

ORDINANCE NO. 2013-05-421

AN ORDINANCE ADOPTING AN INTERLOCAL COOPERATIVE AGREEMENT ON FIRE PROTECTION, BETWEEN TONTITOWN AREA FIRE DEPARTMENT AND THE CITY OF TONTITOWN, ARKANSAS, DECLARING AN EMERGENCY, AND FOR OTHER PURPOSES

WHEREAS, the City of Tontitown, Washington County, Arkansas, and Tontitown Area Fire Department have entered into an Inter-local Cooperative agreement which sets out the rights and obligations of each party regarding fire protection of the citizens of Tontitown, Arkansas for other matters pertaining to fire protection enforcement; and

WHEREAS, the city of Tontitown and Tontitown Area Fire Department are granted the authority to enter into such Agreement pursuant to Ark. Code Ann. 14-14-910.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF TONTITOWN, ARKANSAS, AS FOLLOWS:

Section 1. That said Inter-local Cooperative Agreement, a copy of which is attached hereto and incorporated herein by reference as Exhibit "A" as if set out fully word by word, is hereby adopted.

Section 2. Emergency Clause. It is hereby declared that an emergency exists, and this Ordinance, being necessary for the preservation of the health, safety, and welfare of the citizens of the City of Tontitown, Arkansas, shall be effective immediately upon its passage, approval.

This Ordinance repeals an ordinance or parts of ordinances in conflict herewith.


PASSED AND APPROVED THIS 7 day of May, 2013.

CITY OF TONTITOWN, ARKANSAS



Mayor

ATTEST



City Recorder/Treasurer

SPONSOR

INTER-LOCAL FIRE PROTECTION SERVICES AGREEMENT

THIS AGREEMENT, is made pursuant to Ark. Code Ann, 14-14-190, by and between the Tontitown Area Fire Department, Arkansas, (hereinafter referred to as the "TAFD"), and the City of Tontitown, Arkansas (hereinafter referred to as the "City").

WITNESSETH:

WHEREAS, the City is a city of the 2nd class and desires to provide fire protection for all citizens and property owners within the city limits and,

WHEREAS, TAFD has the authority, resources, and capability to provide such fire protection services, and in fact has provided such services on a subscription basis to the territory that includes the City's corporate limits; and,

NOW, THEREFORE, BE IT AGREED THAT, The City shall make a payment, pursuant to an agreed upon payment plan, in the amount not to exceed one hundred and thirty thousand dollars (\$130,000) to TAFD, for fire protection services, the first payment due on or before January 15, 2013 in return for universal subscription agreement for all citizens and property owners within the corporate limits of Tontitown, Arkansas, as of January 1, 2013 for the calendar year of 2013, and for the mutual obligations hereby created and the mutual benefits so derived, the parties agree as follows:

- (A) It is the intent of the parties hereto to create a relationship with regard to the matter discussed herein; the City and TAFD shall coordinate their efforts to provide for greater fire protection, at a reduced cost for their citizens through the Inter-Local Agreement. Either party may, by majority vote of its respective governing body, elect to modify, or terminate this Agreement. In order for this Agreement to be modified, the governing bodies of both the City and TAFD must so indicate by a majority vote of their respective governing bodies. If the parties shall desire to terminate this Agreement, the party or parties so desiring to withdraw shall give the other party six (6) months written notification of their intent to withdraw, which notice shall be given by certified mail, return restricted to the addressee, and mailed to the Mayor of the City of Tontitown or the President of the TAFD Board of Directors, as the case may be. Notice shall be considered given on the date of the postmark. If either party wishes to terminate this Agreement, the Agreement will terminate at the end of the six (6) months notice period. For a period within which this Agreement shall exist, the governing bodies may amend said Agreement as provided hereinafter in Paragraph L.
- (B) The parties shall keep a list of all property purchased in furtherance of this Agreement, with each such item of property being visibly labeled, tagged, marked, or otherwise properly identified as to the owner of such property. For purposes of this Agreement, ownership of property is determined by the party directly purchasing same, reimbursing the other party for the cost of such purchase, or paying the cost for the leasing or renting of any property. In the event of the

termination of the Agreement, the parties shall each receive their properties, so identified as set forth in this subsection; provided, however, that the titling of vehicles used by the parties shall be further governed by the provisions of subsection (F) below.

- (C) The composition of personnel and their positions will be approved on an annual basis by the Tontitown City Council on or before the first scheduled City Council meeting in October of each year. Pursuant to subsection (G), TAFD shall maintain supervision over all personnel hired under this agreement regardless of the fact that final approval of the number of such personnel rests with the Tontitown City Council.
- (D) The primary purpose of this agreement is to reimburse the TAFD for staffing of personnel. Staffing shall be defined as being the cost to TAFD of any and all expenses incurred by TAFD for two full-time firefighters or equivalent, a part-time Chief, a part-time Assistant Chief, part-time fire fighters, and two administrative positions, including but not limited to salary, normal payroll taxes and social security required by law to be paid by TAFD, retirement, any insurance provided by TAFD, including workers compensation insurance, run reimbursements (to be estimated on a monthly basis), liability insurance, training and uniform expense. The payments from the City shall be in equal installments of \$9,583.33 each, with TAFD to make an accounting to City of the actual staffing expenses every month for the previous month. If the actual staffing expenses were less than the \$115,000 budgeted amount, then TAFD shall reimburse the amount paid by the City in excess of actual expenses by January 30, 2014.
- (E) To the extent the funds provided hereinabove are not used by TAFD for personnel as provided in paragraph D, and TAFD desires to use the excess funds for the purchase of equipment or repairs, then it shall obtain approval from the City for such purchase. If such purchase is approved, then the City shall own such equipment to the extent of its funds used in such purchase. If such approval is not given, then the excess funds shall be reimbursed to the City as provided in paragraph D. Moreover, in addition to the funds appropriated in paragraph D above, the city sets aside the sum of \$15,000 for the purchase of equipment. When and if TAFD selects equipment to purchase, with the approval of the city which approval will not be unreasonably withheld, the City shall supply up to \$15,000 for the purchase of such equipment, which will be owned by the City.
- (F) TAFD shall provide all vehicles and equipment for use in fire protection services.
- (G) TAFD shall be responsible for all fuel and maintenance as required for all said vehicles.
- (H) The personnel which constitutes TAFD shall be under the direction, supervision, authority, and control of the TAFD Chief and the TAFD Board of Directors. The City shall, upon acceptance of the Agreement, provide the funds and ordinances

(P) TAFD will present the City with a proposed contract for the year of 2014 prior to October 1, 2013.

IN WITNESS HERETO, Tontitown Area Fire Department, and the City of Tontitown, Arkansas, have executed this document by their duly elected officers who are authorized to represent the respective parties hereto in assuring the rights and obligations set forth this _____ day of January, 2013

necessary to accomplish this Agreement. In a like manner, the TAFD, upon acceptance of this Agreement, shall take all steps necessary for providing enactment and enforcement of this Agreement. Each party agrees to act in the utmost good faith and to take all steps necessary for the enforcement of the provisions and agreements contained herein.

- (I) There shall be a Board created by the City and TAFD for the purpose of effectuating this Agreement and coordinating the efforts necessary for carrying out this Agreement. This Board shall consist of the TAFD board president and two (2) members of the TAFD board and three (3) aldermen of the City as appointed and approved by the City Council with one (1) alderman from each of the three (3) city wards.
- (J) The Inter-local Board shall meet at least quarterly or as needed. Meetings may be called as the need arises by any member of the Inter-local Board. Minutes shall be kept and copies shall be provided to be posted on the Tontitown City website.
- (K) The Inter-local Board shall in no way be construed to be a Civil Service Commission or Grievance Committee and shall serve for the effectuation and coordination of this Agreement.
- (L) It is agreed and understood that both parties have tort immunity, which remains preserved and both are participants in Risk Management Programs to protect them from certain types of Federal and State civil rights causes of action. Each party shall maintain sufficient coverage to protect each in the event both or one of them is sued. Notwithstanding anything in this subsection to the contrary, all TAFD personnel shall remain under the supervision of the TAFD Chief and the Board of Directors of TAFD, including all TAFD policies, rules, and regulations consistent with subsection (G) herein. Nothing herein shall be construed to require either the City or TAFD or their respective Risk Management Programs to indemnify the other.
- (M) This Agreement may be amended from time to time by the governing bodies of City and TAFD. The party desiring to amend this Agreement shall draft their proposed amendment to the other party, whereupon said party's governing body shall vote upon said proposed amendment. Should the amendment be accepted by both parties, it will thereafter become a part and parcel of this Agreement. Should either party fail to approve a proposed amendment, it will have no force or effect.
- (N) The various provisions and parts of this Agreement are hereby declared to be severable and if any section or part of a section, provision, or part of a provision herein, is held to be invalid such holding shall not invalidate or affect the remainder of this Agreement.
- (O) This Agreement supersedes all previous agreement and amendments thereto that relate to the Inter-local Agreement of Fire Protection Services.

DATE: 3-21-13

Jason R. Steele
_____, President-TAFD, Board of Directors

[Signature]
_____, Mayor-Tontitown, Arkansas