

# BYRON VOLUNTEER FIRST RESPONDER'S CONTRIBUTION AGREEMENT

THIS AGREEMENT made and entered into this 7th day of March 2016 by and between the City of Byron, Township of Kalmar and Township of Salem, all entities of Olmsted County, Minnesota.

WHEREAS, Kalmar and Salem Township, the second parties, deem it advisable to have available for the benefit of the residents of said Townships, services of the Volunteer First Responder's Unit and the electors of said town, having pursuant to law, provided a fund for the furnishing of such service and;

WHEREAS, the first party has by appropriate action authorized its Mayor and Administrator to enter into an Agreement with the second parties for the furnishing of said service.

NOW, THEREFORE, it is mutually agreed between the parties hereto that for a period of one (1) year from and after the date hereof, the First Responder Unit of the first party will answer any and all medical emergency calls, if possible, in the jurisdictions of the second parties. The response team will respond to such calls with suitable medical emergency equipment to render all assistance possible in saving lives. In consideration of said services, the second parties agree to pay as follows:

- 1) Annual contribution calculations shall be figured using the most current total number of household's data available from the Olmsted County Assessor's Office.
- 2) First  $\frac{1}{2}$  payment will be submitted to the City of Byron **by July 31st** and the second  $\frac{1}{2}$  payment **by December 31st;**
- 3) The Agreement will be in effect from March 1st through March 1st;

**ANNUAL CONTRIBUTION:**

Kalmar Township: \$ 4,768.86

Salem Township: \$ 4,915.77

City of Byron: \$ 21,177.37

It is understood and agreed, however that at times weather and road conditions through the various seasons of the year can and no doubt will interfere in the rendering of such service, in which event, failure to furnish the service herein agreed upon, shall not be taken to be a breach of this agreement.

It is further agreed that either party may cancel this Agreement with a written notice of 90 days. These figures shall make-up the Byron First Responder annual budget. Any funds remaining from this budget at the end of the fiscal year shall go into an interest bearing account for the purpose of capital improvement. These funds shall be used by the Volunteer First Responder's for the purchase of new emergency response equipment as needed to provide quality services to the residents of the communities within the service area.

IN WITNESS WHEREOF, The respective parties have caused this instrument to be executed by respective officers thereof and the respective seals of the parties to be affixed thereto.

**CITY OF BYRON:**

*Anna Overholt*

Mayor

5.10.16

Date

*Mary Blair Hoyt*  
City Administrator

5.10.16

Date

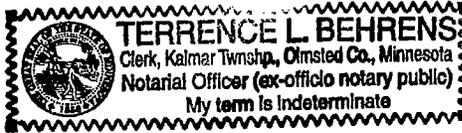
TOWNSHIP OF KALMAR:

James Hansen  
Township Officer

4/1/2016  
Date

Terrence Behrens clerk  
Township Officer

4/1/2016  
Date



FIRST RESPONDER:

Bruce Magnus  
President

5/13/2016  
Date

Ryan R. G. TREASURER  
Secretary/Treasurer

5/13/2016  
Date

TOWNSHIP OF SALEM:

2016 FIRST RESPONDER CONTRACT

Budget Amount \$30,862.00

Total Number of Households 2731

Cost per Household \$11.30

BYRON 1874 x 11.30 = \$21,177.37

KALMAR 422 x 11.30 = \$ 4,768.86

SALEM 435 x 11.30 = \$ 4,915.77

2731 \$30,862.00

Number of households is per the State Demographer

**FIRE PROTECTION SERVICES AGREEMENT  
BY AND AMONG THE CITY OF BYRON,  
SALEM TOWNSHIP AND KALMAR TOWNSHIP**

This Fire Protection Services Agreement ("Agreement") is made and entered into this 8<sup>th</sup> day of March, 2016, by and among the City of Byron, Olmsted County, Minnesota, a municipal corporation ("City"), Kalmar Township, Olmsted County, Minnesota, a public corporation, and Salem Township, Olmsted County, Minnesota, a public corporation. Hereinafter the Townships shall be referred to individually as "Town" or collectively as "Towns", and all three entities shall be referred to individually as a "Party" or collectively as the "Parties".

**WHEREAS**, the City and Towns entered into a separate agreement to provide for the construction and on-going maintenance of joint fire hall to be overseen by a fire board consisting of one member from each party to that agreement. The fire hall is owned in equal shares by the City and Towns. This Agreement is separate from, and does not control, the fire hall joint powers agreement;

**WHEREAS**, the City owns the fire department, which operates from the joint fire hall. The City is responsible for managing the fire department, its personnel, and owns the fire apparatus and related fire equipment;

**WHEREAS**, the Parties desire to continue to work cooperatively to provide fire protection services to those within their respective communities; and

**WHEREAS**, the Towns desire to obtain, and the City agrees to provide, fire protection services within their respective communities as provided in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and agreements hereinafter set forth, the Parties hereto hereby agree as follows:

1. **Fire Service.** In accordance with the other terms and provisions hereof, the City agrees to provide fire protection services to the entire territory of the Towns. The fire protection services the City provides shall generally be of the same type provided within the City including, but not limited to, response to all emergency fire service calls within the Towns with suitable fire fighting apparatus, equipment, and personnel. The City shall be responsible for calling in other fire departments with which it has a mutual aid agreement and such other emergency service providers (e.g., hazardous material responders, air ambulance, etc.) as may reasonably be needed in order to properly respond to the emergency situation.
  - a. **Allocation of Resources.** The Parties understand the fire department officer 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. Failure to provide fire services because of poor weather conditions or other conditions beyond the control of the City shall not be deemed a breach of this

Agreement.

2. **Total Payment Amount.** The cost to obtain fire protection services is determined based upon the number of households and net tax capacity of each Party as a percentage of the total number of households, and total gross tax capacity within the City's entire primary service area. At this time, the City's primary service area includes only the City and the two Towns. If the City expands its primary service area, the Parties agree to amend this Agreement to recalculate and adjust the amount of their respective payment amounts to reflect the larger service area effective as of the date of the expansion of the primary service area. A Party's percentage of households is multiplied against one-half of the fire department's total estimated budget for the upcoming year and the Party's percentage of net tax capacity from Olmsted County Assessor's office is multiplied against the other half of the budget. These numbers are then added together to determine the Party's annual payment amount ("Total Payment Amount"). The process for determining the Total Payment Amount for each Party is further described as follows:

Total Fire Department Budget for the Upcoming Year: \$249,053.00.

½ of Total Budget: \$124,526.50

<b>Household Calculation (HC)</b>			<b>Net Tax Capacity (NTC)</b>		
State demographer's most current estimate of the total number of households.			Total Adjusted Taxable Value for the previous year obtained from the county.		
	<u># Households</u>	<u>% of Total</u>		<u>NTC</u>	<u>% of Total</u>
Byron:	1874	68.62%	Byron:	\$4,169,447	53.16%
Kalmar:	422	15.45%	Kalmar	\$1,918,272	24.84%
Salem:	435	15.93%	Salam	\$1,671,357	22.00%
<hr/>			<hr/>		
Total:	2731	100%	Total:	\$7,759,076	100%
The % of total households for each entity is multiplied by ½ of total budget to determine each Party's respective share of ½ of the budget based on households.			The % of net tax capacity for each entity is multiplied by ½ of the total budget to determine each Party's respective share of ½ of the budget based on net tax capacity.		

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The household calculation amount is then added to the tax capacity calculation amount to determine the Annual Payment amount for each Town (HC + NTC = Total Payment Amount). Adding the Total Payment Amount for each Town to the City's share of the budget equals the total estimated fire department budget amount.

This calculation will be calculated each year by no later than January 10<sup>th</sup> to determine the next year's Total Payment Amount. The calculation and the Total Payment Amount for each Party will be sent to the Towns by January 31<sup>st</sup>. This calculation will be calculated from the previous year's County tax capacity values.

The fire department's estimated budget shall not include any cost items for the maintenance, repair, or on-going operation of the fire hall. Such costs are addressed in the separate fire hall joint powers agreement between the Parties. The fire department's CIP Account shall be updated to reflect the monies received from any source.

3. **Invoicing and Payment.** The City shall invoice each Town for ½ of its Total Payment Amount by June 1<sup>st</sup>, which each Town shall pay by July 31<sup>st</sup>, and the other ½ by November 1<sup>st</sup>, which each Town shall pay by December 31<sup>st</sup>.
4. **Excess Funds.** Any funds remaining from the fire department's budget at the end of the fiscal year shall go into an interest bearing long-term capital improvement fund ("CIP Fund"). These funds shall be used by the City only for the purchase of new fire and rescue equipment as needed to provide quality fire services to the residents of the communities within the service area.
5. **Fire Call Fee.** The City imposes a fire call fee on those who receive services from the fire department. The Towns delegate to the City such authority as may be needed to impose and collect a fire call fee for services rendered within the Towns, provided all such funds received by the City are dedicated to the fire department's CIP Fund. The City shall be solely responsible for imposing and collecting fire call fees and the Towns shall have no obligation to pay any portion of such fees. The amount of the fire call fee shall be as follows:

Type of Call	Rate
General Service Call	<ul style="list-style-type: none"> <li>● \$500 per call for up to the first two hours of service</li> <li>● \$250 for each additional hour</li> </ul>
Repeated Smoke / Fire Alarm / Carbon Monoxide and lift assist calls. (First call will not be billed. If additional calls occur the fire department may bill for their service)	\$250 per call
Request for Assistance (involving	\$250 per call

minimal or no equipment)	
Direct Expense Replacement; Replacement Cost for Foam and other equipment used, lost or broken due to the incident.	Actual Replacement Cost or Actual Costs.
Mutual Aid costs or other services provided from other Fire Departments or Companies.	Actual Costs

The Byron Fire Department reserves the right not to bill for services, provided its decision to not bill for service does not create a disproportionate obligation on the Towns and their residents to pay for the operation of the fire department.

6. **Annual Meeting of Parties.** The Towns and the City shall hold at least one joint meeting annually during term of this Agreement to review this Agreement, the fire department's budget, review the capital equipment replacement plan, to calculate the Total Payment Amount for the Parties for the upcoming year, discuss the services provided during the year, and to discuss such other issues as any Party may deem relevant to this Agreement. At the meeting, the City or the fire department shall present information to the Towns to explain the rationale for placing individual items of equipment on the capital equipment replacement plan.
7. **Service Territory.** The entire area within the jurisdictional boundaries of each Town shall constitute their respective service territories and the City shall provide fire services throughout the entire area of each service territory.
8. **Term.** This Agreement shall commence on the date first written above and shall expire on March 1, 2017, unless terminated earlier as provided herein. After the initial term, this Agreement shall automatically renew for subsequent one year terms if none of the Parties provide written notice to the others at least 60 days before the end of the initial term, or any of the subsequent annual terms, of its intent to not renew the Agreement.
9. **Ownership.** The City owns the fire apparatus and related equipment associated with the fire department. The Parties jointly own the fire hall and related mechanical systems. The amounts paid by the Towns for fire services pursuant to this Agreement do not give rise to any ownership interest in, or responsibility toward, the fire department's apparatus and related equipment.
10. **City's Responsibilities.** In addition to any other obligations described herein, the City shall:
  - a. Authorize and direct the fire department to provide the fire services described herein to the Towns;
  - b. Develop a detailed estimated annual operational budget for the fire department for each year during the term of this Agreement and present it to the Towns along with sufficient information to explain the items included in the budget figures;
  - c. Develop and annually update a capital equipment replacement plan for the fire department that indicates the expected replacement date for each fire vehicle and all

- planned single equipment purchases over \$10,000 for at least the next five years.
- d. The City shall provide to the Towns financial and cost data related to expenses for the fire department for up to a maximum of five years prior to the current service year-at no cost to the Towns.
- e. Disclose to the Towns any proposed action the City or the fire department intends to take that can reasonably be expected to effect the Insurance Services Office Fire Protection Grade in either Town, or the City's ability to provide the fire services contemplated herein; and
- f. Promptly disclose to the Towns any information the City can reasonably anticipate will directly affect its ability to perform its obligations under this Agreement.

**11. Towns' Responsibilities.** In addition to any other obligations described herein, each Town shall:

- a. Promptly pay the City the Total Payment Amount as indicated above for the year of service, or a prorated share of the Total Payment Amount for the length of service actually provided if the Agreement is terminated early;
- b. Present a budget and levy proposal to the Town electors at each annual Town meeting during the term of this Agreement seeking authority to levy funds as needed to pay the Total Payment Amount; and
- c. Promptly disclose to the City any information the Town can reasonably anticipate will directly affect its ability to perform its obligations under this Agreement.

It is understood and agreed that neither Town shall have any responsibility whatsoever toward the firefighters or other emergency personnel including any employment related issues such as training, supervision, performance reviews, discipline, compensation, benefits, insurance coverage's, compliance with any employment related federal, state, and local laws and rules such as OSHA, ERISA, RLSA, FMLA, or any other employment related issues.

**12. Insurance Requirements.** The City shall maintain general liability insurance for its services and shall include the Towns as additional insured's for the term of this Agreement and any extensions thereof. The City shall also maintain inland marine, automobile, and property insurance coverage's. Upon request the City shall provide proof of such insurance coverage's and the additional insured endorsement naming each Town as an additional insured.

**13. Indemnification.** The City agrees to defend and indemnify the Towns collectively and individually against any claims brought or actions filed against the Towns or any officer, employee, or volunteer of the Towns for injury to, death of, or damage to the property of any third person or persons, arising from the City's performance under this Agreement. Under no circumstances, however, shall the City be required to pay on behalf of itself or the Towns, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466 applicable to any one party. The limits of liability for the Towns and the City may not be added together to determine the maximum amount of liability for the City. The intent of this section is to impose on the City a limited duty to defend and indemnify the Towns for claims arising out of the performance of this Agreement subject to the limits of liability under

Minnesota Statutes, Chapter 466. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts between the parties and to permit liability claims against the parties from a single occurrence to be defended by a single attorney.

14. **No Waiver.** Nothing herein shall be construed to waive or limit any immunity from, or limitation on, liability available to either party, whether set forth in Minnesota Statutes, Chapter 466 or otherwise.
15. **Modification.** This writing contains the entire agreement between the parties and no alterations, variations, modifications, or waivers of the provisions of this agreement are valid unless reduced to writing, signed by the City and each Town, and attached hereto.
16. **Subcontracting & Assignment.** The City shall not subcontract or assign any portion of this Agreement to another without prior written permission from the Towns. Services provided to the Towns pursuant to a mutual aid agreement the City has, or may enter into, with another entity does not constitute a subcontract or assignment requiring prior approval of the Towns so long as the City remains primarily responsible for providing fire services to the service territories of both Towns.
17. **Termination.** This Agreement may be terminated at anytime during its term by agreement of all the Parties. Any Party may terminate this Agreement by personally serving a written notice of termination on the other Parties. Such notice of termination shall not be effective for at least one year from the date of delivery. If a Town chooses to terminate this Agreement, such termination does not constitute termination of the Agreement for the other Town, unless that Town provides notice of termination to the other parties within 60 days of delivery of the initial notice of termination, in which case both terminations shall be effective on the same date. Any notices provided under this Agreement shall be provided to the administrator of the City and to the clerk of each Town.
18. **Service Agreement.** This is a service Agreement. The parties do not intend to undertake or create, and nothing herein shall be construed as creating, a joint powers agreement, joint venture, or joint enterprise between the parties.
19. **Minnesota Law Governs.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of Minnesota. All proceedings related to this Agreement shall be venued in the State of Minnesota.
20. **Severability.** The provisions of this Agreement shall be deemed severable. If any part of this Agreement is rendered void, invalid, or otherwise unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement effective on the date first written above.

**CITY OF BYRON**

Approved on the 26<sup>th</sup> day of April, 2016.

**BY THE CITY COUNCIL**

*Ana Olerich*  
Mayor

Attest: *Monica Bishop*  
City Clerk

2016 Services

**KALMAR TOWNSHIP**

Approved on the 8<sup>th</sup> day of March, 2016.

**BY THE TOWN BOARD**

Attest:   
Town Clerk

  
Town Chairperson

