

**AMENDED AND RESTATED JOINT POWERS AGREEMENT
FIRE PROTECTION AND RESCUE SERVICES**

THIS AMENDED AND RESTATED AGREEMENT (the “Agreement”) is made and entered as of August 5, 2019 by and between the City of Northfield, Rice County, Minnesota, 801 Washington Ave., a municipal corporation under the laws of the State of Minnesota (“Northfield”); the City of Dundas, Rice County, Minnesota, 216 Railway Street N., a municipal corporation under the laws of the State of Minnesota (“Dundas”); and the Northfield Rural Fire Protection District, PO Box 280, Dundas, Minnesota 55019, a joint powers board formed pursuant to Minnesota Statutes, section 471.59 (comprised of Bridgewater Township, Northfield Township, Webster Township, and Forest Township in Rice County, and Waterford Township, Sciota Township, and Greenvale Township in Dakota County, Minnesota) (hereinafter referred to as “Rural Fire”); (collectively Northfield, Dundas and Rural Fire are hereinafter referred to as the “Parties”).

Recitals

WHEREAS, the Parties hereto and each of the undersigned Members are each authorized by law to provide fire protection and rescue services to their respective residents; and

WHEREAS, the Parties hereto have determined that such power may best be exercised jointly; and

WHEREAS, Minnesota Statutes, section 471.59 authorizes two or more governmental units by agreement of their governing bodies jointly to exercise any power common to the contracting parties and provide for a joint board representing the parties to the agreement; and

WHEREAS, Northfield and Rural Fire respectively own firefighting/rescue equipment listed in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, Northfield owns a fire station located at 300 W. 5th St., Northfield, (the “Fire Station”), as well as the real property upon which the Fire Station sits; and

WHEREAS, fire protection services have previously been provided by Northfield through the Northfield Fire Department by means of a service contract between Northfield, as the service provider, and Dundas and Rural Fire, as the service recipients; and

WHEREAS, Northfield presently operates the Northfield Fire Department with an efficient staff of firefighters, including a fire chief, other fire officers and paid on call firefighters; and

WHEREAS, the Parties hereto desire to reach an agreement for joint administration, operation, ownership, and control of a joint fire department; and

WHEREAS, the Parties entered into a Joint Powers Agreement - Fire Protection and Rescue Services, dated April 1, 2014 (referred to herein as the “Original JPA”); a First

Amendment to the Original JPA, dated April 3, 2018 (referred to herein as the “First Amendment”); and a Second Amendment to the Original JPA, dated June 19, 2018 (referred to herein as the “Second Amendment”); and

WHEREAS, the Parties now desire to further amend the Original JPA, as amended by the First Amendment and the Second Amendment, as provided herein, and agree that this Amended and Restated Joint Powers Agreement shall govern, supersede and replace in its entirety the Original JPA, as amended.

NOW THEREFORE, the undersigned governmental units, in the joint and mutual exercise of their powers pursuant to Minnesota Statutes, section 471.59, agree as follows:

1. **Name**. The Parties and undersigning Members do hereby establish a joint fire department to be called the “NORTHFIELD AREA FIRE AND RESCUE SERVICE”, (the “Organization” or “NAFRS”).
2. **Purpose**. The purpose of this Agreement is to establish the joint Organization governed by a joint governance board pursuant to Minnesota Statutes, section 471.59 for the purposes of providing fire protection, suppression, prevention, technical rescue and non-transport emergency medical services (the “fire services”) for the Parties within the fire services area established herein.
3. **Members**. The initial Members of the Organization (“Members”) shall consist of the following units of government:
 - a. City of Northfield,
 - b. City of Dundas,
 - c. Rural Fire,
 - d. Bridgewater Township,
 - e. Northfield Township,
 - f. Webster Township,
 - g. Forest Township,
 - h. Waterford Township,
 - i. Sciota Township, and
 - j. Greenvale Township
4. **Service Area**. The NAFRS shall provide fire and rescue services as outlined herein in the service area shown in Exhibit C, which is attached hereto and incorporated herein by reference.
5. **Governance**. A joint powers board (the “Board”) is hereby created for the governance of the Organization and to facilitate the performance of this Agreement throughout its life.

Such Board shall have the powers specifically given herein and shall have the power to make recommendations to the Members to improve cooperation and efficiency in carrying out the intent of this Agreement and to make recommendations for amendments and supplements to this Agreement.

- a. **Board Membership.** The Board shall consist of eight (8) Board members (the “Board members”); with five (5) Board members appointed by the Northfield City Council, two (2) Board members appointed by Rural Fire, and one (1) Board member appointed by the Dundas City Council. The City Administrators of Northfield and Dundas, the Administrator/Director of Rural Fire, the Fire Chief, the Northfield Public Safety Director (or Northfield Police Chief if there is no Northfield Public Safety Director) and the Director of Emergency Medical Services for the Northfield Hospital will serve as ex-officio, non-voting members of the Board. Board members will be appointed for 3 year terms. Board members must reside within the area served by the NAFRS. For purposes of this Agreement, Rural Fire shall act as the representative of the township government members hereto on the Board, unless otherwise provided herein, exercising all powers and duties and such governmental approvals as are required in this Agreement on behalf of the township government members.

No employee, full or part-time, of NAFRS shall serve as a member of the Board.

- b. **Initial Board Members.** Prior to the Effective Date stated herein, the Parties shall appoint their respective Board members by resolution adopted by their respective governing bodies. Notwithstanding paragraph 5.a. providing that Board members will be appointed for 3 year terms, the appointments to the initial Board, as provided in this paragraph, shall establish staggered terms for the subsequent 3 year appointment of all Board members to the Board by the respective Parties. The initial Board members shall be appointed by the respective Parties, as follows:

- i. Northfield’s five (5) Board members:

1. 1 Board member shall be appointed for a 1 year term;
2. 2 Board members shall be appointed for 2 year terms; and
3. 2 Board members shall be appointed for 3 year terms.

- ii. Dundas’ one (1) Board member:

1. 1 Board member shall be appointed for a 3 year term.

- iii. Rural Fire's two (2) Board members:
 - 1. 1 Board member shall be appointed for a 1 year term; and
 - 2. 1 Board member shall be appointed for a 3 year term.

- c. **Chair and Vice Chair.** The Board shall elect from its voting Board members a Chair and Vice Chair at its first meeting and annually thereafter at its first meeting of the calendar year. The Chair shall act as the presiding officer at all Board meetings and the Vice-Chair shall so act in the absence of the Chair.

- d. **Compensation.** Board members shall serve without compensation.

- e. **Meetings.**
 - i. The Board shall hold regular meetings at least once in each month for the first year of its existence with the time and place of the regular meetings of the Board to be determined by the Board.
 - ii. A majority of the Board members shall constitute a quorum at any meeting held by the Board for purposes of conducting business.
 - iii. After the first year, the Board will meet at least quarterly in each calendar year as determined by the Board. The Board shall establish a list of regular meeting dates and times each year for approval at the first meeting of the Board each calendar year.
 - iv. Procedures of the Board shall be governed by Robert's Rules of Order, and the Board may adopt other rules of procedure, decorum and bylaws not inconsistent with this Agreement and consistent with standard custom and practice for meetings of local government units.
 - v. Each Board member must attend a minimum of 75% of the Board meetings to be held each calendar year. Failure to maintain this attendance requirement will require the appropriate appointing governing body to make another appointment to the Board. If desired by the appropriate appointing governing body, the same individual may be reappointed.
 - vi. Each Board member shall have one vote.
 - vii. Proxy voting by Board members is not permitted.
 - viii. Meetings of the Board shall comply with the Minnesota Open Meeting Law.

- f. **Powers and Duties of the Board.** The Board shall have, and is hereby given, all powers, duties and functions enumerated in this Agreement and provided by law,

and all such further powers necessary to carry out the intent and purpose of the Organization as set out in this Agreement including, but not limited to, all of the following:

- i. To control and direct the administration of the affairs of the NAFRS;
- ii. To make recommendations to the governing bodies of the Parties relating to the NAFRS;
- iii. To submit a proposed annual NAFRS budget to the governing body of each party before August 1 in each year;
- iv. To establish an administrative/organization structure;
- v. To establish and execute operating and capital improvement budgets;
- vi. To receive and disburse funds, purchase and sell equipment, and fund all operations of the NAFRS;
- vii. To enter into contracts and mutual aid agreements as necessary to carry out the functions and operations of the NAFRS;
- viii. To comply with all public laws applicable to the Members individually, including, but not limited to, the Minnesota Open Meeting Law, Minnesota Government Data Practices Act, and the Minnesota Uniform Municipal Contracting Law;
- ix. To hire and terminate the Fire Chief;
- x. To contract with consultants, including, but not limited to, accountants, auditors, the fiscal agent, engineers, architects, and legal counsel or other services professionals as it determines is necessary and convenient;
- xi. To manage, own, lease and operate equipment, vehicles and facilities and buildings;
- xii. To perform those functions necessary for protection of the public as authorized by law;
- xiii. To allocate costs to service recipients and make all operational and fire services decisions;
- xiv. To establish policy and procedures and safety regulations for operations and fire services;
- xv. To insure and indemnify the Organization, its Members, Board and employees;
- xvi. To cause reports, plans, studies, and recommendations to be prepared;
- xvii. To consider applications from additional local units of government for membership in the Organization;
- xviii. To adopt bylaws, rules, personnel policies, guidelines, and regulations for employees and the operation of the Organization and its vehicles, equipment, facilities and buildings;

- xix. To annually establish and update a capital improvement program/finance plan (including an equipment replacement schedule) of not less than ten (10) years' duration;
 - xx. To purchase or lease land, and to cause the construction of buildings to implement the purposes of the Organization, except that any purchase of land or construction of a new building or facility must be approved by all of the Parties respective governing bodies;
 - xxi. To lease or purchase equipment (including capital equipment) and supplies necessary for the proper operation, care, maintenance, and preservation of the Organization;
 - xxii. To incur debt, as allowed by law, and approve financial obligations of the Organization, subject to approval by all of the Parties respective governing bodies;
 - xxiii. To acquire, operate, maintain, replace, and dispose of Organization vehicles, equipment, and supplies as may be deemed expedient in carrying out the purposes of this Agreement;
 - xxiv. To continue a Firefighters' Relief Association for the benefit of the Organization, including the power to determine whether to approve a pension benefit increase, and to make such contribution to the fund of the Firefighters' Relief Association as the Board deems appropriate or as is required by law; and
 - xxv. To exercise such other powers of the Organization as are necessary to carryout, and that are consistent with, the purposes of this Agreement.
- g. **Annual Report**. The Board will submit an annual fire department/fire services report by July 1 to the governing bodies of the Members. The report shall include, at minimum, the following:
- i. Budget and actual for the current year of all revenues and expenditures for all operation;
 - ii. Budget projections for the following 2 years;
 - iii. Income statement and balance sheet for the current year and the previous 2 years;
 - iv. Description of fire services provided to Members;
 - v. Description of present vehicles and facilities and potential needs;
 - vi. Fire district calls by type (rural, urban, I-35, rescue, fire);
 - vii. Response time (rural, urban, I-35);
 - viii. Organization chart;
 - ix. List of officers and number of employees;
 - x. Number of firefighters responding (rural, urban, I-35);

- xi. Summary of Insurance Services Organization (ISO) scoring and rating;
and
 - xii. Such other information as deemed necessary or relevant to Members regarding NAFRS operations.
- h. **Bylaws**. The Board shall have the authority to adopt bylaws establishing its own procedures consistent with this Agreement. The Board may amend its bylaws by majority vote of all of the Board members.
- i. **Disbursements**. Except as otherwise provided, all unbudgeted disbursements and expenditures of the Organization shall be approved by the Board. All checks issued by the NAFRS from NAFRS funds shall be co-signed by two officials designated by the Board.
- j. **Annual Audit**. The Board shall cause to be made an annual, independent, financial audit of the books and records of the NAFRS, consistent with the requirements of the State Auditor and in accordance with Generally Accepted Accounting Principles (GAAP), and shall submit such annual audit report to its Members within four (4) months after the end of each fiscal year (January 1- December 31). The audit shall be conducted by a qualified, independent CPA firm and shall include a review of the NAFRS internal and financial control environment as required by current professional auditing standards.

6. **Budget**.

- a. **Organization Budget**. The Parties agree that annually, prior to August 1 of each calendar year of this Agreement, the Board shall develop and approve a budget of operating expenses and capital expenditures for the ensuing calendar year and present the same to the Parties for their consideration and approval on or before August 1. The budget prepared by the Board shall consist of the entire cost of operation of the NAFRS, including capital contributions and contributions to the firefighters relief association.
- b. **Review of Board Budget**. On or before September 30 in each year, the governing bodies of each of the Parties shall act to approve or disapprove the NAFRS budget submitted by the Board for the next calendar year. If the governing bodies of the Parties disagree on budget approval, then they shall forthwith convene a meeting of the Parties' governing bodies to consider the matter. Until the new budget is approved by the Parties' governing bodies, continuing NAFRS expenditures shall be in accord with the last approved budget.

- c. **Budget Report.** The Board shall prepare interim financial statements, in form and content consistent with Generally Accepted Accounting Principles (GAAP), and submit them to the Parties at least quarterly, within thirty (30) days following the close of the calendar quarter.

7. **Funding.**

- a. **Party Contributions.** The NAFRS shall be funded by the participating Parties as provided herein. Each Party shall contribute an allocated share (“Party Contribution”) of the total operating budget (capital and operating expenses and relief association contribution) of the NAFRS. The amount of the Party Contribution respectively for fiscal year 2014, 2015, 2016 and 2017 shall be:

| | |
|----------------|--------|
| i. Northfield | 72.22% |
| ii. Rural Fire | 22.41% |
| iii. Dundas | 5.37% |

- b. **Adjustment Process.** The Party Contributions shall be updated every two years starting with the year 2019 for the 2020 budget in accordance with the procedure described in Exhibit D, which is attached hereto and incorporated herein by reference. Annual Party Contributions will be determined by the process described in Exhibit D. The population numbers used to calculate annual Party Contributions will be those most recently certified by the Minnesota State Demographer. The Estimated Market Values of Improvements will be those most recently certified by the relevant County Auditors for the Members’ respective jurisdictions. Fire Calls will be those reported to the National Fire Incident Reporting System by the Northfield Area Fire and Rescue Service (NAFRS) and occurring in the NAFRS service area.
- c. **Invoice and Schedule of Payments.** The NAFRS shall invoice each Party in an amount equal to one half of that Party’s share of the annual budget on a semi-annual basis. The invoice shall be itemized showing a break down of the Parties’ Contribution to operations, capital equipment, relief association, etc., and such other itemization as requested or required by the Parties to know and understand completely their respective Party Contributions to the NAFRS. The Parties shall be invoiced at least thirty (30) days before payments are due to the NAFRS; payments being due and payable no later than the following schedule:

| | |
|------------------|-----------|
| i. First Half: | January 1 |
| ii. Second Half: | July 1 |

8. **Accounting.** The Board shall arrange for all necessary accounting and related recordkeeping services, consistent with Generally Accepted Accounting Principles (GAAP) and taking into consideration the organization's internal financial control measures, technical competencies of NAFRS employees, and administrative efficiency. Such services may be performed by NAFRS employees or by contractual arrangement or by a combination thereof. Such services shall include but shall not be limited to the following:

- a. Assist in the preparation of budgets and audits;
- b. Prepare monthly financial statements;
- c. Keep and maintain all financial records; and
- d. Oversee the collection and management of funds.

9. **Insurance.**

- a. The Organization shall obtain and maintain at all times during the term of this Agreement commercial general liability (CGL), directors and officers, public officials errors and omissions, property insurance for contents and mobile and miscellaneous equipment, property, and auto insurance and such other insurance as it or the Parties deem necessary for the NAFRS to fully indemnify the Organization, the Board, the Parties and its Members for actions or omissions of the Organization, the Board, the Parties and its Members arising out of this Agreement as well as for employees, vehicles, personal property, facilities and buildings.
- b. The level of insurance maintained for each identified category provided in paragraph 9.a. shall include insurance coverage equal to or greater than the maximum municipal liability limit contained in the Minnesota Tort Claims Act, Minnesota Statutes, section 466.04. The CGL policy shall contain a general aggregate limit not less than \$4,000,000 or the maximum municipal liability limit contained in the Minnesota Tort Claims Act, Minnesota Statutes, section 466.04, whichever is greater.
- c. Additionally, the Organization shall maintain workers' compensation coverage for its employees equal to the statutory limits.
- d. Each Member shall be named as an additional insured on the Organization's insurance.

10. Liability and Indemnification.

- a. The NAFRS shall be considered a separate and distinct public entity to which the Parties and Members have transferred all responsibility and control for actions taken pursuant to this Agreement. NAFRS shall comply with all laws and rules that govern a public entity in the State of Minnesota and shall be entitled to all of the protections of Minnesota Statutes, Chapter 466.
- b. To the full extent permitted by law, this Agreement and the activities carried out hereunder are intended to be and shall be construed as a “cooperative activity” and it is the intent of the Parties and Members that they, together with the Organization, shall be deemed a “single governmental unit” for the purposes of liability, all as set forth in Minnesota Statutes, section 471.59, subdivision 1a. Furthermore, for purposes of Minnesota Statutes, section 471.59, subdivision 1a, each Party and Member to this Agreement expressly declines responsibility for the acts or omissions of the other Parties and Members. In addition to the foregoing, nothing herein shall be construed to waive or limit any exemption or immunity from, or limitation on, liability available to the Parties or Members, whether set forth in Minnesota Statutes, chapter 466 or otherwise.
- c. The Organization shall hold the Parties and Members harmless, individually and collectively, and will defend and indemnify the Parties and Members, their officers, employees, and agents, for any claims, suits, demands or causes of action for any damages or injuries based on allegations of negligence or omissions by the Organization. The Organization’s duty to indemnify will be limited to its applicable insurance coverage and does not constitute, or shall be construed as, a waiver by either the Organization or any or all Parties or Members of any exemptions, immunities, or limitations on liability provided by law or of being treated as a single governmental unit as provided in Minnesota Statutes, section 471.59, subdivision 1(a). The Organization’s obligation under this section shall survive the termination of this Agreement.
- d. Under no circumstances shall a Party or Member be required to pay on behalf of itself and other Parties or Members, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466, applicable to any other Party or Member. The limits of liability for some or all of the Members may not be added together to determine the maximum amount of liability for any Member.

- e. The Parties and Members to this Agreement are not liable for the acts or omissions of the others except to the extent to which they have agreed in writing to be responsible for the acts or omissions of the other Parties or Members.
 - f. If a Member has procured or extended insurance coverage pursuant to Minn. Stat. §§ 466.06 or 471.981 in excess of the limits on governmental liability under section 466.04, subdivision 1, covering participation in this Agreement, the procurement of that insurance constitutes a waiver of the limits of governmental liability for that governmental unit only to the extent that valid and collectable insurance or self-insurance, including, where applicable, proceeds from the Minnesota Guarantee Fund, exceeds those limits and covers that Member's liability for the claim, if any.
 - g. If a damage award is higher than the NAFRS' insurance limits, the Parties agree that excess damages shall be paid proportionally based on each Parties' Party Contribution as of the date of the occurrence of the injury which caused the damage.
11. **New Members.** Another governmental unit may be added to this Agreement upon the unanimous approval of all the governing bodies of the Parties. If approved, the rights and obligations of the new party shall be set forth in a writing amending this Agreement and the new Member shall be fully obligated and bound by the terms of this Agreement as amended. The new Member, based upon a duly adopted resolution of its governing body, shall execute the amended Agreement and file it with the NAFRS. A new Member shall not be compensated for any equipment donated to the NAFRS. A new Member shall not have an interest in any assets upon withdrawal or dissolution until the new Member has been a Member of the Organization for a period of ten (10) continuous years.
12. **Mutual Aid Agreements.** The NAFRS may enter into mutual aid and other service contracts to provide services to other jurisdictions. Such contracts require the consent of a majority of the Board.
13. **Firefighters Relief Association.** The NAFRS shall be responsible for supporting and funding the Northfield Firefighter's Relief Association ("Relief Association"), including any under-funded amount in accordance with Minnesota Statutes. The NAFRS shall contact the Relief Association regarding this organizational change immediately following the Effective Date and request that the Relief Association take all actions necessary to change its enabling documents and bylaws accordingly to allow existing and new employees of the NAFRS to be eligible for membership in the Relief Association.

The Parties agree to contribute to the Relief Association annually through the Organization's budget and Party Contribution process. The Relief Association is a separate and independent organization apart from the NAFRS. It is up to the Relief Association to manage its accounts and allow pension benefit changes appropriate under the "fully funded" definition provided by Minnesota State Statutes as substantiated by an actuarial survey performed by a professional accounting firm. As relief and pension benefits change, each Party agrees to guarantee the payment of pension benefits at the level established, providing that any benefit increases meet the requirement of "fully funded" as defined by appropriate Minnesota State Statutes as substantiated by an actuarial survey performed by a professional accounting firm. Notwithstanding the preceding sentence, each Party's obligation to guarantee the payment of said pension benefits shall be limited to that percentage of the pension benefits which equals the Party's Party Contribution.

14. **Compliance with Laws.** The NAFRS shall be responsible for compliance with all Federal and State regulations, standards and requirements. NAFRS shall at all times be in compliance with such equipment, personnel and training standards as may be required by law.

15. **Personnel.**

- a. The Board shall ensure continuance of a strong volunteer, paid on call fire service.
- b. On the Effective Date, all personnel of the City of Northfield Fire Department shall become employees of the Organization and the Organization shall thereafter be solely responsible for all aspects related thereto, including compensation of employees.
- c. **Rules, Policies and Procedures.** The NAFRS must promptly, following the Effective Date, adopt rules, policies, procedures, bylaws and regulations governing operation, management, department structure, personnel administration and all other like matters related to the Organization and its personnel and operations. Until such rules, policies, procedures, bylaws and regulations have otherwise been established or changed by the Board, the Northfield employee handbook, standard operating guidelines, and related regulations of Northfield pertaining to the Northfield Fire Department are adopted hereby by the NAFRS and shall apply to the NAFRS and its personnel, except to the extent superseded by this Agreement, upon the Effective Date.

- d. **Fire Chief.** The Fire Chief shall be responsible to the Board for the efficient and effective operations of the Organization; the hiring, termination, supervision, discipline and the direction of all NAFRS personnel; maintaining a succession plan and leadership training program for all officers of the NAFRS; hiring and discharging full and part-time employees as the Fire Chief deems necessary in the best interest of the NAFRS; the establishment of rules of conduct for personnel of the NAFRS; and carrying out the policies and procedures adopted by the Board and such other responsibilities and duties as are established by the Board from time to time. The Fire Chief shall be appointed by the Board and serve at the pleasure of the Board. The Fire Chief shall be chosen by the Board based on training, experience, administrative and other qualifications. The Fire Chief shall be appointed by the Board for an indefinite term and may be removed by the Board at any time in the Board's sole discretion.

16. **Equipment.**

- a. **Existing Equipment Listed in Exhibit A.** Northfield and Rural Fire respectively own the firefighting/rescue equipment listed in Exhibit A, which is attached hereto and incorporated herein by reference. In the event a listed item is later traded or sold by the NAFRS, the trade-in value or selling price shall be credited to the next annual Party Contribution of the Party owning the piece of listed equipment traded or sold. On the Effective Date, the Equipment listed in Exhibit A shall be leased to the NAFRS for use in NAFRS operations. Northfield and Rural Fire shall execute an Equipment Lease Agreement with NAFRS respectively leasing the above listed equipment for One Dollar (\$1.00) each paid by NAFRS to Northfield and Rural Fire, respectively. The lease term for each lease shall be for a period ending upon the dissolution of the NAFRS or the withdrawal of the owning Party, whichever comes first. Termination or withdrawal shall be as otherwise provided in this Agreement with respect to disposition of assets.
- b. **Disposition of Other Equipment and Personal Property of City of Northfield Fire Department to NAFRS.** In addition to the foregoing, on the Effective Date, all other equipment and personal property of the City of Northfield Fire Department used to provide fire protection services and listed in Exhibit B, which is attached hereto and incorporated herein by reference, shall be leased to the NAFRS. Northfield shall execute an Equipment Lease Agreement with NAFRS leasing the above listed equipment and personal property for One Dollar (\$1.00) paid by NAFRS to Northfield. The lease term shall be for a period ending upon the dissolution of the NAFRS or the withdrawal of Northfield, whichever comes

first. In the event a listed item is later traded or sold by the NAFRS, the trade-in value or selling price shall be credited to next annual Party Contribution of Northfield. Termination or withdrawal shall be as otherwise provided in this Agreement with respect to disposition of assets. The Northfield Equipment Lease Agreement referenced above in paragraph 16.a. and this lease may be the same instrument.

- c. **New Equipment Purchased Following Effective Date.** The NAFRS will maintain vehicles and equipment supported by a replacement and refurbishment schedule, which will be reviewed and updated at least annually by the Board and included in the budget. The Parties shall each acquire an undivided interest as part owner of any equipment and vehicles purchased by NAFRS following the Effective Date in the proportion of each Party's Contribution. If an item of equipment or a vehicle is purchased with installments payable over a period of years, then the relative undivided ownership interests of the Parties in the equipment or vehicle shall be computed in accordance with the percentage share each Party contributed to each installment. Title to equipment and vehicles purchased by NAFRS will be held by the NAFRS. The Parties agree to establish an equipment replacement fund, not to exceed \$100,000 in annual contributions, except by agreement of the Parties. Contributions by Parties for capital equipment shall be as part of the approved budget and included in the respective Party Contributions.

A master fire department inventory of all newly jointly purchased items will be maintained by the NAFRS. The inventory will indicate a description of the item, identification or serial numbers, fire department inventory number, the year of purchase, and the total cost of the item. When jointly purchased equipment is traded or sold, the trade-in value or sale price will be credited back to the NAFRS fire department fund for use in equipment purchases.

17. **Land and Buildings.**

- a. **Existing Land and Buildings.** Northfield owns a fire station and land upon which it sits located at 300 W. 5th St., Northfield (the "Fire Station"), which prior to the establishment of the NAFRS was used by the City of Northfield Fire Department. Northfield shall execute a Fire Station Lease Agreement (the "lease") with NAFRS leasing the above-referenced land and building to NAFRS for the use thereof by NAFRS for amounts to be paid by NAFRS (the "rent") as contained in the lease and in accordance with those other terms and conditions contained in the lease. Northfield shall remain the owner of the Fire Station and

the real property upon which it is located at all times during the term of the lease. Any maintenance, alterations or improvements to the Fire Station shall be the financial responsibility of the NAFRS, and the NAFRS shall be responsible for managing and overseeing such maintenance, alterations or improvements.

- b. **Insurance for Existing Building.** Northfield shall insure the existing Fire Station building. NAFRS shall reimburse Northfield for the costs to insure the existing Fire Station building.
 - c. **New Land and Buildings.** All new joint buildings and land may be owned and to the extent permitted by law, financed by the NAFRS. The cost of new or upgraded facilities must be approved by all the Parties to this Agreement. The NAFRS shall be responsible for managing and overseeing the construction of any new joint buildings.
 - d. **Future Fire Facility.** NAFRS shall make a recommendation to the Parties on the location, cost, ownership and financing of an upgraded or new fire facility.
18. **Allocation of Resources.** The Parties recognize that occasions will arise on which demand for services outlined in this Agreement will exceed the resources available for provision of such services. In such circumstances, NAFRS shall use its best judgment to prioritize the delivery of services. The NAFRS shall have complete discretion in prioritizing the delivery of services pursuant to this Agreement.
19. **Adoption of Uniform Fire Code.** Each Member agrees to take actions necessary to apply the current Minnesota State Fire Code.
20. **Effective Date.** The effective date (“Effective Date”) shall be September 1, 2014. The Effective Date is the date that all provisions of this Agreement shall be implemented in full transferring all fire service operations to NAFRS, provided however, that all the Parties hereto have adopted a resolution approving this Agreement and authorizing its execution, and the Agreement has been executed by the authorized representatives of the Parties.
21. **Term.** This Agreement shall remain in effect until it is terminated in a manner provided herein.
22. **Termination.** This Agreement shall terminate and the Organization thereby dissolved upon the occurrence of any one of the following events, whichever occurs first:

- a. When the Parties, by written agreement approved by the governing bodies of each Party constituting a majority of the Parties hereto, agree to dissolve the Organization and terminate this Agreement. A termination of this Agreement under this mechanism shall not be effective for at least 12 months from its approval by a majority of the Parties, unless an earlier termination date is approved by all the Parties.
- b. When necessitated by operation of law or as a result of a decision by a court of competent jurisdiction.
- c. When necessitated based upon the failure to obtain the necessary funding from the Parties or grant funding from the State of Minnesota and/or the United States federal government.

23. **Effect of Termination/Dissolution of Organization.** Upon termination of this Agreement, the Organization shall be dissolved and the Board shall provide for the distribution of all of the Organization's funds and assets in the following manner:

- a. The Board may determine to sell and liquidate any and all non-monetary Organization assets prior to distribution that are not otherwise owned by a Party individually. Upon dissolution, the Parties will have 120 days to agree upon a division of the assets of the NAFRS among themselves. The remaining property jointly acquired by the Organization shall be sold for a reasonable price on competitive bids and the proceeds divided among the owners in proportion to their contribution to the purchase. The parties may be bidders at any such sale.
- b. Any and all personal property used by the Organization and owned by a Party shall be returned to that Party upon dissolution.
- c. Any remaining funds and assets shall be divided and distributed to the Parties in proportion to the percentage of annual contribution of funds by the Party to the Organization at the time of dissolution.

Termination shall not act to discharge any liability incurred by the Organization or the Parties during the term of this Agreement. Such liability shall continue until discharged by law, this Agreement or any other agreement.

If the Parties do not agree on the fair market value of a non-liquid asset, the Organization may submit the item to a professional appraiser, whose written opinion of the fair market value shall be conclusive.

24. **Withdrawal of a Party.** A Party may withdraw from this Agreement by providing at least twelve (12) months prior written notice of its intent to withdraw to the other Parties. Withdrawal shall not act to discharge any liability incurred by the Party prior to withdrawal. Such liability shall continue until discharged by law or agreement of the remaining Parties.

If a Party withdraws from the NAFRS, and the remaining Parties decide to continue the operations of the NAFRS under the terms of this Agreement, including any amendment(s) thereto to change the allocation formulas, the withdrawing Party shall be entitled to distribution under paragraph 23.b. and the remaining Parties shall pay the withdrawing Party for its interest in the Organization's assets and funds in proportion to the percentage of annual contribution of funds by the Party to the Organization at the time of withdrawal.

If the Parties do not agree on the fair market value of a non-liquid asset, the Organization may submit the item to a professional appraiser, whose written opinion of the fair market value shall be conclusive.

25. **Dispute Resolution.** The Parties agree to engage in good faith to attempt to resolve any disputes that may arise over the establishment, operation, or maintenance of the Organization. If a dispute is not resolved informally, the Parties agree to use the following process to attempt to resolve any dispute they may have related to the Organization:

- a. **Written Notice of Dispute.** Any Party with a dispute regarding the Organization may submit a written explanation of its dispute to the Organization and to each Party. The explanation of the dispute must be detailed, not repetitive of a dispute already addressed by the Board regarding the same Party, relate directly to a matter within the scope of the Organization or of the Board's powers, and must suggest a solution.
- b. **Review and Response by Board.** Upon the Organization's receipt of a written dispute, it shall be placed on the agenda of the Board's next scheduled regular meeting for consideration. The Board shall respond in writing to all properly submitted disputes within 60 days and shall provide each Party a copy of its response.
- c. **Mediation.** If the Party with the dispute is not satisfied with the Board's response, it may file a written request with the Organization for mediation. If the Party and the Board are not able to mutually agree on a mediator, the Party and the Board

shall each select a mediator and the two mediators shall select a third. Each party to the mediation shall be responsible for the cost of the mediator it selected and shall share equally in the costs of the mediation and of the third mediator, as applicable.

- d. **Binding Arbitration.** If the dispute is not resolved in mediation, the aggrieved Party or the Board may initiate a binding arbitration process. The Parties agree the decision of the arbitrator shall be binding on the Organization and its Members. The arbitrator shall be mutually selected from the roster maintained by the Bureau of Mediation Services (BMS). In the event that the Party and Board cannot agree on an arbitrator, one shall be selected for the Parties by the Commissioner of BMS. Each party to the arbitration shall share equally in the cost of arbitration.

26. **Taxing District.** The Board shall study the feasibility of converting the NAFRS to a special protection taxing district or other form of special service taxing district and submit a report of its analysis, findings and recommendations to the Members on or before July 1, 2015.

27. **General Terms.**

- a. **Voluntary and Knowing Action.** The Parties, by executing this Agreement, state that they have carefully read this Agreement and understand fully the contents thereof; that in executing this Agreement they voluntarily accept all terms described in this Agreement without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.
- b. **Authorized Signatories.** The Parties each represent and warrant to the others that (1) the persons signing this Agreement are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Agreement against it; each party indemnifies and holds the others harmless against any breach of the foregoing representation and warranty.
- c. **Notices.** The Member's representatives for notification for all purposes are:

To City of Northfield:

City Administrator
City of Northfield
801 Washington St.
Northfield, MN55057-2565

To City of Dundas:

City Administrator
City of Dundas
PO Box 70
Dundas, MN 55019-0070

To Rural Fire:

Rural Fire Administrator
Northfield Rural Fire Protection District
PO Box 280
Dundas, Minnesota 55019

To Bridgewater Township:

Township Clerk
Bridgewater Township
PO Box 246
Dundas, MN 55019-0246

To Northfield Township:

Township Clerk
Northfield Township
11731 90th Street E.
Northfield, MN 55057

To Webster Township:

Township Clerk
Webster Township
PO Box 57
Webster, MN 55088

To Forest Township:

Township Clerk
Forest Township
13591 Fox Lake Trail
Faribault, MN 55021

To Waterford Township:

Township Clerk
Waterford Township
3847 321st Street West

Northfield, MN 55057

To Sciota Township:

Township Clerk
Sciota Township
30038 Alta Ave.
Northfield, MN 55057

To Greenvale Township:

Township Clerk
Greenvale Township
29292 Isle Ave., W.
Northfield, MN 55057

- d. **Assignment.** This Agreement may not be assigned by a Party without the written consent of the others.

- e. **Modifications/Amendment.** Any alterations, variations, modifications, amendments or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, and signed by authorized representatives of all of the Parties hereto. The Board or any Party may propose amendments to this Agreement. Such amendments shall be in the form of a resolution adopted by the Board or a resolution adopted by the governing body of a Party, as applicable, depending on which entity is proposing the amendment. The Party seeking to amend shall present the proposed amendment to the other Parties and the Board, as applicable. The Board shall issue a report on all proposed amendments, including those initiated by the Board, explaining the amendment and process for amendment consideration and adoption. The Board shall include in its report a proposed resolution reflecting its recommendation regarding the proposed amendment. Parties shall act to approve, modify or deny a proposed amendment within ninety (90) days after the Board issues its report concerning the proposed amendment.

- f. **Records—Availability and Retention.** Pursuant to Minn. Stat. § 16C.05, subd. 5, the Parties agree that any Party, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the NAFRS and involve transactions relating to this Agreement.

- g. **Governing Law.** This Agreement shall be deemed to have been made and accepted in Rice County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of the Agreement without regard to its choice of law or conflict of laws principles.
- h. **Data Practices.** The Parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq.*
- i. **No Waiver.** Any Party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that Party's right to assert or rely upon the terms and conditions of this Agreement. Any express waiver of a term of this Agreement shall not be binding and effective unless made in writing and properly executed by the waiving Party.
- j. **Entire Agreement.** These terms and conditions constitute the entire Agreement between the Parties regarding the subject matter hereof. All discussions and negotiations are deemed merged in this Agreement.
- k. **Headings and Captions.** Headings and captions contained in this Agreement are for convenience only and are not intended to alter any of the provisions of this Agreement and shall not be used for the interpretation of the validity of the Agreement or any provision hereof.
- l. **Survivability.** All covenants, indemnities, guarantees, releases, representations and warranties by any Party or Parties, and any undischarged obligations of the Parties arising prior to the expiration of this Agreement (whether by completion or earlier termination), shall survive such expiration.
- m. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the undersigned governmental units, by action of their respective governing bodies, have caused this Agreement to be executed in accordance with the authority of Minnesota Statutes § 471.59.

CITY OF NORTHFIELD

Rhonda Pownell, Its Mayor

Date: _____

Deb Little, Its City Clerk

Date: _____

CITY OF DUNDAS

Glenn Switzer, Its Mayor

Date: _____

Jennelle Teppen, Its City Administrator

Date: _____

RURAL FIRE

_____, Its _____

Date: _____

_____, Its _____

Date: _____

BRIDGEWATER TOWNSHIP

_____, Its Chair

Date: _____

_____, Its Town Clerk

Date: _____

NORTHFIELD TOWNSHIP

_____, Its Chair

Date: _____

_____, Its Town Clerk

Date: _____

WEBSTER TOWNSHIP

_____, Its Chair

Date: _____

_____, Its Town Clerk

Date: _____

FOREST TOWNSHIP

_____, Its Chair

Date: _____

_____, Its Town Clerk

Date: _____

WATERFORD TOWNSHIP

_____, Its Chair

Date: _____

_____, Its Town Clerk

Date: _____

SCIOTA TOWNSHIP

_____, Its Chair

Date: _____

_____, Its Town Clerk

Date: _____

GREENVALE TOWNSHIP

_____, Its Chair

Date: _____

_____, Its Town Clerk

Date: _____

EXHIBIT A

As of the Effective Date, the capital equipment owned by each of the Parties is as follows:

2014 Fire Vehicles List

| Vin | Make | Model | Year | Dept | City ID # |
|-------------------|----------------------|----------------------|-------------|-------------|------------------|
| 1XPCHB8X3HN215887 | PETE | FIRE TRUCK | 1987 | NORTHFIELD | 8115 |
| DPSMN931073 | HMDE | DUCK TRLR | 1993 | NORTHFIELD | DUCK TRLR |
| 1PBBB16M8P1000663 | SPPR | BOAT TRLR | 1993 | NORTHFIELD | BOAT TRLR |
| 5DT211F2221006996 | ROADMASTER (RDMS) | DIVE TRAILER | 2002 | NORTHFIELD | DIVE TRLR |
| 4EN6AAA8XD1007992 | E-ONE | HP78 - LADDER TRUCK | 2013 | NORTHFIELD | 8118 |
| | BOAT | | | NORTHFIELD | BOAT |
| 1PGBH5FC8FRHY1081 | PMFB (Aerial) | FIRE TRUCK | 1985 | NORTHFIELD | 8128 |
| 1FDXF47F22EA31718 | FORD | CD DRW | 2002 | NORTHFIELD | 8110 |
| 4P1CT0251YA000928 | PIERCE | LANCE - HEAVY RESCUE | 2000 | NORTHFIELD | 8120 |
| TBD | PETER PERSH | | 1926 | NORTHFIELD | PERSH |
| 2109 | EAGLE | RANGER TRAILER | 2004 | RURAL FIRE | RANGER TRLR |
| 4XARD50A64D167437 | POLARIS | RANGER | 2004 | RURAL FIRE | ATV |
| 1HTWDAZR25J130341 | INT'L | TANKER | 2005 | RURAL FIRE | 8126 |
| 4S7HT2B915CO50783 | SPARTAN | ENGINE | 2005 | RURAL FIRE | 8125 |
| 2NPRHN8X79M772843 | PETERBUILT | M340 Tanker | 2009 | RURAL FIRE | 8116 |
| 1GC3K0CG1BZ359257 | CHEVY | 3500 PICKUP | 2011 | RURAL FIRE | 8113 |
| 4XAUH88A2DB626690 | POLARIS | RANGER | 2013 | RURAL FIRE | ATV |
| 1YGU51417EV111873 | ALUMA | | 2013 | RURAL FIRE | RANGER TRLR |

Updated January 2014

EXHIBIT B

As of the Effective Date, the equipment and personal property owned by the City of Northfield used for fire protection services and transferred to the NAFRS are as follows:

City of Northfield

| Item | Amount | Price | Value |
|------------------------------|---------------|--------------|------------------|
| Air Packs (new price) | 11 | \$5,500 | \$60,500 |
| Air Bottles (new price) | 22 | \$900 | \$19,800 |
| *Bauer Compressor(new price) | 1 | \$45,000 | \$45,000 |
| Commercial Washer | 1 | \$20,000 | \$20,000 |
| Commercial Dryer | 1 | \$5,000 | \$5,000 |
| Residential Washer | 1 | \$500 | \$500 |
| Turn out Gear | 15 | \$2,500 | \$37,500 |
| Battery Charger | 1 | \$250 | \$250 |
| Hose & appliances | 1 | \$4,000 | \$4,000 |
| Pressure Washer | 1 | \$500 | \$500 |
| Shop Cabinets and Tools | 1 | \$5,000 | \$5,000 |
| 8118 loose equipment | 1 | \$17,000 | \$17,000 |
| 8128 loose equipment | 1 | \$17,000 | \$17,000 |
| 8115 loose equipment | 1 | \$14,000 | \$14,000 |
| 8125 loose equipment | 1 | \$5,000 | \$5,000 |
| Pagers | 25 | \$500 | \$12,500 |
| **800 MHZ Radio's | 1 | \$27,723 | \$27,723 |
| Total | | | \$291,273 |

Northfield Rural Fire Protection District

| Item | Amount | Price | Value |
|-------------------------|--------|----------|------------------|
| Air Packs | 11 | \$5,500 | \$60,500 |
| Air Bottles | 22 | \$900 | \$19,800 |
| Turn out Gear | 15 | \$2,500 | \$37,500 |
| 8125 loose equipment | 1 | \$17,000 | \$17,000 |
| 8113 loose equipment | 1 | \$4,000 | \$4,000 |
| 8116 loose equipment | 1 | \$10,000 | \$10,000 |
| 8126 loose equipment | 1 | \$6,000 | \$6,000 |
| Pagers | 25 | \$500 | \$12,500 |
| Hose & appliances | 1 | \$4,000 | \$4,000 |
| Shop Cabinets and Tools | 1 | \$5,000 | \$5,000 |
| Total | | | \$176,300 |

Donated Items

| Item | Amount | Price | Value |
|------------------------|--------|----------|------------------|
| 8110 loose equipment | 1 | \$12,000 | \$12,000 |
| 8120 loose equipment | 1 | \$70,000 | \$70,000 |
| Dive Suits & equipment | 10 | \$3,000 | \$30,000 |
| Boat | 1 | \$10,000 | \$10,000 |
| Total | | | \$122,000 |

EXHIBIT D

Procedure for determining the allocation of costs among the Parties

Step 1: Get the Estimated Market Value of Improvements (EMVI) and Populations for each of the members. Get the fire call history for the previous three years. The EMVI is to be obtained from the Rice and Dakota County Auditors. The Population is to be obtained from the State Demographer. The fire call history is to be obtained from NAFRS.

Step 2: Consolidate the EMVI, Population and Fire Call data for the townships in the Rural Fire District.

Step 3: Determine whether Rescue Squad related costs paid by NAFRS exceed \$75,000 for each year of a two-year continuous period. If so then rescue calls will be added to fire calls.

Step 4: Calculate the three-year average of fire calls (or fire calls plus rescue calls if so determined in Step 3) for each of the Parties. A fire call is counted if:

- a. It occurs in the NAFRS service area. Consequently, it occurs in either a township, Dundas or Northfield. All calls in townships will be attributed to the Rural Fire District.
- b. A report has been submitted to the National Fire Incident Reporting System.

Step 5: Apply the following weighting factors for EMVI, Population and Average Fire Calls to determine each Party's' obligation.

| | |
|------------|-----|
| EMVI | 33% |
| Population | 33% |
| Fire Calls | 34% |

EXAMPLE:

Step 1: Current data for Estimated Market Value of Improvements and Population:

| Member | EMVI | Population |
|---------------|-----------------|-------------------|
| Northfield | \$1,035,768,030 | 20,355 |
| Dundas | \$99,003,200 | 1,490 |
| Bridgewater | 128,172,500 | 1,837 |
| Forest | 60,085,700 | 682 |
| Greenvale | 76,394,800 | 823 |
| Northfield | 62,582,200 | 869 |

| | | |
|-----------|------------|-----|
| Sciota | 11,894,400 | 114 |
| Waterford | 39,708,100 | 333 |
| Webster | 18,689,900 | 278 |

Step 2: Consolidate the data for the townships in the Rural Fire District.

| Rural Fire District | EMVI | Population |
|----------------------------|--------------------|-------------------|
| Bridgewater | 128,172,500 | 1,837 |
| Forest | 60,085,700 | 682 |
| Greenvale | 76,394,800 | 823 |
| Northfield | 62,582,200 | 869 |
| Sciota | 11,894,400 | 114 |
| Waterford | 39,708,100 | 333 |
| Webster | 18,689,900 | 278 |
| | <u>397,527,600</u> | <u>4,936</u> |

Step 3: Calculate the rescue squad related costs paid by NAFRS and the percentage of these costs compared to NAFRS operating and capital budget for the year. These costs are determined as follows, using 2017 costs in the example:

| | | |
|-------------------|-----------------|--|
| Capital equipment | \$0 | |
| Small equipment | \$0 | |
| Maintenance | \$10,000 | equipment maintenance, fuel, insurance |
| Rent | \$1,600 | use \$5.00 /sq ft for the upgraded facility |
| Operations | \$6,000 | 8% of NAFRS facility budget |
| Personnel | \$1,900 | Captain's pay + employers contribution to FICA, Medicare |
| Total | \$19,500 | |

The total NAFRS contribution to the Rescue Squad for this year was \$19,500.

Step 4: Calculate the average of fire calls for the previous 3 years:

| JPA Party | Year 1 | Year 2 | Year 3 | Average |
|---------------------|---------------|---------------|---------------|----------------|
| Northfield | 208 | 221 | 211 | 213 |
| Dundas | 7 | 10 | 11 | 9 |
| Rural Fire District | 41 | 37 | 34 | 37 |

Step 5: Apply the weighting factors to determine the percentage contribution for each Party

| | EMVI (payable 2018) | EMVI % | Population (2016) | Population % | Fire Calls Average | Call % |
|------------------------|--------------------------------|---------------|------------------------------|-------------------------|-------------------------------|---------------|
| Northfield | \$1,035,768,030 | 67.6% | 20,355 | 76.0% | 213 | 82.2% |
| Dundas | \$99,003,200 | 6.5% | 1,490 | 5.6% | 9 | 3.5% |
| Rural Fire District | \$397,527,600 | 25.9% | 4,936 | 18.4% | 37 | 14.3% |
| | \$1,532,298,830 | 100.0% | 26,781 | 100.0% | 259 | 100.0% |

| Party | Formula | JPA Percentage |
|---------------------|--|-----------------------|
| Northfield | $67.6\% \times 33\% + 76.0\% \times 33\% + 82.2\% \times 34\% =$ | 75.29% |
| Dundas | $6.5\% \times 33\% + 5.6\% \times 33\% + 3.5\% \times 34\% =$ | 5.17% |
| Rural Fire District | $25.9\% \times 33\% + 18.4\% \times 33\% + 14.3\% \times 34\% =$ | 19.54% |