

**INTERGOVERNMENTAL AGREEMENT
FOR THE PROVISION OF
911 EMERGENCY COMMUNICATION SERVICES
BETWEEN
FULTON COUNTY, GEORGIA and
THE CITY OF FAIRBURN, GEORGIA**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”), by and between Fulton County, Georgia (hereinafter “County”), a political subdivision of the State of Georgia, acting by and through its duly elected Board of Commissioners, and the City of Fairburn, Georgia (hereinafter “City”), a municipality of the State of Georgia, entered into this 1st day of January, 2023.

WITNESSETH:

WHEREAS, the Fulton County Board of Commissioners has previously entered into the Agreement with the City to provide use of the Fulton County Radio Communications System for a period of three (3) years; and

WHEREAS, the Georgia Constitution, ARTICLE IX, § 2, ¶ 3, except as otherwise provided by law, prohibits cities and counties from exercising governmental authority within each other’s boundaries except by Intergovernmental Agreement; and

WHEREAS, the County and the City desire to enter into a new Intergovernmental Agreement (the “911 IGA”) for the County to provide a public safety answering point within the boundaries of the City for a term of twelve (12) months from January 1, 2023, through and including December 31, 2023, with three (3) automatic renewals commencing on January 1 of each successive year; and

WHEREAS, the 911 IGA establishes the cost of Enhanced 911 Emergency call reception and public safety radio dispatch services to be provided by the County to the City pursuant to this Agreement; and

WHEREAS, the County and the City desire to maintain a mutually beneficial, efficient, and cooperative relationship that will promote the interests of the citizens of both jurisdictions.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the parties hereunto agree as follows:

ARTICLE 1

PURPOSE AND INTENT

- 1.1 The purpose of this Agreement is to provide the vital and necessary communications link between the City of Fairburn citizens and the Fulton County Department of Emergency Services-911 through use of the County's consolidated 911 call reception and radio dispatching of requests of public safety services for a term of twelve (12) months from January 1, 2023, at 0000 hours and concluding at 2400 hours on December 31, 2023, with three (3) automatic renewals commencing on January 1 of each successive year. This Agreement shall terminate at 2400 hours on December 31, 2026.
- 1.2 Fulton County, therefore, agrees to provide the City of Fairburn with courteous, efficient, and accessible E911 and public safety radio dispatch services to requests for assistance from citizens involving emergencies, non-emergencies, and response to natural and man-made disasters, for the term prescribed in this Agreement, consistent with the overall quality of services provided throughout the County.

ARTICLE 2

DEFINITIONS

For the purposes of this Agreement, the following terms shall be defined as:

- 2.1 ***Call for Service*** means a request received from the public through the County's public safety answering point, Enhanced 911 system, requiring emergency or non-emergency Police Department, Fire Department, or Ambulance pre-hospital care response or assistance in response to natural and man-made incidents.
- 2.2 ***Communications Officer*** means any employee of the Fulton County Department of Emergency Services-911, who has successfully completed the basic training course required by O.C.G.A. § 35- 8- 23, to receive, process, or transmit public safety information and dispatch law enforcement officers, firefighters, medical personnel, or emergency management personnel.
- 2.3 ***Contract Administrators*** means the Director of the Fulton County Department of Emergency Services-911, or the designee of such Director for the COUNTY, and the City Administrator, or the designee of such Administrator of the CITY. The primary responsibilities of the Contract Administrators are to coordinate and communicate with each other and to manage and supervise execution and completion of the terms and conditions of this Agreement as set forth herein. In the Administration of the Agreement, as contrasted with matters of policy, all parties may rely on the instructions and determinations made by the

Contract Administrators: provided, however, that such instructions and determinations do not increase the obligations of the COUNTY or the CITY hereunder.

- 2.4 ***Emergency Communications Services*** means the receipt of incoming calls for service through the enhanced 911 telephone system for emergency and non-emergency requests for medical, police, fire, and other public safety services, and initiation of the appropriate response action. The service also includes the coordination of requests for support and auxiliary services from field units and refers crimes and incidents not requiring an on-scene investigation by a field unit to the appropriate police between citizens and Fulton County Department of Emergency Services 911 through consolidated, Enhanced 911 call reception and radio dispatching of requests for public safety services. The Countywide APCO P25 Phase 2 Digital 800MHz trunked radio system (hereinafter “County 800 MHz Radio System”) is the primary method of dispatching calls for service to field units and private ambulance services.
- 2.5 ***Emergency 911 (“Department”)*** means that unit of Fulton County Government responsible for emergency communications services, including answering all telephone 911 calls for emergency service and dispatching police, fire and medical services to the proper locations. The Department also maintains the County APCO P25 Phase 2 Digital 800 MHz radio system to ensure the vital communications link between the citizens and the delivery of service by the appropriate agency is not interrupted.
- 2.6 ***Emergency Medical Priority Dispatch System*** means that system employed by Fulton County to process medical calls and provide callers with pre-arrival instructions.
- 2.7 ***Enhanced 911 Emergency Telephone Number System*** means that system which provides County Emergency Communications personnel the telephone number, name, and address of the telephone subscriber, and other pertinent information on any 911 calls placed within Fulton County.
- 2.8 ***Fire Department*** means the City of Fairburn Fire/EMS Department.
- 2.9 ***Police Department*** means the City of Fairburn Police Department.
- 2.10 ***Public Safety Answering Point (“PSAP”)*** means an emergency communications dispatch operation, responsible for answering all telephone 911 calls, employing technologies such as trunked radio, Enhanced 911, Computer Aided Dispatch (“CAD”) and Mobile Data.
- 2.11 ***Staffing Levels*** means the availability of communications officers to handle calls for service from the City of Fairburn. Specific positions or individuals cannot be identified inasmuch as the number of dispatchers is based on call volume and

incoming calls for service are processed by the first available call taker regardless of where the call originates, which is intended to reflect that same level being provided to the area by operation of the County budget.

ARTICLE 3

TERM OF AGREEMENT

The initial term of this Agreement is for twelve (12) months, from January 1, 2023, at 0000 hours and concluding December 31, 2023, at 2400 hours, with three (3) automatic renewals commencing on January 1 of each successive year. This Agreement shall terminate at 2400 hours on December 31, 2026. At the conclusion of the last term (2400 hours on December 31, 2026), the City will be solely responsible for providing all public safety answering point services within City boundaries, unless extended by mutual agreement approved by both governing bodies. The parties will meet on or before December 31, 2026, to review service under this Agreement and consider proposed modifications of the term. Any such proposed change is subject to consideration and approval of the Fulton County Board of Commissioners and the City of Fairburn City Council.

The parties agree that the City may, at any time, upon sixty (60) days notice to the County, terminate this Agreement upon its determination that it wishes to provide its own emergency communications services or provide emergency communications services by other means.

ARTICLE 4

COMPENSATION AND CONSIDERATION

- 4.1 For the emergency communications services to be rendered pursuant to this Agreement, based upon the call volume described herein below in sub-paragraph 5.4, the County is entitled to impose and retain a monthly 911 charge upon each wired and wireless telephone subscriber served by the County's 911 service, as provided by O.C.G.A. § 46-5-134. Additionally, the County is entitled to impose and retain an annual subsidy from the City in the amount of **\$400,000.00**. Nothing in this Agreement shall preclude the County's right to continue to collect such fees for 911 access and services performed during the term hereof as it relates to calls originating from within the City of Fairburn.
- 4.2 The County agrees to provide an invoice representing the full amount of the subsidy owed by the City for the term of this Agreement and subsequent invoices for any renewals of the Agreement within thirty (30) days of the execution of the Agreement or each renewal of the Agreement as applicable. The City agrees to promptly remit full payment of the invoiced amount within (30) days of receipt of the invoice from the County. A late payment penalty will accrue at the rate of one percent (1%) per month or part thereof for any payment that is delinquent.

ARTICLE 5

EMERGENCY COMMUNICATIONS SERVICES

- 5.1 The County operates a consolidated public safety answering point in its Emergency Communications Center on a 24-hour basis, 365 days per year, staffed in two (2) 12-hour shifts each day from which the services contemplated under this Agreement will be rendered. The Communications Officers receive citizens' requests for service, process those requests, dispatch emergency units as appropriate, and monitor Police, Fire, and EMS activities. The Emergency Medical Priority Dispatch System is employed to process medical calls and provide callers with pre-arrival instructions.
- 5.2 Based upon the volume of calls originating from within the City of Fairburn, provisions of emergency communications services provided by communications officers shall be as furnished in the positions of call takers, dispatchers, and supervisors during day, and morning shifts and may be modified by the Director of Fulton County Department of Emergency Services 911 from time to time as needs arise. These staffing positions represent the global level necessary for a complete 24-hour period in Fulton County.
- 5.3 The Director of Fulton County Department of Emergency Services 911 may utilize overtime to fill temporary vacancies caused by, but not limited to: sick or annual leave issues, temporary disability, relief of duty, and Family Medical Leave Act absences. The financial costs associated with overtime utilized to fill such vacancies will be the sole responsible of the County.
- 5.4 The nature of the wide-ranging (both emergency and non-emergency), continuous and multitudinous nature of the calls received by a large metropolitan Public Safety Answering Point (PSAP) like the Fulton County Department of Emergency Services 911, makes it difficult to assign an "average call answer time." However, it is the objective of the Department to respond, on average, to 911 calls emanating from the City of Fairburn with an average ten (10) second call answer time for emergency calls for service 90% of the time. Exceptions would be unpredictable system overload, declared disaster, or disruption in voice or data transmission.

ARTICLE 6

EQUIPMENT

The County shall furnish and maintain in good working condition for the benefit of the City, all necessary 800 MHz digital radio emergency communication facilities and equipment necessary and proper for the purpose of performing the services, duties, and responsibilities described in this Agreement.

ARTICLE 7

EMPLOYMENT STATUS

- 7.1 All emergency communications officers, as well as any other Fulton County personnel assigned under this Agreement, are and will continue to be employees of the County for all purposes, including but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions. All emergency communications employees will continue to report under the management structure established in the Fulton County Department of Emergency Services 911.

- 7.2 In the event the City Administrator becomes dissatisfied with the performance of any sworn or civilian personnel performing emergency communications services on behalf of the City, the City Administrator shall discuss the concerns with the Director of the Fulton County Department of Emergency Services 911.

- 7.3 Fulton County Department of Emergency Services 911 employees will not be specifically assigned as call takers for the City of Fairburn, because the County operates a consolidated center, the E911 telephone equipment routes calls from anywhere in the County to the first available call taker. Any other method of staff deployment would reduce the service level and adversely impact all citizens of Fulton County, including the City of Fairburn. Accordingly, the number of employees needed by call volume from Fairburn has been estimated, but not assigned to specific employees.

ARTICLE 8

RECORDKEEPING AND REPORTING

- 8.1 The Police and Fire Department Records Sections are the central repository for all police and fire department records and are available public records as defined by the Georgia Open Records Act, O.C.G.A. § 50-18-70, *et seq.*

- 8.2 The Director of the Fulton County Department of Emergency Services 911 shall prepare and deliver monthly reports to the City Administrator. The reports shall describe the volume of 911 calls for service, identification of police, fire, or EMS, and answer speed for calls originating within the City of Fairburn.

- 8.3 Except as limited by provision of state or federal law, the City may request, review, and access data and County records, at a mutually agreed upon time and place, to ensure compliance with this Agreement.

ARTICLE 9

ANCILLARY SERVICES

- 9.1 The County must provide a variety of ancillary services incumbent on a large metropolitan public safety answering point. These services will be provided to the City pursuant to this Agreement, the consideration for which has been calculated as part of the payment provided in Article 4.
- 9.2 In addition to E911 reception and radio dispatch, ancillary services provided by the Department of Emergency Services 911 include technical operations, administration, quality assurance, training, and preparing and planning for, responding to, and recovering from emergencies or disasters.
- 9.3 During the term of this Agreement, the County will continue to provide administrative services, cost allocation, facilities maintenance, fiscal management, general operating supplies, human resources, information systems, maintenance, public information, purchasing, utilities and other critical services attendant to the operation of a public safety answering point.
- 9.4 During the term of this Agreement, the County will continue to administer the 911 Advisory Committee as required by O.C.G.A. § 46-5-136. The City of Fairburn will be required to participate in committee meetings, as well as utilize the committee for the City's compliance with the requirements as provided for within state law.

ARTICLE 10

CITY- COUNTY RELATIONS

- 10.1 The Director of the Fulton County Department of Emergency Services 911, or his/her designee, will notify the County Manager and City Administrator in the event of a significant emergency communications or emergency management situation within the City. The Director of Fulton County Department of Emergency Services 911 and the City Administrator shall designate the kinds of incidents that are to be considered "significant" by a memorandum. In the event no memorandum is executed, the City Administrator shall be notified consistent with the notification by the Fulton County Department of Emergency Services 911 to the County Manager.
- 10.2 At the request of the City Administrator, the Director of the Fulton County Department of Emergency Services 911 or that official's designee shall be available to attend City Council meetings on an "as needed" basis.
- 10.3 The County shall be the sole provider of public safety answering point services during the term of this Agreement.

ARTICLE 11

TRANSITION

- 11.1 In the event of the termination or expiration of this Agreement, the County and the City shall cooperate in good faith in order to effectuate a smooth and harmonious transition from County to a municipal public safety answering point and to maintain the same high quality of 911 and emergency medical response provided by this Agreement for the residents, businesses, and visitors of the City.
- 11.2 The Director of the Fulton County Department of Emergency Services 911 or his/her designee shall present a summary report to the City Council within sixty (60) days of the conclusion of this Agreement to facilitate the transition to the City's PSAP.
- 11.3 The County and the City agree that ninety (90) days prior to the expiration of this Agreement, the City Administrator and County Manager will meet and confer to effect a smooth transition.

ARTICLE 12

INDEMNIFICATION

- 12.1 It is the intent of the parties to be covered under the auspices of the immunity granted by O.C.G.A. § 46-5-131. Only to the extent permitted by law and in the event O.C.G.A. § 46-5-131 is deemed inapplicable, shall the City defend, indemnify, and hold harmless the County and its officers, employees, or agents from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, or agents may incur as a result of any claim, demand, suit, or cause of action or proceeding of any kind or nature arising out of, relating to, or resulting from the negligent performance of this Agreement by the City, its employees, officers, and agents. The County shall promptly notify the City of each claim, assert all statutory defenses, cooperate with the City in the defense and resolution of each claim and not settle or otherwise dispose of the claim without the City's participation.
- 12.2 The immunity and indemnification provisions of this Agreement shall survive termination of this Agreement for any claims that may be filed after the termination date of the Agreement provided the claims are based upon actions that occurred during the term of this Agreement.

ARTICLE 13

EVENT OF DEFAULT

- 13.1 An event of default shall mean a material breach of this Agreement by the County as follows:
- 13.1.1 The County repeatedly disregards local priorities established by the City Administrator which the County is required to observe by the Agreement, and which have been communicated in writing by action of the City Council to the County on more than one occasion.
 - 13.1.2 The County does not maintain sufficient personnel in the Department of Emergency Services 911 to handle the volume of 911 calls as required by Article 5.
 - 13.1.3 The County consistently fails to meet the levels of service outlined in Article 5, which failure has been communicated in writing by action of the City Council to the County on more than one occasion.
- 13.2 An event of default shall mean a material breach of this Agreement by the City as follows:
- 13.2.1 Failure of the City to establish specific objectives, written and attainable local priorities for local emergency communication services activities and transmit the same to the Director of the Fulton County Department of Emergency Services 911.
 - 13.2.2 Failure of the City to remit timely payment of any subsidy amount payable pursuant to Article 4 of this Agreement.

ARTICLE 14

TERMINATION AND REMEDIES

- 14.1 The City or the County may terminate this Agreement only for an event of default, or as outlined in Article 3, Term of Agreement, unless the default is cured as provided in this Article.
- 14.2 If an event of default occurs, in the determination of the City, the City shall notify the County in writing; specify the basis for the default and advise the County that the default must be cured to the City's reasonable satisfaction within a sixty (60) day period. The City may grant additional time to cure the default, as the City may deem appropriate, without waiver of any of the City's rights, so long as the County has commenced curing the default and is effectuating a cure with diligence and

continuity during the sixty (60) day period, or any longer period which the City prescribes.

- 14.3 If an event of default occurs, in the determination of the County, the County may notify the City in writing, specify the basis for the default and advise the City that the default must be cured to the County's reasonable satisfaction within a sixty (60) day period; except that for events of default related to the payment of fees, the cure period is reduced to thirty (30) days. The County may grant additional time to cure the default, as the County may deem appropriate, without waiver of any of the County's rights, so long as the City has commenced curing the default and is effectuating a cure with diligence and continuity during the sixty (60) day period (30 days for payments) or any longer period which the County prescribes.
- 14.4 In the event that either party breaches a material term or condition of this Agreement, other than an event of default, the party in breach, upon receipt of a written request from the non-breaching party, shall remedy the breach within thirty (30) days of receipt of the request. If the breach is not cured within the specified time period, the non-breaching party may utilize the remedies of declaratory judgment, specific performance, mandamus or injunctive relief to compel the breaching party to remedy the breach.
- 14.5 The parties reserve all available remedies afforded by law to enforce any term or condition of this Agreement.

ARTICLE 15

AMENDMENTS

This Agreement may be modified at any time during the term by mutual written consent of both parties.

ARTICLE 16

NOTICES

All required notices shall be given by first class mail, except that any notice of termination shall be mailed via U.S. Mail, return receipt requested. Notices shall be addressed to the parties at the following addresses:

If to the County:

Richard "Dick" Anderson, County Manager
141 Pryor Street, S.W.,
Suite 1000
Atlanta, Georgia 30303
404-612-8335
404-612-0350 (facsimile)

With a copy to:

Soo Jo, County Attorney
141 Pryor Street, S.W.,
Suite 4038
Atlanta, Georgia 30303
404-612-0235
404-730-6324 (facsimile)

If to the City:

Mario Avery, Mayor
City of Fairburn
56 SW Malone Street
Fairburn, Georgia 30213
770-964-2244

Tony Phillips, City Administrator
City of Fairburn
56 SW Malone Street
Fairburn, Georgia 30213
770-964-2244

James McCarthy, Chief of Police
191 W Broad Street
Fairburn, Georgia 30213
770-964-1441

Cornelius Robinson, Fire Chief
19 NE Broad Street
Fairburn, GA 30213
770-683-4630

With a copy to:

Rory K. Starkey, City Attorney
Hilliard Starkey Law
561 Thornton Road, Suite G
Lithia Springs, GA 30122
678-909-2096
678-623-5767 (facsimile)

ARTICLE 17

NON- ASSIGNABILITY

Neither party shall assign any of the obligations or benefits of this Agreement.

ARTICLE 18

ENTIRE AGREEMENT

The parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and agreement of the parties regarding the subject matter of the Agreement.

ARTICLE 19

SEVERABILITY

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed, and the remainder of this Agreement will continue in full force and effects as if the invalid provision or portion of the provision were not part of this Agreement.

ARTICLE 20

BINDING EFFECT

This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors and assigns.

ARTICLE 21

COUNTERPARTS

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

WHEREFORE, the parties have read and understood the terms of this agreement, they do hereby agree to such terms by execution of their signatures on the next page.

**[SIGNATURES APPEAR ON FOLLOWING PAGE]
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the City and County have executed this Agreement through their duly authorized officers as of the date first above written.

FULTON COUNTY, GEORGIA

ATTEST:

Robert L. Pitts, Chairman
Fulton County Board of Commissioners

Tonya R. Grier, Clerk (SEAL)
Clerk to the Commission

APPROVED AS TO FORM:

APPROVES AS TO SUBSTANCE:

Soo Jo
County Attorney

Chris Sweigart, Director
Department of Emergency Services 911

FAIRBURN, GEORGIA

ATTEST:

Mario B. Avery, Mayor
City of Fairburn

Brenda B. James, City Clerk
City of Fairburn

(Seal)

APPROVED AS TO SUBSTANCE

Tony M. Phillips, City Administrator
City of Fairburn

James McCarthy, Chief of Police
City of Fairburn

APPROVED AS TO FORM:

Cornelius Robinson, Fire Chief
City of Fairburn

Rory K. Starkey, City Attorney
City of Fairburn