

THIS CONTRACT, made this 26<sup>th</sup> day of July 2019, by and between the TOWN OF HOPE MILLS, a duly incorporated municipality under the laws of the State of North Carolina (hereinafter "TOWN"), and the STONEY POINT VOLUNTEER FIRE DEPARTMENT, INC., a rural fire department duly organized under the laws of the State of North Carolina (hereinafter Volunteer Fire Department or VFD);

WITNESSETH:

WHEREAS, the TOWN of Hope Mills is authorized by law to provide fire protection for all of the property in said Town; and

WHEREAS, the Stoney Point Volunteer Fire Department, Inc., is a volunteer fire department operation as a non-profit corporation under the laws of the State of North Carolina and owns certain fire equipment, trucks, etc., for fighting fires; and

WHEREAS, it is important to both the TOWN and VFD for planning and budgeting purposes to enter into a long-term Fire Protection Contract; and

WHEREAS, the TOWN is authorized, pursuant to N.C. Gen. Stat. §160A-20.1, to contract with and appropriate money to a non-profit corporation to carry out any public purpose that the TOWN has authority by law to engage in, to wit: fire protection; and

WHEREAS, N.C. Gen. Stat. §160A-31 and 160A-58.2A requires that the TOWN pay a portion of the VFD dept service obligation when the TOWN annexes property that is served by the VFD. The parties acknowledge that some properties were annexed into the corporate limits of the TOWN prior to June 30, 2012, for which no debt service payments have been made. At this time, the parties believe that the assessed valuation of the fire district and the corresponding debt service payments that should have been made by the TOWN cannot be readily determined. The TOWN and the VFD believe the

terms contained within this contract establish a reasonable basis for agreement on the TOWN's debt service obligations under the statutes; and

WHEREAS, the TOWN and VFD desire to enter into an agreement for the provision of fire service, which is also known as a "full Responder Contract" or a "Full Provider Contract";

NOW, THEREFORE, in exchange for the mutual promises and consideration contained herein, the parties agree as follows:

- 1) **DEFINITIONS.** The following words and phrases are defined as set forth below when used in the Contract, unless a contrary meaning is clearly required by the context in which the word or phrase is used:
  - a) "Station" means the building located at 7221 Stoney Point Road, Fayetteville, NC 28306 and 2190 Lake Upchurch Road, Parkton, NC 28371.
  - b) "Effective date of the Contract" means the date on which the contract was executed by representatives of both parties.
  - c) "NFPA" means the National Fire Protection Association, Inc.
  - d) "HMFd" means the Hope Mills Fire Department of the TOWN.
  - e) "Chief" means the person designated by appropriate authority of a party as responsible for the organization and deployment of the party's resources for providing fire protection, emergency medical assistance, and other similar emergency aid. The current VFD Chief is Freddy L. Johnson Sr. The current Hope Mills Fire Department Chief is Charles Hodges.
  - f) "VFD Service Area" means the area designated to be the primary response zones of the VFD, and which is further depicted in attached Exhibit A. The VFD Service Area shall include all changes which are from time to time adopted by resolution or order.
  - g) "Alarm" means any request for emergency assistance to which the HMFd normally responds.

- h) "VFD Firefighters" means persons who provide the services on behalf of the VFD as described in the Contract, Whether or nor such persons are compensated for such services by the VFD or any other entity.
  - i) "VFD" means Volunteer Fire Department.
  - j) "Response Time" means the elapsed time between notice of dispatch received by the station and arrival at the scene of the emergency incident by the first piece of fire-fighting apparatus.
  - k) "Turn Out" means the elapsed time between the actual time the station is notified by dispatcher and the actual time the apparatus departs the station on its way to an incident.
  - l) "Full-Provider" means that the VFD will be the primary agency for providing fire and emergency medical services protection to the VFD Service Areas. The VFD equipment and personnel will be dispatched to all types of alarms occurring in the VFD Service Areas until their units are no longer available. HMFD units will respond into the VFD Service Areas when the VFD is not available or when the incident type requires multi-station response.
  - m) "Out of Service" means when all of the VFD's resources have previously been committed. (This typically occurs only in a multiple, overlapping call situation or in the event of a catastrophic conflagration or natural disaster.)
- 2) **TERM.** The effective date for this contract shall be from the effective date of the execution of this Agreement by both parties to and through June 30, 2024. After expiration, any renewal shall be negotiated and made in writing by both parties with the understanding that neither party is under any obligation to renew.
- 3) **COMPENSATION.** The TOWN will pay the VFD for its services during the period above specified, and the VFD agrees to accept for its services during said period, a sum equal to the following:
- a) **Full Responder Contract:** \$0.10 on the \$100 tax valuation, as determined each January 1<sup>st</sup> on an ongoing annual basis, for all property within the VFD Service Area, said sums to be paid

annually. The total amount paid shall be capped at \$70,000. For fiscal year 2019-2020, the TOWN shall pay the VFD a total of Sixty-Seven Thousand Four Hundred Ninety-Two 60/100 Dollars (\$67,492.60).

- 4) **INDEMNIFICATION**: To the extent allowed by North Carolina law, in the event that the TOWN, its elected officials, officers, directors, employees or agents are made parties to any judicial or administrative proceeding arising in whole or in part out of the intentional acts or negligent performance by VFD and/or its agents of any of its obligations under the Agreement, the VFD shall indemnify and hold TOWN harmless for that portion of any and all judgements, settlements, and costs (including reasonable attorneys' fees) which TOWN incurs or pays in connection therewith that are caused by VFD's negligence.

In the event that VFD, its officers, directors, employees or agents are made parties to any judicial or administrative proceeding arising in whole or in part out of the intentional acts or negligent performance by TOWN and/or its agents of any of its obligations under this Agreement, then TOWN shall indemnify and hold VFD and its agents harmless for that portion of any and all judgements, settlements and costs (including reasonable attorney's fee) which VFD or its agents incur or pay in connection therewith that are caused by the TOWN's negligence.

The indemnification provided for by this Section shall survive the termination of this Agreement.

- 5) **AUTOMATIC/MUTUAL AID AGREEMENTS**. This Contract does not affect in any manner the practices of the parties to provide automatic/mutual aid upon request, and such arrangement may continue in the same manner as such aid has been provided in the past, which includes automatic/mutual aid upon request for Fire and Rescue/EMS incidents.

**6) VFD RESPONSE.**

- a) During the term of this Contract the VFD will respond to alarms within the VFD Service Areas in accordance with the terms of the Contract. Such response for the terms of the Contract shall be Full-Provider.
- b) In providing the fire protection services required by subsection a) above, the VFD will cause a response to be made of equipment and VFD firefighters meeting each of the following minimum standards:
  - i) A fire pumper meeting the NFPA 1901 Standard for Automotive Fire Apparatus.
  - ii) A pumper in good operating condition, carrying at least 750 gallons of water and having the ability to pump at least 1,000 gallons of water per minute.
  - iii) The pumper and VFD firefighters responding will be equipped as set forth in the current NFPA 1901 Standard, as a minimum.
  - iv) The VFD firefighter who drives the pumper to the fire scene and returns it to the station must meet the qualifications of a Driver/Operator, as set forth in NFPA Standard 1002.
  - v) At least three (3) VFD firefighters must respond on the first arriving unit, who meet the prerequisites found in the most current adopted editions of the National Fire Protection Association Standard on Live Fire Training Evolutions (i.e. "N.F.P.A 1403") and the National Fire Protection Association Standard for Fire Fighter Professional Qualifications (i.e. "NFPA 1001") or greater.
- c) The VFD will use its best efforts to cause a response to a fire alarm meeting all staffing requirements as set forth herein. The VFD response is to be in the most immediate and professional manner possible. In providing the emergency medical services, the VFD will cause a response to be made of equipment and VFD firefighters meeting each of the following minimum standards:

- i) Apparatus and personnel meeting each of the requirements of subsection b) as detailed above, excepting that at least one VFD firefighter must be EMT certified: or
  - ii) With one EMS/Rescue unit, fully equipped and appropriately manned, one of which must be EMT certified, to EMS and rescue alarms in the VFD Service Areas.
  - d) The VFD will record and maintain such information as the TOWN requires on any alarms to which the VFD responds. Such information will be provided to the HMFD when requested by and officer or official of the HMFD.
  - e) All vehicles, materials, supplies, and other equipment used to respond to alarms pursuant to subsection 6.a) above must be maintained by the VFD in good operating condition at all times and must be inspected weekly by the VFD to determine the condition of such items. Any repairs, replacement or other corrective action necessary to place such items in good operating condition must be made immediately by the VFD upon discovery of the defect. Written records of such inspections and repairs must be maintained by the VFD and copies furnished to the HMFD upon request.
- 7) TRAINING.
- a) Any training programs offered by the HMFD Training Division to HMFD personnel will be offered to the VFD firefighters and any training programs offered by the SPFD will also be offered to the HMFD.
  - b) No charge will be made for any fire or emergency medical training program offered by the TOWN to the VFD pursuant to subsection a) above based upon the use of TOWN facilities or the time of TOWN personnel in preparing for and presenting such programs. If there are any other actual expenses involved in the VFD's participation in such a special training program, the VFD and HMFD Chiefs will attempt to determine a mutually acceptable basis for the VFD's payment of such expense. If such determination cannot be made, VFD firefighters

will be permitted to participate in the relevant training program upon the payment of such expenses as are established by the HMFD Chief.

8) RECORDS EVALUATION. Evaluations of VFD departmental records will be conducted by HMFD periodically, but not more frequently than once every six (6) months. If one or more evaluations reveal an unacceptable level of performance by the VFD, the Chief of the HMFD may, in his sole discretion, require the VFD to perform on or more or all of the following additional requirements:

- a) Submit to more frequent evaluations until the unacceptable performance reaches an acceptable level; and/or
- b) Submit to additional training offered by the HMFD at the sole expense of the VFD; and/or
- c) Repair, maintain, and/or replace any defective vehicles, hose, materials, supplies, or other equipment so that such items are in good operating condition at all times.

9) RADIO CONTACT. Both the HMFD and VFD utilize the same radio frequencies and dispatch center and therefore meet the radio communications standards.

10) SCENE CONTROL.

- a) If the VFD arrives at the incident scene before an officer of the HMFD, the VFD will use the necessary and appropriate tactics and strategies for the incident scene and will take the necessary and appropriate measures to deploy the VFD resources to protect life and property and to resolve the emergency situation. Upon the arrival of the HMFD officer, the VFD officer in charge of the fire scene will, in accordance with the Incident Command System, brief the HMFD officer. If it is mutually agreed by the parties, the VFD officer in charge may relinquish control of the incident scene and the VFD resources to such HMFD officer.

- b) If a HMFD arrives at the incident scene at the same time or before the VFD, the HMFD officer in charge of such company shall have control of the fire scene and VFD resources at the fire scene and in transit.
- c) The HMFD will provide information and training to the VFD on all operational procedures of the HMFD and any changes thereto as soon as possible and periodically thereafter as may be required to assure coordination between the parties. VFD firefighters responding to a fire alarm in the VFD Service Areas will learn and follow such procedures as soon as possible. Such procedures will be fully applicable to all emergency incident scenes, regardless of whether an officer of the VFD or the HMFD has charge of the scene.
- d) On all alarms in the VFD Service Areas, a HMFD company may be dispatched in addition to the VFD. Subject to the provisions of Paragraph 11, the HMFD and VFD will be dispatched together in accordance with the response criteria as outlined in the HMFD dispatch card programmed into the Cumberland County Computer Aided Dispatch System.

11) VEHICLE AND EQUIPMENT MAINTENANCE. The vehicles, equipment, materials and supplies described in Paragraph 6.b) (i-ii) above will be located at the Station during the term of the Contract and will be used to respond from the Station under the conditions of Paragraph 6 above. Said vehicles, equipment, materials and supplies will not be out of service for any reason, unless it is then in the process of responding to an alarm or out of service due to repairs. If said vehicles, equipment, materials and/or supplies are out of service from the Station or otherwise unavailable to respond to alarms pursuant to the Contract, The VFD will give notice of such unavailability immediately to the HMFD through the Cumberland County Emergency Services Dispatch System. Such notice will be given by radio to the HMFD via the Cumberland County Emergency Service Communication Center at the time said vehicles, equipment, materials and/or supplies leave the Station or are otherwise unavailable. During the time that said vehicles,



equipment, materials and/or supplies are absent from the Station or otherwise become unavailable, the VFD, under existing mutual aid agreements, will still be required to provide fire protection as set forth herein to the VFD Service Area in the event of any problem as addressed in the Contract.

12) INSURANCE.

- a) The VFD shall obtain and maintain insurance as set forth in the following sections throughout the term of this contract without lapse, and in no manner shall deviate from the stated insurance requirements. In the event the VFD fails to maintain insurance as outlined herein, the TOWN may at its option, but is not required to, obtain the required insurance at the expense of the VFD.
- b) The VFD's required insurance policies shall be with insurers licensed and lawfully authorized to underwrite and transact business in the State of North Carolina, and having an A.M. Best rating of not less than AS-VII.
- c) The VFD agrees to maintain in continuous force and effect during the term of the Contract the following minimum levels of insurance:
  - i) Vehicle: Bodily injury and property damage liability limits of at least \$1,000,000.00 for each occurrence covering all owned, non-owned and hired vehicles. Such insurance must name the TOWN as an additional insured.
  - ii) Comprehensive, General Liability: Bodily injury and property damage liability limits of at least \$1,000,000.00 for each occurrence/aggregate. Such insurance must include Contractual liability, personal injury hazards A, B and C, broad form property damage and products, and completed operations. Such insurance must name the TOWN as an additional insured. The current liability insurance policy for the VFD is attached hereto as Exhibit D.

iii) Employment Practices Liability: Employer's liability limits of at least \$500,000.00. Such insurance must name the TOWN as an additional insured.

d) The VFD agrees to maintain in continuous force and effect the following minimum levels of insurance for its VFD firefighters:

i) Workers' Compensation

(1) Coverage A- Statutory

(2) Coverage B-\$100,000.00

e) The VFD agrees to maintain in continuous force and effect the following minimum levels of insurance regarding the rendering of emergency medical assistance: \$1,000,000.00 medical professional liability each occurrence/aggregate.

f) The VFD will provide the HMFD Chief with certificates of insurance evidencing continuous coverage during the term of this Contract at the Levels of insurance described in the preceding portions of the paragraph and requiring that thirty (30) days advance, written notice of cancellation be given to the HMFD Chief by the insuring company.

g) If the insurance described in paragraph 12 is canceled, the TOWN may in its sole and absolute discretion terminate the Contract effective immediately upon written notice to the VFD.

13) REIMBURSEMENT. The VFD is solely responsible for the expenses and costs of operating, maintaining, repairing and replacing any equipment, materials, supplies or any other items used by the VFD or its VFD firefighters in performing any services required by or related to the Contract; provided that, if foam belonging to the VFD is reasonably required to extinguish a fire in the TOWN, the TOWN will, at the election of the HMFD Chief, replace any foam actually used or reimburse the VFD for the replacements cost of such foam.

14) NON DISCRIMINATION. The CONTRACTOR agrees to comply with the TOWN'S non-discrimination policy and agrees not to unlawfully discriminate by reason of age, race, religion, color, sex, national origin or disability while performing the services required herein.

15) MODIFICATIONS. In order to be binding upon the parties, any Contract which the HMFD and VFD Chiefs are authorized to approve must be in writing and signed by the parties hereto. Such Contracts may be amended or terminated in the same manner and shall remain in effect until so amended or terminated or until the termination to the Contract; provided that this contract and any amendment thereto must take precedence over any Contract approved by the HMFD and VFD Chiefs.

16) BREACH.

- a) Unless otherwise provided herein, this Contract shall remain in full force and effect for a period of five (5) years. Each term and condition of this Contract is a material term and condition. In addition to any other remedy to which a party may be entitled, violation of any term and condition of this Contract will be a proper basis for termination of this Contract. However, the party alleged to have violated this Contract must first be given written notice of the violation and an opportunity to cure said violation. For purposes of this paragraph, "an opportunity to cure" will mean a reasonable time of no more than ten (10) days (including holidays, Saturdays and Sundays). If any party fails to cure the violation after notice and an opportunity to cure, the other party may, in its sole discretion, terminate this Contract by written notice signed by such party's Chief, or take such other and further action as to which such party may be entitled.
- b) Written notice of a violation must be given within thirty (30) days of the date such violation is alleged to have occurred. Each day that a violation continues is a separate violation, for purposes of the Contract. Written notice of a violation must contain the following information:

- i) Date(s) on which the violation occurred;
  - ii) Description of the facts giving rise to the alleged violation;
  - iii) Paragraph(s) of the Contract alleged to have been violated; and
  - iv) The VFD shall have no more than ten (10) days to cure the violation.
  - v) The VFD shall not be sanctioned for the same type of violation within a twelve-month period if previously cured after notice of an earlier violation.
- c) The TOWN may terminate this Contract after due notice upon the occurrence of the following events:
- i) The VFD fails to respond with the equipment of VFD firefighters required in the agreement, unless the VFD is unavailable within the meaning of Paragraph 11 herein or out of service as defined in Subparagraph 1(n); or
  - ii) The VFD is unavailable within the meaning of Paragraph 11 or out of service as defined in Subparagraph 1(n) and fails to give timely notice of such unavailability in the manner and as described by Paragraph 11; or
  - iii) The VFD closes its operation at 7221 Stoney Point Road, Fayetteville, NC 28306, during the term of this Contract.
  - iv) The Town of Hope Mills Board of Commissioners determines that the services of the VFD are no longer necessary.
- d) Failure by any party to give notice of a violation or to terminate this Contract will not waive such part's rights to give notice of other violations or to terminate this contract for any other violations.

17) NOTICES.

- a) Any Written notice, except as provided in Paragraph 16 above, may be given by first class mail addressed as follows:
  - i) For the TOWN: Town of Hope Mills, ATTN: Fire Chief, 5770 Rockfish Road, Hope Mills, NC 28348
  - ii) For the VFD: Stoney Point Volunteer Fire Department, ATTN: Fire Chief, 7221 Stoney Point Road, Fayetteville, NC 28306
- b) Any change in the address contained in subsection a) above will be given to the other party immediately by written notice.
- c) Any change in the person serving as chief of either party will be given immediately by written notice to the other party by the party making such change.

18) RIGHT TO ENFORCE. This Contract does not create any rights enforceable by any person or entity not a party thereto, including, but not limited to, VFD firefighters and officers of the VFD and residents or property owners located within the TOWN, including the VFD Services Areas.

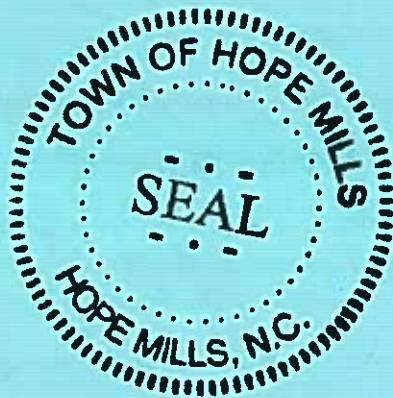
19) MISCELLANEOUS.

- a) As require by G.S. §160A-20.1(b), the VFD shall comply with NC Gen. Statute Chpt. 64, Art. 2 which requires that some employers use E-Verify after hiring an employee to work in the United States.
- b) The VFD herby authorizes the TOWN to store one HMFD fire truck inside the Stoney Point Fire Department – Station 19, located at 2190 Lake Upchurch Drive, Fayetteville, NC 28306-0726. In the absence of adequate space in Station 19, the parties may agree to an alternate storage facility for the HMFD truck. The HMFD shall have access to the fire truck and associated apparatus at any time (i.e. twenty-four hours per day, seven days per week) for preventative maintenance and as otherwise needed by the TOWN. The VFD shall exercise ordinary care and shall take the same steps to secure the HMFD truck as it does to secure its

own equipment, but otherwise, the VFD shall have no liability or responsibility for the care and maintenance of the HMFD truck.

20) ENTIRE AGREEMENT. This Contract constitutes the entire Contract between the parties. There are no Oral or written Contracts or understandings which are binding upon the parties, except as expressly set forth herein. This Contract cannot be amended, altered or modified in any manner except by written Contract, duly authorized by the Board of Commissioners of the TOWN and the Board of Directors of the VFD and duly executed by the appropriate corporate officers of the TOWN and the VFD.

ATTEST:



*Melissa P. Adams*  
Melissa P. Adams, Town Manager

*Jane G. Starling*  
Jane G. Starling, Town Clerk

APPROVED AS TO FORM:

*Dan Hartzog, Jr.*  
Dan Hartzog, Jr., Town Attorney

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

*Drew Holland*  
Drew Holland, Town Finance Officer

STONE POINT VOLUNTEER FIRE DEPT,  
INC.

*Daniel C. Brown*  
Daniel C. Brown, President

*Freddy L. Johnson Sr.*  
Freddy L. Johnson Sr., Fire Chief