

DUNN'S CORNERS FIRE DISTRICT

AND

SHADY HARBOR FIRE DISTRICT

FIRE PROTECTION CONTRACT

This AGREEMENT, effective June 1, 2015 by and between DUNN'S CORNERS FIRE DISTRICT, a quasi-municipal corporation chartered by the legislature of the State of Rhode Island and having a mailing address of One Langworthy Road, Westerly, RI 02891 (hereinafter referred to as "DUNN'S CORNERS") and SHADY HARBOR FIRE DISTRICT, a quasi-municipal corporation chartered by the legislature of the State of Rhode Island and located in Charlestown, RI 02813, (hereinafter referred to as "SHADY HARBOR").

RECITALS:

WHEREAS, DUNN'S CORNERS is a quasi-municipal corporation chartered by the legislation of the State of Rhode Island and is authorized to provide the fire protection to areas of the Towns of Westerly and Charlestown, as described in its charter, as amended; and

WHEREAS, SHADY HARBOR is also a quasi-municipal corporation chartered by the legislation of the State of Rhode Island and is authorized to provide fire protection to the area commonly known as Shady Harbor in the Town of Charlestown, as described in its charter as amended;

WHEREAS, DUNN'S CORNERS presently maintains an active firefighting department (the Dunn's Corners Fire Department, a Rhode Island fire department corporation hereinafter referred to as "Fire Department") that is willing to provide fire protection services to SHADY HARBOR on a fee basis; and

WHEREAS, DUNN'S CORNERS and SHADY HARBOR each deems it desirable and in the general public interest to enter into a written contract for DUNN'S CORNERS to provide fire protection services to SHADY HARBOR upon the terms herein stated; and

WHEREAS, by agreement effective the financial year of 2008-09 through financial year 2013-14 and extended through financial year 2014-15, DUNN'S CORNERS provided fire protection to SHADY HARBOR and also has agreed to provide further fire protection to SHADY HARBOR after that date.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein and for other valuable consideration SHADY HARBOR hereby agrees and contracts with DUNN'S CORNERS for adequate fire protection for real and personal property in the incorporated area of SHADY HARBOR for the term and payment and other provisions herein expressed and DUNN'S CORNERS agrees to furnish said fire protection for real and personal property in the incorporated area of SHADY HARBOR for the term and payment and other provisions herein expressed.

ARTICLE I
FIRE PROTECTION CONTRACT PROVISIONS

A. DUNN'S CORNERS will respond to any call for the extinguishment of a fire or other emergency situations occurring in or impacting the incorporated area of SHADY HARBOR, including the use of other fire companies for backup support, unless DUNN'S CORNERS is unable to respond to such call because of (a) events constituting a force-majeure or, (b) another emergency to which it has previously responded and which requires use of all available resources. It is the intent of the parties hereto that DUNN'S CORNERS shall respond to the same situations and render the same services to SHADY HARBOR that it currently provides to the property owners of DUNN'S CORNERS during the term of this Agreement.

B. DUNN'S CORNERS agrees to maintain adequate and sufficient equipment and facilities, provide adequate personnel and training and maintain adequate and sufficient protocols with other fire companies for backup support, in all cases, sufficient to provide adequate fire protection service to SHADY HARBOR and any other fire district or entity with which it contracts to provide fire protection services.

C. It is further understood and agreed that for and in consideration of the monies paid by SHADY HARBOR pursuant to this Agreement, DUNN'S CORNERS shall defend, indemnify and hold SHADY HARBOR harmless for any and all liability, causes of action, damages, loss and/or expense incurred by SHADY HARBOR arising out of DUNN'S CORNERS operations in the Shady Harbor Fire District, including any loss or damage to or expenses incurred in the operation of fire apparatus or other equipment belonging to DUNN'S CORNERS and the cost of any materials used in connection with any call for assistance thereto, unless said liability, causes of action and damages, loss or expense was caused by the negligence or intentional acts of SHADY HARBOR.

D. DUNN'S CORNERS, as owner or lessee of the equipment to be used in answering calls for assistance in SHADY HARBOR, agrees that it will assume full responsibility for injuries to persons or property or deaths resulting from DUNN'S CORNERS' negligence in the operation of any such equipment while answering any such calls and will obtain liability insurance therefore, DUNN'S CORNERS shall provide SHADY HARBOR with a Certificate of Insurance evidencing the existence of such insurance, which Certificate shall name SHADY HARBOR as an additional insured. Such Certificate shall also provide for thirty (30) days prior written notice to SHADY HARBOR of the cancellation or failure to renew such policy.

E. DUNN'S CORNERS shall have the right to bill individual landowners and residents of SHADY HARBOR for the cost billed to DUNN'S CORNERS of contracted specialized services to a response site where DUNN'S CORNERS does not have the specialized capability or equipment, such as hazardous materials incidents. Any such billing will be consistent with billings to individual landowners and residents of DUNN'S CORNERS for similar contracted specialized services.

F. It is expressly understood and agreed that the number of firefighters and the nature of equipment dispatched in answer to calls, the manner of fighting fires, and other operations at the scene of a fire, accident or other incident to which DUNN'S CORNERS is called, are matters

within the judgment of the fire chief of DUNN'S CORNERS, or his designee who may be in charge at the time, and there shall be no liability upon SHADY HARBOR for any mistake of judgment in connection therewith.

G. (1) DUNN'S CORNERS shall provide to SHADY HARBOR any and all such incident reporting information as DUNN'S CORNERS may from time to time be required to provide to the State of Rhode Island. The information that shall be provided shall be in such form and shall contain such information as required by the State of Rhode Island.

(2) DUNN'S CORNERS agrees that annually it shall file with SHADY HARBOR an up-to-date list of all Officers of DUNN'S CORNERS, including all members of the Operating Committee.

H. It is hereby mutually covenanted and agreed that the relationship of DUNN'S CORNERS to the services to be performed by it under this Agreement shall be that of an independent contractor.

I. DUNN'S CORNERS shall at all times comply with all applicable laws, statutes, codes, rules and regulations.

ARTICLE II

TERM AND PAYMENT SCHEDULE

A. In consideration of the fire protection provided to SHADY HARBOR during the term of this agreement, SHADY HARBOR agrees to pay DUNN'S CORNERS as provided herein.

B. The initial term of this Agreement shall be from June 1, 2015 through May 31, 2020, during which period DUNN'S CORNERS agrees to provide the fire protection services described hereunder to SHADY HARBOR beginning at 12:00 Midnight on June 1, 2015 and ending at 12:00 Midnight, May 31, 2020.

C. The annual monetary payment to be paid to DUNN'S CORNERS by SHADY HARBOR for fire protection services provided herein shall be the product of the total SHADY HARBOR property tax assessment as of December 31st of the previous year (as determined by the Charlestown Tax Assessor) multiplied by the same mil rate determined by DUNN'S CORNERS and applied to the taxable property in DUNN'S CORNERS for that fiscal year (assuming both Charlestown and Westerly have the same assessment ratio), then said product to be reduced by the DUNN'S CORNERS administrative savings percentage (see below), which in 2015-16 shall be seven (7.0%) percent. This amount shall be the Annual Payment.

The DUNN'S CORNERS administrative savings percentage will be the total of the collection fee percentage up charge and the administrative fee discount percentage relating to accounting, tax collection, audits and similar fees and expenses budgeted by DUNN'S CORNERS. Any collection fee percentage up charge can be calculated from the resolution approved by the DUNN'S CORNERS taxpayers covering total taxes to be collected at any Annual Meeting. The DUNN'S CORNERS administrative savings percentage can be calculated from any annual DUNN'S CORNERS budget. Budgeted accounting, tax collection, audit and similar fees

and expenses divided by the total budget amount. For example, for 2015-16, DUNN'S CORNERS agreed to use 4% as the administrative fee discount level (\$34,600 divided by \$943,234 = 3.67% rounded up to 4%). We also agreed on 3% for the collection up charge rate as that is what DUNN'S CORNER'S taxpayers approved for tax collections at the July 2015 annual meeting (Maximum tax levy of \$670,487 minus minimum tax levy of \$650,959 = \$19,528 divided by minimum tax levy of \$650,959 = 3%).

The DUNN'S CORNERS administrative savings percentage shall not be less than four percent (4%) each fiscal year. The increase in the amount of the Annual Payment due in any fiscal year shall not exceed ~~five percent (5%)~~ ^{Six} of the Annual Payment due in the prior fiscal year. If the calculation of the Annual Payment in any fiscal year does increase by more than ~~five percent (5%)~~ ^{Six}, the excess over the ~~five percent (5%)~~ ^{Six} increase shall be paid in ~~three equal annual installments over the next three fiscal years~~ ^{Six}.

D. Remittance of said Annual Payment shall be in two (2), equal installments, the first installment being due by December 1st and the second installment being due by February 1st, provided DUNN'S CORNERS shall bill SHADY HARBOR for the amount due at least 30 days prior to each due date. DUNN'S CORNERS will include with the bill for the first installment the calculation of the administrative fee discount percentage and of the collection fee percentage upcharge, together with copies of the adopted budget and tax levy resolution adopted by the DUNN'S CORNERS taxpayers (if not available on the web site of DUNN'S CORNERS), and the mil rate applied by DUNN'S CORNERS for that fiscal year.

E. Any and all fees, penalties and/or other monetary compensation stemming from inspections performed by the DUNN'S CORNERS Fire Chief, his qualified subordinates or other qualified DUNN'S CORNERS personnel shall be the fees, penalties and/or other monetary compensation of DUNN'S CORNERS and handled therein as it is in that fire district and shall not in any way act as any type of credit or other benefit to SHADY HARBOR.

F. In the event that DUNN'S CORNERS receives grants or other sources of income other than from taxpayer assessments and fees or from contracting districts, such as SHADY HARBOR, those grants and other sources of income will be applied to specific expense items. Such expense items will not be included in the DUNN'S CORNERS budget nor apply in any way to this agreement with SHADY HARBOR.

ARTICLE III

ADDITIONAL PROVISIONS

A. The parties hereto agree that the DUNN'S CORNERS fire chief shall be the authority having exclusive jurisdiction for any required permits or approvals relating to fire protection matters in SHADY HARBOR during the term of this Agreement.

B. Options: It is DUNN'S CORNERS intention to continue to provide fire protection to SHADY HARBOR beyond the initial term of this Agreement and DUNN'S CORNERS and SHADY HARBOR agree to meet by December 1, 2019 to discuss extending this Agreement. If no agreement is made by March 1, 2020, then this Agreement shall automatically extend for one (1) more year. This Agreement will be extended automatically for one year periods from the time

of its first expiration or the expiration of any extension, unless either party notifies the other party in writing at least two hundred and fifty(250) days prior to the end of the current term, or of any extension thereof, of the party's decision not to extend this Agreement.

C. If DUNN'S CORNERS enters into a contract with another fire district for fire protection services, or an existing contract is extended, and such contract contains provisions (including the calculation of the Annual Payment) which, if applied to SHADY HARBOR, would be more favorable than the provisions of this Agreement, then SHADY HARBOR shall have the benefit of those provisions. In applying this section the \$3500 additional deduction given to Shelter Harbor Fire District for the three annual periods starting in 2015 and ending in 2018 shall be disregarded.

beyond December 31, 2016

SH
MA
MSP

ARTICLE IV MISCELLANEOUS

A. This Agreement is executed by duly authorized individuals of the respective parties and is legally binding on the parties hereto.

B. DUNN'S CORNERS is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement or of its right, title or interest in this Agreement, or its power to execute this Agreement, to any other person or corporation without the previous consent in writing of SHADY HARBOR.

C. DUNN'S CORNERS and SHADY HARBOR acknowledge that they are both subject to the provisions of the Open Meetings Law (Rhode Island General Laws Chapters 4246) and the Freedom of Information Law.

D. This Agreement shall be governed by the laws of the State of Rhode Island.

E. This Agreement constitutes the complete understanding of the parties.

F. No modifications of any provisions of this Agreement shall be valid unless in writing and signed by both parties.

G. No waiver of any breach of any provision of this Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or provision of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

H. It is understood and agreed by the parties that if any part, term or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any laws of the State of Rhode Island or the United States of America the validity of the remaining portions of the provisions shall not be affected. The parties shall negotiate in good faith to replace any invalid or illegal provision with a valid and legal provision, which, to the extent possible will preserve the economic effect of the invalid or illegal provision.

I. Any Notices in writing required to be given to DUNN'S CORNERS shall be hand-delivered or sent by regular mail, postage prepaid, to the following address:

Chief Michael Frink
One Langworthy Road
Westerly, RI 02891

COPY TO:

Atty Michael Cozzolino
80 Beach Street
Westerly, RI 02891

Any Notice in writing required to be given to SHADY HARBOR shall be hand-delivered or sent by regular mail, postage prepaid, to the address of the then current Moderator of SHADY HARBOR. The current Moderator is:

Stanley Hollis, Moderator
141 Shirley Drive
Charlestown, RI 02813


COPY TO:

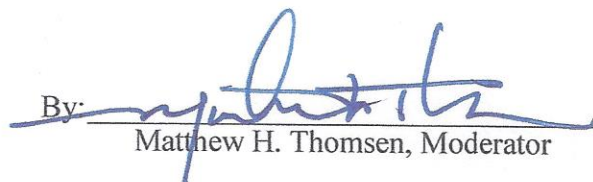
Frederick C. Eckel, Esq.
41 Grove Avenue
Westerly, RI 02891

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In witness whereof the parties hereto have caused this Agreement to be executed on their behalf by their duly authorized officers on the dates indicated below.

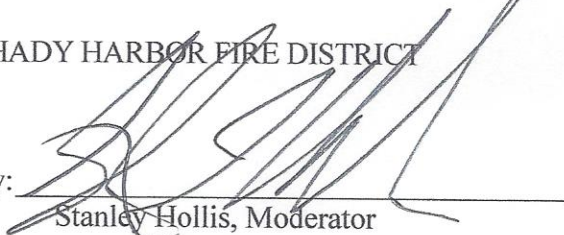
DUNN'S CORNERS FIRE DISTRICT

By: 
Michael Frink, Chief

By: 
Matthew H. Thomsen, Moderator

Date: 7/12/2016

SHADY HARBOR FIRE DISTRICT

By: 
Stanley Hollis, Moderator

Date: 7/12/2016