

REQUEST FOR BOARD ACTION

ITEM NO. 20.

DATE OF MEETING: December 14, 2009

REQUESTED BY: Charles Newman, Interim Emergency Management Director

SHORT TITLE: Resolution Approving Amendment to the Existing Long Creek-Grady Volunteer Fire Department, Inc. Agreement

BACKGROUND: On February 20, 2002 Pender County signed a contract with the Long Creek-Grady Volunteer Fire Department to provide continuing fire protection services within its primary coverage area and mutual aid to surrounding County Fire Departments.

The Long Creek-Grady Volunteer Fire Department received its Light Rescue Certification on August 5, 2009. The Secretary of State officially changed the name to Long Creek-Grady Volunteer Fire & Rescue Department, Inc. With this change, they are now eligible for additional grant funding through The Office of Emergency Medical Services.

In order to maintain consistency, it is necessary for Pender County to amend the current Fire Department Funding Agreement to reflect this name change. Attached is the proposed agreement reflecting Long Creek-Grady Volunteer Fire & Rescue Department, Inc. as the correct name. The execution of this name change will not change or alter response protocols established by the Fire Department and no funding levels will be affected.

Staff respectfully recommends approval.

SPECIFIC ACTION REQUESTED: The Board is requested to approve an amendment to the Pender County-Long Creek-Grady Volunteer Fire Department contract to reflect the name change to Long Creek-Grady Volunteer Fire & Rescue Department, Inc.

COUNTY MANAGER'S RECOMMENDATION

Respectfully recommend approval.

RT
Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that

an amendment to the Pender County-Long Creek-Grady Volunteer Fire Department Agreement to reflect the name change to Long Creek-Grady Volunteer Fire & Rescue Department, Inc. is hereby approved. The Chairman and/or County Manager is authorized to execute any/all agreements necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Tate ___ Brown ___ Blanchard ___ Rivenbark ___ Williams ___

Jimmy T. Tate, Chairman 12/14/09
Date

ATTEST 12/14/09
Date

State of North Carolina
Department of the Secretary of State

SOSID: 0087177
Date Filed: 8/5/2009 1:08:00 PM
Elaine F. Marshall
North Carolina Secretary of State
C200921500251

ARTICLES OF AMENDMENT
NONPROFIT CORPORATION

Pursuant to §55A-10-05 of the General Statutes of North Carolina, the undersigned corporation hereby submits the following Articles of Amendment for the purpose of amending its Articles of Incorporation.

1. The name of the corporation is: Long Creek-Grady Volunteer Fire Department, Inc.

2. The text of each amendment adopted is as follows (*state below or attach*):

The corporation shall be called "Long Creek Grady Volunteer Fire & Rescue, Inc."

3. The date of adoption of each amendment was as follows: _____

The board of directors approved the name change at its monthly board meeting on June 8th, 2009 with final approval by the department membership at its monthly business meeting on June 25th, 2009.

4. (*Check a, b, and/or c, as applicable*)

a. _____ The amendment(s) was (were) approved by a sufficient vote of the board of directors or incorporators, and member approval was not required because (*set forth a brief explanation of why member approval was not required*) _____

b. The amendment(s) was (were) approved by the members as required by Chapter 55A.

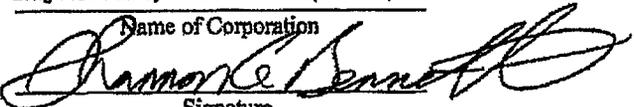
c. _____ Approval of the amendment(s) by some person or persons other than the members, the board, or the incorporators was required pursuant to N.C.G.S. §55A-10-30, and such approval was obtained.

5. These articles will be effective upon filing, unless a date and/or time is specified: 11:59:59 PM

This the 30th day of June, 2009

Long Creek-Grady Volunteer Fire Department, Inc.

Name of Corporation


Signature

Shannon G. Bennett, President/Chairman BOD

Type or Print Name and Title

*Any questions Regarding This
Contact me @ 910-619-1980
Shannon G. Bennett*

Notes:

1. Filing fee is \$25. This document and one exact or conformed copy of these articles must be filed with the Secretary of State.

Revised January 2000
CORPORATIONS DIVISION

P. O. BOX 29622

Form N-02
RALEIGH, NC 27626-0622

B. Description of the Department's Service Area - The Department's service area is defined in Exhibit A, attached hereto and incorporated herein by reference.

C. Term of Agreement - The term of this agreement shall be from the date of execution through September 30, 2002; provided, however, that in the event no replacement contract is executed covering this service district on or before September 30, 2002, this contract shall be extended under the same terms and conditions unless it is cancelled by written notice mailed to the other party ninety (90) days prior to termination.

D. Payment - For their services, County agrees to pay to the Department the full amount of fire service district taxes collected from the Department's service area, to be paid on a monthly basis. If the Department does not collect at least Thirty Thousand (\$30,000) Dollars annually in fire service area taxes, then the County will use the Countywide Fire Line Item or other revenues to supplement the Department's Fire Tax Collections in order to bring them up to Thirty Thousand (\$30,000) Dollars per annum. The County shall furnish to the Department by October 1st of each year an accounting of all Fire Taxes collected during the properly approved, executed, and on file at the County Manager's Office, no later than November 20, 2001.

E. Assets Should Department Dissolve - Should the Department voluntarily disband, dissolve or otherwise become unable to provide fire protection service for their service area, or fail to maintain at least a 9s fire insurance rating from the NC Department of Insurance, any and all equipment and other assets acquired by the use of the fire district tax funding (in whole or in part) will revert to the Pender County Fire Commission for recommendation to the County Commissioners for approval as to final disposition. To protect the service district taxpayers, the County Commission will assure that this equipment and other assets will be used for fire protection in the service area the Department used to serve.

II. Termination of Agreement; Breach of Agreement -

Each party shall have the right to terminate this Agreement by giving the other party one hundred eighty (180) days written notice of termination. In the event of termination, the Department shall only be entitled to a pro rata share of the fire district tax collected during the fiscal year based on the length of time that the contract was in effect. In the event the Department loses its Department of Insurance certification of meeting 9S standards, the County may terminate the contract on giving thirty (30) days written notice. In addition, the Department shall provide County with a financial accounting, as required by County, for all funds received by the Department and on hand up to date of termination.

III. Department Financial Reporting Requirements.

A. Annual Written Accounting - Within sixty (60) days of the end of the Department's fiscal year, which extends from July 1 through June 30, the Department shall provide the County with all information necessary to complete a full financial accounting or provide the County with an audit from a recognized CPA firm. If the Department contracts with a separate CPA firm, the audit report is due within one hundred twenty (120) days of the end of the fiscal year.

B. Financial Records - The Department shall establish fiscal control and accounting procedures in accordance with generally accepted accounting principles. The procedures shall account for all funds paid by the County to the Department, and the Department shall maintain such

records for three (3) years after the date of termination of the contract.

C. **County Access to Financial Records** - The Department shall allow the County Manager, or his designee, access to and the right to inspect and copy at reasonable hours and upon reasonable notice, all financial records concerning County funds.

D. **Approval of Purchase Requiring Loans/Lease**-Dept service shall not exceed 25% of tax revenue from the county. In order for the County to be aware of all potential financial liability, any asset purchased through a loan or lease process with a financial company must be submitted to the County Finance Officer for certification that the total debt service of the department including the proposed loan does not exceed 25% of the tax revenue received from the county. Loans/Leases must be approved by the County Commission in cases where the total debt service will exceed 25% of tax revenue

IV. Independent Contractor -

The Department understands and agrees that, in entering into this Agreement and providing services, it is acting as an independent contractor. Neither the Department, nor its employees, members nor personnel shall be deemed or construed to be employees of Pender County. The Department shall remain in complete operational control of its vehicles, program, volunteers, assistants and employees. The Department shall be responsible for any on the job injuries to its agents, volunteers, or employees. The Department shall control the hours, manner, and methods of providing fire suppression coverage by their volunteers, employees and all other persons acting in their behalf. The Department shall maintain insurance coverage covering their activities.

V. Indemnity Agreement -

The Department shall indemnify and save harmless Pender County from any and all liability and expenses, including attorney fees, court costs, and other costs incurred by Pender County as a result of the negligence of the Department, its agents and employees in the performance of this contract.

VI. Entire Agreement -

This Agreement, with exhibits, constitutes the entire understanding of the parties and contains all of the terms agreed upon with respect to the subject matter hereof. No modification or rescission of this Agreement shall be effective unless evidenced by a writing signed by both parties to this Agreement.

Any prior contracts between the parties hereto are hereby declared null and void as to the parties to this Agreement, save and except any prior agreement which has as its third party beneficiary any financial institution for the purpose of a loan guarantee. The portion(s) of said agreement setting out the loan guarantee shall be incorporated in this contract by reference.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, by authority duly given, on the date first above written.

PENDER COUNTY

(CORPORATE SEAL)

ATTEST:

BY:

Rick Benton
Clerk to the Board of Commissioners

Jimmy Tate, Chairman
Board of Commissioners

I, _____, a Notary Public of the State and County aforesaid, certify that _____ personally appeared before me this day and acknowledged that he is Clerk to the Board of Commissioners of Pender County, and that by authority duly given and as the act of the Board, the foregoing instrument was signed in its name by its Chairman, sealed with its official seal and attested by himself as its Clerk.

WITNESS my hand and official seal, this _____ day of _____, _____.

Notary Public
My Commission Expires: _____

Long Creek-Grady Fire & Rescue Department

(CORPORATE SEAL)

ATTEST:

BY:

Secretary

President

I, _____, a Notary Public of the State and County aforesaid, certify that _____ personally appeared before me this day and acknowledged that (s)he is Secretary of the Long Creek-Grady Volunteer Fire & Rescue Department, a non-profit corporation and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President and attested by him/ herself as its secretary.

WITNESS my hand and official seal, this _____ day of _____, _____.

Notary Public
My Commission Expires: _____