

**CITY OF WASHINGTON, TAZEWELL
COUNTY, ILLINOIS**

**WASHINGTON VOLUNTEER FIRE
DEPARTMENT AND RESCUE
SQUAD, INC.**

BY: _____

Its _____

BY: _____

Its Board President

ATTEST:

ATTEST:

BY: _____

Its _____

BY: _____

Its _____

**AGREEMENT BETWEEN THE CITY OF WASHINGTON, TAZEVELL COUNTY,
ILLINOIS AND THE WASHINGTON VOLUNTEER FIRE DEPARTMENT AND
RESCUE SQUAD, INC. FOR FIRE PROTECTION SERVICES AND FOR
AMBULANCE AND EMERGENCY MEDICAL SERVICES**

This Agreement ("Agreement") is made this 6th day of ~~November~~ Nov 2017, and effective as of the 1st day of ~~Nov~~ Nov 2017 by and between the **CITY OF WASHINGTON, TAZEVELL COUNTY, ILLINOIS**, an Illinois home rule municipal corporation (hereinafter referred to as the "City") and the **WASHINGTON VOLUNTEER FIRE DEPARTMENT AND RESCUE SQUAD, INC.**, an Illinois not-for-profit corporation (hereinafter referred to as the "Department").

**SECTION 1
RECITALS**

WHEREAS, pursuant to Article VII of the Constitution of the State of Illinois of 1970, the City and Department have the authority to enter into this Agreement for fire protection services and ambulance and emergency medical services; and

WHEREAS, it is in the best interests of the health, safety and welfare of the residents of the City that the relationship between the City and the Department, established more than 125 years ago, continue under a formal written arrangement; and

WHEREAS, the Department provides fire protection services and ambulance and emergency medical services to various units of local government, including, but not limited to, the City, Central Fire Protection District, and Pleasant View Fire Protection District; and

WHEREAS, the City does not maintain its own fire department or rescue squad, and is in need of the services of the Department to provide fire protection and ambulance and emergency medical service to the residents of the City.

NOW, THEREFORE, for and in consideration of the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the parties hereto covenant, consent, and agree as follows:

**SECTION 2
OBLIGATIONS OF THE DEPARTMENT**

The Department agrees as follows:

2.01. Provision of Services. The Department will provide fire prevention, fire protection, ambulance, emergency medical services, and when required, Advanced Life Support ("ALS") services as adopted on May 1, 2016 by the Peoria Area Emergency Medical Services Project Medical Director within the corporate limits of the City, except that the City may also contract with or secure the services of Northern Tazewell Fire Protection District to provide

certain ambulance and emergency medical services within the geographic territory covered by the Northern Tazewell Fire Protection District. Unless agreed to otherwise by the parties, and except as stated above, the Department will be the sole provider of said services, and will comply with all applicable state statutes and administrative rules and regulations in the provision thereof.

2.02. Periodic Reports. The Department will submit periodic reports of the Department's activities to the City Council, or to a negotiating committee of the City Council appointed by the Mayor, if such a committee exists. The Department will submit not less than four (4) reports each year, only one of which, the annual report, is required to be in writing.

2.03. Contracts with Fire Protection Districts. The Department will be responsible for negotiating separate contracts for the provision of fire protection services and emergency medical services with and to the Central Fire Protection District and the Pleasant View Fire Protection District. The Department will provide copies of any such written contracts to the City Clerk upon execution.

2.04. Incorporation of Agreement into Contracts. The Department agrees that as an integral part of this Agreement, it will cause each contract entered into with the Central Fire Protection District and the Pleasant View Fire Protection District to incorporate the terms of this Agreement by reference, and expressly make this Agreement a part of those separate contracts. The purpose of this requirement is to ensure that the separate Fire Protection Districts agree to, and accept, the conditions of possible termination of this Agreement, including, but not limited to, the status of legal title to real estate, equipment, and vehicles upon the termination of the Agreement. Furthermore, a purpose of this provision is to ensure that the separate Fire Protection Districts accept the provisions dealing with the separate Fire Protection Districts' obligation to be a party to binding arbitration concerning compensation to the separate Districts for said property.

2.05. Release of Liability in Contracts. The Department shall require, in any contract entered into with the Central Fire Protection District and the Pleasant View Fire Protection District, a provision wherein the separate Fire Protection Districts waive and release any and all claims for damages or liability from and against the City arising out of or in any way connected with the City's termination of this Agreement, where such termination by the City is made in good faith, for just cause, and in conformity with the procedures outlined herein.

2.06. Title to Real Estate and Improvements. Legal title to the real estate and improvements to the Wilmor Road Station, legally described in Exhibit A, and attached hereto and by reference expressly made a part hereof, shall remain with the City. Further, the City retains the sole and absolute right to sell or lease any portion of the real estate not being used by the Department.

2.07. Sole Possession of Real Estate. The Department shall have sole and exclusive use of the Wilmor Road Station building.

2.08. Books and Records. The Department will be responsible for all bookkeeping as to sources of revenue and expenditures including, but not limited to, contracts, investments, donations, and billing and collection of fees for fire and ambulance services. Such funds shall be retained by the Department, but are to be used by the Department only for fire protection service and emergency medical service purposes.

2.09. Fiscal Year of Department. The Department must establish and maintain a fiscal year beginning May 1 and ending April 30 of each year.

2.10. Annual Audit. The Department will cause an independent annual audit to be performed each year. The audit must be commenced within 45 days of the end of the fiscal year. Such audit shall be accomplished by a certified public accounting firm, and the City shall be notified in advance of the name of the firm employed to perform the audit. Copies of the audit shall be filed with the City Clerk and the City Treasurer upon completion of the audit.

2.11. Insurance Coverage. The Department shall provide adequate insurance coverage for all vehicles and equipment owned and used by the Department. The Department will also maintain and provide insurance coverage for liability, and workers compensation when applicable, for all Department employees/members, and include in any such policies a "Good Samaritan Endorsement." The City shall be named as an additional insured on all policies of insurance, and copies thereof shall be deposited with the City within 30 days after the renewal of such policies, or within 30 days after the commencement of any such policies as the case may be.

2.12. Routine Maintenance on Real Estate. The Department shall, at its sole cost and expense, perform and pay for all routine maintenance and repairs to the real estate, buildings, and fixtures at the Wilmor Road Station. For purposes of this paragraph, "routine maintenance" shall mean any one item of maintenance or repair costing \$1,000 or less.

2.13. Maintenance and Repair of Vehicles and Equipment. The Department shall, at its sole cost and expense, maintain and repair all equipment and vehicles in the Department's possession or ownership.

2.14. Independent Contractor. The Department shall at all times operate as an independent contractor and shall not at any time be the agent or employee of the City.

2.15. Subcontracting Prohibited. The Department may not subcontract or sublet the fire and ambulance services contracted for in this Agreement.

2.16. Indemnification of City. The Department shall save and hold the City free, harmless, and indemnified from and against any and all liability, damages, causes, causes of action, and responsibility whatsoever on account of any injury to any person or damage to any property arising out of or in any way connected with the operations of the Department.

2.17 Department Board of Directors. The Department agrees that the current

number of Directors permitted on its Board of Directors by its By-Laws is five (5) total, and that two (2) of the Directors serving on the Board will be appointed by the Mayor of the City of Washington, subject to approval by a majority vote of the City Council. One of the two (2) Directors appointed by the City will be considered the "At-Large Director" under the Department's Bylaws. The "At-Large Director" shall be appointed by the City at the expiration of the term of the At-Large Director currently seated as of the date of this Agreement. Either of the City-appointed Directors may be removed by the City during the term of appointment via majority vote of the City Council; any such removal shall be accompanied by a replacement Director appointed by the Mayor of the City of Washington, subject to approval by a majority vote of the City, to serve the remainder of the removed Director's term.

2.18 Dissolution of Department/Cessation of Operations. In the event that the Department dissolves or ceases operations during the term of this Agreement: (A) all Department cash reserves, securities and any other monetary assets shall be proportionately distributed to the City and the Central Fire Protection District and the Pleasant View Fire Protection District based on their respective annual contributions/payments to the Department; (B) all Department vehicles, equipment and other personal property shall become property of the City; and (C) any Department leasehold interest or right of possession of any real property owned by the City shall immediately terminate; and (D) the City shall assume all rights and responsibilities of the Department to provide fire protection services and ambulance and emergency medical services to Central Fire Protection District and Pleasant View Fire Protection District, under the terms of any effective contract in existence at that time between the Department and the respective Fire Protection Districts. The Department warrants that its Articles of Incorporation will allow for such distributions upon dissolution.

2.19 Department By-Laws. The Department agrees that no change to its By-Laws affecting the City's appointment of its Directors, removal of its Directors, or the number of Board of Directors may occur unless such change is approved by the City Council.

SECTION 3 CITY'S OBLIGATIONS

The City agrees as follows:

3.01. Department's Affairs. The City shall not participate in or interfere with the day-to-day operations of the Department, its training programs, or of the election of its officers or directors, except as otherwise specifically allowed by this Agreement, the Department's Bylaws or to ensure compliance with the law.

3.02. Exclusive Provider of Services. Unless agreed to otherwise by the parties, the City will rely on the Department for all fire protection services, all ambulance and emergency medical services, and other emergency life-saving procedures, to the greatest extent permitted by law, except that the City may also contract with or secure the services of Northern Tazewell Fire Protection District to provide certain ambulance and emergency medical services within the geographic territory covered by the Northern Tazewell Fire Protection District.

3.03. Major Repairs and Maintenance on Real Estate. The City, at its sole cost and expense, will be responsible for all major maintenance and repairs and all capital improvements to the real estate, buildings, and fixtures at the Wilmor Road Station. For purposes of this paragraph, major maintenance and repairs shall mean any one item of repair or maintenance costing more than \$1,000.00.

3.04. Lease of Station. The City shall lease to the Department the real estate upon which the Wilmor Road Station is located, which real estate is more particularly described in Exhibit A, and by reference expressly made a part hereof, for One Dollar (\$1.00) and other good and valuable consideration for a period of one (1) year from the date hereof. A separate written lease agreement shall be entered into between the City and the Department for the purposes of leasing the Wilmor Road Station building.

3.05. Dispatching Services. During any period of time the City operates a dispatch center using its own facility and personnel, the City shall provide dispatching services to the Department as presently provided, or as may be provided in the future.

3.06. Radio Frequency License. The City agrees to allow the Department to hold a Radio Frequency License, in accordance with the FCC Rules and Regulations applicable thereto.

3.07. Annual Compensation for Services. The City shall pay to the Department an annual payment for the Department's fire unit and rescue unit. The amount of the payment or compensation paid by the City to the Department shall be determined by a separate agreement between the parties.

3.08 Contribution Towards Purchase of Fire Truck. In the event the Department determines to purchase a new Fire Truck during the term of this 2017-2020 Agreement to provide services under this Agreement, the City agrees to reimburse the Department for a portion of the purchase price in the amount which is the lesser of (a) one-half of the purchase price, or (b) the amount of \$400,000.00. Any such reimbursement by the City will be made in annual payments in equal installments over a period of five (5) years.

SECTION 4 MUTUAL AGREEMENTS

4.01. Term of Agreement. The initial term of this Agreement shall commence on November 1, 2017 and shall end on October 31, 2020.

4.02. Termination of Agreement. Prior to October 31, 2020, this Agreement may be terminated as follows:

- (A) If either party defaults or otherwise breaches any of the terms, conditions,

or covenants of this Agreement, the other party may terminate this Agreement by delivering to the defaulting party a Notice of Default or Breach. If the breaching or defaulting party does not remedy the breach or default within 30 days of the date of receipt of said notice, the non-defaulting party must deliver a second written notice of its intention to terminate the Agreement, which termination shall be effective 90 days from and after the receipt of the second notice by the defaulting parties.

(B) In the event that the Department breaches any terms, conditions, or covenants of this Agreement, or is in default thereof, which default is determined by the affirmative vote of not less than three-quarters of the corporate authorities of the City to seriously endanger the lives or the property of the residents of the City, the City may terminate this Agreement as follows:

(1) The City shall deliver to the Department written notice of the breach or default. Such notice shall contain an allegation specifying how the breach seriously endangers the lives or property of the residents of the City. The notice shall further state that if the breach or default is not remedied within 30 days of the date of receipt of the notice, the Agreement will be terminated on that date.

(2) Upon the expiration of 30 days from and after the date the notice was delivered to the Department, the City Council, at a regular or special council meeting thereof, may determine whether or not the breach or default has been remedied. If the City Council determines by the affirmative vote of not less than three-quarters of the corporate authorities of the City, that the breach or default has not been remedied and continues to seriously endanger the lives or property of the residents of the City, this Agreement shall be immediately terminated.

4.03. Effect of Termination of Agreement. Upon the termination of this Agreement as hereinabove provided in paragraph 4.02 of this Section 4, the parties agree as follows:

(A) The City shall assume all rights and responsibilities of the Department to provide fire protection services and ambulance and emergency medical services to Central Fire Protection District and Pleasant View Fire Protection District, under the terms of any effective contract in existence at that time between the Department and the respective Fire Protection Districts.

(B) The title to all vehicles and equipment shall automatically revert to, and become the property of the City, and all leases between the City and the Department for fire stations then in existence shall terminate immediately.

(C) The Department agrees to give immediate possession of all equipment and vehicles in the Department's possession to the City, and to sign over all titles and execute any and all other documents necessary to convey full legal title therein to the City.

(D) The City shall indemnify and hold harmless the Department from and against any and all indebtedness due and owing for the Department's prior purchase of said vehicles.

4.04 Attorney Fees for Prevailing Party. In the event of litigation regarding this Agreement, the defaulting or losing party shall pay upon demand the reasonable attorney's fees and court costs (if any) incurred by the prevailing party. Attorneys' fees may include, but are not necessarily limited to, attorney's and paralegal's fees incurred for preparation, negotiation, trial, appellate, or otherwise.

4.05. Lines of Communication. The City and the Department agree to establish lines of communication between the two entities in an attempt to avoid misunderstandings. All reasonable requests by the City and the Department for reports, actions, or communications in regard to the operation of the Department, shall be honored by the other party. It is agreed that all such requests must be initiated by and directed to the City Council of the City and the Board of Directors of the Department.

4.06. Maximum Service. It is the goal of the City and the Department to furnish to the residents of the City the maximum fire protection and ambulance and emergency medical services that cooperation and finances will allow.

4.07. Notices. All notices or demands herein required or provided shall be in writing, and shall be considered to be delivered to the party when deposited in the U.S. Mail, postage pre-paid, by certified mail, return receipt requested to the parties at the following addresses, or at such other addresses as the parties shall designate, in writing, from time to time:

To the City:	Mayor 301 Walnut Street Washington, IL 61571
With a copy to:	Washington City Attorney 401 Main Street, Suite 1600 Peoria, IL 61602
To the Department:	200 North Wilmor Road Washington, IL 61571

4.8. Severability. If any of the provisions of this Agreement are declared invalid or to be unenforceable for any reason, the invalidation shall not affect other provisions of this Agreement that can be given effect without the invalid provisions. The provisions of this Agreement are severable.

4.9. Entirety of the Agreement. Except for any agreements between the parties and

the Northern Tazewell Fire Protection District and Northern Tazewell Fire and Rescue Squad, or other agreements referenced herein, this is the entire Agreement between the parties, and any prior agreements whether written or oral, are hereby incorporated herein and merged herewith, and are of no further legal force and effect whatsoever.

4.10. Jurisdiction. This Agreement shall be governed by the laws of the State of Illinois. In the event of any litigation involving the terms or provisions of this Agreement, the proper venue for such litigation shall be Tazewell County, Illinois.

4.11. Duplicate Originals. An original and one duplicate original of this Agreement may be executed, and each shall be deemed to be an original for purposes of introduction into evidence in any legal proceeding.

4.12. Mediation Procedures. Notwithstanding anything herein to the contrary, the parties agree that if an agreement, with respect to the compensation to be paid to the Department for any subsequent Agreement is not reached by October 31, 2020, the parties shall automatically extend this Agreement for an additional 90-day period on the same terms and conditions then in existence, and that by November 1, 2020 or the first working day thereafter, the parties agree that they shall enter into non-binding mediation and shall follow the process provided for at Section 315/12 of the Illinois Public Labor Relations Act (5 ILCS 315/12). The parties shall not be obligated to comply with any of the other provisions of the Illinois Public Labor Relations Act except those specifically set out in Section 315/12.

The parties shall work together to obtain a mediator from the Public Employees Mediation Roster, or from another source, with experience in this particular area of the law.

4.13. Grievance Procedure. A grievance is defined as a dispute or complaint raised by either the Department or the City pertaining to any issue relating to the use of any Fire Department facility by the City. If either party has a grievance, it shall be put in writing and submitted to the Mayor on behalf of the City, or the President of the Board of Directors on behalf of the Department. The written grievance shall describe the dispute or complaint and state what action the other party is requesting be taken to resolve the grievance. Within seven days of receiving a written grievance, the party receiving the grievance shall respond to said grievance in writing in a like manner.

4.14. Headings and Captions. Captions shall have no impact or meaning as to the terms of this instrument. Singular and plural and masculine, feminine, and neuter shall be interchangeable as required or permitted in the context of this instrument.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the date and year first above written.

CITY OF WASHINGTON,
an Illinois home-rule municipal
corporation

**WASHINGTON VOLUNTEER
FIRE DEPARTMENT AND
RESCUE SQUAD, INC.,** an

Illinois not-for-profit corporation

By Gary W. Manier
Gary W. Manier, its Mayor

By Regina D. Shannan
Its President

ATTEST:

Patricia L. Brown

City Clerk

ATTEST:

John A. Smith

Secretary

EXHIBIT A

WILMOR ROAD STATION

Legal Description

Tract 1, being a part of the Southwest Quarter of Section Fourteen (14), Township Twenty-six (26) North, Range Three (3) West of the Third Principal Meridian, Tazewell County, Illinois, more particularly described as follows:

All of Parcels A, B and C, as shown on Plat recorded in Plat Book KK, Page 10 in the Tazewell County Records, more particularly described as follows:

Commencing at the Southwest corner of said Section 14; thence North 89 degrees 19 minutes 57 seconds East, an assumed bearing along the South line of the Southwest Quarter of Section 14, a distance of 743.56 feet; thence North 00 degrees 32 minutes 27 seconds West a distance of 15.00 feet to the point of beginning of the tract to be described; continuing thence North 00 degrees 32 minutes 27 seconds West a distance of 375.38 feet; thence North 89 degrees 19 minutes 57 seconds East a distance of 581.57 feet to a point on the existing Westerly right-of-way line of Wilmore Road; thence South 00 degrees 34 minutes 02 seconds East along said existing Westerly right-of-way line a distance of 375.38 feet; thence South 89 degrees 19 minutes 57 seconds West a distance of 581.75 feet to the point of beginning. Said tract containing 218,344 square feet, more or less, or 5.012 acres;

EXCEPT:

A part of Parcel "A" in part of the Southwest Quarter of the Southwest Quarter of Section 14, Township 26 North, Range 3 West of the Third Principal Meridian, city of Washington, Tazewell County, Illinois, being more particularly described as follows:

Commencing at the Southeast corner of the Southwest Quarter of the Southwest Quarter of said Section 14, thence North 00° 34' 36" West (bearings are for descriptive purposes only), along the East line of said Southwest Quarter of the Southwest Quarter of Section 14, a distance of 389.91 feet; thence South 89° 20' 01" West, a distance of 25.50 feet to a point on the North line of parcel "A" in part of said Southwest Quarter of the Southwest Quarter of Section 14 as the point of beginning of the tract to be described:

From the point of beginning, thence South 00° 34' 36" East, parallel with the East line of said Parcel "A", a distance of 80.00 feet; thence South 89° 20' 01" West, parallel with the North line of said parcel "A", a distance of 581.58 feet to the West line of said Parcel "A"; thence North 00° 33' 01" West, along said West line, a distance of 80.00 feet to the Northwest corner of said Parcel "A"; thence North 89° 20' 01" East, along said North line of Parcel "A", a distance of 581.54 feet to the point of beginning, containing 1.049 acres, more or less, subject to any easements, restrictions and right-of-way of record.

Synopsis: The following ordinance will approve and authorize the execution of an agreement between the City of Washington and the Washington Volunteer Fire Department for fire protection, ambulance and emergency medical services for a period of November 1, 2017 to October 31, 2020.

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO AN AGREEMENT BETWEEN THE CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS AND THE WASHINGTON VOLUNTEER FIRE DEPARTMENT AND RESCUE SQUAD, INC., FOR FIRE PROTECTION SERVICES AND FOR AMBULANCE AND EMERGENCY MEDICAL SERVICES

*1st Reading
2nd Reading
waived
Approved
11-6-17*

WHEREAS, the City of Washington and the Washington Volunteer Fire Department and Rescue Squad, Inc. have been operating under an Agreement originally entered into in 1981, which Agreement has been amended and extended on more than one occasion; and

WHEREAS, the parties desire to update the provisions of the agreement between the parties, and eliminate the various amendments and extensions of the original agreement; and

WHEREAS, all legal requirements, have been met and satisfied pursuant to law:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WASHINGTON, ILLINOIS, as follows:

Section 1. That the Agreement between the City of Washington, Tazewell County, Illinois, and **WASHINGTON VOLUNTEER FIRE DEPARTMENT AND RESCUE SQUAD, INC.**, a copy of which is attached hereto, marked "Exhibit A," and by reference expressly made a part hereof, be, and the same is hereby approved.

Section 2. That the Mayor and City Clerk of the City of Washington be, and hereby are, authorized, empowered and directed to enter into and execute said Agreement on behalf of the City of Washington in substantially the form of the document attached hereto, marked "Exhibit A," and by reference expressly made a part hereof, and to make, execute and deliver any and all documents necessary for the effectiveness thereof.

Section 3. That this Ordinance shall be in full force and effect from and after its final passage by the City Council of the City of Washington, Tazewell County, Illinois.

PASSED AND APPROVED in due form of law at a regular meeting of the City Council of the City of Washington, Tazewell County, Illinois, on the 6th day of November, 2017.

Ayes: Cobb, Adams, Brownfield, Moss, Butler, Dingleline, Brucks

Nays: -0-


Mayor

ATTEST:


City Clerk