

## FIRE SERVICE AGREEMENT

This FIRE SERVICE AGREEMENT (this “*Agreement*”) is made and entered into this as of this 1st day of July, 2022 (the “*Effective Date*”), by and between the City of Hartsville, South Carolina, a body corporate and politic and a political subdivision of the State of South Carolina (the “*City*”), and Darlington County, South Carolina, a body corporate and politic and a political subdivision of the State of South Carolina (the “*County*”), each a “Party” and together the “*Parties*”.

### RECITALS:

**WHEREAS**, the City is authorized, pursuant to Section 5-7-60 of the Code of Laws of South Carolina 1976, as amended, to furnish its services, including fire protection services, outside of the corporate limits of the City by contract with any political subdivision of the State of South Carolina; and

**WHEREAS**, pursuant to Ordinance No. 97-20 of the County, dated September 15, 1997, (“*County Ordinance 97-20*”), as amended by Ordinance No. 13-01 dated March 4, 2013 (“*County Ordinance 13-01*”), the County Council of Darlington County (the “*County Council*”) has (i) created the Hartsville Fire Protection District (the “*Fire District*”) as a fire protection district as authorized by Section 4-19-10 *et seq.* of the Code of Laws of South Carolina 1976, as amended (the “*Act*”) and Section 13 of Article VIII of the South Carolina Constitution, (ii) authorized the annual levy and collection of *ad valorem* taxes within the Fire District in order to fund the operation and maintenance thereof, and (iii) authorized the County to “contract with Hartsville for the provision of fire services....”; and

**WHEREAS**, prior to the creation of the Fire District, the City served properties located within the Fire District by contract with each such property owner; and

**WHEREAS**, pursuant to Ordinance No. 185 of the County, dated August 15, 1988, as amended by Ordinance No. 90-14 dated October 20, 1990, and as further amended by County Ordinance 97-20, the County Council created a County-wide fire protection district that now includes all unincorporated areas within the County with the exception of the Fire District and the Palmetto Rural Fire District (the “*County-Wide Fire District*”); and

**WHEREAS**, the boundaries of the Fire District, described roughly as an area within approximately 5 miles of the City, are set forth with specificity in County Ordinance 13-01; and

**WHEREAS**, pursuant to the Act, County Ordinance 97-20, and Ordinance No. 1111 of the City dated October 14, 1997, the City and the County entered into a Fire Service Agreement, dated October 14, 1997 (the “*Original Agreement*”), the provisions of which set forth certain terms regarding the City’s authorization to provide fire protection services to all areas within the Fire District and that further provided for the payment by the County to the City of certain *ad valorem* taxes collected within the Fire District to fund the City’s provision of fire protection services therein; and

**WHEREAS**, the Original Agreement was subsequently amended, pursuant to a Fire Service Agreement, dated January 21, 2003 (the “*Amended Agreement*”), to provide that the

annual millage rate to be levied within the Fire District in each year shall be set at the same level as the millage rate set for each such year by the County Council for the County-Wide Fire District; and

**WHEREAS**, the Amended Agreement has subsequently expired; and

**WHEREAS**, execution and delivery of this Agreement has been authorized by ordinance of County Council enacted on \_\_\_\_, 2022 and ordinance of the City Council of the City of Hartsville, as the governing body of the City, enacted on \_\_\_\_, 2022.

**NOW THEREFORE**, in consideration of the mutual agreements and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the County and the City agree as follows:

**Section 1. Service Area of Fire District.**

(a) The City shall provide Fire Protection Services (as defined in Section 4 of this Agreement within the boundaries of the Fire District. The boundaries of the Fire District shall include those areas described in County Ordinance 13-01, which is codified at Section 26-104 of the County's Code of Ordinances and additionally included as **Exhibit A** to this Agreement.

(b) This Agreement constitutes an agreement for the joint exercise of fire protection powers under Section 4-19-10(b) of the Act. Upon the execution and delivery of this Agreement, any prior agreements between the City and County shall be immediately terminated.

**Section 2. Payment to City for Operation and Maintenance of Fire District.**

(a) The County shall annually levy and collect, on all taxable property in the Fire District, ad valorem taxes to support the operation and maintenance of the Fire District for the term of this Agreement.

(b) Starting in the fiscal year beginning July 1, 2022, the County shall establish a millage rate for the Fire District at the same level as the millage rate for the Darlington County Fire District (the "***Millage***"). As of the date of this Agreement, the Millage is 14.0 mills, and such levy shall be adjusted in lock-step with the Millage levied by Darlington County Fire District.

(c) The County Treasurer of the County shall release and transfer to the City all funds collected within the Fire District through the levy and collection of the Millage upon all taxable property within the Fire District (the "***Fire District Revenue***") by the fifteenth day of the month following the month in which such funds were collected.

**Section 3. Capital Costs.**

(a) In order to provide equipment and other capital items for use in the District, the County will make available to the City, no later than July 1, 2023, the amount of \$650,000, constituting the proceeds of general obligation bonds issued by the County for such purpose, for reimbursement of funds expended by the City to purchase capital items for use in the District. Inasmuch as the monies being made available by the County to the City for reimbursement of the

purchase of capital items will be the proceeds of tax-exempt bond of the County, the City agrees that such reimbursement may only be made in compliance with state and federal laws governing the use of such bonds, and the City shall provide to the County all such documentation in connection with such reimbursements as shall be reasonably required to comply with applicable laws and regulations.

(b) To the extent ownership of such capital items is evidenced by title, all such titles shall be owned in the name of the City, and in all cases such capital items will be retained by the City upon expiration of this Agreement (as hereinafter defined).

(c) The Parties, by mutual written agreement, may determine to extend the date by which the bond proceeds described in Section 3(a) above shall be made available to the City.

#### **Section 4. Provision of Fire Protection Services.**

(a) At all times during the term of this Agreement, the City shall provide comprehensive Fire Protection Services within the boundaries of the Fire District. For purposes of this Agreement, "***Fire Protection Services***" means and includes fire suppression services (specifically including alarm response and response to fire calls), fire origin and cause investigation, fire and life safety education, fire code enforcement (acting as the authority having jurisdiction (AHJ)), pre-incident planning, emergency medical service (EMS) assistance, and hazardous materials response. The City shall lead and control all Fire Protection Services within the Fire District. This provision does not affect any mutual or automatic aid arrangements that are in place.

(b) All personnel engaged to provide Fire Protection Services by the City within the Fire District ("***District Personnel***") shall be either employees of the City or volunteers. The City is responsible for all wages, insurance and all other benefits for District Personnel of the City. The City is also responsible for all training of District Personnel.

(c) The City shall, at all times, use all Fire District Revenue received from the County under this Agreement solely for the provision of Fire Protection Services within the Fire District.

(d) The City shall utilize best efforts to maintain an ISO rating of \_\_\_ or better for service in the Fire District.

(e) All pumper engines and service trucks used by City in response to any call subject to this Agreement shall conform to ISO Table 512A (as to pumper engines) and ISO Table 542A (as to service trucks).

#### **Section 5. Reporting.**

(a) The City shall provide to the County annual fire service activity data which identifies those fire suppression activities that the City has engaged in, both within the City's municipal limits and within the Fire District, as reported under the South Carolina Fire Incident Reporting System of the State Fire Marshall's Office. In addition, the City shall submit to the County a report, which shall be included in the City's annual audit, showing the expenditures of the Fire District Revenue for the most recently ended fiscal year. The City shall submit such

information to the County within the earlier of (i) 210 days of the close of each fiscal year of the City, or (ii) the completion of the City's annual audited financial statements.

(b) The County shall make available to the City for inspection, upon reasonable request, records related to the levy and the collection of Millage within the Fire District.

#### **Section 6. Term; Termination.**

(a) The initial term of this Agreement shall begin on the Effective Date and extend through June 30, 2027 (the "***Initial Term***"). In order to permit the City and the County to plan for the capital expenditures necessary to provide high-quality Fire Protection Services within the Fire District, upon the expiration of the Initial Term, this Agreement shall automatically renew for successive terms of five years (each a "***Subsequent Term***") unless either party provides written notice to the other party, not less than one year prior to the end of the Initial Term or any Subsequent Term, of its intention to terminate this Agreement at the end of such term.'

(b) Upon each Subsequent Term, the Parties agree to work in good faith to fund capital items that are required during such Subsequent Term. Notwithstanding any other provisions herein, if the Parties cannot reach agreement as to capital funding within one year of each Subsequent Term, the City shall be permitted to unilaterally terminate this Agreement upon 90 days written notice to the County.

#### **Section 7. Remedies; Legal Fees.**

(a) The Parties may avail themselves of any remedy under law or equity to enforce the provisions hereof. No remedy conferred upon or reserved to the Parties under this Agreement is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other lawful remedy now or hereafter existing. No delay or omission to exercise any right or power accruing upon any continuing default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

(b) If either party employs attorneys or incur other reasonable expenses for the enforcement of performance or observance of any provision of this Agreement, expressly including the payment of Fire District Revenue to the City, the prevailing party is entitled to reimbursement of the reasonable fees of such attorneys and other reasonable expenses so incurred.

#### **Section 8. Assumption of Liability.**

The City hereby assumes liability for damages resulting from the City's provision of fire protection in the District, and covenants that it will at all times during the term of this Agreement maintain such liability insurance with respect to its activities contemplated in this Agreement as is normal and customary for such activities undertaken by the City and other political subdivisions in the State of South Carolina and, in any event, in amounts not less than the limits on liability established from time to time under the South Carolina Tort Claims Act, S.C. Code. Ann. §§15-78-10 *et seq.*, (1976, as amended).

**Section 9. Miscellaneous.**

(a) Nothing in this Agreement shall affect any mutual aid agreements that may exist now or in the future between the County and the City.

(b) In the event of any occurrence rendering the County or City incapable of performing under this Agreement, any successor of the County or City, whether the result of legal process or assignment, otherwise shall succeed to the rights of the County and City hereunder.

(c) If, by reason of force majeure, either party hereto shall be rendered unable, in whole or in part, to carry out its obligations under this Agreement, then, in that event, said party shall give notice, in writing, to the other party, within a reasonable time thereafter, giving the full particulars of such force majeure. The obligations of the party so affected shall thereupon be suspended and such suspension shall continue during the period in which such inability continues; provided, however, that the disabled party shall endeavor with all reasonable dispatch, to remove or overcome such inability. The term "force majeure" as employed herein shall mean Acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind of the Government of the United States or the State of South Carolina, including judicial orders, or any military authority, insurrection, riots, epidemics, landslides, earthquakes, fires, storms, hurricanes, floods, wash-outs, droughts, arrests and restraints of government and people, civil disturbances, explosions, breakage or damage to machinery or pipelines, or causes not reasonably within the control of the party claiming such inability.

(d) Any notice required to be given hereunder shall be deemed to have been sufficiently given to either party for all purposes hereof if mailed by certified mail, postage prepaid, addressed as follows:

**As to the County:**

Darlington County  
Attn: County Administrator  
One Public Square, Room 210  
Darlington, SC 29532

**As to the City:**

City of Hartsville  
Attn: City Manager  
Post Office Box 2497  
Hartsville, SC 29551

(e) This Agreement expresses the complete and final understanding of the Parties in respect thereto and may not be changed in any way except by the instrument on writing signed by both parties. The failure of either party to enforce at any time any of the provisions of this Agreement, or any rights with respect thereto, or to exercise any option herein provided, shall in no way affect the validity of this Agreement. The exercise by either party of any of its rights herein shall not preclude or prejudice such party from exercising the same or any other right it may have

under this Agreement, irrespective of any previous action or preceding taken by such party pursuant to this Agreement.

(f) A waiver by either party hereto of any breach of any provisions of this Agreement shall be limited to such particular instance and shall not operate as a waiver of or be deemed to waive any future breaches of said provisions.

(g) This Agreement may be executed in duplicate originals and in several counterparts, and all of which duplicate originals and counterpart originals when taken together shall constitute the Agreement in its entirety.

(h) In the event any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect, the legality, validity and enforceability of the other provisions of this Agreement shall not in any way be affected or impaired thereby.

[Remainder of Page Left Blank]

**IN WITNESS WHEREOF**, the County has caused this Agreement to be signed in its name by its duly authorized officers as of the date first hereinabove written.

**DARLINGTON COUNTY,  
SOUTH CAROLINA**

[SEAL]

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Chairman  
Darlington County Council

ATTEST:

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Clerk to Council  
Darlington County

**IN WITNESS WHEREOF**, the City has caused this Agreement to be signed in its name by its duly authorized officers as of the date first hereinabove written.

**CITY OF HARTSVILLE,  
SOUTH CAROLINA**

[SEAL]

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk  
City of Hartsville



EXHIBIT A

SERVICE AREA OF THE FIRE DISTRICT