

Contract Number: EC00000000009384

(Please reference this number on your invoices for payment)

INTERLOCAL AGREEMENT**Department:** 20 - Facilities Design & Construction**Vendor:** VC0000001133 - **TOWN OF FUQUAY-VARINA****Description of Services:** This is a 2-party agreement between the County and the Town of Fuquay-Varina for the construction of the joint Fire and EMS Station.**BOC Date Approved:** 8/15/2022**Contract Start Date:** 8/15/2022**Max Amount Payable:** \$1,706,210.00**Funding Source(s):**Federal State ☒ County Grants Other None

BFY	Acct Template	Object	Description	Amount
9999	76073P	6220		\$0.00
9999	76073P	6220	This will be encumbered in FY24	\$1,706,210.00
9999	84148F	6220	This is the approx. total encumbrance for FY24-FY43. This amt. will be reduced as it is encumbered	\$2,482,005.00

Competition:**RFP#:** **Next Competition:** NOT APPL **Year Last Competed:** NOT APPL**Person Responsible for Monitoring the Contract Performance Requirements:** David Rutherford

**STATE OF NORTH CAROLINA
WAKE COUNTY**

**INTERLOCAL AGREEMENT For Funding and Construction of
Fuquay-Varina Fire Station #4 and WAKE EMS**

This AGREEMENT, made and entered into this ____ day of 2/21/2023, 2022, by and between the Town of Fuquay-Varina, a municipality of the State of North Carolina, hereinafter referred to as “the Town”, and Wake County, a public body politic and corporate of the State of North Carolina, hereafter referred to as “the County”, The County and the Town being jointly referred to herein as “the Parties”.

WITNESSETH:

WHEREAS, Wake County EMS established a Master Plan for EMS Stations in 2008, updated in 2019, that includes co-locations of EMS units within a fire station as a first consideration when deploying ambulances; and

WHEREAS, since 2008, Wake County EMS has been co-located in 20 different fire stations, representing 11 different county and municipal fire departments; and

WHEREAS, the current population, vulnerability data, and demand for services establish a need to continue to deploy EMS resources in Fuquay-Varina, North Carolina; and

WHEREAS, the parties have previously collaborated to co-locate contracted EMS providers in a Town fire station; and

WHEREAS, the Town desires to continue to collaborate public safety efforts by partnering with Wake County EMS to maintain and expand the assignment of Wake County EMS equipment and staff in the Town; and

WHEREAS, the Town has expressed a desire to operate (4) fire stations within the Town of Fuquay-Varina and the Furina Fire District in order to provide optimal fire protection services; and

WHEREAS, the Town and Wake County have designed a new Fire Station #4 on property owned by the Town at 4821 Wade Nash Road the “Project Site”; and

WHEREAS, on March 31, 2022, Wake County and Fuquay-Varina entered into a Memorandum of Understanding (“MOU”) setting forth the understanding of the Parties as it related to the conditions that must occur in order to proceed with the plan for Fuquay-Varina fire station #4 project; and

WHEREAS, the Town and the County have agreed to share the cost of construction of the fire station because the facility will serve both the Town and the County. The Town of Fuquay-Varina and Wake County Fire Services will cost share eighty-one percent (81%) of the project costs and the Wake County EMS will pay nineteen percent (19%) of the project costs; and

WHEREAS, the parties enter this agreement pursuant to the authority of N.C.G.S. §160A-460 et. seq. and resolution of their respective governing boards.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions contained in this Interlocal Agreement accruing to the benefit of each of the Parties and other good and valuable consideration, receipt and sufficiency of which is acknowledged by the TOWN and the COUNTY, the Parties agree as follows:

ARTICLE 1 RECITALS and PURPOSE

1.01 Recitals

The Recitals are incorporated into this Agreement.

1.02 Purpose

The purpose of this Agreement is to set forth the agreement of the Parties to undertake the design and construction of the Fire and EMS Station on property owned by the Town. The Town shall serve as lead agency under the design-build form of construction contract pursuant to N.C.G.S. 143-128 and in accordance with schematic design plans approved by the Town's governing authority and the Plans and Specifications approved by both parties. This Agreement addresses the cost, construction, ownership, use, future maintenance and other rights and responsibilities for the Project agreed upon by the parties and necessary to commence construction.

ARTICLE II DEFINITIONS

2.01 "Approved Change Order" means change orders for County components prepared and executed in accordance with Exhibit "C".

2.02 "Approved Plans and Specs" means and refers to the plans and specifications to be prepared by the Architect and approved by the Parties and by the Town of Fuquay Varina and their regulatory capacity and other governmental authorities, as the same may be subsequently modified in accordance with this Agreement.

2.03 "Construction Documents" means the written instruments executed by the Town of Fuquay Varina as lead agency, procurement agent and 'Owner' and the Design Builder and includes contractor bidding requirements, contract forms, contract conditions (general, supplemental, and other), architectural and construction information, drawings, plans and specifications (as approved by Parties), addendum issued prior to issuing the contract, all related to Project, which will be binding on the Design Builder. The Design Builder Guaranteed Maximum Price Contract is also considered a construction document.

2.04 "Design Builder" means Bobbitt, and its authorized and designed representatives.

2.05 "Construction Agreement" means the contract executed by the Contractor and the Design Builder.

2.06 "Contractor" means the person or entity with whom the Design Builder contracts for the construction of the Project, customarily referred to as "Trade Contractor" or "Subcontractor."

2.07 "Construction Costs" mean the labor, materials, and construction management costs to construct the Project.

2.08 "Design Costs" mean the actual costs and expenses paid in connection with design, engineering, surveying, testing, inspections, construction administration, and close-out of the Project.

2.09 "Substantial Completion" or "Beneficial Occupancy" means that point at which the Project, as determined by the Architect, is sufficiently complete in accordance with the Contract Documents that it can be beneficially occupied by the County for its intended use, all necessary permits and permissions for beneficial occupancy and utilization having been obtained by the Contractor and guarantees and warranties commence.

2.10 “Final Completion of Project” means the point at which the Design Builder has, as determined by Town and the architect and with the consent of County: completed the Project. The Parties have taken beneficial occupancy of the Project; all punch lists have been completed; all as-built drawings, operation and maintenance manuals, warranties and other Project records have been delivered to the Parties; all waivers and releases have been negotiated and executed; all consents of surety to final payment have been delivered and the one-year guaranty and/or warranty period has expired.

2.11 “Operational Costs” means the costs to operate, clean, maintain, repair and periodically service components of the Project. Operational Costs do not include capital improvements or replacements. Operational costs will be further defined and allocated in a Utilization Agreement.

2.12 “Fire Station” means a new Town of Fuquay-Varina shared Fire and EMS station to include 17,464 square feet for Main Building and Decontamination Building. This includes approximately 1660 square feet dedicated to EMS and associated sitework which includes parking lot, walkways, utilities, all as approved by the governing bodies of the Parties. The approved interior layout of the Fire Station at the execution of this Agreement is attached as Exhibit “D” and incorporated herein by reference.

2.13 “Project Costs” means the Design Build costs, including all costs related to construction administration by the Design Build Team, permitting and utility connections. Project costs also include agreed upon construction allowances, bid alternates, owner construction testing, furniture and equipment, and project contingencies. County’s share of the Project Costs shall not exceed the approved project budget without approval of County Board of Commissioners.

2.14 “Project” means the construction of the Fire Station as more fully described in Section 4.02.

2.15 “Project Site” means area of Town property necessary to accommodate the Project as further described in Section 4.01 and on the approved site plan. The approved site plan at the execution of this Agreement is attached as Exhibit “A” and incorporated herein by reference.

2.16 “Work” means all the work and services to be performed by Design Builder, Architect and Trade Contractors in designing and constructing the Project.

ARTICLE III

TERM, AMENDMENT, TERMINATION, and NOTICE

3.01 Term. This Agreement shall be effective upon the properly authorized execution of the Agreement by both Parties and shall continue in effect for five (5) years or until the Final Completion of Fire / EMS Station and execution of all superseding documents required by this ILA, whichever comes first (“Term”). The Parties may agree to an earlier termination in writing with the approval of and execution by their respective Managers when all responsibilities of this Agreement have been completed or replaced with superseding documents. The payment obligations set forth herein shall continue under the terms of this Agreement and shall be incorporated into any superseding documents along with all remedies and provisions related to such payment obligations contained herein.

3.02 Amendment. This Agreement may only be amended by a writing signed by the Parties. To propose an amendment to Agreement, either Party may submit the proposed amendment and the reasons for the proposed amendment in writing to the other Party per the Notice provisions in this Article III. If the Parties agree to the proposed amendment, a written amendment to Agreement shall be executed. The Parties may enter into amendments that do not have financial implications for either Party with the approval of and execution by their respective Managers. All other amendments shall require approval by the respective governing boards of the Parties.

3.03 Termination. This Agreement may be terminated by either Party upon breach of this Agreement by the other Party, provided that the non-breaching Party has notified the breaching Party in writing and provided thirty (30) days from

the notification to allow the breaching Party to cure the breach. If the breach remains uncured after thirty (30) days, or any reasonable mutual extensions thereof, the non-breaching Party may terminate this Agreement upon ten (10) days written notice. Notwithstanding any provision herein, in the event of breach or non-payment of the payment obligations herein, the Parties shall be entitled to such legal or equitable remedies as may be available, including specific performance.

3.04 Notice. Any notice required by this Agreement shall be in writing and delivered to the Parties at the following addresses:

For Wake County: Wake County Manager
Wake County Justice Center
301 S. McDowell St.
Raleigh, NC 27601

With a copy to Wake County Attorney
Wake County Justice Center
301 S. McDowell St.
Raleigh, NC 27601

For Town of Fuquay-Varina: Town Manager
Town of Fuquay-Varina
134 N Main Street
Fuquay-Varina, NC 27526

With a copy to Town Attorney
c/o Town of Fuquay-Varina
134 N Main Street
Fuquay-Varina, NC 27526

3.05 MOU Superseded. Upon the execution and delivery of this Agreement, this Agreement shall constitute the definitive Agreement between the Parties regarding all matters relating to the Project, including the MOU dated March 31, 2022, as amended, is terminated.

3.06 Survival of Terms Upon Termination. Those obligations concerning enforcement of warranties and representations which by their nature should survive the termination of this Agreement, as well any other documents executed in accordance with the terms and conditions herein shall survive the termination of this Agreement.

ARTICLE IV

OWNERSHIP OF THE PROJECT SITE

4.01. Town Property. Town owns in fee simple the property located in the Town of Fuquay-Varina, Holly Spring Township, Wake County, containing 6.06 acres, more or less, as described in the deed of record at Book 017761 Page 00124, Wake County Registry, and bearing Wake County Real Estate ID# 0050118, on which the fire station (hereinafter referred to as the "Fire Station Parcel")

4.02 Description of Project. The Town and County desire to construct a shared Fire and EMS facility consisting of an approximate 17,464 square feet building with two (2) full apparatus bays for Town apparatus and one (1) full bay for Wake EMS along with related sitework providing - Thirty-Eight (38) parking places on property currently owned by the Town. The project includes decontamination building to clean apparatus and Equipment. The Town of Fuquay-Varina Fire Department will utilize 7,076 dedicated square feet. WAKE EMS will utilize 1,660 dedicated square feet. The Fire Department and EMS will share 8,736 square feet.

4.03 Town as Lead Agency and Procurement Agent.

- a. Agency created. This agreement confirms and ratifies the County appointment of Town of Fuquay-Varina as its sole agent to procure, design and construct the Project through final completion. Town has served as the lead agency for all bidding and procurement requirements and shall continue to serve as lead agency for design and construction of the Project. The Town is the designated “Owner” in construction documents. County as a project partner shall have full access, at reasonable times and in a reasonable manner to all Construction Documents and agreements related to the Project.
- b. The Town is responsible for applying for and pursuing all permits and other approvals necessary for construction of the Project.
- c. The Project shall conform to the approvals granted by the Town of Fuquay-Varina and by the governing board of the Town of Fuquay-Varina and shall be designed and constructed to meet all requirements of the North Carolina State Building Code, the approved site plan and all other applicable laws and regulations.
- d. The Town shall ensure that County representatives are and remain closely involved in the final design and construction process, with regard to County components to the Project.
- e. The County shall be named as an additional insured (except Worker’s Compensation and Employer’s Liability insurance) on all insurance policies obtained or maintained in connection with the Project. The Town shall require a copy of all Certificates of Insurance received by Town and evidencing such coverages to be delivered to the County. Town shall ensure that the Construction Documents and its contracts with the Design Build Team to purchase and maintain insurance as is appropriate for the Work being performed for the duration of the Project, and that such insurance requirements are imposed by Design Build Team on their Trade Contractor, subcontractors, and consultants.

4.03 Indemnification. Any indemnification of Town in Construction Documents or any other agreement in connection with Project shall also run to and indemnify the County.

4.04 Ownership of Design Documents. As the Town will own the Fire Station, the Town shall retain ownership and use of the design work product for the Fire Station, and all areas included within the Project Site including the designated surface lot parking spaces and commercial container area, including but not limited to paper and electronic copies of drawings, renderings, plans, specifications, and Owner Maintenance Manuals. The Town shall retain ownership and use of the design work product commissioned by the Town for the remainder of the site under the Town’s ownership and control, including but not limited to paper and electronic copies of drawings, renderings, and plans.

ARTICLE V PROJECT FUNDING

5.01 Acceptance of GMP Proposal. The Town received a GMP Proposal on June 29, 2022, which was refined to a final GMP Estimate received August 1, 2022. The Guaranteed Maximum Price of the Construction Cost for the Project is **\$8,835,051** (“GMP”) based on the approved plans and specs.

5.02 EMS Shared Cost Basis shall be the cost of the GMP plus other project costs as defined in 2.13 for a total of **\$8,980,051**. The Total EMS Portion of the Shared Cost Basis is **not to exceed \$1,706,210** and shall be made to the Town in accordance with the Schedule set forth in Exhibit “B-1”.

5.03 Fire Tax Shared Cost Basis shall be the cost of the GMP plus other project costs as defined in 2.13 in addition to preconstruction and agreed upon share of cost of debt service for a total of **\$10,442,705**. The Total Fire Tax Portion of the Shared Cost Basis is **not to exceed \$2,615,897** and shall be paid to the Town in accordance with the Schedule set forth in Exhibits “B-2” and “B-3”.

5.04 The Town Commitment. The Town of Fuquay-Varina is financing the entire project with Town revenues and debt proceeds. The Town has received the approval required from the Local Government Commission to proceed with the financing of this Project. These funds will pay the full Project Cost as set forth in 5.08.

5.05 The County EMS Commitment. The County shall reimburse the Town for its portion of the project costs, as defined in Article 5.02 at final project completion. Within its Capital Improvement Program ("CIP"), Wake County EMS appropriated \$100,000 in the FY23 for EMS dedicated furniture, fixtures and equipment, as described in Article 5.07. The payment of \$1,706,210 for the EMS portion of the project will be fully funded in the County Capital Improvement Program for payment in FY24.

This payment equals 19% of the EMS shared project costs. Upon Final Completion of the Project, the Town and County will reconcile all allowances, change orders, contingencies, sales tax reimbursements, etc. to determine a final project cost. Final resolution of the project costs that results in either an increase or decrease in the County's commitment shall be reconciled in the lump sum payment.

5.06 The County Fire Tax Commitment. The County Fire Tax shall reimburse the Town for its portion of the Project Cost, as defined in article 5.03. The reimbursements shall be made to correspond to the Town's debt service obligations as set forth in Exhibits "B-2" and "B-3".

These payments equal 25.05% of the share fire portion of the Project. Upon Final Completion of the Project, the Town and Wake County Fire Tax will reconcile all allowances, change orders, contingencies, sales tax reimbursements, etc. to determine a final project cost. Final resolution of the project cost that results in either an increase or decrease in the County's commitment shall be reconciled both in the GMP debt service schedule (ref. exhibit B) and / or the furniture allowance commitment (ref. 5.03)

This Section 5.06 will survive the Term as defined in Section 3.01.

5.07 EMS Furniture and Equipment. The County will procure and install all furniture and equipment that is for the exclusive use of the EMS ("EMS FFE") station. EMS FFE shall remain the property of the County. This cost is not included in the 19% of Construction Cost outlined in 5.02.

5.08 Payment of Project Costs. All Project Costs shall be paid by Town, in its capacity as Lead Agency, in accordance with the funding terms. The payments to the Town from the County hereunder are payable solely from funds appropriated for that purpose by the Board of Commissioners of the County in its discretion. Neither the faith and credit nor the taxing power of the County is pledged to the payment of the County payments made hereunder.

5.09 Sales Tax. Each subcontractor under contract with the Bobbit Design Build shall include sales and use taxes to the Project that are legally enacted at the time the Guaranteed Maximum Price contract is established. The Design Builder shall maintain all tax records during the life of the project and furnish the Town with a complete list of all taxes paid by taxing authorities, invoice number, date, amount, etc.

The Town will track the project sales tax and submit for all refundable sales tax. The Parties agree to allocate the refundable sales tax 81% to the Town and 19% the County.

ARTICLE VI

FIRE STATION OWNERSHIP, CONTROL, AND RIGHTS OF USE

6.01 Ownership. Once the Project is operational, the Town will have ownership of the Fire Station.

6.02 Control. The Town shall have administrative and security control over the Fire Station, and the County will have administrative and security control over the EMS Station. The Parties will cooperate on matters of mutual concern, including such matters as hours of operation, maintenance of common shared areas and other matters which may arise.

6.03 Rights of Use. Prior to occupancy of the Fire Station, the parties shall enter a utilization agreement providing for the County's use of a portion of the Fire Station for EMS purposes ("Utilization Agreement"). The Utilization Agreement shall provide for a term of not less than forty (40) years from Substantial Completion by the County, and shall address the terms and conditions associated with the County's access, operation and maintenance of the EMS portion of the Fire Station. The County's Operational Costs associated with the Utilization Agreement shall be calculated proportionate to County's use and occupancy of the Fire Station, and shall be limited to sharing the costs of maintenance and operations. There shall be no rental payment due from the County; provided that the ILA shall provide for eviction of the County and termination of the Utilization Agreement if the County does not comply with the terms of the ILA after proper notice and opportunity to cure the breach. Neither party may change the term expectation or add additional financial responsibilities for either party without the approval of both governing authorities.

ARTICLE VII EXHIBITS AND RELATED DOCUMENTS

7.01 Exhibits

The following exhibits are attached hereto and incorporated by reference into this Agreement as if fully set forth herein:

- A. Exhibit "A" Project Site Plan
- B. Exhibit "B" Shared Cost Summaries ("B-1" and "B-2") and Payment Schedule ("B-3")
- C. Exhibit "C" Construction Scope Change Procedures for County Funded Components
- D. Exhibit "D" Interior layout of Fire Station

ARTICLE VIII OTHER PROVISIONS

8.01 No Third-Party Beneficiaries. This Agreement is not intended for the benefit of any third party. The rights and obligations contained herein belong exclusively to the Parties hereto and shall not confer any rights or remedies upon any person or entity other than the Parties hereto.

8.02 Ethics Provision. The Parties acknowledge and shall adhere to the requirements of N.C.G.S. 133-32, which prohibits the offer to, or acceptance by any state or local employee of any gift from anyone with a contract with the governmental entity or from a person seeking to do business with the governmental entity.

8.03 Governing Law, Venue. The Parties acknowledge that this Agreement shall be governed by the laws of the State of North Carolina. Venue for any disputes arising under this Agreement shall be in the courts of Wake County, North Carolina.

8.04 Entire Agreement. The terms and provisions herein contained constitute the entire agreement by and between the Parties hereto and shall supersede all previous communications, representations, or agreements, either oral or written between the Parties hereto with respect to the subject matter hereof.

8.05 Severability. If any provision of this Agreement shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement.

8.06 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same document.

8.07 Representations and Warranties. The Parties each represent, covenant and warrant for the other's benefit as follows:

- A. Each Party has all necessary power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement, and this Agreement has been authorized by Resolution spread upon the minutes of each Party's governing body. This Agreement is a valid and binding obligation of each Party.
- B. Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Agreement, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either Party is now a party or by which either is bound or constitutes a default under any of the foregoing.
- C. To the knowledge of each Party, there is no litigation or other court, or administrative proceeding pending or threatened against such Party (or against any other person) affecting such Party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. The Party's execution and delivery of this Agreement, and its compliance with its obligations under this Agreement, does not require the approval of any regulatory body or any other entity the approval of which has not been obtained.

8.08 Dispute Resolution. Notwithstanding any other provision of this Agreement, either Party may contest any decision, action or inaction of the other Party, or an alleged failure of the other Party to comply with the terms of this Agreement. In the event of conflict or default that might arise for matters associated with this Agreement, the Parties agree to informally communicate to resolve the conflict. If any such dispute cannot be informally resolved, then such dispute, or any other matter arising under this Agreement, shall be subject to resolution in a court of competent jurisdiction. Such disputes, or any other claims, disputes or other controversies arising out of, and between the Parties shall be subject to and decided exclusively by the appropriate General Court of Justice of Wake County, North Carolina.

8.09 No Waiver of Non-Compliance with Agreement. No provision of this Agreement shall be deemed to have been waived by any Party hereto unless such waiver shall be in writing and executed by the same formality as this Agreement. The failure of any Party hereto at any time to require strict performance by the other of any provision hereof shall in no way affect the right of the other Party to thereafter enforce the same. In addition, no waiver or acquiescence by a Party hereto of any breach of any provision hereof by another Party shall be taken to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.

8.10 Governing Law. The Parties intend that this Agreement be governed by the law of the State of North Carolina.

8.11 Assignment. No Party may sell or assign any interest in or obligation under this Agreement without the prior express written consent of the other Parties.

8.12 Liability of Officers and Agents. No officer, agent or employee of any Party will be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents or employees will be deemed to execute such documents in their official capacities only, and not in their individual capacities. This section will not relieve any such officer, agent, or employee from the performance of any official duty provided by law.

8.13 Electronic Version of Agreement. Any Party may convert a signed original of the Agreement to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Agreement shall be deemed for all purposes to be an original signed Agreement.

8.14 Iran Divestment Act. The Parties hereby certify that they, and all permitted subcontractors, if any, are not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58.

8.15 Divestment from Companies Boycotting Israel. Any organization defined under NCGS 147-86.80(2), Divestment from Companies Boycotting Israel, shall not engage in business totaling more than \$1,000 with any company/business, etc. that boycotts Israel. A list of companies that boycott Israel is maintained by the NC Office of State Treasurer, pursuant to NCGS 147-86.81(a)(1). Any company listed as boycotting Israel is not eligible to do business with any State agency or political subdivision of the State.

8.16 Non-Discrimination. The Parties hereby agree not to discriminate in any manner on the basis of race, natural hair or hairstyles, ethnicity, creed, color, sex, pregnancy, marital or familial status, sexual orientation, gender identity or expression, national origin, or ancestry, National Guard or veteran status, religious belief or non-belief, age, or disability with reference to the subject matter of this Agreement. The Parties agree to comply with the provisions and intent of Wake County Ordinance SL 2017-4.

8.17 Headings. Section and paragraph headings contained in this Agreement are solely for the convenience of the Parties and shall not affect in any way the meaning or interpretation of this Agreement.

8.18 Regulatory Authority. Nothing in this Agreement shall restrict or inhibit a Party's police powers or regulatory authority.

8.19 Further Actions. The Parties agree to cooperate fully and execute any and all further documents and to take all further actions that may be necessary to give full force and effect to the intent of this Agreement.

{Signature Pages to Follow}

TOWN OF FUQUAY-VARINA

ATTEST:

By:  _____
DocuSigned by:
2FA7B1ED707E4FA...
Town of Fuquay-Varina Manger

By:  _____
DocuSigned by:
5D20143FD496482...
Town of Fuquay-Varina Clerk

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

By:  _____
DocuSigned by:
3B9AD0F0454F4E7...
Town of Fuquay-Varina Finance Officer

COUNTY OF WAKE

ATTEST:

By:  _____
DocuSigned by:
B4AAFA58745C4F6...
Wake County Manager

By:  _____
DocuSigned by:
5CFA7BA29365457...
Clerk to the Wake County Board

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

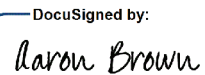
By:  _____
DocuSigned by:
9B4DE53324AD47E...
Wake County Finance Officer

Exhibit "A"
Project Site Plan

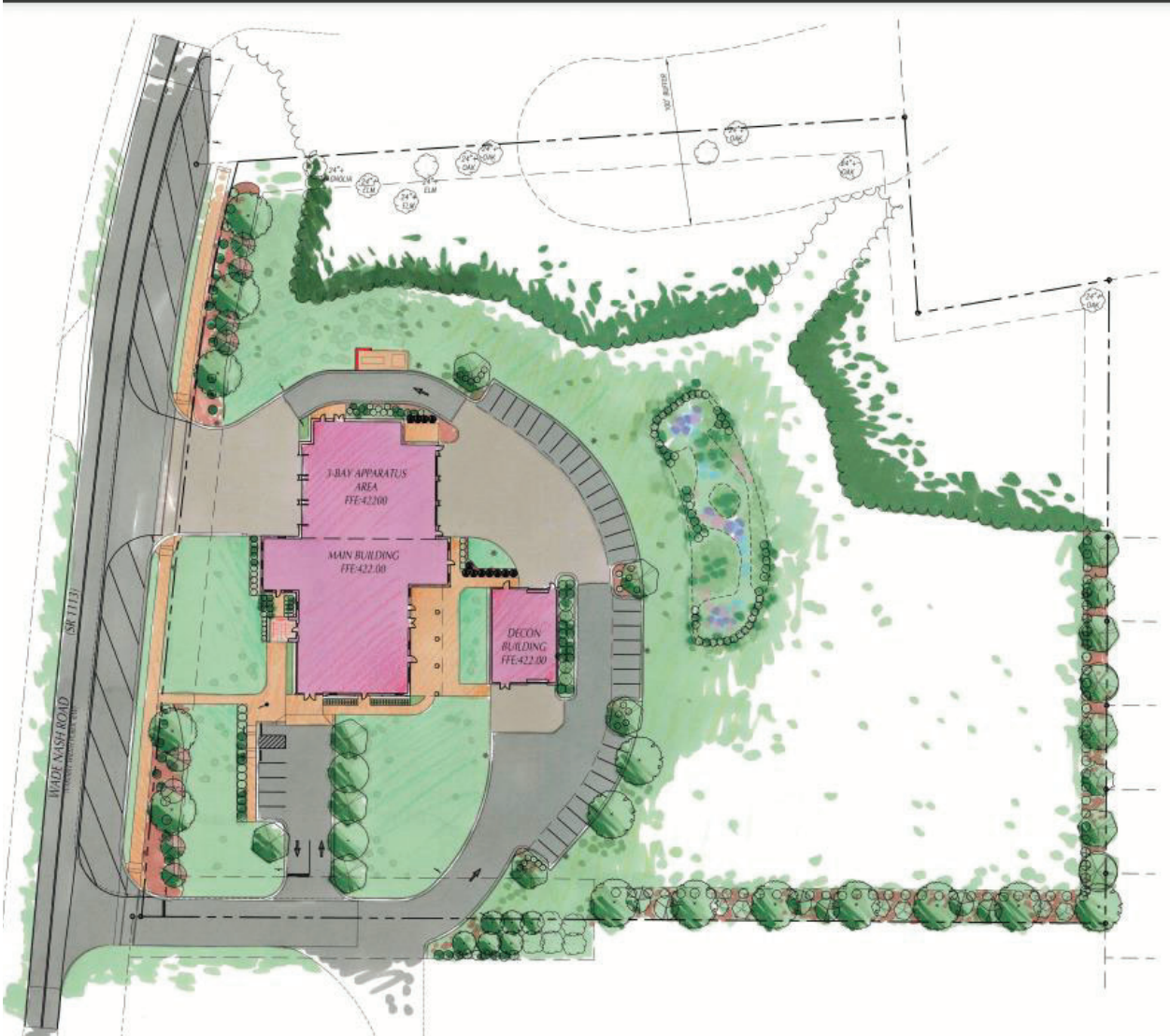


Exhibit “B-1”**Wake County EMS Shared Cost Summary****PHASE 1: MOU**

Description	Total Cost Basis	EMS Portion
Preconstruction and Design Services	\$ 380,000	\$ 72,200*

*Wake County to pay the Town of Fuquay-Varina per the MOU dated March 31, 2022

PHASE 2: ILA

Description	Total Cost Basis	EMS Portion
Dedicated EMS Furniture	N/A	[Wake Co. to provide/install outside of total EMS Portion]
Shared Furniture	\$ 70,000	\$13, 300
CMT Testing	\$ 75,000	\$14,250
Construction GMP (“Guaranteed Maximum Price” Contract	\$ 8,835,051	\$ 1,678,660
TOTAL NOT TO EXCEED	\$ 8,980,051	Total EMS Portion \$ 1,706,210**

** Wake County to pay Total EMS Portion to the Town of Fuquay-Varina after Project Cost reconciliation at Final Completion of Project [final resolution of the project costs per Article 5.05 may result in an increase or decrease in the County’s commitment and Total EMS Portion shall be reconciled in the lump sum payment due]

EXHIBIT “B-2”**Wake County Fire Tax Shared Cost Summary**

Description	Total Cost Basis	Fire Tax Portion	Fuquay-Varina Portion
Preconstruction and Design	\$ 380,000	\$ 77,104*	\$230,696
Dedicated Fire Furniture	\$ 170,000	\$ 42,585**	\$ 127,415
Shared Furniture	\$ 70,000	\$ 14,203**	\$42,497
Construction GMP and CMT Testing w/ Debt Service	\$9,908,205	\$2,482,005***	\$7,426,200
TOTAL NOT TO EXCEED	\$ 10,528,205	\$ 2,615,897	\$ 7,826,808

Final amounts to be reconciled per article 5.06

*Fire Tax to pay the Town of Fuquay-Varina by July 31, 2023

** Fire Tax to pay the Town of Fuquay-Varina at project final completion

***Fire Tax Portion (“Wake County Fire Tax Cost Share”) to be paid in annual payments to the Town of Fuquay-Varina according to the Schedule set forth in Exhibit “B-3”

Exhibit “B-3”**Town of Fuquay-Varina Payment Schedule**

Debt Service Schedule (See Davenport Bid Summary - Truist 20 year option)*				
	Total	Wake County EMS Cost Share (19%)	Wake County Fire Tax Cost Share (25.05% of 81%= 20.2905%)	Town of Fuquay- Varina Share (74.95% of 81%=60.7095%)
FY 2023	\$ 113,479	\$ -	\$ 28,427	\$ 85,053
FY 2024	\$ 608,860	\$ -	\$ 152,519	\$ 456,341
FY 2025	\$ 596,380	\$ -	\$ 149,393	\$ 446,987
FY 2026	\$ 583,899	\$ -	\$ 146,267	\$ 437,632
FY 2027	\$ 571,418	\$ -	\$ 143,140	\$ 428,278
FY 2028	\$ 558,938	\$ -	\$ 140,014	\$ 418,924
FY 2029	\$ 545,474	\$ -	\$ 136,641	\$ 408,833
FY 2030	\$ 533,028	\$ -	\$ 133,523	\$ 399,504
FY 2031	\$ 520,581	\$ -	\$ 130,406	\$ 390,176
FY 2032	\$ 508,135	\$ -	\$ 127,288	\$ 380,847
FY 2033	\$ 495,688	\$ -	\$ 124,170	\$ 371,518
FY 2034	\$ 483,242	\$ -	\$ 121,052	\$ 362,190
FY 2035	\$ 470,795	\$ -	\$ 117,934	\$ 352,861
FY 2036	\$ 458,349	\$ -	\$ 114,816	\$ 343,532
FY 2037	\$ 445,902	\$ -	\$ 111,699	\$ 334,204
FY 2038	\$ 433,456	\$ -	\$ 108,581	\$ 324,875
FY 2039	\$ 421,009	\$ -	\$ 105,463	\$ 315,546
FY 2040	\$ 408,563	\$ -	\$ 102,345	\$ 306,218
FY 2041	\$ 396,116	\$ -	\$ 99,227	\$ 296,889
FY 2042	\$ 383,670	\$ -	\$ 96,109	\$ 287,560
FY 2043	\$ 371,223	\$ -	\$ 92,991	\$ 278,232
Total	\$ 9,908,205	\$ -	\$ 2,482,005	\$ 7,426,200

*Town of Fuquay-Varina shall pay total amount due for each Fiscal Year.

**Wake County Fire Tax Cost Share shall be paid to Town of Fuquay-Varina each Fiscal Year no later than September 30th

***The payments to the Town hereunder are payable solely from funds appropriated for that purpose by the Board of Commissioners of the County in its discretion. Neither the faith and credit nor the taxing power of the County is pledged to the payment of the payments made hereunder.

Exhibit “C”

Construction Scope Change Procedures for Town Funded Components

C-1 Introduction. This Exhibit shall set forth the rights and obligations of Wake County and the Town with respect to construction scope change procedures for the construction and installation of the County Components to this Project. The Town, in its capacity as lead agency, will represent the Wake County as owner of the County Components. The Town has entered into Construction Documents as “Owner” with authority to approve payment requests as well in executing various construction contracts and other documents upon County consents and approvals as provided in Agreement. From time to time, during the course of construction of the Project, certain modifications to the Approved Plans and Specs may become necessary, based on the following various factors:

- 1) Field Orders for Minor Variations
- 2) Changes requested by the Wake County
- 3) Governmental Requirements (i.e. permit inspection required modifications)
- 4) Unforeseen Site Conditions
- 5) Conflicts in the Approved Plans and Specifications
- 6) Other construction circumstances (i.e. material shortage, alternative assembly method, etc.)
- 7) Fees by Utility Companies (i.e. power, gas, water, fiber, etc.) outside the construction contract but necessary to completion of the Project.

C-2 Field Orders for Minor Variations.

Field Orders prepared by the Project Architect that do not require a change order and/or minor variations required to effect the construction of the Project or some part of portion thereof, shall not require pre-approval by the County so long as the variation does not affect the functionality or intended use of the affected County Component (for example, moving the location of an electrical outlet), or the aesthetics of the work and provide clarifications or interpretations of the Construction Documents. Field order shall be handled as per the General Conditions of the Design Build Contract and shall not invalidate the Contract Documents nor release the surety. Field Orders shall not alter the Contract Price and/or provide an extension to Contract Time. The Town shall provide copies of all Field Orders issued by the Project Architect or Town to the County within three (3) days. Field orders that require a change order shall be handled according to Article C-4.

C-3 Changes requested by the Wake County

The County shall communicate any requested changes to the Approved Plans and Specifications to the Town in writing. The Town will then issue this request through the defined chain of communication to the Design Build Team. As soon as reasonably practicable thereafter, the Town shall provide the County with an estimate from the DB of the adjustment, if any, in the total Construction Costs required by such Requested Change Order, and the extent of the adjustment, if any, on the Project Schedule of such Requested Change Order. Town shall thereafter exercise reasonable efforts to complete negotiations of such change acceptable to the Parties as soon as reasonably practicable, but within the limits defined in Town’s General Conditions for Construction, which are part of the Construction Contract, which the County shall use its own internal processes and procedures to review. If the

County then affirmatively elects, in writing, to proceed with a Requested Change Order, such changes shall be deemed an “Approved Change Order” and Town shall then promptly direct the Design Build Team to make any needed changes to the Plans and Specifications.

C-4 Changes Resulting from Other Factors. The Town shall communicate promptly, in writing, to the County with any changes to the Approved Plans and Specifications that are required by the circumstances described in Article C-1 Items 3-6, and any cost impacts, to the extent such costs can be defined. Time being of the essence for this construction project, it will be imperative for the County to promptly respond to any time sensitive conditions that arise in this manner. Therefore, the County shall respond within three (3) business days to the Town’s notification of change with approval or alternative direction. It will be incumbent upon the Town to provide adequate information for the County to respond. Should the County fail to respond within (3) business days, the Town shall act on behalf of the County with an appropriate directive to the Construction Team. The Town shall then promptly direct the Design Build Team to make any needed changes to the Construction Costs or Project Schedule. If Town fails to provide notification of these changes to the County within the timeframe given above then the Town shall be responsible for such changes, including cost and time added, to the Construction Contract.

C-5 Utility Installation Premiums. The Town shall communicate promptly to the County with any additional costs related directly to utilities for County Components that are outside the construction contract and identified after the date of this Agreement. The County will respond promptly on how it plans to pay for any utility fee that is identified as County responsibility.

C-6 Emergency Changes

The Town shall be permitted to make emergency changes to this scope of work which would otherwise compromise, in the opinion of Town, or Design Build Team, the integrity or structural strength of the Project, provided that written notice of said changes and associated costs are forwarded to the County as soon as practicable after notification of such changes of County Components.

C-7 Change Order Process. The Town, as lead agency shall review all change order requests with the Design Build Team on at least a monthly basis, and any change order request for County Components shall be promptly presented (as per C-4) to the County for review and approval. With County approval, the Town shall have the authority to execute change orders to the construction contract on behalf of the County, for all County Components. The County is responsible for increased costs incurred pursuant to an Approved Change Order entered unless attributable to errors of the Design Build Team or the Town or for failure to notify the County as described in C-4 of this Exhibit.

C-8 Contingency Funds for Approved Change Orders. Funding for approved Change Orders for Town Components shall be from the Project Contingencies defined as follows:

- a) DB Contingency as defined in Article C-9
- b) Project Contingency as defined in Article C10 and as shown in Exhibit “B”
- c) As otherwise directed by Wake County

C-9 Design Build Contingency. DB Contingency is an amount reserved *within* the construction contract used in the Design Build delivery method for the Design Builder.

to defray costs caused by a limited set of circumstances defined within the construction contract. This amount is customarily limited to 2% of the Cost of Work. Design Build Contingency is not intended to be used to defray costs to expand the scope of the Project.

C-10 Project Contingency. Project Contingency is the fund reserved and controlled by the Owner *outside* of the construction contract to fund the cost of the change orders to the construction scope of work, as opposed to the Design Build Contingency, which is reserved within the Design Build contract.

Exhibit “D”

Interior Layout of Fire Station





Wake County

301 South McDowell Street
Raleigh, NC

Meeting Agenda Board of Commissioners

Monday, August 15, 2022

2:00 PM

Wake County Justice Center

Regular Meeting

Meeting Called to Order: Chair Sig Hutchinson

Pledge of Allegiance

Invocation: Commissioner James West

Items of Business

1. [Approval of Agenda](#)
2. [Approval of the Minutes of the Regular Meeting of July 11, 2022 and the Work Session of June 13, 2022](#)
3. [Presentation of Additional Funds from the Wake County Board of Alcoholic Control](#)

Consent Agenda

4. [2022 Local Emergency Planning Committee Tier II Grant Award](#)
5. [Accept and Appropriate \\$855,769 of Federal funds from the North Carolina Department of Health and Human Services for the Low-Income Household Water Assistance Program \(LIHWAP\)](#)
6. [Accept Additional Funding from the North Carolina Department of Health and Human Services and Establish One Full-Time Position for the HIV/STD Community Program](#)
7. [Affordable Housing Development Interest Transfer Request from Evergreen Construction Company for Silver Spring Housing Associates, LLC](#)
8. [Affordable Housing Loan Extension for two CASA Properties Located at 1131 Carlton and 212 N. Boylan in Raleigh, NC](#)
9. [Affordable Housing Development Funding for a Scattered-Site Rental Development from Southeast Raleigh Promise in Raleigh, NC](#)

10. [MOA for Development of Affordable Housing on County-Owned Property at 0 Chapanoke Road in Raleigh, NC](#)
11. [Acquisition of the Donaldson Property through the County's Open Space Program](#)
12. [Approve Three-Year Contract with PaymentWorks, Inc. for Vendor Management and Banking Verification Services](#)
13. [Execution of Multi-Year Lease Agreement for a Modular Classroom Unit to be Located at the Wake County Fire Training Center](#)
14. [Interlocal Agreements between Wake County and Triangle J Council of Governments for Administration of the ARPA Elevate Wake Community Funding Program](#)
15. [Approval of an Interlocal Agreement with the Town of Fuquay-Varina for the Fire Station #4 and Wake EMS Project](#)
16. [Wake County Public School System FY 2023 Capital Improvement Program Appropriations and Reallocations](#)
17. [Wake Technical Community College Capital Improvement Program FY 2023 Plan Appropriations and Reallocations](#)
18. [Amend the Fiscal Year 2023 Budget to Appropriate General Fund Fund Balance and Town of Cary Municipal Reimbursement for Wake County Second Primary Election and Town of Cary Municipal Runoff Election](#)
19. [Approval of Federal Aviation Administration \(FAA\) Grant 61 Funds for the Raleigh-Durham Airport Authority \(RDU\)](#)
20. [Transfer of Custody of Historic Physical Collection of Wake County Commissioners Board Meeting Minutes to the State Archives of North Carolina, NC Department of Natural and Cultural Resources](#)
21. [Designation of Map and Plat Review Officers for the Town of Garner](#)
22. [Settlement of 2021-2022 Property Tax Collections by the Tax Administrator, Charge of 2022-2023 Tax Collections to the Tax Administrator](#)
23. [Tax Committee Recommendations for Penalty Waivers, Refund Requests and Various Reports](#)

General Public Comments

24. [General Public Comments](#)

Regular Agenda

Manager's Report

- 25. [Community Survey: Process Overview](#)
- 26. [Update on Monkeypox and Wake County Response](#)

Appointments

- 27. [Adult Care Home Community Advisory Committee](#)
- 28. [Board of Adjustment \(Wake County\)](#)
- 29. [Capital Area Workforce Development](#)
- 30. [Citizens Energy Advisory Committee](#)
- 31. [Housing Authority](#)
- 32. [Human Services](#)
- 33. [Juvenile Crime Prevention Council](#)
- 34. [Library Commission](#)
- 35. [Wake County Water Partnership](#)
- 36. [United Arts Grants Panel](#)
- 37. [Wendell Planning Board](#)
- 38. [Upcoming Vacancies for September](#)

Other Business**Closed Session****Adjourn**

Item Title: Approval of an Interlocal Agreement with the Town of Fuquay-Varina for the Fire Station #4 and Wake EMS Project

Specific Action Requested:

That the Board of Commissioners authorizes the County Manager to execute an Interlocal Agreement with the Town of Fuquay-Varina for funding and construction of the Fuquay-Varina Fire Station #4 and Wake EMS Project, subject to conditions acceptable to the County Attorney.

Item Summary:

Purpose: North Carolina state statutes require the Board of Commissioners to approval all interlocal agreements that are associated with construction projects.

Background: On November 15, 2021, the Board of Commissioners approved a Memorandum of Understanding (MOU) with the Town of Fuquay-Varina for development of Fire Station #4 and Wake EMS Project. The shared Fire and EMS facility consists of an approximate 17,464 square foot building with two full bays for the Town apparatus and one full bay for Wake EMS. There will also be approximately twenty-four parking spaces on property currently owned by the Town. The Town of Fuquay-Varina Fire Department will use 7,076 dedicated square feet. Wake EMS will use 1,660 dedicated square feet. The Fire Department and EMS will share 8,736 square feet.

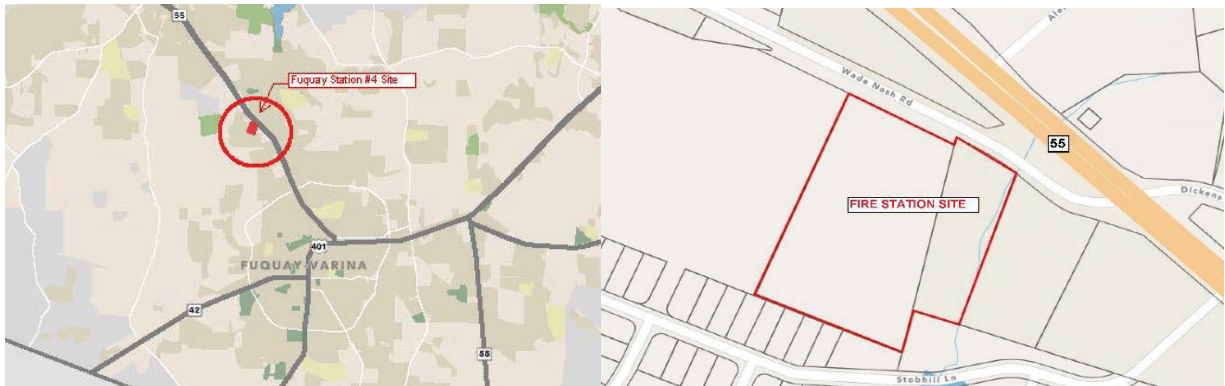
Board Goal: This project complement Public Safety Goal 3: Provide sustainable, high-quality public safety services to meet the community's current and future needs.

Fiscal Impact: The cost basis for the shared project development cost is \$8,980,051. The Interlocal Agreement calls for the County to pay the Town the County's EMS portion of the construction project in the amount of \$1,706,210 at final project completion which is anticipated in early FY24. This is 19% of the total cost shown above. The current FY 2023 budget appropriated \$100,000 in FY 2023 for furniture, fixtures and equipment that the County will directly purchase for the EMS spaces. The payment of \$1,706, 210 for the EMS portion of the project will be incorporated into the FY2024-30 County Capital Improvement Program for payment in FY 2024.

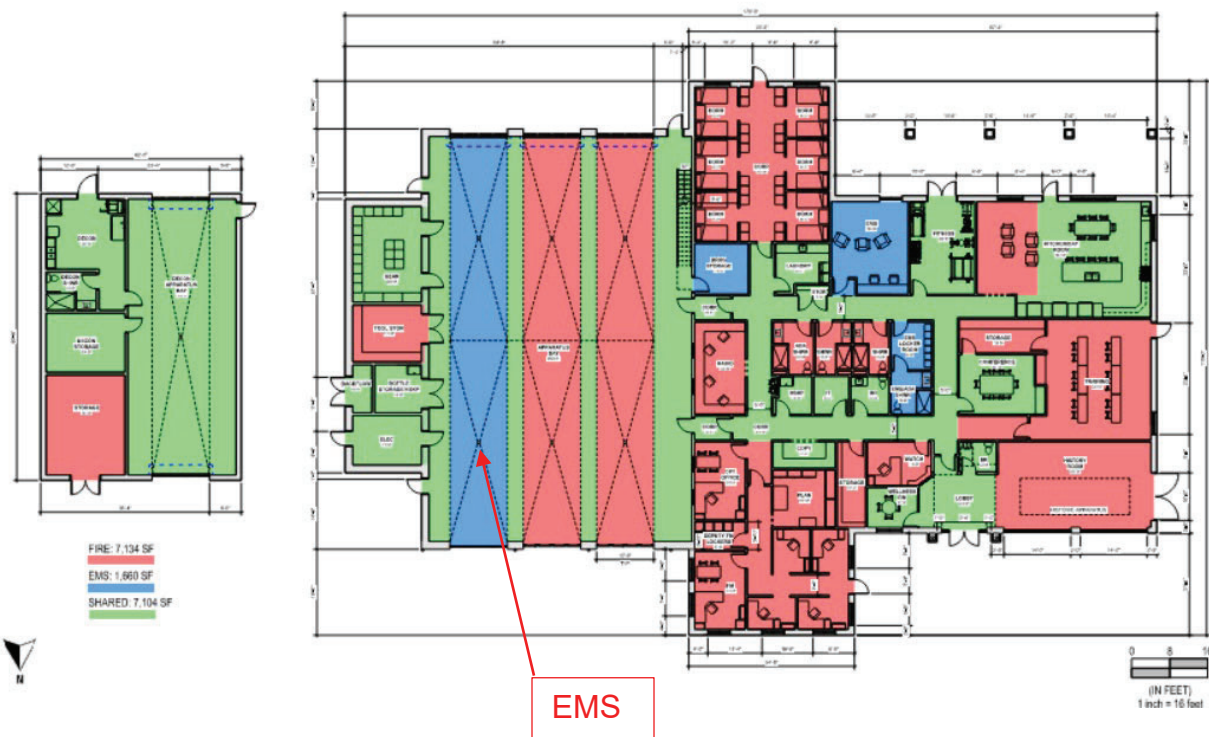
The Fire Tax Capital Improvement Plan is repaying 25.05% of the fire station portion of the total project cost over the 20-year financing term. The total Fire Tax portion for the projects design, furniture, fixtures and equipment (FF&E), testing and construction is \$2,615,897.

Additional Information:

In 2020, the Town of Fuquay-Varina purchased property at 4821 Wade Nash Road for a new Fire Station. The Town desired to continue collaborative public safety efforts by partnering with Wake County EMS to maintain and expand the assignment of Wake County EMS and staff in the Town. The site location is highlighted in the maps below.



The Town entered into a Design-Build contract, authorized by the Fuquay-Varina Town Council in accordance with North Carolina General Statute 143.128.1.A, with a Design-Build Team it selected. The Town entered into Phase 1 of a progressive Design-Build Contract which encompasses the full design of the project. The interior floor plan is shown below:



An Interlocal Agreement has been developed between the County and Town of Fuquay-Varina for development of this project, based on the construction bids received by the Town and other project costs. The purpose of this document is to set forth the agreement between the Parties to undertake the co-located construction of the Fuquay-Varina Fire Station #4 and Wake County EMS Facility on property owned by the Town. The Town of Fuquay-Varina shall serve as the lead agency to manage design, development, and construction of the project. The County will reimburse the Town with a simple lump sum payment at final completion for the County's portion of the project.

In June 2022, the Design Build Team completed the permitting and bidding phase of the project. On July 11, 2022, the Town of Fuquay-Varina awarded a guaranteed maximum price contract amendment for construction of the project and approved the Interlocal Agreement between the County and the Town of Fuquay-Varina. Construction of the project is anticipated to commence in September of 2022 and is scheduled to be completed in the Summer of 2023.

Attachments:

1. Draft Interlocal Agreement

Sevanne Moushegian

From: Darrell Alford
Sent: Thursday, February 2, 2023 7:03 AM
To: Joseph Vindigni; Sevanne Moushegian; Diana McBride; Aaron Brown
Cc: Mark Forestieri; David Rutherford; Melissa England
Subject: RE: Fuquay-Varina ILA Question

All,

Aaron will provide the accounting template. The Fire Tax will NOT be paying the \$28,427 in FY23. Even though it is written that way, we all agreed that we would move that amount to FY24 and add it to the projected amount owed at that point. I am in agreement that a form of documented way of paying these funds in future years is needed, however I will caution that we do NOT currently have these funds to be "encumbered" from a line item. Our debt account is an ongoing capital line that we add to each year based on projects that are coming.

Darrell Alford

Director
Wake County Government
Fire Services & Emergency Management
darrell.alford@wakegov.com
919.856.6487 office | 919.500.1554 mobile | 919.856.6236 fax
331 S. McDowell St, P.O. Box 550, Raleigh N.C. 27602
wakegov.com

From: Joseph Vindigni <Joseph.Vindigni@wakegov.com>
Sent: Thursday, February 2, 2023 6:50 AM
To: Sevanne Moushegian <Sevanne.Moushegian@wakegov.com>; Diana McBride <Diana.McBride@wakegov.com>; Aaron Brown <Aaron.Brown@wakegov.com>
Cc: Mark Forestieri <mforestieri@wakegov.com>; David Rutherford <David.Rutherford@wakegov.com>; Melissa England <Melissa.England@wakegov.com>; Darrell Alford <Darrell.Alford@wakegov.com>
Subject: RE: Fuquay-Varina ILA Question

Thanks Sevanne,

I have included Aaron and Darrell on this email as well.

[@Aaron Brown](#) Can you please provide the fire tax accounting template to use in relation to this project.

Thanks,

Joseph M. Vindigni

Deputy Director of Operations
Wake County Government
Fire Services & Emergency Management
Joseph.vindigni@wakegov.com

919.856.5625 office | 919.815.5318 mobile

331 S. McDowell St, Raleigh NC 27601

wakegov.com

<< OLE Object: Picture (Device Independent Bitmap) >>

From: Sevanne Moushegian <Sevanne.Moushegian@wakegov.com>

Sent: Wednesday, February 1, 2023 4:22 PM

To: Diana McBride <Diana.McBride@wakegov.com>; Joseph Vindigni <Joseph.Vindigni@wakegov.com>

Cc: Mark Forestieri <mforestieri@wakegov.com>; David Rutherford <David.Rutherford@wakegov.com>; Melissa England <Melissa.England@wakegov.com>

Subject: Fuquay-Varina ILA Question

Good afternoon.

I'm working on processing the Fuquay-Varina ILA. I need some help from you, please.

In FY23, \$28,427.00 is supposed to be paid from Wake County Fire Tax to Fuquay-Varina. There will be an addition amount of **approximately** \$2,453,578.00 paid FY24-FY43 to Fuquay-Varina. We have the ILA entered in OnBase. We just need to know what accounting template to use for the Wake County Fire Tax. I've spoken with Melissa in Finance and we decided that the best way to show how these funds will be paid for the future years since we all might not still be working here 20 years from now was to put a note on the contract and to have accounting lines set up showing what will be encumbered in FY23 and what will be encumbered for the future payments. This will be shown as a non-encumbered amount and we will decrease it as we encumber the money in the appropriate fiscal years.

I am aware that the figures that are shown in Exhibit B-3 are just estimates. That is O.K. We will only encumber the amount that is needed for each fiscal year.

I'm attaching the ILA so you can see what I'm talking about. I am also going to add your names (unless you tell me otherwise) to receive the completed contract from OnBase since your department will need to reference it to pay the Fire Tax for this year and future years.

<< File: Fuquay-Varina ILA 02-01-23.pdf >>

If you would like me to call you and go over this with you, please let me know. Otherwise, I just need the Fire Tax accounting template to enter in OnBase.

Thank you,

Sevanne Moushegian

Business Officer

Wake County Facilities Design & Construction

Mailing Address: P.O. Box 550, Raleigh, NC 27602

Physical Address: 336 S. Fayetteville St., Ste. 1111, Raleigh, NC 27601

(919) 856-6352 office (919) 856-6355 fax

<< OLE Object: Picture (Device Independent Bitmap) >>