

FORSYTH COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: MARCH 19, 2020

AGENDA ITEM NUMBER: 7

SUBJECT: RESOLUTION AUTHORIZING APPROVAL OF A STANDARD FIRE SERVICES AGREEMENT AND AUTHORIZING EXECUTION OF FIRE SERVICES AGREEMENTS WITH VIENNA VOLUNTEER FIRE DEPARTMENT, INC., HORNEYTOWN VOLUNTEER FIRE DEPARTMENT OF FORSYTH COUNTY, INC., GUMTREE FIRE & RESCUE, INC., AND THE CLEMMONS VOLUNTEER FIRE DEPARTMENT, INC.

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION: See Attached

ATTACHMENTS: YES NO

SIGNATURE: *J. Dudley Watts, Jr. / AMG*

COUNTY MANAGER

DATE: March 17, 2020

RESOLUTION AUTHORIZING APPROVAL OF A STANDARD FIRE SERVICES AGREEMENT AND AUTHORIZING EXECUTION OF FIRE SERVICES AGREEMENTS WITH VIENNA VOLUNTEER FIRE DEPARTMENT, INC., HORNEYTOWN VOLUNTEER FIRE DEPARTMENT OF FORSYTH COUNTY, INC., GUMTREE FIRE & RESCUE, INC., AND THE CLEMMONS VOLUNTEER FIRE DEPARTMENT, INC.

WHEREAS Forsyth County contracts with volunteer and municipal fire departments to provide fire services in Forsyth County excluding areas within the municipal limits of Kernersville, Rural Hall, Walkertown, King, High Point, and Winston-Salem;

WHEREAS these original agreements with volunteer and municipal departments date as far back as 1979 and have been revised and amended to account for changing service areas, changing insurance districts, allowance of personnel payments, and other updates;

WHEREAS an updated, standardized agreement that is consistent with evolving laws and the needs and growth of the County is desired; and

WHEREAS several departments have already executed Forsyth County's updated agreement to continue the provision of fire services to the fire tax districts;

NOW, THEREFORE, BE IT RESOLVED, by the Forsyth County Board of Commissioners that the Chairman, the County Manager, and the Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, the standard fire services Agreement in substantially the same form as attached hereto and incorporated herein by reference, subject to a pre-audited certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney; and

BE IT FURTHER RESOLVED, by the Forsyth County Board of Commissioners that the Chairman, the County Manager, and the Clerk to the Board are hereby authorized to execute standard fire services agreements with Vienna Volunteer Fire Department, Inc., Horneytown Volunteer Fire Department of Forsyth County, Inc., Gumtree Fire & Rescue, Inc., and The Clemmons Volunteer Fire Department, Inc.

Adopted this 19th day of March 2020.

NOW, THEREFORE, in consideration of the premises and of other good and valuable considerations, the parties hereto contract and agree as follows:

1. Forsyth County agrees that it will provide funds from the District Tax which is levied in such amount as the Forsyth County Board of Commissioners (the "Board of Commissioners") may deem necessary from year to year in the District. The County will collect the funds from the District as may be levied as provided by law. For each fiscal year, the funds estimated to be provided from the District shall be based on the needs projected in the budget estimate jointly submitted by the Fire Department and the County Manager to the Board of Commissioners and approved by and deemed necessary by the Board of Commissioners for furnishing Fire Services within the District.
2. The County shall maintain the District Fund to hold funds collected as a result of the District Tax.
3. The funds collected from the District Tax shall be paid to the Fire Department as agreed to by the Fire Department and the Forsyth County Manager. Payments shall not exceed the net amount of funds collected, after deducting expenses of collection, from the District Tax and shall not exceed the amount budgeted by the Board of Commissioners in the particular fiscal year for Fire Services within the District.
4. The Fire Department shall furnish adequate Fire Services within the District and shall provide the equipment, personnel, water, and all other resources necessary for furnishing Fire Services in the District. The services shall be in accordance with minimum standards set forth by the Forsyth County Fire Marshal and the North Carolina Department of Insurance. The Fire Department shall provide workers' compensation insurance coverage applicable to all Fire Department personnel, regardless of status, at least to the extent required by law. The Fire Department shall furnish Fire Services without charge to all persons and property located in the District. Funds shall not be used for salaries except to the extent budgeted by the County for that fiscal year.

5. Funds shall not be used for the subcontracting of Fire Services, unless: (1) there is an area (the "Subcontracted Area") within the District which is in a fire insurance district served by another fire department (the "Alternate Fire Department"), (2) the Alternate Fire Department agrees to serve the Subcontracted Area in exchange for the funds collected from the District Tax for the Subcontracted Area, (3) the written proposal for the subcontracting of such service, approved by the Governing Boards of the Fire Department and Alternate Fire Department, is submitted to the County Manager in writing no later than March 1 for service to begin July 1 of that same year, and (4) the Board of Commissioners, in its sole discretion as to approval or denial, approves such proposal.

6. All funds paid to the Fire Department by the County shall be used exclusively to provide Fire Services within the District, except for services provided for mutual aid responses.

7. The County may inspect all the books and records of the Fire Department at any time it shall desire. The Fire Department shall further provide such additional information as the County may reasonably request from time to time. The Fire Department agrees that it will supply such records, information or verification relating to expenditures of the funds or the operations of the Fire Department as may reasonably be requested by the County, including but not limited to service records and reports, rosters, corporation documents, lists of officers and board members. The Fire Department shall maintain a written accounting system which provides adequate documentation of all of its receipts and disbursements including those related to the funds subject to this agreement. The Fire Department further agrees to subject itself to the provisions of Article 33C of Chapter 143 of the North Carolina General Statutes, entitled "Meetings of Public Bodies," to the same extent as the County.

8. The Fire Department shall have an audit report performed annually by a certified public accountant of all its funds, and as soon as such auditor's report becomes available to the Fire Department, but no later than six months following the close of each fiscal year, a copy shall be submitted to the County Chief Financial Officer and the County Fire Marshal.

9. In the event of the termination of this agreement without a new agreement in effect for the Fire Department to provide Fire Services to the District, the discontinuance of the Fire Department providing Fire Services within the District, the dissolution or merger of the Fire Department, or the Fire Department's failure to continue to render the Fire Services to the District as provided in this agreement, the Fire Department shall convey to the County or to such successor organization as the County may designate all of the assets of the Fire Department, subject to any liens against said property, to be used for providing fire protection and ambulance and rescue services within the District or as otherwise provided by law.

10. The Fire Department shall use the funds subject to this agreement in accordance with the annual Budget of the funds, which is approved and adopted by the Board of Commissioners, which budget is incorporated automatically herein by reference each year. No change or alteration in the amount of the total Budget may be made without the express approval of the Board of Commissioners. The Budget detail may be amended with the approval of the County Manager, within the funds made available by this agreement. The Fire Department shall discharge its obligations hereunder in a timely manner.

11. The Fire Department shall use its best efforts to maintain its current rating or better with the North Carolina Department of Insurance and shall maintain its present nonprofit corporation status pursuant to Chapter 55A of the North Carolina General Statutes. The Fire Department shall continuously comply with all applicable laws, ordinances, and regulations. The bylaws of the Fire Department shall have reasonable provisions enabling citizens of the District to participate in the affairs of the Fire Department. Any changes to the bylaws or articles of incorporation shall be forwarded to the County within 10 days of the change.

12. The term "Capital Property" is defined as any land, building, structure, or fire apparatus, as defined by NFPA 1901 (2016 ed.), with value in excess of \$10,000. The Fire Department shall not purchase, lease, construct, design, finance, mortgage, or enter into any contract

for the acquisition or disposition of Capital Property, until after (1) the Fire Department has submitted a written proposal for such transaction involving Capital Property to the Board of Commissioners, and (2) the Board of Commissioners, in its sole discretion as to approval or denial, has approved such Capital Property transaction. With the exception of an emergency, the approval of all such Capital Property transactions shall be included in the Board of Commissioners' annual approval of the budget for the Fire Department.

13. Pursuant to federal and state law, the Governing Board of the Fire Department is an independent board overseeing the operation of the Fire Department and setting its strategy and direction. The Fire Department serves all of the citizens in its District, and its Governing Board should represent the diverse interests, experience, and expertise of its community members. The Governing Board of the Fire Department shall consist of at least seven voting members. By July 1, 2023 and thereafter, no more than thirty-five percent of such board members may be volunteer firefighters serving the Fire Department. No employee of the Fire Department may serve as a member of the Governing Board, with the exception that the Fire Department Chief may serve ex officio as a nonvoting member.

14. This agreement shall become effective July 1, 2019, and, subject to the continued legal existence of the District, shall continue from fiscal year to fiscal year in accordance with the annual Budget adopted by the Forsyth County Board of Commissioners for providing Fire Services within the District to the extent that funds are appropriated to continue this agreement. Notwithstanding anything to the contrary herein, in order to ensure that this Agreement is consistent with evolving laws and the needs and growth of the County, this Agreement shall terminate no later than June 30, 2024.

15. This agreement may not be transferred or assigned by the Fire Department without the written consent of the County, which may be granted or denied at the sole discretion of the County.

16. **Notice.** All notices permitted or required to be given by one party to the other party shall be addressed and delivered in writing as follows:

For the County:
J. Dudley Watts, Forsyth County Manager
Forsyth County Government Center
201 N. Chestnut Street
Winston-Salem, NC 27101

For the Provider:
(NAME), President
(DEPARTMENT NAME) Volunteer Fire Department of Forsyth County, Inc.
(ADDRESS)
(CITY, STATE, ZIP CODE)

17. This Agreement shall be governed by the laws of the North Carolina, except that provisions regarding conflict of laws shall not apply. The venue for any legal proceeding shall be in Forsyth County, North Carolina. This Agreement shall supersede all prior agreements between the parties. No action or failure to act by the County shall constitute a waiver of any of its rights or remedies or as approval or acquiescence in a breach thereunder, except as may be specifically agreed in writing. This agreement is intended for the benefit of the County and the Fire Department and not for any other party. If any provision of this Agreement shall be unenforceable, the remainder of the Agreement shall be enforceable to the extent allowed by law.

IN TESTIMONY WHEREOF, the County has caused this instrument to be executed by the Chairman of the Board of County Commissioners, attested by the Clerk to the Board of County Commissioners, and the County Seal affixed thereto; and the Fire Department has caused this instrument to be signed in its name by its President, attested by its Secretary, and its corporate seal hereto affixed, all by authorization of its Board of Directors duly given.

FORSYTH COUNTY

Attest:

By: _____
Chairman-Board of Commissioners

Clerk to the Board

(SEAL)

(DEPARTMENT NAME) Fire Department of Forsyth
County, Inc.

Attest:

By: _____
President

Secretary

(SEAL)