

CONTRACT AND AGREEMENT

THIS CONTRACT AND AGREEMENT, made and entered into as of July 1, 2012, by and between the TOWN OF PITTSBORO, hereinafter referred to as the "Town" and the PITTSBORO VOLUNTEER FIRE AND RESCUE DEPARTMENT INC., hereinafter referred to as "Fire Department"; for the protection of the area within the corporate limits of the TOWN OF PITTSBORO.

WITNESSETH:

WHEREAS, the Fire Department is an incorporated nonprofit volunteer fire department organized for fire protection purposes; and

WHEREAS, the Town has elected to provide fire protection and fire prevention services within the corporate limits of the Town, and to also provide rescue or first responder services at the option of the Fire Department, by contracting with the Fire Department to provide said services; and

WHEREAS, the Fire Department has the ability to provide and is willing to provide said services within the corporate limits of the Town;

NOW, THEREFORE, in consideration of the mutual covenants and premises herein contained the parties hereto contract and agree as follows:

1. The Town contracts and agrees that it will pay to the Fire Department an annual sum based on the needs projected in the budget estimate submitted by the Fire Department to the Town as approved by the Town; provided, however, that such amount shall be subject to the prior written approval of both the Fire Department and the Town, each in its own discretion, and during the 2012-2013 fiscal year of this Agreement shall be Three Hundred Fifty Nine Thousand Six Hundred Fifty Eight Dollars (\$359,658.00). The annual sum to be paid to the Fire Department pursuant to this provision shall be paid in four (4) equal installments due and payable prior to the end of each quarter of the Town's fiscal year.

2. The Fire Department shall provide and furnish adequate fire protection and, at the election of the Fire Department, also rescue or first responder services, or both, and will provide the necessary equipment, personnel, and other resources as determined by the North Carolina Department of Insurance, Fire and Rescue Service Division, the N.C. Association of Rescue and Emergency Medical Services, and the Insurance Service Office for all persons and property located within the Town, and will maintain at least a 9S insurance rating, and will furnish services free of charge to all persons and individuals within the Town. For purposes of this contract the term "rescue" shall be defined as "furnishing of services to protect persons within the Town from injury or death;" and the term "first responder" is defined as "furnishing of services in emergencies for the protection of persons within the Town from injury or death."

3. Funds paid to the Fire Department by the Town shall be used to provide fire protection services within the Town, and shall also be used to provide rescue or first responder services at the option of the Fire Department, within the Town, and to pay other legitimate fire, rescue, and first responder expenses attributable to the services rendered within the Town. The Fire Department may provide an optional rescue or first responder service, or both, if it is provided to provide basic emergency medical care to the citizens within the Town.

4. The Fire Department shall operate in compliance with all applicable State and local laws and regulations including, but not limited to the North Carolina Fire Incident Reporting System (G.S. 58-79-45, NC Administrative Code, Section .0402). The Fire Department shall submit incident reports to the Chatham County, North Carolina, Fire Marshal's Office by the tenth of each and every month in accordance with said directives. The Fire Department further agrees to file with the Town and the Chatham County, North Carolina, Fire Marshal's Office a current list of its Board of Directors and a roster of its members, an annual training report, and a list of apparatus including pump and tank size, and specialized fire suppression equipment, no later than July 31st of each year.

5. It is agreed that the Town may inspect all books and accounts of the Fire Department at any time that is reasonable. It is further agreed that the Fire Department will use its best efforts in good faith to present to the Town, by December 1st next following the close of each fiscal year, an annual audit by a Certified Public Accountant, which audit shall be in conformity with then existing audit policies of the Town and the Local Government Commission.

6. The Fire Department will comply with Town budgeting procedures and other procedures provided for by state law and shall submit annual budget estimates in accordance with established Town budget timetables along with a supporting letter of request signed by the Fire Department's president upon approval by the Board of Directors of the Fire Department. The Town will provide, and the Fire Department will use, standard forms for budget submission.

7. The Fire Department will file with the Town and the Chatham County Fire Marshal a true copy of its articles of incorporation, and bylaws, and shall promptly furnish any changes made thereto. Further, the Fire Department agrees to amend its articles of incorporation and bylaws as necessary to meet all minimum legal requirements for a North Carolina nonprofit corporation, as required by the provisions of chapter 55A of the General Statutes of North Carolina. The articles of incorporation or bylaws shall provide citizens of the Town with an opportunity for input in the affairs of the Fire Department at least annually by written notice of the annual meeting of the Fire Department delivered to the Town and published not less than 30 days prior to the meeting, and shall vest in the Board of Directors the authority to manage the affairs of the Fire Department.

8. The Fire Department agrees to save harmless and indemnify the Town from any and all liability and expenses including attorneys' fees, court costs and other

costs incurred by the Town caused by the negligence of the Fire Department, its agents and employees. The Department shall purchase and maintain, during the term of this agreement, and any extension hereof, at least the following insurance coverage:

A. Comprehensive Automobile Liability Insurance with combined single limits of a least \$1,000,000 per occurrence. Coverage shall be provided under a symbol "1". Coverage shall apply, on an excess basis, for hired, borrowed and non-owned vehicles. Coverage shall apply, on a primary basis, for commandeered vehicles. Volunteers or employees shall be considered Insureds, and volunteers and employees shall have coverage in excess of their personal vehicle liability limits when they are using their vehicles on behalf of the Fire Department. Fellow member liability shall be provided. Auto pollution liability shall be included in the coverage.

B. Automobile physical damage coverage shall be provided on an agreed value basis. Coverage shall be included for hired, borrowed or commandeered vehicles without a limit of liability. Coverage shall be provided to bring replacement vehicle up to current national standards, such as NFP A or DOT.

C. Comprehensive General Liability Insurance with limits of a least \$1,000,000 per occurrence and \$2,000,000 aggregate. The aggregate shall apply per named insured and per insured location. The policy shall include the following coverage: Volunteers or Employees as Insureds, Medical Malpractice, Good Samaritan Liability Coverage, Intentional Acts Coverage for both Bodily Injury and Property Damage, Fellow Member Liability, Non-owned Watercraft, Fire Damage Legal Liability with Limits of \$1,000,000, Pollution Liability arising out of Emergency Operations, Training Activities or Equipment Wash-downs.

D. Directors and Officers Liability Insurance with limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate. This policy shall include coverage for prior acts. The insureds shall include current volunteers and employees, former volunteers and employees and any persons or organizations providing service to the Fire Department under a mutual aid or similar agreement. Coverage shall include civil rights type suits such as discrimination and sexual harassment; liability arising out of the administration of benefit plans for employees or volunteers and employment related practices suits. Coverage shall include claims made for future compensation and benefits lost from wrongful termination of an employee.

E. Umbrella Liability Insurance with limits of at least \$5,000,000 per occurrence and \$10,000,000 aggregate. The umbrella policy shall provide excess coverage over the Auto Liability Policy, General Liability Policy and the Employer's Liability Section of the Workers Compensation Policy. Volunteers and employees shall be included as insureds.

F. The Department shall maintain Property Insurance protecting against the risk of direct physical loss or damage. Policies covering buildings shall be written on a Guaranteed Replacement Cost Basis with coverage included for

Building Ordinance, Flood and Earthquake. Coverage shall include Commandeered Property in the amount of \$250,000. Contents coverage shall be provided on a replacement cost basis. Coinsurance penalties shall not apply.

G. Portable Equipment Coverage shall be provided protecting against the risk of direct physical loss or damage, including electrical surges. Coverage shall be provided on a Guaranteed Replacement Cost Basis.

H. The Automobile Liability Policy, General Liability Policy, Umbrella Liability Policy and Management Liability Policy shall name the Town as an additional insured. The Fire Department shall furnish the Town with certificates of insurance showing the type of policy, limits of liability, name of insurance companies, policy numbers, effective dates and expiration dates of policies.

I. Workers Compensation Insurance covering all volunteers and salaried firefighters meeting statutory limits in compliance with applicable State and Federal Laws.

J. Each policy shall also contain a ten (10) day notice to the Town in the event of cancellation or modification of any stipulated insurance coverage for non-payment of any premium, and a thirty (30) day notice to the Town in the event of cancellation or modification of any stipulated insurance coverage for any other reason.

9. In connection with the performance of this Agreement, the Fire Department agrees not to discriminate against any employee, volunteer, member or applicant for employment or membership because of race, religion, color, sex, age, disability or national origin. Employees, volunteers, members and applicants must, however, be competent and capable to perform the requirements of the job. The Fire Department agrees to take all reasonable measures to insure that applicants are considered for employment, and that employees are treated during their employment, without regard to their race, religion, color, sex, age, disability or national origin.

10. This Agreement is effective as of July 1, 2012, and shall continue in effect until June 30, 2016 unless sooner terminated as hereinafter provided. Either party may terminate this Agreement at the end of any fiscal year by giving the other party notice at least one (1) year in advance.

11. This Agreement sets forth the entire understanding of the parties and supersedes any and all prior agreements, arrangements, and understandings related to the subject matter hereto. This Agreement may not be changed or terminated, except as provided herein, and no amendment to, nor waiver of compliance with, any provision or condition hereof shall be effective unless evidenced by an instrument in writing duly executed by the parties hereto.

12. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, legal representatives and assigns, but this Agreement may not be assigned by either party without prior written consent of the other party.

13. The failure of either party to exercise any right granted hereunder to insist upon strict compliance by the other party with its respective obligations hereunder, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of either party to require exact compliance with the terms hereof.

IN WITNESS WHEREOF, the Town has caused this instrument to be executed by the Mayor of the Town and attested by the Town Clerk, and the Fire Department has caused this instrument to be signed in its corporate name by its President, attested by its Secretary, and its corporate seal hereto affixed, all by order of its Board of Directors.

PITTSBORO VOLUNTEER FIRE AND RESCUE DEPARTMENT, INC.

BY: \_\_\_\_\_  
(President)

ATTEST:

\_\_\_\_\_  
(Secretary)

(Corporate Seal)

TOWN OF PITTSBORO

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Town Clerk

(Town Seal)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Town of Pittsboro Finance Officer