



Town of Poestenkill
Town Board Meeting
6:30pm- Town Hall
January 26, 2022

Voting Members

Keith Hammond, Town Supervisor
Eric Wohlleber, Deputy Supervisor
June Butler, Councilwoman
David Hass, Councilman
Harold Van Slyke, Councilman

Non-Voting Members

Susan Horton, Town Clerk
Andy Gilchrist, Town Attorney

Pledge of Allegiance

I. **Public Hearing**

Proposed Contract for Fire Company for 2022-2023

II. **Public Comment Period**

The public is invited to make brief comments and/or request information regarding matters of concern to the Town and its residents. Speakers should clearly identify themselves and at their option provide their home address. Comments should be directed to the Board and cross discussion with other members of the audience is only permitted at the recognition of the Board. A request can be made to speak on an item that is on the agenda when the item comes up for discussion/ consideration by the Board. Your cooperation and courtesy is most appreciated.

III. **Executive Session**

IV. **Adjournment**

TOWN OF POESTENKILL ~~2020-21~~ 2022-2023
FIRE PROTECTION SERVICES AGREEMENT

THIS AGREEMENT, effective as of the 1st day of January, 2020~~2~~, between the **TOWN BOARD OF THE TOWN OF POESTENKILL**, such town being a municipal corporation and geographic and political subdivision of the State of New York, located in the County of Rensselaer and State of New York, hereinafter designated as "the Town" or the party of the first part; and the **POESTENKILL FIRE COMPANY, INC.**, an incorporated fire company duly organized and existing under and by virtue of the laws of the State of New York, and having headquarters located at the fire house in the Town of Poestenkill, County of Rensselaer, State of New York, hereinafter designated as "the Fire Company" or the party of the second part.

WITNESSETH:•

WHEREAS, there has been duly established in said Town of Poestenkill, a fire protection district known as "Poestenkill Fire Protection District" embracing territory which includes the entire Town of Poestenkill, and

WHEREAS, following a public hearing duly called, the party of the first part duly authorized a contract with the party of the second part for furnishing fire protection to said district during the term of this Agreement upon the terms and provisions herein set forth; and

WHEREAS, the party of the second part maintains adequate and suitable apparatus and appliances for the furnishing of fire protection in said district,

NOW THEREFORE, in consideration of the mutual agreements herein contained, the party of the first part does engage the party of the second part to furnish fire protection to said district all in accordance with Section 184 of the Town Law of the State of New York, and the party of the second part agrees to furnish said protection in the manner following, to wit:

1. The party of the second part shall at all times during the period of this contract be subject to call for attendance upon any fire occurring in said district, and when notified by alarm or telephone call from any person of a fire within the district, the party of the second part shall respond and attend upon the fire without delay with a suitable number of members and with suitable ladder, pumping and hose apparatus and equipment of the party of the second part, and upon arriving at the scene of the fire the members of the party of the second part shall proceed diligently and in every way reasonable to extinguish the fire.

2. The party of the second part agrees to furnish to the district during the period of this contract emergency services in case of accidents, calamities or other emergencies in connection with which the services of firemen would be reasonably required. The foregoing notwithstanding, the damming, pumping out or other evacuation of storm or flood waters from any residence, business or other private structure within the district shall not be deemed to

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require emergency service under this contract unless there exists a clear and present danger of personal injury, death, or substantial property damage which might reasonably be avoided or minimized by the providing of such services on an emergency basis. Non-emergency services of this nature shall only be provided by the party of the second part when, in the reasonable sole discretion of said party, it has sufficient and available personnel and equipment to do so and circumstances otherwise so permit.

3. The party of the second part further agrees that, subject to the terms, conditions and restrictions provided herein, the Town shall be entitled to use the premises and facilities of the Fire Company for the following purposes:

(a) The short term secure storage of voting machines and related equipment, immediately prior to and after the conduct of elections, so as to protect them from the elements, tampering and vandalism.

(b) The conduct of any elections, including but not limited to general, primary and special elections, as well as voting on any referendum or proposition.

(c) The use of the Main Firehouse Hall, grounds and facilities for the operation and conduct of activities of the Poestenkill Youth Commission Summer Camp Program when so required and mutually agreed upon, starting the week after Independence Day in July and continuing through the first full week in August.

(d) The use of the Main Firehouse Hall, grounds and facilities for any public meetings or hearings that the Town anticipates may exceed the capacity and/or accommodations of the Poestenkill Town Hall.

(e) Such other uses as may hereafter be specifically requested by the Town and consented to by the Fire Company.

The use of the Fire Company's premises and facilities for the aforescribed storage of voting machines, election purposes shall require no additional notice from the Town but only the coordination of dates. The operation and conduct of the Youth Commission Summer Camp Program shall require mutual agreement and notice not later than June 1 of the applicable year. All other proposed uses, including the conduct of Town meetings, hearings and other public gatherings, shall require that notice of such proposed use be given by the Town to the Fire Company at least two weeks in advance thereof. Provided such notice is given and the facilities are available and not otherwise committed, consent by the Fire Company to any such requested use shall not be unreasonably withheld.

The party of the second part agrees to maintain the premises and facilities which are the subject of this paragraph so as to provide, to the greatest extent possible, a barrier-free environment and access for persons with disabilities, and in compliance with the Americans with Disabilities Act (ADA), the New York State Building Code and any and all other applicable laws, rules and regulations pertaining to public structures.

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6.4. The party of the second part hereby further agrees that its Board of Directors or a majority thereof shall, if and to the extent specifically requested by the Town and also subject to the frequency limitation hereinafter set forth, periodically meet with the party of the first part in order to review and discuss the then current financial condition of the party of the second part. Such meeting shall be conducted four (4) times per year on a quarterly basis (March, June, September, and December) unless the parties subsequently agree that less frequent review is necessary or no specific request for any meeting is made by the Town. At each such review meeting, the party of the second part shall make available to the party of the first part a clear written statement disclosing the distribution of only those moneys received or to be received by the party of the second part from the party of the first part pursuant to this contract. It is acknowledged by the parties hereto that this provision is in addition to any statutory requirements for the auditing and/or reporting of the Fire Company's financial status and the providing of same to the Town and does not in any way relieve the Fire Company of compliance with such requirements to the full extent required by law. Without in any way limiting the foregoing, it is acknowledged that said requirements shall include the timely submission of the audit report required by State law, with a copy thereof, to be submitted to the Poestenkill Town Board

7.5. (a) In consideration of furnishing the aforescribed aid and service and for the use of its apparatus as aforesaid for the calendar year 2020~~22~~, the party of the first part shall pay to the party of the second part the sum of ~~\$326,816.00~~ \$338,352.00 (Three Hundred Twenty Six Thousand Eight Hundred Sixteen Dollars ~~Three Hundred Thirty Eight Thousand Three Hundred Fifty Two Dollars~~) as follows:

By payment of the sum of ~~\$212,430.00~~ \$ (Two Hundred Twelve Thousand, Four Hundred Thirty Dollars) (~~_____~~), on or before the 15th day of February, 2020~~22~~;

And on or before the 15th day of June, 2020~~22~~, the balance due under this contract for the year 2020~~22~~, to wit: the sum of ~~\$14,386.00~~ (One Hundred Fourteen Thousand, Three Hundred Eight Six Dollars) \$ (_____).

(b) In consideration of furnishing the aforescribed aid and service and for the use of its apparatus as aforesaid for the calendar year 2021~~23~~, the party of the first part shall pay to the party of the second part the sum of ~~\$333,352.00~~ (Three Hundred Thirty Three Thousand, Three Hundred Fifty Two Dollars) \$343,427.00 (Three Hundred Forty Three Thousand Four Hundred Twenty Seven Dollars) as follows:

By payment of the sum of ~~\$216,674.00~~ (Two Hundred Sixteen Thousand, Six Hundred Seventy Four Dollars) \$ (_____) on or before the 15th day of February, 2021~~23~~;

\$171713.50

And on or before the 15th day of June, 2021~~23~~, the balance due under this contract for the year 2021~~23~~, to wit: the sum of \$116,678.00 \$ _____.

~~(One Hundred Sixteen Thousand Six Hundred Seventy Eight Dollars).~~

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~~(One Hundred Sixteen Thousand, Six Hundred Seventy Eight Dollars);~~

The foregoing payment schedule notwithstanding, it is understood and agreed by and between the parties hereto that the party of the first part may at any time pre-pay to the party of the second part the whole or any portion of the remaining balance under this contract upon written application of the party of the second part showing the existence of unforeseen financial expenses or needs.

(c) As additional consideration for the furnishing of the aforescribed aid and service and for the use of its apparatus as aforesaid for the calendar years ~~2020 and 2021~~^{2022 and 2023}, the party of the first part shall within amounts and resources provided within the ~~2020 and 2021~~^{2022 and 2023} Town Budgets provide for the health and safety of the Poestenkill Volunteer Fireman by providing a grant not to exceed \$75,000 for the purchase of and installation of a firetruck exhaust containment system \$35,000.00 for repairs to the bay floors and entrance to the Main Firehouse upon the presentation to the Town of an official estimate and signed contract for such ~~purchase and installation work~~. No payment shall be made prior to February 15, ~~2020~~²⁰²³ and such installation must be completed by December 31, ~~2021~~²⁰²³. Should problems in implementing this section arise the parties agree to meet and discuss a mutually acceptable adjustment to this provision.

6. In further consideration for the aid, services and use of equipment and apparatus of the party of the second part, the party of the first part further agrees to snow plow and sand the driveway to the firehouse, the areas near the fueling station and the areas near the dry hydrant of the party of the second part as necessary to allow for ingress and egress of essential vehicles, apparatus and equipment of the party of the second part; provided and on condition that plowing, sanding, and maintenance Of public roads, highways and other areas shall take precedence over any services hereby granted to the party of the second part and that the party of the first part is only obligated to perform said services if and to the extent the aforesaid necessary plowing, sanding, and maintenance of public highways, roads, streets, and other areas so permits. Weather and manpower permitting, snowfall shall not exceed four inches in the first pass area and apron at any time and the entire area shall be done within 24 hours after snowstorm. This clause shall apply to the Main Firehouse on Rt. 355 as well as to the East Poestenkill Firehouses. Additionally, during the term of this contract the party of the first part will install and maintain two dry hydrants, provided that the party of the second part has determined the appropriate locations for said dry hydrants which locations are satisfactory to the party of the first part and provided further that the party of the second part has obtained the required legal easements from affected property owners for the installation and maintenance of said dry hydrants.

7. It is further agreed that an employee of the Town will provide cleaning services for the Main Firehouse at a rate not to exceed \$13.00 per hour for up to 30 hours per month with the gross cost of such services to the Town (i.e., wages, fringes, insurance, etc.) to be reimbursed to the Town by the Fire Company from the amount otherwise payable under this Agreement. Specifically, said reimbursement shall be affected by deducting from each year's second installment payment the actual gross costs of such services to date plus a pro-rated amount for

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estimated costs to be incurred to the end of that year. A reconciliation of the actual costs incurred to the end of the year shall thereafter occur and any necessary payment adjustment would be made accordingly. It is further acknowledged and agreed that the provisions, responsibilities and obligations set forth in this paragraph may at any time and in the sole discretion of the Fire Company be terminated by the Fire Company for any cause or for no cause whatsoever upon ten (10) days' written notice to the Town of the Fire Company's intent to do so.

8. Insurance requirements.

(a) The fire apparatus and other vehicular equipment of the party of the second part shall be covered by adequate liability, collision, and comprehensive insurance, and the premiums therefor shall be paid by the said party of the second part.

(b) The party of the second part shall also maintain general and premises liability insurance which names the party of the first part as an additional insured. Any such policy shall be from an A.M. Best rated "secured" New York State licensed insurer; contain a 30-day notice of cancellation; and state that the coverage shall be primary coverage for the Town of Poestenkill, its Board, officials, employees and representatives.

(c) The party of the second part agrees to indemnify the Town of Poestenkill for any applicable deductibles.

(d) Required insurance shall include general premises liability insurance in the amount of \$1,000,000 per occurrence/\$2,000,000 aggregate, as well as any required compensation or liability insurance for any of the Fire Company's members or volunteers.

(e) The party of the second part acknowledges that failure to obtain or maintain such insurance on behalf of the Town constitutes a material breach of contract and subjects the Fire Company to liability for damages, indemnification and all other legal remedies available to the Town. The Fire Company is to annually provide the Town with a certificate of insurance, evidencing that the above requirements have been met. The failure of the Town to object to the contents of the certificate of insurance or the absence of same shall not be deemed a waiver of any and all rights held by the Town of Poestenkill.

(f) The presence or absence of insurance as provided above notwithstanding, and to the fullest extent provided by law, the Fire Company shall indemnify, hold harmless and defend the Town against any and all losses, claims, actions, demands, damages, liabilities, or expenses, including but not limited to attorney's fees and all other costs of defense, by reason of the liability imposed by law or otherwise upon the Town for damages because of bodily injuries, including death, at any time resulting therefrom, sustained by any person or persons, including the Town's or the Fire Company's officials, employees, representatives, volunteers, guests or invitees, or other members of the public, or on account of damages to property, including loss of use thereof, arising directly or indirectly from the Town's or the Fire Company's use and occupancy of the premises, the Fire Company's use and operation of the fire apparatus and other vehicular equipment, or from any other acts or omissions on the part of the Fire Company, its officials, members, employees, agents, representatives, volunteers, patrons or invitees. If such indemnity is made void or otherwise impaired by any law controlling the construction thereof,

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such indemnity shall be deemed to conform to the indemnity permitted by law, so as to require indemnification, in whole or in part, to the fullest extent permitted by law. The indemnity provided by requirements contained herein shall be in addition to and not in limitation of any rights of common law indemnity.

9. In the event that the Fire Company determines to sell any real property or vehicle worth more than Ten Thousand Dollars (\$10,000.00), the Fire Company agrees to notify the Town not less than thirty (30) days before disposition of the asset.

10. All moneys to be paid under any provision of this contract shall be assessed and levied upon the taxable property in said district and collected in the same manner, at the same time, and by the same officers as town taxes are assessed, levied and collected.

11. The party of the second part is prohibited from assigning, transferring or otherwise disposing of this contract, or its right, title or interest therein, to any person, company, corporation or municipality without the written consent of the party of the first part.

12. This contract shall continue in force and effect for a period of two (2) years commencing on the 1st day of January 2020~~22~~ and ending at midnight on December 31, 2021~~23~~.

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Agreement the day and year first above written.

TOWN BOARD OF THE TOWN OF POESTENKILL

By: _____

POESTENKILL FIRE COMPANY, INC.

By: _____

~~TOWN OF POESTENKILL 2020-21 FIRE PROTECTION SERVICES AGREEMENT~~

STATE OF NEW YORK
COUNTY OF RENSSELAER) ss.:

On this _____ day of _____, 201922, before me, the subscriber, personally appeared ~~Dominic J. Jacangelo~~ Keith Hammond, to me known and known to me to be the same person who executed the foregoing instrument, who being by me duly sworn, did depose and say that he resides in and is the duly elected supervisor of the Town of Poestenkill, the municipal corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Town Board of the Town of Poestenkill and that he signed his name thereto by like order.

Notary Public

STATE OF NEW YORK
COUNTY OF RENSSELAER) ss.:

On this _____ day of _____, 201922 before me, the subscriber, personally appeared ~~John Windover~~ _____, to me known and known to me to be the same person who executed the foregoing instrument, who being by me duly sworn, did depose and say that he resides in the Town of Poestenkill, County of Rensselaer, State of New York; that he is the President of the Poestenkill Fire Company, Inc., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

Notary Public

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