

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

MEMORANDUM OF AGREEMENT
between
GUILFORD COUNTY
and
CITY OF GREENSBORO

AGENCIES:

THIS MEMORANDUM OF AGREEMENT, hereafter referred to as the “MOA,” is hereby entered into and effective as of the 1st day of January, 2018 (the “Effective Date”), by and between GUILFORD COUNTY, on behalf of its EMERGENCY SERVICES DEPARTMENT, hereinafter referred to as the “COUNTY,” and the CITY OF GREENSBORO, on behalf of its Fire Department, hereinafter referred to as “CITY,” and also collectively referred to as the “Parties.”

W I T N E S S E T H :

WHEREAS , the COUNTY and the CITY have a lengthy history of cooperation with respect to many matters affecting their mutual interests and the benefit of their respective citizens;

WHEREAS, the COUNTY and the CITY have statutory authority to enter into this agreement by virtue of Section 160A-274 of the North Carolina General Statutes;

NOW, THEREFORE, in consideration of promises mutually exchanged and for the purpose and subject to the terms and conditions hereto set forth, the Parties hereby agree as follows:

BACKGROUND:

The CITY OF GREENSBORO is currently constructing a facility located at 4306 Burlington Rd, Greensboro, NC 27405, to be known as Greensboro Fire Station 63. In an effort to enhance service to the area through additional geographic resource placement, the COUNTY desires to deploy apparatus from Station 63. The intent is to maintain daily operation of a single ambulance from the COUNTY at Station 63.

PURPOSE:

The purpose of this MOA is to establish guidelines and expectations between the COUNTY and the CITY as it relates to the utilization of Station 63.

CONDITIONS:

1. The CITY will provide the following:
 - a. Construction project oversight to ensure that the building is constructed to architectural specifications and building/fire code.

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- b. Active project engagement with COUNTY representatives on matters of construction related to COUNTY portion of the structure.
 - c. One apparatus bay at Station 63 from which the COUNTY may operate apparatus;
 - d. Living accommodations at Station 63 suitable for two (2) COUNTY personnel on a 24-hour basis, including bathrooms and decontamination facilities;
 - e. Access to the Internet through a CITY connection to facilitate required COUNTY reporting and daily operations; and,
 - f. Access to the facility through the CITY selected access system and a door remote control.
2. The COUNTY will provide the following:
- a. The COUNTY shall have at all times, in force and effect, insurance coverage with a company or agreed upon governmental insurance pool acceptable to the CITY, or sufficient assets in a self-insured program. This coverage is to provide a minimum of:
 - i) Appropriate Statutory Workers' Compensation;
 - ii) Auto Liability (three million dollars (\$3,000,000.00) combined single limit);
 - iii) General Liability (three million dollars (\$3,000,000.00) combined single limit); and,
 - iv) Professional Health Care Liability (three million dollars (\$3,000,000.00) combined single limit);
 - b. At the inception of this Agreement and annually thereafter, the COUNTY shall provide the CITY with a copy of the Certificate of Insurance directly from the Insurer for the limits listed above and/or a Letter from the Guilford County Risk Manager stating that sufficient assets are available in the limits above in a self-insured program. COUNTY will provide updates to the insurance certificates upon request and as necessary to maintain documentation of required coverage. The COUNTY will notify the CITY immediately of any material adverse change in insurance coverage;
 - c. Likewise, the CITY shall have at all times, in force and effect, maintain insurance coverage or agreed upon governmental insurance pool acceptable to the COUNTY;
 - d. Due to the mutual benefit of the co-location, the COUNTY will pay a pro rata portion of the construction costs, in the form of a single payment, as outlined in Schedule A. The COUNTY portion of the building will be deemed as 11% based on square footage. This payment will only be paid once a permanent certificate of occupancy is obtained, and the CITY will provide an invoice that details the final construction price for the entire project with the allocation of CITY versus

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COUNTY cost. The COUNTY will only pay direct cost of the project, and will not be billed for CITY indirect cost or project management;

- e. COUNTY will also pay monthly utilities assessment based on a square footage basis as determined in this agreement, and as outlined in Schedule B. The CITY will bill the COUNTY annually in arrears for utility service with a copy of the original invoices; and,
 - f. COUNTY will also pay a portion of the annual property insurance cost. The current annual property insurance cost for Fire Station #63 is \$2,880. The COUNTY will pay 11% annually for its share of the actual annual insurance premium. The CITY will send an invoice annually at the end of each fiscal year to the COUNTY for its share of the property insurance.
3. The COUNTY further agrees to the following conditions:
- a. This facility is predominantly a CITY facility, and as such the employees and agents of COUNTY are bound to the standards of conduct expected from CITY employees, as well as meeting all standards as specified in COUNTY policy and departmental regulations. Specifically, all personnel shall conduct themselves in a professional and dignified manner at all times. Furthermore, personnel shall refrain from using language that is vulgar or contains personal attacks, profanity, insults, threats, discriminatory statements based on race, nationality, sex, disability, or other status. Additionally, language of a sexually suggestive nature will not be tolerated, nor will any physical contact be tolerated;
 - b. The COUNTY and CITY are drug and alcohol free workplaces, and as such, CITY will not allow any members on site that are under the influence of impairing substances, and if suspected, will be asked to leave the facility and COUNTY officials contacted;
 - c. The CITY is not obligated, nor will they provide staffing, maintenance, or upkeep of COUNTY apparatus assigned to Station 63;
 - d. Upon report of any damages associated with Station 63 involving COUNTY personnel and/or apparatus, representatives of both parties will inspect the facility and will note all damages incurred. Determination of cause will dictate who has the financial liability for repairs, and ALL repairs will be in concert with CITY facilities personnel and only affected by approved vendors of the CITY. The Party found to have cause is financially obligated for repair to the satisfaction of the CITY *in toto*;
 - e. The CITY is not responsible for any damages incurred to COUNTY apparatus and/or equipment which only directly involve COUNTY personnel;
 - f. The CITY has no obligation to the financial implications of staffing COUNTY apparatus;

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- g. The CITY has no obligation for the janitorial needs of the COUNTY portion of the building, but will allow access to the facility for COUNTY contractors, if the COUNTY so elects;
 - h. Nothing in this MOA shall limit further efforts between CITY or COUNTY that may share an interest in collaborative deployment initiatives; and,
 - i. The COUNTY and the CITY will provide a primary and secondary point of contact to coordinate any issues related to this Agreement. If it is determined that substantive changes are to occur, they are to only occur in writing and may result in amendment to this Agreement.
4. Additionally, the following provisions are agreed upon by the Parties:
- a. The CITY is the sole owner of the land, and the COUNTY will receive an exclusive license to use the portion of Station 63 as shown in the highlighted area in Schedule C, attached hereto and incorporated by reference.
 - b. The COUNTY will not modify any portion of Station 63 without the prior written approval of CITY.
 - c. The COUNTY has an exclusive license to the designated space for term of this Agreement, forty (40) years, and if the COUNTY elects to abandon the space or this agreement, then the square footage will be subject to future negotiation by the COUNTY with CITY representatives with respect to alternative uses of the COUNTY portion of Station 63. Notwithstanding the foregoing, the COUNTY has been advised by the CITY that Station 63 and associated land has been financed with one or more issues of tax-exempt bonds issued by the CITY (the "Bonds") and the COUNTY further understands that the use of Station 63 by any person or entity other than a state or local government unit could cause interest on the Bonds to be included in the gross income of the owners thereof retroactive to the respective dates the Bonds were issued. Accordingly, the COUNTY will not allow any person or entity, other than employees of the COUNTY, to manage, operate or otherwise use the COUNTY portion of Station 63. In addition, the COUNTY will not sell, lease or otherwise dispose of its interest in the COUNTY portion of Station 63 without first obtaining **(i)** the prior written consent of the CITY, and **(ii)** an opinion of a firm of attorneys nationally recognized in the area of tax-exempt bonds acceptable to the CITY that such use or disposition will not adversely affect the exclusion of interest on the Bonds from gross income for purposes of federal income taxation. At inception, the life of the building is envisioned to be for forty (40) years.
 - d. Routine maintenance and repair of the facility will be conducted by CITY facilities personnel, and considered to be routine upkeep of the facility, and the costs therefore will not be billed to the COUNTY. If repairs are considered to be beyond routine, or due to the negligence of employees of the COUNTY, said repairs shall be the responsibility of the COUNTY. The CITY will contact the COUNTY to discuss

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payment due from the COUNTY if the repairs are not due to normal wear and tear of the facility. The CITY will provide the COUNTY with direct cost estimates.

- e. No capital improvements to the facility will be approved without written authorization of both Parties.

TERM OF SERVICES:

The term of the exclusive license to the COUNTY for use of Station 63 shall be for forty (40) years unless sooner terminated in accordance with this agreement. In the event this Agreement is terminated early, the Parties will meet to determine if any money is owed the other Party to this Agreement. This Agreement may only be amended by a written, executed Amendment between the Parties.

INDEMNITY:

Each Party agrees to be solely responsible for its own negligent acts or omissions and willful misconduct, and those of its employees, agents, and subcontractors, in the performance of services provided hereunder.

The COUNTY will indemnify and hold harmless the CITY and hereby agrees to be liable for any and all claims, costs, demands, causes of action (including reasonable attorney fees, if any), losses or damages that may be made against the CITY as a result of any negligent acts or omissions or willful misconduct on the part of the COUNTY, its employees or agents. COUNTY shall be responsible for the negligence of its employees and agents to the extent of the North Carolina Tort Claims Act.

AMENDMENT:

The terms of this Agreement may only be amended with a written Contract Amendment executed by the Parties, provided paragraph 4(c) under the term "CONDITIONS" shall not be amended unless the CITY and the COUNTY obtain an opinion of a firm of attorneys nationally recognized in the area of tax-exempt bonds that such amendment will not adversely affect the exclusion of interest on the Bonds from gross income for purposes of federal income taxation..

TERMINATION:

This Agreement may only be terminated in writing in accordance with paragraph 4(c) under the term "CONDITIONS" or upon abandonment of the COUNTY portion of Station 63.

NOTICES:

All notices pursuant to this Agreement shall be in writing and delivered personally or mailed by certified mail, registered mail, postage prepaid, with return receipt requested, at the addresses appearing below, but each Party may change such address by written notice in accordance with this paragraph. Notices delivered personally will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated as of three (3) days after mailing.

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Marty Lawing, County Manager
GUILFORD COUNTY
P.O. Box 3427
Greensboro, NC 27402

Jim Westmoreland, City Manager
CITY OF GREENSBORO
PO Box 3136
Greensboro, NC 27402-3136

CONTRACT LANGUAGE:

Inclusion of titles of paragraphs or section headings, capitalization of certain words or phrases and/or bold face typestyle of certain words or phrases in this Contract are for convenience purposes only and shall not be used to interpret or construe the provisions of this Agreement. The terms "Contract," "Agreement," and "Memorandum of Agreement" have the same meaning and may be used interchangeably throughout this document. The terms "Attachment," "Exhibit," and "Addendum" have the same meaning and may be used interchangeably throughout this document.

SEVERABILITY:

If any provision of this Contract is held unenforceable, then such provision will be modified in writing to reflect the Parties' intention. All remaining provisions of this Contract shall remain in full force and effect.

ENTIRE AGREEMENT:

This Contract, including the Exhibits and/or Attachments, if any, sets forth the entire Agreement between the Parties. Facsimile or electronic (e.g., pdf) versions of this Agreement shall have the same legal effect as originals, and all of which when fully executed, shall constitute one and the same instrument. All prior conversation or writings between the Parties hereto or their representatives are merged within and extinguished.

JURISDICTION:

The Parties agree that this Contract is subject to the jurisdiction and laws of the State of North Carolina. PROVIDER will comply with bid restrictions, if any, and applicable laws, including N.C.G.S. §143-129(j) regarding E-Verify. Any controversies arising out of this Contract shall be governed by and construed in accordance with the laws of the State of North Carolina.

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This Memorandum of Agreement continues on the following page.)

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IN WITNESS WHEREOF, the Parties have set their hands and seals as of the day and year first above written and agree to abide by the content of this Agreement.

GUILFORD COUNTY

ATTEST:

Marty K. Lawing, Guilford County Manager

Guilford County Clerk to Board

(COUNTY SEAL)

APPROVED AS TO CONTENT:

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

James L. Albright, Director
Guilford County Emergency Services
Department

Guilford County Finance Director

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CITY OF GREENSBORO

ATTEST:

James Westmoreland, Greensboro City Manager

Greensboro City Clerk

(CITY SEAL)

RECOMMENDED BY:

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

Bobby Nugent
Fire Chief
Greensboro Fire Department

City of Greensboro Finance Director

APPROVED AS TO FORM

City Attorney

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Schedule A

ESTIMATE FOR CONSTRUCTION REIMBURSEMENT (building currently under construction, hence costs are yet to be finalized):

Estimated project cost for the building: \$4,596,000.00

Total building square footage: 12,773

Construction cost per square foot: \$359.82

EMS space within the total square footage: 1,400

Representative estimate of construction cost for Guilford County EMS: **\$503,748.00**

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Schedule B

ESTIMATE FOR UTILITY REIMBURSEMENT:

Average annual costs for utilities for CITY fire stations per square foot: \$2.50

EMS space within the total square footage: 1400

Estimated annual utilities reimbursement cost for Guilford EMS at Station 63: **\$3,500**

Total building square footage: 12773

EMS space within the total square footage: 1400

Percentage of square footage: 11%

Given the nature of the flexible deployment of EMS assets and the routine posting of resources system wide, the CITY and COUNTY will agree to a percentage of 11% for calculation of utilities. If the square footage of the building is later altered, then the percentage will be recalculated and an amendment provided to this schedule in writing to both parties. Also, this percentage of square footage calculation is for utilities run only to the primary site at Station 63 and does not include any ancillary structures, storage buildings, etc.

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