

JOINT POWERS AGREEMENT TO PROVIDE FIRE SERVICES

THIS AGREEMENT (the “Agreement”) is initially made and entered into this ____ day of _____, 20____ by and between the City of Virginia, a municipal corporation under the laws of the State of Minnesota (“Virginia”), and the City of Mountain Iron, a municipal corporation under the laws of the State of Minnesota (“Mountain Iron”); (collectively hereinafter referred to as the “Parties”).

WHEREAS, the Parties hereto are each authorized by Minnesota Statutes, Section 412.221, Subdivision 17, to provide fire protection services to their residents; and

WHEREAS, the Parties have determined that it is mutually beneficial for them to join together to improve the efficiency and effectiveness of fire and emergency services to the public within the geographic service area of the Parties, and specifically, the joint fire department to be created hereby will cooperatively address the Parties’ long-term needs for those fire services as defined herein below or as otherwise authorized by this Agreement; and

WHEREAS, the Parties have previously participated in mutual aid agreements that were successful in encouraging cooperation among the group, but said mutual aid agreements did not provide sufficient legal authority for the group to meet upcoming needs and desires; and

WHEREAS, Virginia and Mountain Iron respectively own firefighting/rescue equipment listed in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, Virginia owns a fire station located at 115 N 4th Ave. W., Virginia (the “Virginia Fire Station”), as well as the real property upon which the Virginia Fire Station sits; and

WHEREAS, Mountain Iron owns a fire station located at 8866 Slate Street, Mountain Iron (the “Mountain Iron Fire Station”), as well as the real property upon which the Mountain Iron Fire Station sits; and

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

WHEREAS, Mountain Iron presently operates the Mountain Iron Fire Department with paid on call firefighters; and

WHEREAS, the creation of a joint powers agreement will meet the legal needs for the Parties to accomplish the purposes as set forth herein, including but not limited to interaction with the area fire services, St. Louis County Sheriff’s Office and other private and public entities; and

WHEREAS, the Parties have determined that they are jointly able to provide better and more efficient fire services than individually, and that their powers under Minnesota Statutes may best be exercised jointly; and

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

WHEREAS, Minnesota Statutes, Section 471.59 authorizes the Parties by agreement of their governing bodies to jointly exercise any power common to them.

NOW THEREFORE, in consideration of the mutual promises and benefits that each Party shall derive from this Agreement, and other good and valuable consideration, the Parties agree as follows:

ARTICLE I NAME OF ORGANIZATION

The Parties do hereby establish a joint fire department to be called “Laurentian Fire and Rescue” (hereinafter the “Department”).

ARTICLE II DEFINITIONS OF TERMS

For purposes of this Agreement, the terms in this Section shall have the meanings given them.

- A. “Fire Chief” means the individual selected by the Joint Powers Fire Board to act as administrator of the Department and with the powers specified in this Agreement or as otherwise established by the Board.
- B. “Joint Powers Fire Board” or “Board” means the governing joint powers board established under this Agreement pursuant to Minnesota Statutes, Section 471.59 to operate and manage the Department.
- C. “Board Member” means a member of the Joint Powers Fire Board appointed and serving pursuant to this Agreement.
- D. “City Council” means the governing body of the Governmental Unit that is a Party to this Agreement.
- E. “Governmental Unit” means a City or other entity as defined by Minnesota Statutes, Section 471.59, subd. 1.
- F. “Original Parties” means the City of Virginia and the City of Mountain Iron as the Governmental Units that have approved this Agreement at a duly noticed meeting of their City Councils and authorized and directed their respective authorized representatives to execute this Agreement thereby creating the Department.
- G. “Later Party” means a Governmental Unit that subsequently approves this Agreement, or such other amended Agreement as required by the Board and authorized by the Original

Parties, at a duly noticed meeting of its governing body. and authorized and directed representatives thereof to execute the same thereby becoming Party to the Agreement at some time after the Department was created by the Original Parties.

- H. "Party" means a Governmental Unit, which enters into this Agreement or such other amended Agreement as required by the Board and authorized by the Original Parties. Parties means more than one Governmental Unit to this Agreement.
- I. "Fire Services" means those services provided by the Department, including but not limited to the following: fire code enforcement, fire suppression, fire protection, fire prevention, fire-fighting and emergency equipment, fire records data systems, fire-fighter and EMS training, fire investigation, fire and life safety public education, ALS/BLS ambulance, first responder rescue, hazardous materials response, emergency medical services (EMS), technical rescue and other fire and emergency related duties and functions customarily desired of a Fire Department or as otherwise directed by the Board for the Parties within the fire services areas established herein.

ARTICLE III MEMBERSHIP

Any other Governmental Unit adjacent to any of the Original Parties may become a Later Party to this Agreement or such other amended Agreement as required by the Board and authorized by the Original Parties upon consent of the Parties to this Agreement and in accordance with the process provided herein below.

ARTICLE IV PURPOSE

The general purpose of this Agreement is to create a joint powers organization governed by a joint powers board pursuant to Minnesota Statutes, Section 471.59, which shall provide Fire Services for the Parties within the fire services areas established herein.

ARTICLE V EFFECTIVE DATE, FIRE SERVICES COMMENCEMENT DATE, AND TERM

The effective date of this Agreement (the "Effective Date") shall be the date of the first meeting of the Board, which shall be _____ day, _____, 20____, except that Fire Services by the Department shall not commence until _____ day, _____, 20____ (the "Fire Services Commencement Date"). The period from the Effective Date (_____, 20____) until the Fire Services Commencement Date (_____, 20____) shall serve as a transition period for the Board to, among other matters set up its organizational structure, adopt policies and procedures, determine and make employment decisions, and ensure any other appropriate administrative items are established or implemented. The above timeframe shall apply notwithstanding the dates of approval and execution of this Agreement by the Original Parties. This Agreement shall continue in full force and effect until it is terminated in a manner provided herein. Except as provided herein, the Fire Services Commencement Date is the date that all

provisions of this Agreement shall be implemented in full transferring all Fire Services operations to the Department, provided however, that the Original Parties hereto have adopted a resolution approving this Agreement and authorizing its execution, and the Agreement has been fully executed by the authorized representatives of the Original Parties.

ARTICLE VI ORGANIZATION AND GOVERNANCE

A Joint Powers Fire Board (hereinafter referred to as the "Board") is hereby created for the governance of the Department and to facilitate the performance of this Agreement throughout its term. Such Board shall have the powers specifically given herein and shall have the power to make recommendations to the Parties to improve cooperation and efficiency in carrying out the intent of this Agreement and to make recommendations for amendments and supplements to this Agreement.

Subdivision 1. The Board shall consist of five members:

- a. Two members of the Board shall be appointed by the city council of each Original Party from its city council membership to serve on the Board until replaced by the respective city council of that Original Party. In order to stagger the term ending dates, in the first year of this Agreement, one member of each Original Party's city council shall be appointed to a one (1) year term; and one member of each city council shall be appointed to a two (2) year term. Thereafter, Board Member terms shall be two (2) years in duration, except that the term must coincide with the Board Member's term on the respective city council. The City Administrators of the Original Parties shall serve as ex-officio, non-voting members of the Board. Board members appointed under this clause a. must reside within the area served by the Department. No employee, full or part-time, of the Department shall serve as a member of the Board.
- b. There shall also be One (1) At Large Board Member selected as follows:
 - i. The term for the At Large Board Member shall be two (2) years, except that the At Large Board Member may serve successive terms if reappointed by the Board.
 - ii. The At Large Board Member shall be one who is not be a resident of or employed by any city that is a Party to this Agreement.
 - iii. The At Large Board Member shall not reside in the primary fire service area of the Department.
 - iv. The At Large Board Member shall have no prior working experience or knowledge in EMS and/or Fire Service.
 - v. The At Large Board Member shall not reside in the primary service area of EMS coverage area of Virginia Fire.
 - vi. Applications to be the At Large Board Member will be requested by the Board at least one month prior to the end of the term of the current At Large Board Member. The current At Large Board Member may re-apply to serve successive terms on the Board. Advertisement for applications to be the At Large Board Member shall be made by the Board in the manner prescribed by the Board.

- vii. From the applications received, the Board shall compile a list of applicants to interview, which list shall not exceed five individuals. Interviews shall be thereafter conducted by the Board with the At Large Board Member chosen by a majority vote of the other existing Board Members. The outgoing At Large Board Member may participate and vote on the new At Large Board Member, unless the outgoing At Large Board Member is seeking to serve a successive term.
- viii. In the event of a tie in the vote of the Board Members such that they do not appoint an At Large Board Member by majority vote, the appointment of the At Large Board Member shall be as follows:
 - i. The two Board Members from each respective Original Party city will appoint one other individual who is not an elected official of either city, an appointed member of any commission or employed by either City.
 - ii. The selection of these two additional individuals shall occur within 15 days of the Board's vote on the matter, which resulted in a tie vote.
 - iii. The two individuals so appointed shall thereafter be charged with selecting the At Large Board Member from the list of finalists interviewed by the Board.
 - iv. The selection process by the additional two individuals shall occur within 30 days following the date the second individual was selected.
 - v. The individual At Large Board Member applicant selected by this process will be appointed as the At Large Board Member without further action by the Board and shall commence duties as the At Large Board Member at the next duly noticed meeting of the Board.
- ix. In the event that the two selected individuals are unable or unwilling to agree on the appointment of the At Large Board Member pursuant to the above process within the time specified herein, the Board shall, within 10 days thereof, make a written request to the Chief Judge of the District Court that the Chief Judge appoint the At Large Board Member from the list of finalists interviewed.

Subdivision 2. Board Members must attend a minimum of 50% of the Board meetings. Failure to maintain this attendance requirement will require the appropriate City Council to make another appointment to the Board or another appointment of the At Large Board Member in accordance with the above process. If desired by the appropriate City Council, the same individual may be reappointed, and the At Large Board Member may serve successive terms as provided herein above.

Subdivision 3. All Board Members shall serve without compensation.

ARTICLE VII

EXECUTION OF AGREEMENT, MEETINGS, AND ELECTION OF OFFICERS

Subdivision 1. Each Party shall execute this Agreement through its proper officials by authority conferred by the respective City Council following a duly noticed meeting thereof. The City Administrator of each Party shall file an executed copy of this Agreement and a certified copy of the respective City Council authorization with each of the other Parties.

Subdivision 2. 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. 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. The purpose of the regular meetings of the Board shall be to approve expenditures, review services and exercise the powers and duties enumerated in this Agreement. Each Board Member shall have one vote. Proxy voting by Board Members is not permitted. Special meetings shall be held at the call of any Board member, the Fire Chief, or the Board's designated administrative representative, upon three days' notice to all Board Members, except in the case of an emergency meeting, which shall be noticed as provided in applicable law. All meetings of the Board are subject to the notice requirements contained in the Minnesota Open Meeting Law, Minnesota Statutes, Chapter 13D. A quorum for the purposes of conducting Board business at a noticed meeting shall consist of one Board Member from each Original Party and any one other Board Member. Procedures of the Board shall be governed by Robert's Rules of Order, and the Board may adopt other rules of procedure and bylaws not inconsistent with this Agreement or applicable law.

Subdivision 3. The officers of the Board shall consist of a Chairperson, Vice-Chairperson, and Secretary chosen by the Board Members. The Chairperson shall act as the presiding officer at all Board meetings and the Vice-Chair shall so act in the absence of the Chairperson. During the first year covered by this Agreement, the positions of Chairperson and Vice-Chairperson shall be held by Board Members representing each of the Original Parties. Said officers shall alternate between representatives of each city in each succeeding year.

Subdivision 4. For the first year of this Agreement the position of Chairperson shall be held by one of the Board Members appointed by the City of Virginia and the position of Vice-Chairperson shall be held by one of the Board Members appointed by the City of Mountain Iron.

Subdivision 5. The Board may enter into a contract with a Party to act as fiscal agent of the Department, at a rate to be determined by the Board. The fiscal agent shall process the monthly bills of the Board and/or Department and the payroll and submit to the other Parties a detailed report of all expenses described in more detail herein below.

Subdivision 6. There shall be a joint meeting of the City Councils of the Original Parties to this Agreement held two times a year for the first two years of this Agreement and one time per year for the remainder of this Agreement.

ARTICLE VIII POWERS AND DUTIES OF THE BOARD

Subdivision 1. The powers and duties of the Board shall include the powers set forth in this Section and all incidental powers reasonably necessary to carry out the purposes of this Agreement.

Subdivision 2. 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 purposes of the Department as set out in this Agreement, including but not limited to, all of the following:

- a. To control and direct the administration of the affairs of the Department;
- b. To make recommendations to the governing bodies of the Parties relating to the Department;
- c. To submit a proposed annual Department budget to the governing body of each Party before August 1 in each year;
- d. To establish an administrative/organization structure;
- e. To establish and execute operating and capital improvement budgets;
- f. To receive and disburse funds, purchase and sell equipment, and fund all operations of the Department;
- g. To enter into fire service contracts and mutual aid agreements with neighboring governmental units as necessary to carry out the functions and operations of the Department;
- h. To comply with all public laws applicable to the Parties individually, including but not limited to, the Minnesota Open Meeting Law, Minnesota Government Data Practices Act, and the Minnesota Uniform Municipal Contracting Law;
- i. To hire, terminate and discipline employees of the Department and administer all other employee and human resources matters in accordance with applicable law and applicable provisions of collective bargaining agreements with unionized employees;
- j. To contract with consultants, including but not limited to, accountants, auditors, fiscal agents, engineers, architects, and legal counsel or other services professionals as it determines is necessary and convenient;
- k. To manage, own, lease and operate equipment, vehicles and facilities and buildings;
- l. To perform those functions necessary for protection of the public as authorized by law;
- m. To allocate costs to service recipients and make all operational and Fire Services decisions;
- n. To establish policies and procedures and safety regulations for operations and Fire Services;
- o. To insure and indemnify the Department, the Parties, the Board and employees;
- p. To cause reports, plans, studies, and recommendations to be prepared;
- q. To consider applications from additional local units of government for membership in the Department and to become a Party to this Agreement or such other amended Agreement as required by the Board and authorized by the Original Parties;
- r. To adopt bylaws, rules, employee policies, guidelines, and regulations for employees and the operation of the Department and its vehicles, equipment, facilities and buildings;
- s. To annually establish and update a capital improvement program/finance plan (including an equipment replacement schedule of not less than ten (10) years' duration);
- t. To purchase or lease land and fire trucks/fire apparatus, and to cause the construction of buildings to implement the purposes of the Department, except that any purchase or lease of land, fire trucks/fire apparatus having a cumulative cost in excess \$50,000, or construction or major renovations with a cumulative cost in excess of \$50,000 of a building or facility must be approved by all of the Parties respective governing bodies. The authority herein shall be subject to the terms and conditions of any leases for buildings, equipment or fire vehicles/apparatus between the Department and the Original Parties;

- u. To lease or purchase equipment (including capital equipment) and supplies necessary for the proper operation, care, maintenance, and preservation of the Department. The authority herein shall be subject to the terms and conditions of an leases for buildings, equipment or fire vehicles/apparatus between the Department and the Original Parties;
- v. To incur debt, as allowed by law, and approve financial obligations of the Department, subject to prior approval thereof by all of the Parties respective governing bodies;
- w. To acquire, operate, maintain, replace, and dispose of Department vehicles, equipment, and supplies as may be deemed expedient in carrying out the purposes of this Agreement and providing Fire Services. The authority herein shall be subject to the terms and conditions of an leases for buildings, equipment or fire vehicles/apparatus between the Department and the Original Parties;
- x. To provide a firefighters' pension benefit through the voluntary statewide volunteer firefighter retirement fund under Minnesota Statutes, Chapter 353G for eligible employees of the Department and to make such contributions to the fund as required by law;
- y. To exercise such other powers of the Department as are necessary to carryout, and that are consistent with, the purposes of this Agreement and applicable law;
- z. To establish qualifications and duties for the position of Fire Chief and all other Department employees in consultation with the Fire Chief or such other employee as designated by the Board;
- aa. To provide office space, equipment and supplies necessary to accomplish the duties and responsibilities of Fire Services and emergency management within the boundaries of the Parties;
- bb. To enforce the ordinances of the Parties and laws of the State of Minnesota and to provide for emergency management within the boundaries of the Parties;
- cc. To make a financial accounting and report to the Parties at least quarterly each year;
- dd. To make available to the Parties all of its books, reports, and records for examination by the Parties at all reasonable times;
- ee. To accumulate reasonable reserve funds for the purposes as herein provided and to invest funds not currently needed for its operations in a manner consistent with the laws of the state of Minnesota applicable to the respective Parties;
- ff. To collect monies from Parties subject to this Agreement and manage and account for the same;
- gg. To recommend changes in this Agreement to the Parties, which shall be effective only upon Agreement of all the governing bodies of the Parties;
- hh. To exercise general supervision over Fire Services and emergency management for the Parties;
- ii. To obtain property, workers compensation, errors and omissions, and other liability insurance policies on behalf of itself and all Parties consistent with Minnesota law and sufficient to cover claims arising from the operation of the Department, its vehicles and equipment, and the actions of the Board Members and all employees within the scope of their employment; and
- jj. To be responsible for the management of all funds designated in the annual operating budget for the Department and the funds designated as contingency funds.

ARTICLE IX FINANCIAL MATTERS

Subdivision 1. Except as otherwise provided herein, Department funds may be expended by the Board in accordance with procedures established by law for the expenditure of funds by Minnesota cities. Orders, checks and drafts shall be signed by at least two authorized persons, who shall be designated by resolution of the Board. Other legal instruments of the Board shall be executed by the Chairperson and the Secretary as designated by the Board.

Subdivision 2. As Original Parties, the City of Virginia shall contribute \$_____ and the City of Mountain Iron shall contribute \$_____ to a fire fund managed by the Board (the “fire fund”) for payment of the cost of Fire Services in the budget year of 20____.

Subdivision 3. Beginning in 20____, the percentage of contribution of each Party to the fire fund for purposes of funding the annual Department budget for Fire Services shall be based on the yearly population of each Party, as determined by the State Demographer, divided proportionally into the total amount of the Department budget. The percentage of contribution may be revised only if all Parties agree to said changes, but such percentage of contribution shall be reviewed each year in setting the annual budget and shall be adjusted based on the most current population numbers for the Parties from the State Demographer.

ARTICLE X BUDGET AND JOINT FIRE FUND

Subdivision 1. Prior to August 1 in each year, the governing of each Party shall act to approve or disapprove the Department budget submitted by the Board for the next calendar year. If either of the two governing bodies of the Original Parties do not approve the Board’s recommended budget, then the Parties shall forthwith convene a meeting of the two city councils to consider the matter. Until the new budget is approved by both Original Parties, continuing department expenditures shall be in accord with the last approved budget.

Subdivision 2. On the first business day of January, April, July, and October of each year, each Party shall pay to a joint fire fund an amount equal to one quarter of that Party’s share of the annual Department budget. The fund shall be administered by the Board or by the Fiscal Agent as designated by the Board. Funds paid therefrom shall be approved by the Board as provided in this Agreement.

Subdivision 3. Interest accruing to the fire fund shall become part of the fire fund and be used towards the Department annual budget. Funds on hand at year end shall be reserved and separately accounted to and dedicated for future fire equipment and capital replacement or purchases.

Subdivision 4. The Board shall prepare and submit to the City Administrator of each Party a written quarterly financial report of the Board’s revenues and expenditures for the prior quarter and current fiscal year.

Subdivision 5. Fees and payments from all fire contracts and other services rendered shall be deposited into the fire fund upon receipt. Fees and payments for fire contracts and other services rendered shall be estimated for the following budget year before the annual assessment for each governmental unit is computed.

Subdivision 6. Annual Audit. The Board shall cause to be made an annual, independent, financial audit of the books and records of the Department, 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 the Parties 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 Department internal and financial control environment as required by current professional auditing standards.

Subdivision 7. Annual Report. The Board will submit an annual fire department/fire services report by July 1 to the governing bodies of the Parties. The report shall include, at minimum, the following:

- a. Budget and actual for the current year of all revenues and expenditures for all operations;
- b. Budget projections for the following 2 years;
- c. Income statement and balance sheet for the current year and the previous 2 years;
- d. Description of fire services provided;
- e. Description of present vehicles and facilities and potential needs;
- f. Fire calls by type;
- g. Response times;
- h. Organization chart;
- i. List of employees and number of employees;
- j. Number of firefighters responding;
- k. Summary of Insurance Services Organization (ISO) scoring and rating; and
- l. Such other information as deemed necessary or relevant to Department operations.

Subdivision 8. Fiscal Agent. The Board shall appoint a Fiscal Agent (the "Fiscal Agent") to provide budgeting, recordkeeping, and accounting services necessary or convenient for the operations of the Department, which may be by Department employees or contractual arrangement with a Party or private consultant. The Fiscal Agent shall be compensated by the Department at a rate mutually agreed upon by the Fiscal Agent and the Board. The Board may change the Fiscal Agent as it deems necessary from time to time. The Fiscal Agent shall provide services including, but not be limited to, the following:

- a. Management of all Department funds, including Party contributions and grant monies;
- b. Assist in preparation of budgets and audits; and
- c. Keep and maintain all financial records.

ARTICLE XI
ORIGINAL PARTY INVENTORY OF EXISTING REAL PROPERTY, EQUIPMENT
AND PERSONAL PROPERTY

Subdivision 1. Any real property, equipment, fire apparatus, fire vehicles, or other items of personal property purchased or in the possession of a Party prior to the Fire Services Commencement Date, shall remain the property of the respective Party. An inventory of the property owned by each Party is attached hereto and incorporated herein by reference as Exhibit A.

Subdivision 2. After the Fire Services Commencement Date, all equipment or capital items purchased by the Board with fire funds designated for the Department shall be the property of the Department.

Subdivision 3. On the Fire Services Commencement Date, the equipment, fire apparatus/vehicles, personal property and other items listed in Exhibit A shall be the subject of respective leases between the respective Original Parties to the Department for use in Department operations. The effective date of the respective Equipment Leases shall be the Fire Services Commencement Date. Each Party shall execute an Equipment Lease Agreement with the Department respectively leasing the above listed equipment for **One Dollar (\$1.00)** each paid by the Department to each Party, respectively. The lease term for each lease shall be for a period ending upon the dissolution of the Board and/or the termination of this Agreement, or the withdrawal of the owning Party, whichever comes first. Termination or withdrawal shall be as otherwise provided in this Agreement with respect to division/disposition of assets.

ARTICLE XII
OWNERSHIP OF JOINT EQUIPMENT

The Original Parties shall acquire an undivided interest in any jointly purchased equipment by the Board after the Fire Services Commencement Date in proportion to the amount that each Party has contributed to the cost. A master Department inventory of all newly purchased items will be maintained by the Department. 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 fire fund for use in equipment purchases. In case of dissolution, the division of assets shall be as provided in this Agreement. Title to equipment and vehicles purchased by the Department with fire funds shall be held by the Department. The Parties agree to establish an equipment/vehicle replacement fund, not to exceed \$_____ 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.

ARTICLE XIII REAL ESTATE (LAND AND BUILDINGS)

Subdivision 1. Virginia owns a fire station and land upon which it sits located at 115 N 4th Ave. W., Virginia (the “Virginia Fire Station”), which prior to the establishment of the Department was used by the City of Virginia Fire Department.

Subdivision 2. Mountain Iron owns a fire station and land upon which it sits located at 8866 Slate Street, Mountain Iron (the “Mountain Iron Fire Station”), which prior to the establishment of the Department was used by the City of Mountain Iron Fire Department.

Subdivision 3. Virginia shall execute a Fire Station Lease Agreement (the “Virginia Lease”) with the Department, with an effective dating being the Fire Services Commencement Date, leasing the above-referenced land and building to the Department for the use thereof by the Department for amounts to be paid by the Department (the “rent”) as contained in the Virginia Lease and in accordance with those other terms and conditions contained in the Virginia Lease. Virginia shall remain the owner of the Virginia Fire Station and the real property upon which it is located at all times during the term of the Virginia Lease. Subject to the Virginia Lease, any maintenance, alterations or improvements to the Virginia Fire Station shall be the financial responsibility of the Department, and the Department shall be responsible for managing and overseeing such maintenance, alterations or improvements.

Subdivision 4. Mountain Iron shall execute a Fire Station Lease Agreement (the “Mountain Iron Lease”) with the Department, with an effective dating being the Fire Services Commencement Date, leasing the above-referenced land and building to the Department for the use thereof by the Department for amounts to be paid by the Department (the “rent”) as contained in the Mountain Iron Lease and in accordance with those other terms and conditions contained in the Mountain Iron Lease. Mountain Iron shall remain the owner of the Mountain Iron Fire Station and the real property upon which it is located at all times during the term of the Mountain Iron Lease. Subject to the Mountain Iron Lease, any maintenance, alterations or improvements to the Mountain Iron Fire Station shall be the financial responsibility of the Department, and the Department shall be responsible for managing and overseeing such maintenance, alterations or improvements.

Subdivision 5. All new joint buildings and land may be owned and to the extent permitted by law, financed by the Department, unless the Parties determine otherwise. The cost of new or upgraded facilities must be approved by all the Parties to this Agreement. The Department shall be responsible for managing and overseeing the construction of any new joint buildings, including compliance with the requirements of the Uniform Municipal Contracting Law for competitive bidding, as applicable.

ARTICLE XIV USE OF EQUIPMENT

Subdivision 1. Department equipment shall be used as follows:

- a. Within the jurisdictions of the Parties.
- b. In areas adjacent to the jurisdictions of the Parties where a fire may spread into them.
- c. In areas served by a Fire Services contract between the /Department and another governmental unit.
- d. To assist neighboring fire departments as may be agreed upon a reciprocal agreement mutual aid agreement between the Department and another governmental unit.
- e. To assist with an emergency to areas outside the Parties jurisdictions of Fire Services contract areas pursuant to Minnesota Statutes, Chapter 12 or when, in the opinion of the Fire Chief, or his or her designated representative, such assistance is necessary for the immediate public safety or for humanitarian reasons. Such assistance must be requested by the governmental body affected or by the fire department of the affected governmental unit.

ARTICLE XV TERMINATION, WITHDRAWAL AND DISSOLUTION

Subdivision 1. Termination. This Agreement shall terminate and the Department 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, or when the Parties constituting a majority of the Parties hereto if the number of Parties is greater than two, agree to dissolve the Department 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 the Parties, unless an earlier termination date is approved by the Parties.
- b. In the event there are only two Parties to this Agreement, when one Party files a written notice of withdrawal with the other Party. A termination of this Agreement under this mechanism shall not be effective for at least 12 months from the date of notice from the withdrawing Party, unless an earlier termination date is approved by the Parties.
- c. When necessitated by operation of law or as a result of a decision by a court of competent jurisdiction.
- d. 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.

Subdivision 2. Effect of Termination/Dissolution of Department. Upon termination of this Agreement, the Department shall be dissolved and the Board shall provide for the distribution of all of the Department's funds and assets in the following manner:

- a. The Board may determine to sell and liquidate any and all non-monetary Department 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 Department among themselves. The remaining property jointly acquired by the Department 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 Department 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 Department at the time of dissolution.

Subdivision 3. Termination shall not act to discharge any liability incurred by the Department or the Parties during the term of this Agreement. Such liability shall continue until discharged by law, this Agreement or any other agreement.

Subdivision 4. If the Parties do not agree on the fair market value of a non-liquid asset, the Department may submit the item to a professional appraiser, whose written opinion of the fair market value shall be conclusive.

Subdivision 5. 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 Department, and the remaining Parties decide to continue the operations of the Department under the terms of this Agreement, including any amendment(s) thereto to change the allocation formula, the withdrawing Party shall be entitled to distribution under this and the remaining Parties shall pay the withdrawing Party for its interest in the Department's assets and funds in proportion to the percentage of annual contribution of funds by the Party to the Department at the time of withdrawal. If the Parties do not agree on the fair market value of a non-liquid asset, the Department may submit the item to a professional appraiser, whose written opinion of the fair market value shall be conclusive. The distribution to the withdrawing Party shall be reduced by the amount of unfunded liabilities or unpaid expenses as of the end of said fiscal year, unless the withdrawing Party assumes responsibility to pay such unfunded liabilities or unpaid expenses. If the withdrawing Party wishes to sell its share, the remaining Party or Parties shall have the right to purchase said share at its current value before it is offered to any other potential purchaser and in any case shall have a right of first refusal at a price equal to that offered by the selling Party by any third party.

Subdivision 6. Withdrawals may be accomplished by the Party filing notice with the Secretary of the Board.

ARTICLE XVI EMPLOYEES AND OTHER DUTIES, OBLIGATIONS AND AUTHORITY

Subdivision 1. The Board shall ensure continuance of a strong Department and fire service.

Subdivision 2. On the Fire Services Commencement Date, all employees of the City of Virginia Fire Department as of _____, 20__ shall become employees of the Department, except for employees that either stated that they are voluntarily resigning from employment with the City of Virginia Fire Department on such date or do not take the normal and reasonable steps to effectuate their employment with the Department as specified by the Board. On the Fire Services Commencement Date, all employees of the City of Mountain Iron Fire Department as of _____, 20__ shall become employees of the Department, except

for employees that either stated that they are voluntarily resigning from employment with the City of Mountain Iron Fire Department for such date or do not take the normal and reasonable steps to effectuate their employment with the Department as specified by the Board. The Board shall act on or after the Effective Date, but prior to the Fire Services Commencement Date, to effectuate appointment of said employees to the Department in order that the same are employees of the Department upon the Fire Services Commencement Date. The Department shall be solely responsible for all aspects of appointing individuals upon the Effective Date and for all aspects related to employment of such individuals upon the Fire Services Commencement Date, including but not limited to compensation, benefits and collective bargaining.

Subdivision 3. Rules, Policies and Procedures. The Board must, in a reasonable time following the Effective Date, but prior to the Fire Services Commencement Date, adopt rules, policies, procedures, bylaws and regulations governing operation, management, department structure, personnel administration and all other like matters related to the Department and its employees and operations.

Subdivision 4. It shall be the duty and responsibility of the Fire Chief, unless otherwise designated by the Board, to communicate directly with the respective City Councils of the Parties. In the event that a Party deems it necessary to receive direction on any matter, the Fire Chief, unless otherwise designated by the Board, shall attend, or direct a Department employee to attend, one City Council meeting per month.

Subdivision 5. The Department shall enforce and shall be provided authority to enforce state and federal laws and the ordinances of the Parties to this Agreement in the provision of the Fire Services through proper action of the City Council of said Parties, as applicable.

Subdivision 6. The Board shall manage the Department and Fire Services contemplated by this Agreement for the Department. Upon the Fire Services Commencement Date, the Board shall assume and be responsible for workers' compensation, P.E.R.A., withholding tax, insurance, fringe benefits, social security and all other employer obligations for Department employees as may be applicable. The City of Mountain Iron and the City of Virginia each waive their respective rights to make a claim against the other or Department arising out of workers compensation issues involving Department employees upon the Fire Services Commencement Date.

ARTICLE XVII

ALLOCATION OF RESOURCES

The Parties recognize that occasions will arise on which demand for fire services outlined in this Agreement will exceed the resources available for provision of such fire services. In such circumstances, the Department shall use its best judgment to prioritize the delivery of fire services. The Department shall have complete discretion in prioritizing the delivery of fire services pursuant to this Agreement.

ARTICLE XVIII LIABILITY AND INDEMNIFICATION

Subdivision 1. The Department is a separate and distinct public entity to which the Parties have transferred all responsibility and control for actions taken pursuant to this Agreement. The Department 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.

Subdivision 2. The Department shall hold harmless, defend and indemnify the Parties, and their officers, employees, agents, and volunteers, from and against all claims, damages, losses, and expenses, including reasonable attorneys fees, arising out of the acts or omissions of the Department in carrying out the terms of this Agreement. The Department'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 Department or any or all Parties 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 1a. The Department's obligation under this section shall survive the termination of this Agreement.

Subdivision 3. Under no circumstances shall a Party be required to pay on behalf of itself and other Parties, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466, applicable to any other Party. The limits of liability for some or all of the Parties may not be added together to determine the maximum amount of liability for any Party. Nothing herein shall be construed to provide insurance coverage or indemnification to an officer, employee, or volunteer of any Party for any act or omission for which the officer, employee, or volunteer is guilty of malfeasance in office, willful neglect of duty, or bad faith.

Subdivision 4. To the fullest extent permitted by law, this Agreement and all actions and activities carried out hereunder are intended to be and shall be construed as a "cooperative activity" and it is the intent of the Parties that they, together with the Department, shall be deemed a "single governmental unit" for the purposes of liability, all as set forth in Minnesota Statutes, Section 471.59, subd. 1a, provided further that for purposes of that statute, each Party to this Agreement expressly declines responsibility for the acts or omissions of another Party. The Parties to this Agreement are not liable for the acts or omissions of another Party to this Agreement except to the extent they have agreed in writing to be responsible for the acts or omissions of the other Parties. 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, whether set forth in Minnesota Statutes, Chapter 466 or otherwise.

Subdivision 5. In the event that is determined, by Court Order or by agreement of all Parties, that an excess or uninsured liability is the responsibility of all Parties, such excess or uninsured liability shall be borne by the Parties in proportion to their population. This does not include the liability of any individual officer, employee, or volunteer which arises from his or her own malfeasance, willful neglect of duty, or bad faith. If a Party 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 Party's liability for the claim, if any.

ARTICLE XIX INSURANCE

Subdivision 1. The Department 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 Department to fully indemnify the Department, the Board, and the Parties for actions or omissions of the Department, the Board, and the Parties arising out of this Agreement as well as for employees, vehicles, personal property, facilities and buildings, except as otherwise provide in this Agreement.

Subdivision 2. The level of insurance maintained for each identified category provided herein 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. Additionally, the Organization shall maintain workers' compensation coverage for its employees equal to the statutory limits. Each Member shall be named as an additional insured on the Organization's insurance.

ARTICLE XX NEW MEMBERS

Another governmental unit may be added to this Agreement upon the unanimous approval of all the governing bodies of the Parties and any such amendments to this Agreement as the Parties determine necessary. If approved, the rights and obligations of the new party shall be set forth in a writing amending this Agreement and the new Party shall be fully obligated and bound by the terms of this Agreement as amended. The new Party, based upon a duly adopted resolution of its governing body, shall execute the amended Agreement and file it with the Department. A new Party shall not be compensated for any equipment donated to the Department. A new Party shall not have an interest in any assets upon withdrawal or dissolution until the new Party has been a member of the Department for a period of ten (10) continuous years.

ARTICLE XXI VOLUNTARY STATEWIDE VOLUNTEER FIREFIGHTER RETIREMENT FUND

Subdivision 1. Both Virginia and Mountain Iron prior to the Effective Date hereof participated in the voluntary statewide volunteer firefighter retirement fund under Minnesota Statutes, Chapter 353G. The Department on the Fire Services Commencement Date shall continue to participate in the same and shall be responsible for supporting and funding the same, including any under-funded amount in accordance with applicable law. The Department shall contact PERA regarding this organizational change immediately following the Effective Date for implementation

upon Fire Services Commencement Date and take all actions necessary to make such change to allow existing and new employees of the Department to be eligible for participation.

Subdivision 2. The Parties agree to contribute to the voluntary statewide volunteer firefighter retirement fund annually through the Department's budget and Party contribution process. The amount paid by each Party for the voluntary statewide volunteer firefighter retirement fund shall be in proportion to each Party's annual contribution to the Department. The voluntary statewide volunteer firefighter retirement fund is a separate and independent organization apart from the Department. It is up to the voluntary statewide volunteer firefighter retirement fund to manage its accounts and allow pension benefit changes as appropriate under governing law.

ARTICLE XXII GENERAL TERMS

The following general terms shall apply to this Agreement:

- 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 Party's representatives for notification for all purposes are:

To City of Virginia:
City Administrator
City of Virginia
327 1st St. S.
Virginia MN 55792

To City of Mountain Iron:
City Administrator
City of Mountain Iron
8586 Enterprise Drive South
Mountain Iron, MN 55768

- 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. 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 and 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 Department and involve transactions relating to this Agreement.
- g. Governing Law. This Agreement shall be deemed to have been made and accepted in St. Louis 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. Compliance with Laws. The Department shall be responsible for compliance with all Federal and State regulations, standards and requirements. The Department shall at all times be in compliance with such equipment, employees and training standards as may be required by law.
- i. 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 Department.
- j. 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.*
- k. 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.
- l. 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.

- m. 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.
- n. 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.
- o. 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.

[Remainder of page left intentionally blank]

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 MOUNTAIN IRON

BY: _____
Gary Skalko, Its Mayor

Date _____

BY: _____
Craig Wainio, Its City Administrator

Date _____

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Gary Skalko and by Craig Wainio, respectively the Mayor and City Administrator of the City of Mountain Iron, a Minnesota municipal corporation, on behalf of the municipal corporation and pursuant to the authority granted by its City Council.

Notary Public

CITY OF VIRGINIA

BY: _____
Larry Cuffe, Its Mayor

Date _____

BY: Pamela LaBine, Its City Clerk

Date _____

[illegible]

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by Larry Cuffe and by Pamela LaBine, respectively the Mayor and City Clerk of the City of Virginia, a Minnesota municipal corporation, on behalf of the municipal corporation and pursuant to the authority granted by its City Council.

Notary Public

EXHIBIT A

Inventory of Equipment, Fire Apparatus/Vehicles and Personal Property