

## **FIRE SERVICE AGREEMENT- 2011**

This Agreement, effective January 1, 2011, is between Egelston Township, a Michigan municipal corporation located at 5428 E. Apple Avenue, Muskegon, Michigan 49442 in Muskegon County ("Township"), and the County of Muskegon, a Michigan municipal corporation, located at 990 Terrace Street, Muskegon, Michigan 49442, by its Public Works Board (collectively "County") concerning the fire service at the "Metro" facility of the Muskegon County Wastewater Management System ("MCWMS").

### **RECITALS**

A. The County of Muskegon, through its Public Works Board, operates the Muskegon County Wastewater Management System, which is located in both Egelston and Moorland Townships, having several installations, including operating facilities and buildings which need fire protection and some of which are the location or storage places for hazardous materials.

B. The Township has a full-time fire department consisting of several full-time officers and, in addition, volunteer firefighters, having extensive fire fighting and emergency medical equipment.

C. The Township is able to provide fire and emergency medical services, and the equipment and ability to provide same have been reviewed by County and have been deemed satisfactory.

### **THE PARTIES, THEREFORE, AGREE:**

1. **Provision of Fire and Emergency Services.** The Township will provide fire and emergency medical services for all properties located in the Muskegon County Wastewater Management System, located in Egelston and Moorland Townships. The coverage provided shall include the following commitments by the Township:

1.1 **Equipment and Personnel.** The Township will maintain the level of equipment and personnel which is in place on the date of this Agreement.

1.2 **Mutual Aid Agreement.** The Township will maintain in effect its Mutual Aid Agreement with Moorland Township, including coverage for the Moorland Township Fire Department, which is in effect on the date of this Agreement.

1.3 **Full-Time Fire Department.** The Township will maintain its full-time fire department or equivalent in terms of full-time personnel and sufficient volunteer personnel to provide coverage for the Township, surrounding communities and for the MCWMS.

2. **Consideration; Fees and Review.** For the fire and emergency services protection afforded by this Agreement to the MCWMS, the County will pay to the Township the following:

2.1 An annual fee of \$44,384.16 payable on the date of executing this contract and on each anniversary date hereof.

2.2 In addition to the said fee, on every anniversary date of this Agreement the Township will receive an increase, measured by the increase in the Consumer Price Index (CPI).

3. **Additional Consideration.** Any County Department under the County Public Works Board that acquires a parcel of property within the boundaries of Egelston Township will provide additional consideration to the Township in an amount equal to the loss in Township ad valorem taxes that occur as a result of the acquisition. The additional consideration shall be added to the annual fee.

#### 4. **General Provisions.**

4.1 **Inspections.** Upon the execution of this contract, the County shall arrange for an inspection of all its facilities by the Township, for the purpose of accounting for any facilities presently unknown to the Township's fire department. County shall periodically notify the Township of any changes in the condition or general usage of any structure or building on the MCWMS.

4.2 **Hazardous Materials and Chemicals.** The County shall provide the Township, within 30 days after the execution of this Agreement, an inventory, diagrams and maps indicating the location and description of all hazardous materials stored, kept or used on the premises. Further, the County agrees to promptly inform the Township in writing of any changes in locations or descriptions of materials and provide diagrams, maps and narrative descriptions of said changes.

4.3 **Nature of the Fee.** This fee is for fire protection and emergency medical services, and is separate from and in addition to any other payment from the County to Township in connection with any service or access rights agreement related to the MCWMS,

4.4 **Term of the Agreement.** The term of this Agreement is indefinite, but it shall be reviewed after ten (10) years from the date of execution, and continuance or renewal shall be reasonably negotiated by the parties.

5. **Termination of the Agreement.** This Agreement may be terminated by thirty (30) days written notice by either party for the following reasons:

5.1 Failure by the non-terminating party to substantially and materially perform its obligations under this Agreement.

5.2 By the County, in the event the County determines after inspection that the Township's fire department has not substantially maintained its equipment and capability which is in place and in effect on the date of execution of this contract.

5.3 A determination by the Township that it does not wish to continue the coverage afforded by this Agreement, in which event thirty (30) days notice of termination shall be given to the County.

## 6. **Miscellaneous Provisions.**

6.1 **No Third Party Beneficiary.** No person dealing with the County or Township shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement. This Agreement is not intended to, nor shall it be interpreted to create a special relationship between the County or the Township and any staff, visitors, residents, or other individuals who may have business through the County.

6.2 **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Michigan applicable to contracts made and to be performed within the State of Michigan.

6.3 **Assignment.** Township shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of County and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

6.4 **Severability.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

6.5 **Entire Agreement and Amendment.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superceded or changed by any oral agreements, course of conduct waiver or estoppel.

6.6 **Terms and Conditions.** The terms and conditions used in this Agreement shall be given their common and ordinary definition and will not be construed against either party.

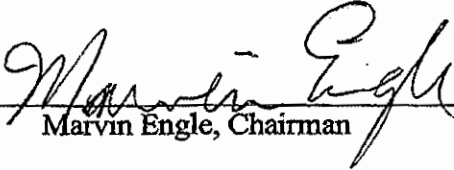
6.7 **Execution of Counterparts.** This Agreement may be executed in any number of counterparts and each such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

6.8 **Authority.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, person, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any State and/or Federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Township hereby warrants that it shall not have breached the terms or conditions of any contract or agreement to which Township is obligated, which breach would have a material effect there on.

IN WITNESS WHEREOF the parties sign this Agreement effective the date set forth above.

MUSKEGON COUNTY  
BOARD OF PUBLIC WORKS

Dated: 1-4-11, ~~2010~~


By:   
Marvin Engle, Chairman

EGELSTON TOWNSHIP

Dated: 1-4-11, ~~2010~~

By:   
Michael Thompson, Supervisor

Dated: 1-4-2011, ~~2010~~

By:   
Joan Raap, Clerk