

**AGREEMENT FOR
FIRE DEPARTMENT MANAGEMENT SERVICES
BETWEEN
THE CITY OF NOWTHEN, MINNESOTA AND
THE CITY OF ST. FRANCIS, MINNESOTA**

This agreement (“Agreement”) is made and entered into this ____ day of _____ 2023 by and between the City of St. Francis, a Minnesota municipal corporation (“St. Francis”) and the City of Nowthen, a Minnesota municipal corporation (“Nowthen”). The Cities will collectively be referred to as the parties.

WHEREAS, St. Francis has a Fire Chief and/or designee (collectively “Fire Officials”); and

WHEREAS, St. Francis and Nowthen are committed to obtaining efficiencies in providing services to their respective citizens through the use of shared service arrangements; and

WHEREAS, the parties have held discussions and determined that it is in the best interests of both Cities to continue to have the St. Francis Fire Officials and appropriate St. Francis staff provide Fire Department Management services to Nowthen in addition to their duties for St. Francis; and

WHEREAS, this Agreement will detail the terms of that shared service.

NOW THEREFORE, in consideration of the premises and good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **PURPOSE.** The purpose of this Agreement is for Nowthen to purchase Fire Department Management services from St. Francis.
2. **SERVICES TO BE PROVIDED.** The Fire Officials and St. Francis staff will provide the following services for Nowthen:
 - a. **Fire Chief and/or Designee.** Fire Officials will perform the job duties of Fire Chief and/or designee and meet the professional expectations that are set forth in the City of St. Francis’ Proposal for Fire Department Management which is attached hereto as Exhibit A and incorporated herein by reference. In addition, as part of this Agreement, the Fire Chief shall also perform the duties of Emergency Management Coordinator for the City of Nowthen until such time as the Mayor of the City of Nowthen designates another individual to that position.

- b. **Nowthen Fire Department Management.** Fire Officials and City of St. Francis staff, as required, will also perform Nowthen Fire Department management duties outlined on attached Exhibit A which is incorporated herein by reference as well as all other legally permissible and proper duties and functions relating to the Nowthen Fire Department as the City Council for the City of Nowthen shall from time-to-time assign.
3. **Covenant of Diligence and Good Faith.** Fire Officials agree to perform their respective duties and job responsibilities diligently, in good faith, and to the best of their ability. Fire Officials further agree to be loyal to the Nowthen Fire Department and to support its mission and goals.
- a. **Subject to the Authority of the Nowthen City Council.** As the Fire Chief and/or designee, Fire Officials are subject to the authority of the Nowthen City Council in matters relating to the Nowthen Fire Department. By way of example, and without limitation, the Nowthen City Council has the authority to modify Fire Officials' job description at any time and to oversee, evaluate, and direct Fire Officials' job performance as the Nowthen City Council sees fit.
 - b. **Hours worked at each City.** The parties acknowledge that the Fire Officials shall divide their time as needed between St. Francis and Nowthen. If either party requires Fire Officials to work a set number of hours, the parties agree to meet in good faith to negotiate the number of hours the Fire Officials shall work at each respective City.
 - c. **Time Commitment.** Due to the unique nature of the Fire Department management function, it is understood and agreed that in order to properly perform the job required, the Fire Officials may have to expend additional time beyond the normal work day, and the Fire Officials agree to do same as required.
 - d. **Attendance at Nowthen Meetings.** Regular attendance is an essential function of the job. Fire Officials are expected to work the number of hours necessary to perform their respective job duties and to meet the professional expectations of the job. Fire Officials agree to devote, at a minimum, that amount of time and energy which is reasonably necessary for the Fire Officials to faithfully perform the duties of the Fire Chief and/or designee under this Agreement. The Fire Chief and/or Designee shall attend a Nowthen City Council meeting in person once per quarter and provide the City Council with monthly reports.

- e. **Allocation of Resources.** The parties understand the Fire Chief and/ or designee in charge of the particular scene shall exercise judgment to determine, in consideration of all the established policies, guidelines, procedures, and practices, how best to allocate the available resources of the fire department under the circumstances of a given situation.
 - f. **Compliance with Industry Standards.** The parties understand and agree the City of St. Francis will endeavor to reasonably provide the services of the Fire Chief and/or designee indicated above in accord with industry standards.
4. **TERM.** The term of this Agreement shall be from the date first above stated through December 31, 2024 or until such time as this Agreement is terminated pursuant to paragraph 10.
5. **COMPENSATION.** St. Francis shall be paid the total sum of \$35,000 for Fire Department Management Services related to this Agreement. St. Francis shall invoice and Nowthen shall pay the bill in two equal semi-annual installments due after the first City Council meeting in February and August of each year of this Agreement.
6. **EMPLOYMENT STATUS.** Fire Chief, Captains and/or designee are employees of St. Francis and will remain employees of St. Francis while performing services under this Agreement. No tenure or any rights or benefits, including medical or health insurance coverage, sick leave, vacation leave, severance pay or other benefits available to Nowthen employees will accrue to the Fire Officials under this agreement unless specifically stated. Payment of wages as well as payroll deductions for PERA, taxes, unemployment insurance, health insurance, disability insurance, or worker's compensation will be made by the St. Francis as required by law.
7. **INSURANCE AND LIABILITY.**
- a. **Insurance.** While attending to Nowthen matters, the Fire Officials will be insured by Nowthen under its insurance coverages including commercial general liability not less than the limitations of liability under Minnesota Statute, Section 466.04, as it may be amended from time to time, or a successor statute. St. Francis will also carry similar insurance on the Fire Officials.
 - b. **Liability of St. Francis.** St. Francis agrees to defend and indemnify Nowthen and its employees, officials, volunteers and agents from and against all claims, actions, damages, losses and expenses arising out of the

Fire Chief, Captains and/or designee's performance or failure to perform his duties under this Agreement except where such claim, action, damage, loss and expense is attributable to a specific direction from Nowthen or its employees, officials, agents or representatives.

- c. **Liability of Nowthen.** Nowthen agrees to defend and indemnify St. Francis and its employees, officials, volunteers and agents from and against all claims, actions, damages, losses and expenses arising out of the Fire Officials' performance or failure to perform his duties under this Agreement where such claim, action, damage, loss and expense is attributable to a specific direction from Nowthen or its employees, officials, agents or representatives.

- 8. **WARRANTIES.** In performing services under this Agreement, the St. Francis warrants and represents that the Fire Officials will exercise that degree of skill and care that a professional Fire Chief and/or designee would exercise under the same or similar circumstances. St. Francis further warrants and represents that the Fire Officials have and will maintain all necessary licenses and certifications necessary to perform the terms and conditions of this Agreement.

- 9. **DISPUTE RESOLUTION.** The parties shall cooperate and use their best efforts to ensure that the various provisions of this Agreement are fulfilled. The parties agree to act in good faith to undertake resolution of disputes, in an equitable and timely manner and in accordance with the provisions of this Agreement. If disputes cannot be resolved informally by the parties, the following procedures shall be used:

- a. **Mediation.** Whenever there is a failure between the parties to resolve a dispute on their own, the parties shall first attempt to mediate the dispute. The parties shall agree upon a mediator, or if they cannot agree, shall obtain a list of court-approved mediators from the Anoka County District Court Administrator and select a mediator by alternately striking names until one remains. St. Francis shall strike the first name followed by Nowthen, and shall continue in that order until one names remains.
- b. **Litigation.** If the dispute is not resolved within 30 days after the end of medication proceedings, the parties may litigate the matter. Each party will be responsible for all of their own costs associated with such litigation.
- c. **Termination.** In addition to the remedies outlined in this Paragraph, an ongoing dispute may also be resolved by terminating the Agreement as outlined in paragraph 10.

10. **TERMINATION/EXTENSION.**

- a. **Termination.** This Agreement may be terminated by the party desiring that the Agreement be terminated providing sixty (60) days written prior notice to all other parties any time after December 31, 2023. Cause is not required for such termination. Payment for services rendered will be through the date of termination as identified in the written notification. However, notwithstanding any other provision of this Agreement, Nowthen may immediately terminate this Agreement for cause at any time if either of the Fire Officials or City Administrator commit a “Major Offence” as outlined in Section 11 of the City of Nowthen Personnel Policy.

In the event of termination, Nowthen shall be refunded pro rata any pre-paid Fire Service Management Fees, alternatively, St. Francis shall be paid on a pro rata basis for any services rendered prior to the date of termination.

- b. **Extension.** This Agreement may be extended beyond the time designated in Paragraph 3 of this Agreement by written agreement of all of the parties hereto which written agreement will contain any amendment of the existing terms of this Agreement. In the event that the Agreement is not formally extended by written agreement and services continue, the terms of this Agreement will continue to apply until Termination noted in paragraph 10(a) or the parties enter into a written extension Agreement.

11. **OWNERSHIP AND INSPECTION OF DOCUMENTS.** All documents including electronic data prepared under this Agreement will be the property of Nowthen and will be collected and maintained in a manner as deemed appropriate by Nowthen. Records Availability and Retention: The books, records, documents, and accounting procedures and practices of the Fire Officials and St. Francis staff relevant to this Agreement are subject to examination by Nowthen or its designated representative and either the Legislative Auditor or State Auditor as appropriate. The Fire Officials and both parties to this Agreement will be bound under the provisions of the Minnesota Data Practices Act and will maintain records in a fashion consistent with Minnesota Statutes, Chapter 13.

12. **GENERAL PROVISIONS.**

- a. **Entire Agreement.** This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, including, but not limited to, the Agreement for Fire Department Management Services dated December 22, 2020 between the parties and contains the entire agreement.

- b. **Amendments.** Any modification or amendment to this Agreement shall require a written agreement signed by all parties.
- c. **Notice.** Any notice, statement or other written documents required to be given under this Agreement shall be considered served and received if delivered personally to the other party, or if deposited in the U.S. First Class mail, postage prepaid, as follows:

City of St. Francis
City Administrator
23340 Cree Street NW
St. Francis, MN 55070

City of Nowthen
City Administrator
8188 199th Avenue NW
Nowthen, MN 55330

- d. **Captions.** Captions or headings contained in this Agreement are included for convenience only and form no part of this Agreement between the parties.
- e. **Waivers.** The waiver by any party of any breach or failure to comply with any provision of this Agreement by another party shall not be construed as, or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.
- f. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- g. **Savings Clause.** If any court finds any portion of this Agreement to be contrary to law or invalid, the remainder of this Agreement will remain in full force and effect.
- h. **Successors and Assigns.** St. Francis shall not have any right to assign, transfer, or sublet its interest or obligations hereunder without the written consent of Nowthen. However, nothing in this subparagraph shall prevent St. Francis from providing Nowthen with a substitute for the incumbent Fire Officials in the event of the Fire Officials' absence or separation.
- i. **Interpretation.** The laws of the State of Minnesota will govern as to the interpretation, validity, and effect of this Agreement.

IN WITNESS, the parties hereto have executed this Agreement the day and year first above stated.

CITY OF NOWTHEN

CITY OF ST. FRANCIS

Jeff Pilon
Mayor

Joe Muehlbauer
Mayor

Scott Lehner
City Administrator

Kate Thunstrom
City Administrator