

Village of Bolivar, Ohio

Ordinance Number: O-6-2024

TITLE: AN ORDINANCE TO AUTHORIZE THE MAYOR OF THE VILLAGE OF BOLIVAR AND THE FISCAL OFFICER OF THE VILLAGE OF BOLIVAR TO EXECUTE AN AGREEMENT WITH LAWRENCE TOWNSHIP FOR FIRE PROTECTION SERVICES; AND DECLARING AN EMERGENCY

WHEREAS, the Village of Bolivar, Ohio desires to enter into an agreement with the Lawrence Township Board of Trustees for fire and emergency rescue protection services; and

WHEREAS, the term of said agreement shall be from January 1, 2024 through December 31, 2024; and

WHEREAS, a true and accurate copy of the agreement is attached hereto as Exhibit A; and

WHEREAS, the Legislative Authority for the Village of Bolivar desires to authorize the Mayor of the Village of Bolivar and the Fiscal Officer for the Village of Bolivar to execute the agreement with the Lawrence Township Board of Trustees.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF BOLIVAR, COUNTY OF TUSCARAWAS, STATE OF OHIO, A MAJORITY OF ITS MEMBERS ELECTED THERETO CONCURRING, THAT:

SECTION 1. The Village Council for the Village of Bolivar hereby approves an agreement between the Village of Bolivar and the Lawrence Township Board of Trustees, together with the Bolivar Volunteer Fire Department, Inc. to allow for fire and emergency protection services.

SECTION 2. A true and accurate copy of the agreement is attached hereto as Exhibit A.

SECTION 3. The Village Council hereby authorizes the Mayor of the Village of Bolivar and the Fiscal Officer for the Village of Bolivar to execute the agreement for fire and emergency protection services with the Lawrence Township Board of Trustees and the Bolivar Volunteer Fire Department, Inc.

SECTION 4. This Ordinance repeals all previous Ordinances or parts thereof in conflict herewith.

SECTION 5. It is found and determined that all formal actions of this Council concerning and related to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any its committees that resulted in such formal action were in meeting open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 6. This Ordinance is hereby declared to be an emergency measure for the immediate preservation of the public peace, health, safety, and general welfare for the reason that the existing fire and emergency protection services contract must continue unabated in the Village; and, this Ordinance shall be in full force and effective immediately upon its passage.

PASSED IN COUNCIL this 7th day of March 2024.

Attest:

Robert Lloyd, Mayor

Maria App, Fiscal Officer

Approved as to Legal Form by:

Stephan P. Babik, Village Solicitor

EXHIBIT "A"
**AGREEMENT BETWEEN LAWRENCE TOWNSHIP
(TUSCARAWAS COUNTY, OHIO) AND BOLIVAR VOLUNTEER
FIRE DEPARTMENT, INC., WITH VILLAGES OF BOLIVAR AND ZOAR
AS ADDITIONAL PARTIES, FOR CALENDAR YEAR 2024**

Lawrence Township, acting through its Board of Trustees ("the Township") and Bolivar Volunteer Fire Department, Inc. ("the Department") enter into this Agreement that covers the period January 1, 2024 through December 31, 2024; said Agreement entered into effective on the first day of January, 2024, with the Villages of Bolivar and Zoar ("Bolivar" and "Zoar," and together "the Villages") joining as additional parties to this Agreement, by signing below.

Whereas, the Township and the Villages desire fire and emergency/rescue (ambulance) protection for the benefit of their residents and businesses and for the benefit of persons visiting in or traveling through the Township and the Villages, and

Whereas, the Department is a Section 501(c)(3) tax exempt non-profit Ohio corporation organized to furnish fire and emergency services in the Bolivar area (which includes the Township and the Villages) with its own employees, fire station, and equipment, and

Whereas, the parties have previously entered into an agreement for the same purposes as this Agreement for the calendar year 2023, and

Whereas, the parties desire to renew said 2023 agreement as provided for under Ohio Revised Code, Sec. 9.60(C), and upon the following terms, and

Whereas, during 2021, the Department amended its articles of incorporation as required by Section 15 of the 2021 agreement, and

Whereas, the Department holds itself out to the Township and to the Villages as being capable of providing the services covered in this Agreement, and

Whereas, the Department has budgeted for and estimated that it will incur \$956,850 in operating expenses to serve the Township and the Villages, and

Whereas, the Department had a deficit of funds of \$10,239 from the levy funds advanced to the Department during the calendar year 2023, and

Whereas, the Department squad revenue for 2024 is projected to be \$190,000, and

Whereas, the parties agree that adding deficit funds in 2023 from levy funds and expected 2024 squad revenue must be credited against and offset the Department request, thus lowering that request to \$777,089, and

Whereas, the parties recognize that Department invoiced and collected squad revenue for emergency services that are included within the Department's budget request submitted to the

political subdivisions, for which the Department received levy funds, are funds subject to recoupment or application the following year's budget request,

Whereas, this Agreement is founded upon adequate consideration, receipt of which is acknowledged by all parties hereto,

Now Therefore, it is Agreed that

(A) Funding

(1) As consideration for the services to be provided by the Department during the calendar year 2024, the Township shall transfer to the Department \$777,089 during 2024, with half of each year's payment made within thirty (30) days of the Township's receipt of tax revenues from the tax levies received for fire and emergency rescue protection and services, or within thirty (30) days after the date of this Agreement, whichever is later. Of this sum, approximately \$668,296.54 will be attributable to the Township, approximately \$85,479.79 to Bolivar, and approximately \$23,312.67 to Zoar. The actual amounts attributed to each such political subdivision shall be based on their respective shares of the applicable levy income, as determined by the Township fiscal officer at the end of the year.

(2) The Township shall place all tax revenues from the aforesaid levies in excess of those paid to the Department into a dedicated account held by the Township, to be entitled "fire and EMT levy funds," to be used by the Township, on its own behalf and on behalf of the Villages, solely for the purposes of fire and EMT protection, including saving for and funding capital equipment purchases, and professional services related to fire and EMT protection. The aforesaid account shall be owned by the each of the political subdivisions proportionately to their respective shares of the applicable levy income, as determined by the Township fiscal officer at the end of the year. Funds remaining in this account shall be carried over to the next fiscal year, for the same purposes, those being consistent with the purposes of the levy ballot issues which approved them.

(3) In the event the Department determines that it will need additional funds to fulfill its obligations under this Agreement, its fiscal officer shall certify the projected shortfall through the end of the then current year covered by this Agreement to the Township fiscal officer, in which case the Township, by resolution and upon a finding that such additional request is appropriate, shall appropriate and pay to the Department such additional funds, to come from the dedicated account provided for in Section 2 above, with the share of such additional appropriation attributable to each of the political subdivisions to be proportionate to the contributions of each under Section 1 above. Other expenditures from this dedicated account as provided for hereinafter shall also be attributed to each of the political subdivisions proportionately to the contributions of each under Section 1 above. The Township and the Villages may enter into a separate agreement to delegate this approval process to the Township. The Department requests made pursuant to this Section shall not be unreasonably denied.

(4) In the event the Department does not use all of the funds transferred to it under Section 1 above, for the purposes of this Agreement, or for purchase of equipment and supplies deemed necessary for the Department to fulfill or improve the services it is obligated to provide under this Agreement, then said unused funds shall be reimbursed to the Township, which shall accept such on its own behalf and on behalf of the Villages, and shall be placed in the dedicated fire and EMT levy funds account. The parties may also agree to allow the Department to retain any unused funds from the subsequent year's request.

(B) Department services

(5) During the term of this Agreement, the Department shall render fire prevention, and fire and emergency (ambulance) protection within the Township and the Villages, to the residents and businesses thereof and to persons visiting in or traveling through the Township and the Villages, as a first and primary responder, except where assistance is to be provided through mutual aid. The services provided by the Department will include not only fire prevention and protection, and ambulance and rescue, but also hazmat response that will be done in conjunction with the Tuscarawas County Hazmat Team depending on the complexity of the circumstances. The Department shall be responsible for furnishing the manpower and equipment necessary for extinguishing fires and providing emergency/rescue (ambulance) and related services within the Township, including within the Villages. The means and methods by which such services are rendered shall be the sole responsibility of the Department, other than as specified in this Agreement.

(6) The Department shall provide a twenty-four-hour manned department for fire and emergency/rescue (ambulance) protection to the Township and the Villages. The Department shall be responsible to comply with all proficiency and training standards promulgated by the Ohio State Fire Marshall or in the Ohio Fire Code, and with all other applicable laws, whether Ohio or federal.

(7) The Department shall be responsible for entering into such mutual aid agreements as are necessary to safely protect the residents and businesses of the Township and the Villages, and of persons visiting in and traveling through the Township and the Villages. The Department shall bear this cost, but may include it in the total of costs to be taken into consideration in the Funding provided for in Section 1 above, or should the Department certify to the Township the need for an additional appropriation under Section 4 above.

(8) The Department shall recommend to the Township and Villages a person who shall be appointed to serve as the Township and the Villages fire inspectors, and shall carry out all of the duties customary for an Ohio fire prevention officer and inspector, including but not limited to those set forth in Ohio Revised Code, Secs. 505.38(B) and 737.22. The fire inspectors so appointed shall be persons employed by the Department, and each of the political subdivisions will pay the fire inspector a nominal sum from levy funds. Such fire inspectors shall not be considered full-time employees of any of the political subdivisions but rather an agent of the

political subdivision for purposes of carrying out these duties. If the parties deem the fire inspectors appointed pursuant to the 2021 agreement to be acceptable, those appointments may continue into the term of this Agreement.

(C) Public funds and audits

(9) The Department agrees that its income and expense statements, balance sheets, budgets, and all records supporting or evidencing them are public records available for review by the public under Ohio's applicable public records laws. Such public funds shall be maintained in a dedicated bank account or accounts. The Department shall submit an annual proposed budget and unaudited projected financial report to the Township by November 30, 2024. The Township may, at any time with reasonable advance notice, inspect and audit the financial records and all supporting documents of the Department. The first audit of each calendar year will be paid for with funds from the dedicated account provided for in Section 3 above. Subsequent audits will be paid for by the party requesting the audit.

(D) Department employees

(10) The Department acknowledges that its employees are employees of the Department, and not of the Township or the Villages, and none of said employees will be entitled to any compensation, benefits, or other remuneration from the Township or the Villages except as provided in Section 8.

(11) As the Department's employees are not Township or Village employees, the Department shall be responsible to make all decisions with respect to the daily operation of the Department, including but not limited to appointment, supervision, and assignment of personnel and the conditions of employment with the goal of providing the highest level of fire and emergency protection possible.

(12) The Department shall not discriminate, in membership or in providing firefighting services, on the basis of race, color, religion (creed), gender, gender expression, age, national origin (ancestry), disability, marital status, sexual orientation, or military status, in any of its activities or operations.

(13) As the Department is an independent entity, it shall be solely responsible for payment of the following (a) property and liability insurance related to the performance of its duties under this Agreement, (b) contributions to any firefighters' pension and health and welfare funds required within the State of Ohio, (c) workers' compensation contributions, and (d) all other expenses related to operation of the Department.

(E) Equipment and land

(14) The Department shall provide the Township and Villages with an inventory of existing equipment owned by the Department and used for fire and emergency (ambulance) protection and safety. The Department shall further generate and provide the Township and Villages with a projected replacement schedule for existing equipment. Upon consultation with the Department, the Township and Villages agree to utilize funds set forth in Section 3 to purchase replacement equipment that shall be provided to the Department for use in fire and emergency (ambulance) protection and safety under this Agreement, and shall be owned by the Department and political subdivisions, legally or equitably, in proportion to the contribution made by each toward the purchase price thereof.

(15) New equipment purchased by the Department, paid for in whole or in part with public funds from the Township and Villages, shall be titled in the Township's name, but be equitably owned by the Township and Villages proportionately to their respective contributions toward such purchase and leased to the Department for a nominal sum (i.e., for one dollar a year). The Department may continue to purchase equipment and/or supplies with funds not provided through this Agreement, and these equipment and/or supplies will be titled in the Department's name. If the political subdivisions within Lawrence Township vote to form and do form a joint fire district, the fire station, equipment, and supplies then owned by the Department shall transfer to the joint fire district, provided that the joint fire district assume all liabilities related to such. In the event the Department dissolves and there is no joint fire district, its assets including the fire station, after paying all of its liabilities, shall be transferred to the Township (for the benefit of the three political subdivisions).

(16) The Department shall continue to apply for grants, where applicable to procure equipment and materials related to its obligations under this Agreement, and the cost of seeking such grants will be paid from the dedicated account set forth in Section 2 above. The Department may hire a person with expertise in seeking cost-competitive new or replacement equipment, as such person is needed, and the cost of such will be paid from the dedicated account set forth in Section 2 above. The Department may engage in public service events, educational programs, recruiting programs, and similar events, and seek reimbursement with Township approval, from the dedicated account set forth in Section 2 above.

(F) Emergency/rescue services to Township/Village residents

(17) Recognizing the tax contributions made by the residents of the Township, including the Villages, the Department shall first bill applicable insurance and shall accept the insurance amount received as and for full payment for such emergency/rescue (ambulance) services provided to residents of the Township and Villages. Where no insurance is available, the Department shall accept as full payment a sum equal to half of the lower of the usual and customary charge for the service or of the usual and customary insurance reimbursement for such service.

(G) Insurance and indemnity

(18) The Department will indemnify and hold harmless the Township and Villages for any loss, damage, claim or liability resulting from any claim against the Township arising out of any acts or omissions of the Department, its agents, representatives, and employees in the performance of this Agreement except for any loss, damage, claim or liability resulting from the duties of a fire prevention officer and inspector. The Department will not be in breach of this Agreement or liable for losses incurred due to inability to respond to calls where such inability results from the prudent use of fire and rescue equipment and personnel providing fire protection and emergency rescue services elsewhere at the time of such calls.

(19) The Department shall carry liability insurance covering the Department against all claims of bodily injury or death, property damage, or personal injury against the Department, and annually provide a copy of a certificate of coverage to the Township and Villages.

(H) Term of agreement and termination/renewal

(20) If any party fails to fulfill its obligations hereunder, or if the Department becomes insolvent, then any other party, at its option, may terminate this Agreement by giving written notice thereof to the breaching party. The Agreement will terminate upon the expiration of sixty (60) days from and after the date of delivery of the notice to the breaching party. The Parties' rights and remedies, including for indemnity, shall survive any such termination.

(21) This Agreement shall be automatically renewed for an additional one year term, unless one of the parties gives at least sixty (60) days' written notice to the other parties of an intent not to renew on the same terms. If thus automatically renewed, the Section 1 funding will increase for the 2025 calendar year by a percentage equal to the increase in the consumer price index as calculated by the Federal Reserve Bank of Cleveland. If thus automatically renewed, the Department shall further submit an annual proposed budget and unaudited projected financial report to the Township by November 30, 2025. Said notice shall not prevent the parties from negotiating an extension of this Agreement upon terms similar to those herein.

(I) Miscellaneous provisions

(22) This Agreement does not grant any rights to any third party, and it may not be assigned to any third party without the express written consent of the other party. This does not bar the Department from entering into appropriate mutual aid agreements as provided in Section 8 above.

(23) This Agreement is governed by the law of the State of Ohio, and all actions hereunder shall be brought in a court of competent jurisdiction in Tuscarawas County, Ohio, with the parties agreeing to waive a right to trial by jury.

(24) This Agreement contains all of the terms and agreements between the parties on the subject matter of this Agreement, and all amendments hereto shall be in writing and approved by all of the parties hereto.

(25) The contact persons under this Agreement shall be the Mayors of the Villages, the Chairperson of the Township Board of Trustees, and the Fire Chief, with copies of all written notices to also be provided to the respective fiscal officers of each party hereto. Each party hereto shall provide to the others the mailing address, email address, telephone number (including cell telephone number) of each such contact person.

(26) Each person signing below represents to the other parties that he/she has been granted full authority to sign by appropriate resolution or ordinance by the party whom the signer purports to represent.

SO AGREED:

For Lawrence Township

_____ Date: _____
Chairperson, Board of Trustees

Lawrence Township certifies that the funds necessary to fund its obligations under this Agreement will come from, and not exceed, the levy funds received by it for the tax year 2023 (collectible in 2024), and that entering into this Agreement was approved by the Board of Township Trustees in Resolution No. _____ – 2024.

_____ Date: _____
Township Fiscal Officer

For Village of Bolivar

Mayor

Date: _____

The Village of Bolivar certifies that the funds necessary to fund its obligations under this Agreement will come from, and not exceed, the levy funds received by it for the tax year 2023 (collectible in 2024), and that entering into this Agreement was approved by Village Council in Ordinance 2024- .

Village Clerk-Treasurer (Fiscal Officer)

Date: _____

For Village of Zoar

Mayor

Date: _____

The Village of Zoar certifies that the funds necessary to fund its obligations under this Agreement will come from, and not exceed, the levy funds received by it for the tax year 2023 (collectible in 2024), and that entering into this Agreement was approved by Village Council in Ordinance 2024- .

Village Clerk-Treasurer (Fiscal Officer)

Date: _____

For Bolivar Volunteer Fire Department, Inc.

Board President, acting pursuant to
express authority from its Board of Directors

Date: _____