

## **NORTH CAROLINA**

## **CHATHAM COUNTY**

**THIS AGREEMENT** (this “Agreement”), made and entered into this \_\_\_\_ day of December, 2013, by and between **CHATHAM COUNTY**, a body politic and corporate of the state of North Carolina (the “**County**”) and **FAMILY VIOLENCE AND RAPE CRISIS SERVICES**, a North Carolina non-profit corporation having its registered office in Chatham County, North Carolina (“**FVRC**”). The County and the FVRC may hereinafter be referred to as a “Party” or collectively as the “Parties”.

### **WITNESSETH:**

**WHEREAS**, FVRC is a 501(c)(3) corporation organized for the purpose of preventing and responding to incidents of domestic violence and sexual assault in Chatham County and operating programs which empower families to live free from violence and abuse through programs of education, prevention, and intervention; and

**WHEREAS**, the General Assembly of the State of North Carolina has authorized counties to appropriate funds to support programs intended to further the welfare, education, and safety of its citizens, including inter alia, programs to prevent and respond to incidents of domestic violence and sexual assault; and

**WHEREAS**, the County is authorized to contract with and appropriate funds to any corporation to carry out any public purpose that the County itself is authorized by law to engage in; and

**WHEREAS**, the County has funds available to provide and support nonprofit entities such as FVRC which carry out activities that improve the health and public welfare of its citizens; and

**WHEREAS**, the County has determined that it is in the public interest to contract with and appropriate funds to FVRC to purchase land and construct a building so that FVRC can operate a shelter for victims of domestic violence and sexual assault as provided in this Agreement;

**NOW, THEREFORE**, for and in consideration of the premises and the respective benefits flowing to the parties, the County and FVRC, intending to be legally bound, contract and agree as follows:

1. Purpose of Agreement; FVRC's Obligations. The purpose of this Agreement is to provide County funds to FVRC so that FVRC can purchase land and construct a building in which to operate and provide programs which seek to prevent and respond to incidents of domestic violence and sexual assault and empower families to live free from violence and abuse (collectively the "FVRC Services"). FVRC covenants and agrees that it will use the County funds appropriated and paid under this Agreement for the sole purpose of purchasing the land and constructing the building, and, in addition, for and in consideration of the receipt of the County funds hereunder, FVRC contracts, covenants, and agrees that it will

provide the FVRC Services to citizens and residents of Chatham County during the full twenty (20) year term of this Agreement.

2. The County payments to be made under this Agreement shall in no event exceed a total of \$450,000.
3. County Appropriations for the Purchase of Land. The County agrees to appropriate and pay funds to FVRC to be used to purchase a lot or parcel of real estate provided the same can be acquired at a reasonable price. The real estate purchased with County funds pursuant to the this paragraph 3 shall be used solely as a location to construct a building to be used to provide the FVRC Services and other services or activities for the benefit of the public and that FVRC is authorized to provide. Prior to entering into any contract, any portion of which is to be paid for with County funds, FVRC shall submit a copy of the contract to the County for its approval. The County's approval shall be in writing and shall specify the amount of County money which is available to be appropriated to FVRC for the purchase of the real estate. The County money shall be available to be drawn by FVRC upon the receipt of written draw requests providing such information related to each draw as is reasonably requested by the County. The deed conveying the real estate to FVRC, and such other recordable documents related thereto as may be necessary to establish FVRC's obligations hereunder, shall contain such restrictions, covenants, reversions, or other provisions mutually

agreeable to the Parties as will insure that the real estate, including any building or structure located thereon, shall be used solely for the purpose of providing the FVRC Service and such other services or activities to the public as FVRC is authorized to provide, and that upon the failure of the real estate to be so used, such real estate, shall, at the County's option, be conveyed to the County at no cost or charge.

4. County Appropriation for Building Construction. The County agrees to appropriate and pay funds to FVRC to be used for the construction of a building (the "Building") as provided in this Paragraph 4. The Building shall be used solely to provide the FVRC Services FVRC has contracted to provide under this Agreement and other such services or activities to the public as FVRC is authorized to provide. This restriction shall apply to any building constructed in whole or in part with County funds pursuant to this paragraph 4. Prior to entering into any contract, any portion of which is to be paid for with County funds, FVRC shall submit a copy of the contract to the County for its approval. The County's approval shall be in writing and shall specify the total amount of County money which is available to be appropriated to FVRC for the construction of the Building. The County money shall be available to be drawn by FVRC upon the receipt of written draw requests providing such detail as, in the reasonable judgment of the County, is sufficient for the County to determine the

work for which payment is requested has been satisfactorily completed, and, shall at a minimum, include the customary approval by the architect or other design professional for the Building or his or her designee. FVRC may submit draws applications for payment at the end of any month during which work has taken place. The County shall have the right, but not the obligation, to inspect the work for which payment is being sought to determine whether in its opinion the work has been satisfactorily completed. The period during which the County may inspect the work shall begin on the date the payment request is received and end fifteen (15) business days thereafter (the "Inspection Period"). On or before the end of the Inspection Period the County shall pay FVRC for all authorized obligations included in the draw request for the construction. If the County believes that any work included in a draw request was not satisfactorily completed it may withhold payment for that portion of the payment request until the County and FVRC have discussed the payment request and mutually agreed upon a fair and equitable resolution.

5. Conditions Precedent to County's Obligation to Appropriate Funds for Building Construction. FVRC shall submit an application to an appropriate lender for building construction costs and soft costs, including design, environmental, and the cost of furnishings. It is a condition precedent to the County's obligation to appropriate any funds for building construction under this Agreement that (i) FVRC receive a commitment reasonably acceptable to the County for the aforesaid interest free loan of \$600,000, or such lesser amount is acceptable to the

County, and (ii) that the County approve FVRC's construction budget for the building.

6. Operation Solely by FVRC. The Building shall be operated solely by FVRC and in compliance with this Agreement and the County shall have no involvement in, nor responsibility for, the operation or the cost of operation of the FVRC Building. FVRC may continue to apply for funding through the county's nonprofit process. This stipulation in no way restricts that application or the items that may be funded.
7. Maintenance of FVRC. FVRC shall, at its sole cost and expense, keep the Building, including its furnishings and grounds, in good order and condition and shall make or cause to be made all necessary repairs, alteration and/or replacements thereto, interior, exterior, structural and nonstructural, and required to maintain the same in good order and condition during the term of this Agreement. All such repairs, alterations, and replacements shall be equal in quality to the County funded improvements. The County shall have no responsibility whatsoever in respect to maintenance or repair, it being understood and agreed that FVRC shall have full responsibility for the maintenance and upkeep of the FVRC Building.

8. Term. The term of this Agreement is twenty (20) years from the date a certificate of occupancy is issued for the Building.
9. FVRC Accountability Requirements. FVRC shall provide at least annually to the County during the term of the Agreement and to any member of the public within thirty (30) days of receipt of a written request for such information, the following financial information:
  - (i) FVRC's latest financial statements. The financial statements shall include, at a minimum, a balance sheet as of the end of the fiscal year and statement of operations for that year. Such financial statements shall also contain details about the amount of public funds received and how those funds were used; and
  - (ii) FVCR Tax Returns. FVRC's most recently filed Internal Revenue Service (IRS) Form 990, Form 990-EZ, or a copy of its Form 990-N submittal confirmation shall be provided. FVRC may redact any information not required for public disclosure pursuant to 26 U.S.C. § 6104(d)(3). Alternatively, in lieu of responding to a request from a member of the public, FVRC may satisfy this requirement if it posts this information on its website or if another entity posts the information as part of a database of similar

documents. The information must be accessible by the general public without charge. Also, if another entity maintains the information, FVRC must include a link to the other entity's website on its own website.

10. Insurance. FVRC shall keep the Building and all associated improvements on the property, both during construction and after completion, constantly insured against loss by fire, windstorm, and other casualties and contingencies, in such manner and with such companies and for such amounts as FVRC in its reasonable discretion determines are sufficient, but not less than the amount of funds provided by the County for the construction of said building. FVRC shall purchase such insurance, pay all premiums thereon, and, upon request, shall deliver to the County copies of its insurance policies and evidence of premium payments. All proceeds from any insurance so maintained shall be applied to the repair or reconstruction of the Building in the event of damage or destruction.
11. Termination. This Agreement shall automatically terminate if a building permit has not been issued and substantial construction work on the FVRC Building has not commenced on or before June 30, 2015.
12. Notices. All notices, payments, or other correspondence given or made pursuant to this Agreement shall be in writing, delivered in person, mailed by certified mail, return receipt requested, or delivered by a recognized overnight courier,



postage or fees prepaid, addressed to a Party at the address given below, and shall be deemed effective upon the date received, via personal delivery, certified mail, or overnight delivery. The Parties shall be responsible for notifying each other of any change of address.

Mailing addresses for Parties are as follows:

If to County: Chatham County  
Post Office Box 1809  
Pittsboro, North Carolina 27312  
Attention: County Manager  
Email: Renee.Paschal@chathamnc.org

If to FVRC: Family Violence and Rape Crisis Services

Post Office Box 1105  
Pittsboro, North Carolina 27312

Attention: Executive Director

Email: [Kathy@fvrc.org](mailto:Kathy@fvrc.org)

13. E-Verify: Effective September 4, 2013 North Carolina local government units are prohibited from entering into certain contracts unless the contractor and the contractor's subcontractors, if any, comply with the requirements of N.C. Gen. Stats. §64-26(a). Prior to receiving any County funds hereunder, FVRC and its subcontractors, if any, shall complete and return to the County the E-Verify affidavit, attached hereto as Appendix 1. If FVRC or its subcontractors, are subject to the provisions of N.C. Gen. Stats. §64-26(a), FVRC agrees to fully comply with such statute and require its subcontractors, if any, to fully comply with such statute.
  
14. Miscellaneous. This Agreement constitutes the entire agreement and understanding between the Parties and it is understood and agreed that all undertakings, negotiations, representations, promises, inducements, and agreements heretofore entered into between the Parties with respect to the matters contained herein are merged in this Agreement. This Agreement may not be changed orally, but only by a written document signed by both Parties. No waiver of any of the provisions of this Agreement shall be valid unless in writing and

signed by the Party against whom it is sought to be enforced. This Agreement may not be assigned without the written consent of both Parties. The provisions of this Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns to the extent such assignment has been consented to by both Parties. The provisions of the Agreement shall be governed by and construed and enforced in accordance with the laws of the State of North Carolina. The headings contained in the Agreement are solely for the convenience of the Parties and do not constitute a part of this Agreement and shall not be used to construe or interpret any provisions hereof. This Agreement shall be considered for all purposes as having been prepared by the joint efforts of the Parties and shall not be construed against one Party or the other as a result of preparation, substitution, submission, or other event of negotiation. The invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect, and, if any such unenforceable provision hereof is enforceable in any part or to any lesser extent, such provision shall be enforceable in all such parts and to the greatest extent permissible under applicable law. This Agreement may be executed in any number of counterparts each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument, and the Parties hereto may execute this Agreement by signing any such counterpart.

**IN WITNESS WHEREOF**, Chatham County and FVRC, have executed this Agreement as of the day and year first written above.

FAMILY VIOLENCE AND RAPE CRISIS  
SERVICES.

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

Kathy Hodges, Executive Director

CHATHAM COUNTY

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

Walter Petty, Chairman, Chatham County

Board of Commissioners

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

\_\_\_\_\_  
Vicki McConnell, Finance Director

NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I \_\_\_\_\_, a Notary Public of the County and State aforesaid, do hereby  
certify that \_\_\_\_\_ personally appeared before me this day and  
acknowledged that she is the Executive Director of Family Violence and Rape Crisis Services,  
and as Executive Director, being authorized to do so, executed the foregoing instrument on  
behalf of Family Violence and Rape Crisis Services...

Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of North Carolina

\_\_\_\_\_  
Printed Name

(Affix Notary Seal)

My Commission Expires: \_\_\_\_\_

NORTH CAROLINA

COUNTY OF \_\_\_\_\_

I \_\_\_\_\_, a Notary Public of the County and State aforesaid, do hereby certify that Charlie Horne personally appeared before me this day and acknowledged that he is the County Manager of Chatham County, North Carolina, and he as County Manager, being authorized to do so, executed the foregoing instrument on behalf of the said County.

Witness my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of North Carolina

\_\_\_\_\_  
Printed Name

(Affix Notary Seal)

My Commission Expires: \_\_\_\_\_

APPENDIX 1

STATE OF NORTH CAROLINA

AFFIDAVIT

COUNTY OF CHATHAM

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I, \_\_\_\_\_ (the individual attesting below), being duly authorized by and on behalf of Family Violence and Rape Crisis Services (the entity contracting with Chatham County to receive funds and provide services, hereinafter "Employer") after first being duly sworn hereby swears or affirms as follows:

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
2. Employer understands that Employer Must Use E-Verify. Employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).
3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. (Mark Yes or No)
  - a. YES \_\_\_\_\_, or
  - b. NO \_\_\_\_\_



4. Employer's subcontractors are required to comply with E-Verify, and Employer shall ensure compliance with E-Verify by any subcontractors subsequently hired by Employer.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Affiant

Print or Type Name: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn to (or affirmed) before me, this the \_\_\_\_\_

Day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires:

\_\_\_\_\_

Notary Public

(Affix Official/Notarial Seal)