

**CONTRACTUAL AGREEMENT BETWEEN  
THE TOWN OF FISHERS AND FALL CREEK TOWNSHIP  
HAMILTON COUNTY, INDIANA**

This agreement ("Contractual Agreement"), made and entered into this \_\_\_\_\_ of \_\_\_\_\_, 2014, by and between the Town of Fishers (hereinafter referred to as "Fishers"), and Fall Creek Township, Hamilton County, Indiana (hereinafter referred to as "Fall Creek").

**WITNESSETH:**

**WHEREAS**, Fall Creek desires to avail itself of the fire protection and emergency medical service (EMS) offered and provided by Fishers and to compensate Fishers for such services; and,

**WHEREAS**, Fishers is desirous of providing such services and to be fairly compensated therefore;

**NOW, THEREFORE**, it is mutually agreed and undertaken by and between the parties as follows:

1. Fishers agrees to furnish to Fall Creek fire protection and emergency medical service for a period beginning January 1, 2014, and continuing through December 31, 2014, unless sooner terminated by either party as provided hereafter. Fishers agrees to continue such services until Fall Creek has retained alternative fire protection and emergency medical service in accordance with Paragraph 19.
2. Fishers shall answer all reasonable calls to extinguish fires and for emergency medical services occurring within the service area of Fall Creek, meaning the portion of Fall Creek Township of Hamilton County that is not a part of the Town of Fishers or the City of Noblesville, with the necessary personnel and equipment consistent with reasonable firefighting and emergency medical service practices and procedures.
3. Fishers agrees to provide the above services on a twenty-four (24) hour a day, seven (7) day a week basis for the term of this Contractual Agreement.
4. Fall Creek agrees to compensate Fishers based upon a ratio of certified assessed value of that portion of Fall Creek Township covered by Fishers Fire Department outside Fishers' municipal boundary compared to the total certified assessed value for Fall Creek Township, Fishers, and that portion of Fall Creek Township covered by Fishers Fire Department. For 2014, that percentage is limited to a maximum of 2.80% of the current Fishers Fire/EMS Budget of \$17,679,789 resulting in a total contract amount of \$ **495,508.66** The lease payments for fire stations #91, #92, #93, #94, #95 and #96 are not included. There is no unexpended credit from 2013, therefore resulting in a 2014 Fire/EMS contract of \$ **495,508.66**

A. Payment for services will be due in the following installments: half of Fall Creek's obligation as calculated above is due June 30, 2014; the balance is due on or before December 31, 2014.

B. In the event Fishers does not expend 95% of their entire budget amount for Fire Protection, Fall Creek shall be entitled to a "credit" toward its 2015 contribution for its percentage of the remaining budget which is unused. That credit shall be calculated by applying 2.64% to the unused budgeted amount. Such credit shall be deducted from the total due in order to calculate the contract amount. Further, amounts encumbered at December 31, 2014 shall be expended within 90 days or be added to unused budgeted amount for this credit calculation.

C. If requested, Fishers shall provide Fall Creek within thirty (30) days of the request changes made in the Fishers Fire Budget. Such changes include all transfers of budgeted amounts between major and minor line items.

D. Fishers shall be under no obligation to provide fire service and emergency medical service for Fall Creek in the event that Fall Creek defaults or terminates its payments under this Contractual Agreement.

E. Fall Creek shall not be deemed to be in default if funds to make payments hereunder have not been disbursed by the appropriate governmental agencies as of June 30, 2014, and December 31, 2014. In the event, and only in the event, that the State of Indiana and/or the County of Hamilton fails to make timely distributions which prevents Fall Creek Township from making timely payments pursuant to this Agreement, the deadline for such payments shall be extended 30 days from the date of actual distribution from the State of Indiana and/or the County of Hamilton.

5. Fishers agrees to purchase all materials and supplies, to pay all compensation to Fire Department Employees, pay the costs of the operation of said fire department, to carry all necessary insurance on the Department and on all equipment of Fishers and Fall Creek. Fishers further agrees that its fire protection services and emergency medical service will comply with all federal, state, and local laws and statutes including areas of personnel safety and training. At Fall Creek's request, a copy of the Liability Insurance Policy on the fire department shall be furnished to Fall Creek.

6. This Contractual Agreement may be terminated by either party upon Sixty (60) days written notice to the non-terminating party by the terminating party of its intent to terminate this Contract. The terminating party shall also give notice of its intent to terminate to all other parties required to receive such notice prior to the termination becoming effective. Said notice shall be mailed to Fall Creek or Fishers at the addresses below, by certified mail, return receipt requested. The ability of either party to terminate this Contractual Agreement does not change the fact that Fishers is providing fire protection and emergency medical services to the service area of Fall Creek (as defined above in paragraphs 1-3).

7. A copy of this contract and all notices, amendments, changes or alterations thereto may be mailed to the Insurance Service Office of the State of Indiana by the Township immediately upon their becoming effective.

8. Fishers shall assume no responsibility for delays in answering alarms if the delays are caused by Fishers' inability to immediately respond because of other calls or circumstances beyond the control of Fishers. However, it is anticipated that Fishers will immediately request dispatch vehicles of equal caliber to such fire calls.
9. Fishers agrees to carry all necessary insurance to comply with the applicable laws and the regulations as required for municipalities by the State of Indiana and other agencies thereof, and for life insurance as required by current Indiana statute in amounts required by current Indiana statute. Fishers shall provide Fall Creek with certificates indicating such coverage and showing Fall Creek as co-insured as their interests respectively may appear.
10. The parties agree that all equipment of whatever kind and nature owned by Fall Creek Township presently in use by Fishers or added to the existing equipment during the life of this Contract shall remain in the possession of Fishers Fire Department throughout the life of this Contract.
11. Fishers further agrees to hold Fall Creek harmless for injuries suffered to the property or person of their parties to the extent of the Indiana Tort Claims Act found in I.C. 34-4-16.5-4.
12. Fishers agrees to provide Fall Creek with available information necessary to satisfy inquiries of the Indiana State Board of Tax Commissioners and the Indiana State Board of Accounts for the period of this Contract. Fishers further agrees to provide Fall Creek with standardized quarterly run reports which may include the type of response in each grid of the Fall Creek Township area outside of the Town of Fishers if requested.
13. If requested, Fishers further agrees to provide Fall Creek with a copy of the standard Comprehensive Annual Financial Report prepared by Fishers, which shall include all income and expenses to and by the Fire Department.
14. Fishers shall make all necessary reports to the State Fire Marshal's Office and other State and local offices, of fire runs made, maintenance, repairs and training, as required by the State of Indiana or agreed to between the parties hereto.
15. The execution of this Contract and the fulfillment of the terms, obligations and responsibilities hereunder totally satisfy all liabilities, responsibilities and obligations between the parties of whatsoever kind of nature and will act as a total satisfaction of Fall Creek's obligation to Fishers for providing fire protection and emergency medical service in Fall Creek Township, Hamilton County, Indiana, and shall operate as a defense to any lawsuit or litigation questioning the caliber and quality of fire protection provided by Fishers to Fall Creek.
16. In order to facilitate communications between Fishers and Fall Creek, the following individuals are designated as the persons to whom all inquiries or communications should be directed on behalf of their respective entity:

## **FALL CREEK**

Jeff A. Hern  
Township Trustee  
11595 Brookschool Road  
Fishers, Indiana 46038

## **FISHERS**

Steven Orusa  
Fishers Fire Chief  
Two Municipal Drive  
Fishers, Indiana 46038

17. Fishers acknowledges and agrees that in order to meet the annual budget requirements of Fall Creek, that it shall submit a preliminary budget proposal to Fall Creek on or before July 15, 2014, for the 2015 budget process.

18. The parties hereto acknowledge and agree that firefighting service and emergency medical service are essential to the health, safety and welfare of the citizens of their respective jurisdictions and that by reason thereof, the parties should make every effort to estimate the 2015 contract amounts prior to the finalization of budgets for 2015. The formula for determining contract amounts shall equal that entity's share of the total AV in the fire fighting area. If they are not able to reach a mutually satisfactory agreement, then each party may proceed to meet the obligation to provide for the health, safety and welfare of the citizens of their respective jurisdictions, in particular, firefighting services, in any manner they deem appropriate, at the conclusion of this agreement on December 31, 2014. However, Fishers agrees to provide fire protection services until Fall Creek has obtained alternative fire protection within the time frame specified in sections six (6) and nineteen (19) of this Contract.

19. In the event this contract is terminated before approval of an 2015 contract, Fishers' obligation to provide fire protection services shall not exceed ninety (90) days past the effective date of termination. Fishers' rate of compensation shall be equal to the daily rate under the terms of this Contract. That rate shall be computed as \$1357.60 per day. **\$466,447.45** /365 days

20. This Contract shall become effective upon its execution by both parties.

EXECUTED on the day and date first above written.

**FALL CREEK TOWNSHIP, INDIANA**

By: \_\_\_\_\_  
Jeff A. Hern  
Township Trustee

**TOWN COUNCIL OF THE TOWN OF FISHERS,  
HAMILTON COUNTY, INDIANA**

**AYE**

**NAY**

	John W. Weingardt, President	
	C. Pete Peterson, Vice President	
	Scott A. Faultless, Member	
	Stuart F Easley, Member	
	David C George, Member	
	Michael L Colby, Member	
	Renee Cox, Member	

ATTEST: \_\_\_\_\_  
Linda Gaye Cordell, Clerk-Treasurer  
Town of Fishers, Indiana

DATE: \_\_\_\_\_

Approved by: Jennifer C. Messer, Town Attorney, Church, Church, Hittle and Antrim