

MONCURE VOLUNTEER FIRE DEPARTMENT, INC.

NORTH CAROLINA  
CHATHAM COUNTY

FIRE PROTECTION CONTRACT

THIS FIRE PROTECTION CONTRACT (this "Agreement") made and entered into this 18 day of SEPTEMBER, 2018 by and between CHATHAM COUNTY, hereinafter referred to as the "County", and the MONCURE VOLUNTEER FIRE DEPARTMENT, INC. hereinafter referred to as the "Fire Department";

W I T N E S S E T H:

WHEREAS, North Carolina General Statute §69-25.5 provides methods by which counties may provide for fire protection in a fire district. One (1) method counties may use is to contract with an incorporated non-profit volunteer fire department; and

WHEREAS, the Moncure Fire District (the District") is a Special Tax District created pursuant to Chapter 69 of the North Carolina General Statutes; and

WHEREAS, the Fire Department is a non-profit corporation organized for fire protection service purposes as defined in North Carolina General Statutes §69-25.4; and

WHEREAS, the County has elected to provide fire protection services within the boundaries of the District, and, at the option of the Fire Department, to also provide rescue and Emergency Medical Responder Services by contracting with the Fire Department to provide such services; and

WHEREAS, the Fire Department has the ability to provide and is willing to provide said services within the boundary of the District; and

WHEREAS, the County levies and collects the taxes from the District for the provision of fire protection as defined in North Carolina General Statutes §69-25.4; and

WHEREAS, the parties desire to establish a renewable contract to enable the parties to make long range plans;

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

1. The County contracts and agrees that it will cause to be assessed or levied a special tax of up to fifteen cents (\$.15) per one-hundred dollars (\$100) valuation of all real and personal property in the District unless otherwise limited or prohibited by law or a vote of the people, and will collect said tax as part of the ad valorem taxes of the County of Chatham; provided, however, the amount levied annually shall be based on the needs projected in the budget estimate submitted by the Fire Department to the County as approved by the County.
2. A special or separate fund shall be maintained by the County for funds collected as a result of said special tax.
3. Ninety-nine percent (99%) of current and delinquent funds collected for real and personal property including funds collected for County billed motor vehicles taxes shall be remitted to the Fire Department

by the 10<sup>th</sup> of the month following the month of collection; provided, however, that the total sums remitted to the Fire Department in any fiscal year hereunder shall not exceed the sum appropriated for said service during the said fiscal year.

4. The Fire Department shall provide and furnish adequate fire protection services and will provide the necessary equipment, personnel, and other resources as determined necessary by the North Carolina Department of Insurance, Fire and Rescue Service Division, and the Insurance Service Office for all persons and property located within the District, and the fire department shall maintain a 9S certification in the rated District and will furnish services free of charge to all persons and individuals within the insurance rated area of the District.
5. In addition, the Fire Department may elect to provide and furnish Rescue and Emergency Medical Responder Services ("the Services"). In the event the Fire Department elects to provide such Services, it shall notify the County in writing that it is providing the Services, and shall continue to provide the Services until it notifies the County that it is no longer providing the Services. In providing the Services the Department agrees that it will provide at a minimum the necessary equipment, personnel and other resources as determined by the North Carolina Office of Emergency Medical Services and the individual designated by the County as the Medical Director (the "County Medical Director"). For purposes of this Agreement the term "Rescue" shall be defined as the furnishing services in medical emergencies in accordance with the guidelines provided by the North Carolina Office of Emergency Medical Services and the County Medical Director.
6. Current Fire Department personnel who are not Emergency Medical Responders ("EMRs") or Emergency Medical Technicians ("EMTs") may respond to emergency medical calls as dispatched provided they (i) have attended and participated in a minimum of twenty-four (24) hours of Emergency Medical Responder/Emergency Medical Technician continuing education during the past one (1) year and have completed CPR and skills evaluation as prescribed by the North Carolina Office of Emergency Medical Services and Rescue, and the County Medical Director within the preceding twelve (12) months, and (ii) have agreed to complete the minimum hours of EMR/EMT continuing education annual training as directed by the County Medical Director Agreement have been met. A roster of such Fire Department personnel and documentation of their required training shall be submitted to the County by January 31<sup>st</sup> of each year. No Fire Department personnel without such training shall be permitted to provide patient care, except in the case of CPR if applicable training has been completed, unless accompanied by a person who is qualified to provide CPR, or is a certified EMR or EMT.
7. All current Fire Department Emergency Medical Responders and Emergency Medical Technicians must have official certification on file with the Department. All Fire Department Emergency Medical Responders and Emergency Medical Technicians must maintain a current and valid State certificate and complete CPR and skills evaluations annually as prescribed by the North Carolina Office of Emergency Medical Services and the County Medical Director. A roster of Fire Department Emergency Medical Responders and Emergency Medical Technicians and recertification documentation shall be submitted to the County by January 31<sup>st</sup> of each year. No EMR or EMT without a current and valid certification from the North Carolina Office of Emergency Management Services shall be permitted to provide patient care, except in the case of CPR, if applicable training has been completed, unless accompanied by a certified EMR or EMT.
8. The Fire Department shall complete the required annual Harris Plant training for fire departments located in Chatham County, including without limitation, mock drills and FEMA evaluations.

9. All funds paid to the Fire Department by the County shall be used exclusively by the Fire Department to provide the fire protection services within the District, and, should the Fire Department elect to provide Rescue and Emergency Medical Responder Services as provided in this Agreement within the District, such funds shall be used to pay those expenses as well, and to pay other legitimate Fire, Rescue, and Emergency Medical Responder expenses attributable to such services rendered within the District.
10. The Fire Department shall operate in compliance and all applicable State and local laws and regulations including, but not limited to, the North Carolina Fire Incident Reporting System (N.C. G. S 58-79-46, NC Administrative Code, §.0402). The Fire Department shall submit incident reports to the Fire Marshal's Office by the 10<sup>th</sup> of each and every month, if applicable, in accordance with said directives. The Fire Department shall provide the County a copy of its Annual Training Report that is submitted to the NC Firefighter's Association, and shall record all equipment in the County's resource tracking system no later than January 31<sup>st</sup> of each year.
11. It is agreed that the County may inspect all books, records, and accounts of the Fire Department at any reasonable time. It is further agreed that the Fire Department will present the County with its annual budget request for its most recent fiscal year, annual audit by a Certified Public Accountant, which audit shall be in conformity with the most recent version audit policies of the County and the North Carolina Local Government Commission.
12. The Fire Department agrees to comply with County budgeting procedures and other procedures provided for by state law and shall submit annual budget estimates in accordance with established County budget timetables along with a supporting letter containing its request for a proposed tax rate signed by the Fire Department's president upon approval of its Board of Directors. The County will provide the Fire Department with standard forms for budget submission and the Fire Department shall use such standard forms.
13. The Fire Department will file with the County Fire Marshal's Office a true copy of its Articles of Incorporation and shall furnish any changes made thereto, not less than thirty (30) days prior to their effective dates. 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 non-profit corporation as required by law. In addition, upon request of the Fire Marshal's Office the Fire Department shall provide copies of its bylaws or other operation rules of procedure.
14. In the event the Fire Department (i) dissolves or (ii) ceases to provide any fire protection Services within the District, then the Fire Department hereby agrees that its dissolution shall be in conformity with Chapter 55A of the North Carolina Statutes. Unless prohibited by law, the Fire Department shall deliver, release, and convey to the County all of its equipment, cash, real estate, and other assets owned by the Fire Department (collectively "Fire Department Property"), unless it is "Excepted Property". Excepted Property is property (i) that does not impair the ability of the County or another agency to provide adequate fire protection services in the District, (ii) was not purchased or acquired wholly or partially with County funds, and (iii) is listed on Appendix 2, attached hereto and incorporated herein by reference. Excepted Property must be disposed as provided by law. The County will assume any debt owing on the Fire Department property conveyed to, and accepted by, the County and agrees to hold the Department harmless with respect to the debt on such Property.
15. The Fire Department agrees to indemnify and save harmless the County from and against any and all liability and expenses, including attorney fees, court costs, and other costs incurred by the County, caused by an act or omission of the Fire Department, its agents, or employees, up to the amount of insurance required by this Agreement; provided that such liability arises out of acts for which any defense of governmental, statutory, or common law immunity is not available to the County. The

indemnification provided for herein shall not be construed as a waiver of any applicable defense of governmental, statutory, or common law immunity, and shall not prevent the Fire Department from asserting any defense of such immunity; provided, however, that the indemnity provided for herein shall apply unless and until a nonappealable judicial decision holding that no such immunity applies is entered.

16. The Department shall purchase and maintain, during the term of this Agreement, and any extension hereof, at least the following insurance coverage in amounts not less than those set forth below and shall name the County as an additional Insured on each policy:
  - A. Comprehensive Automobile Liability Insurance with combined single limits of at least one-million dollars (\$1,000,000) per occurrence. Coverage shall be provided under the 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 terms in excess of their personal auto 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. Auto physical damage shall be provided on an agreed value basis. Coverage shall be included for hire, borrowed or commandeered vehicles without a limit of liability. Coverage shall be provided to bring replacement vehicle up to the most current national standards such as NFPA or DOT.
  - C. Comprehensive General Liability Insurance with limits of at least one-million dollars (\$1,000,000) per occurrence and two-million (\$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 or property damage, Fellow Member Liability, Non-owned Watercraft, Fire Damage Legal Liability with limits of one-million dollars (\$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 one-million dollars (\$1,000,000) per occurrence with two-million (\$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 practice suites. 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 one-million dollars (\$1,000,000) per occurrence and two-million (\$2,000,000) 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 Fire Department shall maintain Property Insurance protecting against the risk of direct physical loss or damage. The policy covering the building 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 two-hundred fifty thousand dollars (\$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 County as an additional insured. The Fire Department shall furnish the County on or before July 1<sup>st</sup> of each year that this Agreement remains in force, Certificates of Insurance, issued by the respective insurance companies, 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 salaries firefighters meeting statutory limits in compliance with applicable State and Federal Laws.
  - J. The Fire Department shall require its insurance company or its insurance agent to provide the County the same notice that the Fire Department receives from the insurance company or its agent as to cancellation, nonrenewal, reduction in coverage, or other material change with respect to any policy on which the County is required by this Agreement to be named as an additional insured.
17. Attached to this Agreement as Appendix 1 is a list of the certifications, reports, records, and other submittals (collectively "Submittals") that the Fire Department is required to make to the County and the date each is due. The Department agrees to make each Submittal on or before its due date.
18. In connection with the performance of this Agreement, the Fire Department agrees not to discriminate against any employee, member, or applicant for employment or membership because of race, religion, color, sex, age, disability or national origin. Employees, members and applicants must however, be competent and capable of performing the requirements of the job. The Fire Department agrees to take all reasonable measures to insure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion color, sex, age, disability or national origin.
19. This Agreement is effective beginning September 1, 2018, and ending June 30, 2019, at which time it shall automatically renew for successive terms of one (1) year beginning each July 1<sup>st</sup> and ending June 30<sup>th</sup> unless terminated as hereinafter provided. Either party may terminate this Agreement effective at the end of any fiscal year by giving the other party notice at least one (1) year in advance of the end of the fiscal year that the Agreement is to terminate.
20. This Agreement sets forth the entire understanding of the parties and supersedes any and all other 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 waiver or compliance with any provision or condition hereof shall be effective unless evidenced by an instrument in writing duly executed by the parties hereto.
21. 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, which may be withheld in the sole discretion of a party.
22. Notwithstanding anything herein to the contrary, it is understood and agreed that the Fire Department shall be entitled to use the funds provided pursuant to this Agreement for the purchase of land, buildings, and equipment determined by the Fire Department in the exercise of its reasonable discretion and business judgment to be necessary for the provision of services hereunder. Said land, buildings, and equipment may be pledged as collateral for the financing thereof. Nothing contained herein shall affect the rights of third party lenders with a lien or security interest in said property as collateral.

23. The failure of either party to exercise any right granted hereunder, or 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 by either party to require exact compliance with the terms hereof.

(Signature page follows)

IN WITNESS WHEREOF, the County has caused this instrument to be executed by the Chairperson of the Chatham County Board of Commissioners and attested by the Clerk to the said Board, 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.

CHATHAM COUNTY

By: \_\_\_\_\_  
Diana Hales, Chair

ATTEST:

\_\_\_\_\_  
Lindsay K. Ray, Clerk  
Chatham County Board of Commissioners

(County Seal)

MONCURE VOLUNTEER FIRE DEPARTMENT, INC.  
By: \_\_\_\_\_  
Tom Lewis, Chairman

ATTEST

\_\_\_\_\_  
Alec C. Gubler, Jr.  
Secretary

(Corporate Seal)

APPENDIX 1

Fire Protection Contract

Between

Chatham County

And

Moncure Volunteer Fire Department, Inc.

**Submittal**

**Due Date**

- |   |                                   |
|---|-----------------------------------|
| 1. Fire Incident Reports (NCFIRS)   | 10 <sup>th</sup> of each month    |
| 2. Certificates of Insurance including:   | July 1 <sup>st</sup> annually     |
| a) Type of Policy   |                                   |
| b) Limits of Liability  |                                   |
| c) Name of all insurance companies  |                                   |
| d) Policy numbers   |                                   |
| e) Effective dates/Expiration dates   |                                   |
| f) County named as additionally insured   |                                   |
| 3. Roster of First Responders   | January 31 <sup>st</sup> annually |
| 4. Roster of Medical First Responders   | January 31 <sup>st</sup> annually |
| 5. Roster of Emergency Medical Technicians  | January 31 <sup>st</sup> annually |
| 6. Recertification documentation  | January 31 <sup>st</sup> annually |
| 7. Fire Department training report submitted to<br>NC Firefighter's Association     | January 31 <sup>st</sup> annually |
| 8. Changes to any Articles of Incorporation<br>Bylaws, or other Rules of Procedures | 30 days prior to effective date   |



APPENDIX 2

Fire Protection Contract

Between

Chatham County

And

Moncure Volunteer Fire Department, Inc.

**EXCEPTED PROPERTY**

(If any)