

**TOWN OF MARCELLUS AND MARCELLUS FIRE DEPARTMENT  
AGREEMENT FOR FIRE SERVICE (2025)**

**THIS AGREEMENT**, made the 1<sup>st</sup> day of January, 2025, by and between the Town of Marcellus, a municipal corporation situated in the County of Onondaga, State of New York (hereinafter "Town"), and Marcellus Fire Department, Inc., a Not-For-Profit corporation, organized and existing under the laws of the State of New York and having its principal place of business in Marcellus, New York (hereinafter "Department").

**WITNESSETH:**

**WHEREAS**, Department is a Not-For-Profit Corporation organized exclusively for charitable and educational purposes and as part of those purposes, desires to provide fire protection and rescue services to persons in the Town of Marcellus including the entire corporate limits of the village of Marcellus; and

**WHEREAS**, such fire protection and rescue services are vital and necessary to the health and welfare of the inhabitants of the Town of Marcellus including the corporate limits of the village of Marcellus, as now included in the Marcellus Fire Protection District; and

**WHEREAS**, the Department maintains adequate and suitable apparatus, appliances and equipment for the furnishing of fire protection of said district; and

**WHEREAS**, the Town agrees that Department shall be the exclusive provider of primary fire protection services in the Town of Marcellus, including the village of Marcellus as now included in the fire protection district; and

**WHEREAS**, the Department does not maintain an ambulance and will not provide general ambulance services.

**WHEREAS**, a special law has been enacted that has permitted the town and village to extend the Marcellus Fire Protection District into the village of Marcellus, thus creating one fire protection district encompassing all of the limits of the town, including the corporate limits of the village of Marcellus, and such extension has now occurred.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions herein contained, the parties hereto mutually agree as follows:

**1. PROVISION OF EMERGENCY SERVICES**

Department will provide Town with personnel, apparatus, vehicles and equipment necessary to provide fire protection and rescue services capable of properly responding to emergencies on an on-going basis within the Town of Marcellus Fire Protection District. Fire protection shall be defined as Section 184 of the Town Law, but shall not include inspections of buildings and properties in the Town of Marcellus for the purposes specified in and as authorized by sections 187-a and 183 of the Multiple Residence Law, and section 189 of the Town Law. Fire Protection shall not include the provision of general ambulance services.

## **2. THE FIRE STATION**

During the term of this agreement, the Town shall provide Department with suitable housing in order to house the Department's apparatus, equipment, vehicles and supplies and in order to provide such fire protection and shall maintain such housing in good order.

The Department acknowledges the Marcellus Fire Hall located at 4242 Slate Hill Road, Marcellus, New York constitutes suitable housing. The Department acknowledges the Fire Hall is to be used solely for fire fighting services unless otherwise permitted by the Town Board. Commercial use of the kitchen is prohibited.

The maintenance of the building and property shall be the responsibility of the Department utilizing designated funds from Schedule "A." The Department is required to have professionally cleaned, twice annually, the oil water separator. The first cleaning must occur prior to April 30<sup>th</sup>, and the second cleaning must occur prior to October 30<sup>th</sup>.

The Department may establish a reserve fund for the maintenance of the fire station. The balance of said building maintenance reserve fund shall not exceed \$75,000. The Department further agrees to notify the Town Board and obtain approval from the Town, for any maintenance projects in excess of \$5,000 and follow all Department procurement policies with respect to same.

## **3. TERM**

The term of this Agreement shall commence on January 1, 2025 and shall continue until December 31, 2025 unless sooner terminated as herein provided.

## **4. COMPENSATION AND VFBL**

Town agrees to pay Department those amounts as provided in Schedule "A", payable in installments as set forth in Schedule "B". Such funds shall be used by the Department solely for the administration of the fire department equipping fire department as necessary for recruitment and retention, and for such other purposes as related to providing fire protection or administering a fire department and as permitted by the Department's not-for-profit status. The installment payments will only be due if the Department is in full compliance with its obligations under this Agreement.

Department shall provide reports to the Town, no less than monthly, with itemized income and expenses which, at a minimum, disclose all income received from any and all sources. This report must be received and approved by the Town Board prior to and as a prerequisite to any installment payment made by the Town to the Fire Department pursuant to Schedules "A" and "B" to this Agreement. Department shall notify the town of any change in expense line item from which funds were originally budgeted, but in no event shall the Department expend funds in excess of \$5,000 outside the line item budget without Town approval. Except as may be restricted by paragraph two (2) above, the Department may transfer any unexpended portion of any line item to a capital or reserve fund. The Department will provide a report annually of the amount of the capital and reserve funds. The report will also include the line item surpluses from that year applied to the capital or reserve fund.

In addition to the foregoing, the Fire Department will provide to the Town each year prior to and in preparation for the Town's budget process the following:

- a statement itemizing the estimated costs attributable to the contract with the Town, including costs related to supplies, materials, operation, maintenance and repair of equipment and apparatus; insurance; training; protective clothing, gear and other personnel costs; building rental, maintenance and operation; and a specified proportionate share of capital costs.
- the fire company's most recent annual report of directors pursuant to Not-For-Profit Corporation Law Section 519 (if applicable);
- the fire company's most recent verified certificate pursuant to Not-For-Profit Corporation Law Section 1402(f) (if applicable);
- the fire company's most recent internal revenue service form 990; and
- the fire company's most recent annual report pursuant to General Municipal Law Section 30-a.

Town shall arrange coverage for benefits required under the Volunteer Firefighters Benefit Law and the New York State Firefighter Cancer Benefit program and shall be responsible for all increases in costs of any coverage under these benefit programs. The Department shall be responsible for all costs of maintenance of this program.

#### **5. HOLD HARMLESS AGREEMENT**

Town recognizes that Department is staffed by volunteers and that Department can only make reasonable efforts to recruit and retain volunteers. Town agrees to hold Department harmless for Department's failure to provide sufficient manpower at any single incident. Town shall also hold Department harmless for all claims, actions and suits against the Town for any act or omission of the Department beyond the amount of any exposure covered by insurance.

#### **6. INSURANCE**

Town agrees to maintain liability insurance sufficient to insure itself against claims for unintentional torts resulting in personal injuries in an amount of not less than One Million Dollars (\$1,000,000.00). Town shall name the Department as an additional insured in Town's insurance policy and shall provide proof of such insurance to the Department.

Department shall at all times and without any gap in coverage maintain automobile insurance for personal injuries and property damage arising out of the operation of emergency and firefighting vehicles in an amount of not less than One Million Dollars (\$1,000,000.00). Department shall name the Town as an additional insured, shall provide proof of such coverage to the Town, and shall cause the Town to be notified by the insurance carrier in case of any lapse of coverage.

#### **7. BILLING**

Department shall not bill any person for any fire protection or rescue services.

**8. EXPIRATION OR TERMINATION OF RESPONSIBILITIES**

Upon expiration or termination of the Agreement as provided hereunder, Department shall have no liability or responsibility for providing services under this Agreement to any person or property within the boundaries of the Town of Marcellus. Town agrees to defend, indemnify and hold Department harmless for any claim, suit, proceeding or action, arising from Department's failure to provide adequate or sufficient services to any person or property within the Town of Marcellus's boundaries after this Agreement expires or terminates.

**9. GROUNDS FOR TERMINATION**

Department may terminate this Agreement upon the Town's failure to deliver the monies due Department under this Agreement by the date due, so long as Department provides twenty (20) days written notice to the Town of the date it will cease providing services. If the Town remits such funds to the Department during this twenty (20) day notice period, Department shall not terminate services based upon the Town's failure to pay this annual contract payment.

Town may terminate this Agreement upon the loss or suspension of Department's ability to deliver fire protection services, or upon the failure of Department to continuously respond to requests for fire protection or rescue services within the Town's boundaries for a period of no less than two (2) weeks, so long as Town provides Department written notice of the date services will no longer be permitted. Department shall be provided the opportunity to cure such loss, suspension or failure, and shall have three (3) days from receipt of notice from the Town to provide such protection under the terms of this Agreement.

**10. EQUIPMENT**

The parties agree that trucks and equipment purchased in whole or in part with public funds provided by the Town shall be owned and maintained by the Department. The Department agrees however that said trucks and equipment shall be made available for the exclusive benefit of the residents of the Town of Marcellus and for mutual aid, without limitation, for the duration of this agreement and for a period of five (5) years following the termination or expiration of this Agreement.

It is furthermore the clear intent of the parties that Department trucks and equipment always be available for the benefit of the Town residents. Accordingly, in addition to the foregoing, the Department, as consideration for the right to own and hold title to the trucks and equipment, will also amend its Certificate of Incorporation to state that said equipment and trucks will be available for and utilized without limitation for the benefit of the residents of the Town of Marcellus and for mutual aid.

The Department further agrees to amend the Certificate of Incorporation such that the intent of the Department is that upon dissolution of the Department, said equipment and trucks ownership revert to the Town of Marcellus or to an entity designated by the Town.

The foregoing amendments to the Certificate of Incorporation may not be altered or amended without the approval of the Town of Marcellus and are a condition precedent to this Agreement.

The Department agrees to establish and maintain a separate capital account for vehicle purchases and agrees that said funds will be restricted to the purchase of said vehicles only.

All of the provisions of this paragraph ten (10) pertaining to Equipment shall survive the expiration or termination of this Agreement.

**11. RESTRICTION ON CAPITAL PURCHASES**

Department shall not make any capital purchase or incur any debt, either of which requires financing, if such purchase/financing would require an increase in the Department's budget in the future years for the term of the financing beyond the term of this Agreement, unless Department first obtains the approval of the Town.

**12. QUARTERLY REPORTS**

Department shall provide quarterly reports to town no later than May 15, August 15, November 15, February 15, detailing the number of calls to which the Department responded, in which town the call was located, and of such other information as the town may from time to time require.

Department shall also provide each month the prior month's income and expense report detailing the income and expenses of the Department pertaining to the contractual funds. Notwithstanding and in addition to the requirements within this paragraph, the Department will also comply with the requirements of paragraph 4 of this Agreement when rendering its monthly reports. The expenses shall be itemized by line item. Each line item shall indicate the amount of funds budgeted, spent and remaining. The Department shall also obtain a semi-annual independent audit and provide a report of the audit along with an inventory of equipment to the Town within thirty (30) days of its receipt of the audit report. The Town has paid for that portion of the audit which relates to public funds as part of the funds budgeted in Schedule A.

**13. NOTICES**

All notices, requests, demands and other communications required or permitted to be given hereunder shall be in writing, and shall be deemed duly given if delivered by hand or mailed by registered or certified mail, return receipt requested, to the parties at the following address:

Marcellus Fire Department, Inc.  
Attn: President  
4242 Slate Hill Road  
Marcellus, New York 13108

Town of Marcellus  
Attn: Supervisor  
22 East Main Street  
Marcellus, New York 13108

**14. SAVINGS CLAUSE**

If any provision of this Agreement is determined to be legally invalid, inoperative or unenforceable, only that particular provision shall be affected, such determination shall have no effect whatsoever on any other provision of this Agreement, and all other provisions shall remain in full force and effect. Should the law be amended such that any term of this Agreement shall be rendered null and void or unenforceable, or should the law require a provision in this Agreement that is not presently recited, such agreement shall be deemed amended as of the effective date of the amendment to the law.

**15. WAIVER**

No delay or failure to exercise any remedy or right occurring upon any default shall be construed as a waiver of such remedy or right, or acquiescence in such default, nor shall; it affects any subsequent default of the same or a different nature. All rights and remedies herein conferred shall be in addition to and not exclusive of any and all other rights or remedies now or hereafter existing at law or in equity.

**16. HEADINGS**

All headings and captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and shall in no way define, limit, extend or describe the scope or intent of any provisions hereof.

**17. FURTHER ASSURANCES**

The parties shall execute and deliver all documents, provide all information and take or forbear from all such action as may be necessary or appropriate to achieve the purposes set forth in this Agreement.

**18. BINDING EFFECT**

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executor, administrators, successors and assigns.

**19. COUNTERPARTS**

This Agreement may be executed in counterparts and each such counterpart, when taken together, shall constitute a single and binding Agreement.

**20. GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of New York. The County of Onondaga in the State of New York is hereby designated as the place of trial for any action or proceeding arising from or in any way connected to this Agreement.

**21. NO ASSIGNMENT**

In accordance with the provisions of Section 109 of the General Municipal Law of the State of New York, Department is hereby prohibited from assigning, transferring, conveying, or otherwise disposing of this agreement, or its power to execute this Agreement, to any other person or corporation without the express written consent of Town. Any such assignment or disposition without such consent shall be void and unenforceable.

**22. ENTIRE AGREEMENT**

This Agreement is the entire agreement among the parties and shall not be changed, except by a writing signed by the party to be charged. This Agreement shall supersede all prior agreements between the parties.

**IN WITNESS WHEREOF**, the parties hereto have set their respective hands and seals as of the day and year first above written.

**Town of Marcellus**

**Marcellus Fire Department, Inc.**

By: \_\_\_\_\_  
**Laurie Stevens, Supervisor**

By: \_\_\_\_\_  
**, President**

**SCHEDULE A**

Contractual Payment:	\$244,934.00
-plus-	
Truck & Equipment Reserve:	\$ 75,000.00
-plus-	
Building Maintenance Fund:	<u>\$ 30,000.00</u>
TOTAL:	\$349,934.00



**SCHEDULE B**

On or before January 15, 2025	Twenty-five Percent (25%) of Schedule A
On or before April 15, 2025	Twenty-five Percent (25%) of Schedule A
On or before June 15, 2025	Twenty-five Percent (25%) of Schedule A
On or before September 15, 2025	Twenty-five Percent (25%) of Schedule A