

**INTERLOCAL AGREEMENT  
BETWEEN  
CHARLOTTE-MECKLENBURG POLICE DEPARTMENT  
AND  
CHARLOTTE FIRE DEPARTMENT**

**THIS INTERLOCAL AGREEMENT** (“Agreement”) is made effective the 1<sup>st</sup> day of July 2019, by and between the **CHARLOTTE-MECKLENBURG POLICE DEPARTMENT** (“CMPD”), and the **CHARLOTTE FIRE DEPARTMENT** (“CFD”), both Departments of the CITY OF CHARLOTTE (“City”) a municipal corporation organized under the State of North Carolina.

WITNESSETH:

WHEREAS, the 911 Board was created by SL 2007-383 (N.C.G.S. § 62A-40, *et seq.*) and recodified by SL 2015-241 as N.C.G.S. § 143B-1400, *et seq.*, to collect and administer the 911 Fund; and

WHEREAS, the 911 Board adopted a policy allowing allocation of distributions from the 911 Fund for eligible expenditures of a Secondary Public Safety Answering Point (“Secondary PSAP”) that is able to receive the voice and data of an Enhanced 911 call transferred from a Primary PSAP and to complete the call taking process dispatching law, medical, fire or other responder; and

WHEREAS, the CMPD as a Primary PSAP presently transfers 911 calls to the CFD, a Secondary PSAP, which relieves the CMPD from completing the call taking process and dispatching such 911 calls; and

WHEREAS, the CMPD and the CFD operate within the same 911 System and the CMPD desire distributions from the 911 Fund to further distribute for the benefit of the CFD; and

WHEREAS, the Parties desire to contract in accordance with the Secondary PSAP funding policies, rules, and regulations of the 911 Board;

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned Parties agree as follows:

1. **DEFINITIONS.** The following terms shall have the following meanings for purposes of this Contract (including all Exhibits). Definitions not defined below which are set forth in N.C.G.S. § 143B-1400, *et seq.* are incorporated herein.
  - 1.1. “Back-up PSAP”: means a facility equipped to operate as part of the 911 System and all other features of its associated Primary PSAP. A Backup PSAP receives 911 calls only when they are transferred from the Primary PSAP or on an alternate routing basis when calls cannot be completed to the Primary PSAP.
  - 1.2. “Interoperable”: Capability of the telephone systems of the Primary and Secondary PSAPs to ensure complete transfer of a 911 call.
  - 1.3. “Secondary PSAP Funding Policy”: means Exhibit A to this Agreement and as the Policy may be amended.
  - 1.4. “Secondary PSAP”: is able to receive the voice and data of an Enhanced 911 call transferred from a Primary PSAP and complete the call taking process dispatching law, medical, fire or other responder. Receiving the voice and data of an Enhanced 911 call includes all

identification and location data generated by the Subscriber.

- 1.5. "Executive Director": the Executive Director of the 911 Board.
- 1.6. "Allocated Funds": the amount authorized by the 911 Board for distribution to the CMPD for further allocation to the CFD determined annually based on a "per 911 call basis" as measured by the Electronic Call Analysis Tracking System. These Allocated Funds shall not diminish the monthly base amount distribution to the CMPD, nor modify the CMPD's carry-forward pursuant to N.C.G.S. § 143B-1406(c).
- 1.7. "State Funds": Any funds appropriated by the N.C. General Assembly or collected by the State of North Carolina. The 911 Funds are State Funds. The Parties recognize that the expenditure of money deposited in the State treasury, including the 911 Fund, is subject to acts of appropriation by the General Assembly and actions of the Budget Director.
- 1.8. "Unit of Local Government": As defined in N.C.G.S. § 160A-460, means a county, city, consolidated city-county, local board of education, sanitary district, facility authority created under Article 20 of Chapter 160A of the General Statutes, special district created under Article 43 of Chapter 105 of the General Statutes, or other local political subdivision, authority, or agency of local government.

## 2. SECONDARY PSAP.

- 2.1. The Secondary PSAP to receive the Allocated Funds is operated by the CFD and receives 911 calls transferred from the CMPD, the Primary PSAP, to complete the call taking and dispatching process. The Parties agree and acknowledge that the conditions set forth in Exhibit A, the 911 Board's Secondary PSAP Funding Policy, must be satisfied.
- 2.2. Allocated Funds shall be determined by the 911 Board and utilize call data from the CMPD. Allocated Funds shall not be available for Back-up PSAPs.
- 2.3. This Agreement will be provided to the Executive Director prior to disbursement of the Allocated Funds from the 911 Fund.
- 2.4. 911 System equipment may be procured by the CMPD and placed within either the CMPD or the CFD by consent of the parties, provided that such equipment used to complete the call taking and dispatch processes shall be interoperable if purchased by the Primary PSAP, e.g. Computer Aided Dispatch (CAD).
- 2.5. To the greatest extent practicable, expenditures of the Allocated Funds shall be made to ensure greater interoperability in call taking, processing and dispatching appropriate responders.
- 2.6. The CMPD will collect and compile documents required to be provided by the CFD as directed by the 911 Board for the purpose of verifying the requirements of the Secondary PSAP Funding Policy.
- 2.7. The CFD shall assist the CMPD in any audits of the 911 Fund by supplying required document(s) to satisfy the requests of an auditor.

## 3. CHANGES IN FUND DISTRIBUTIONS.

- 3.1. The Parties acknowledge that if changes are requested with respect to 911 Fund distributions or allocations, such changes must be authorized in writing by the 911 Board. The Parties understand the 911 Board will not approve any changes that exceed its authority under N.C.G.S. § 143B-1400, *et seq.*, or subsequent modification thereof.
  - 3.2. The CFD may carry forward Allocated Funds for eligible expenditures for capital outlay, capital improvements, or equipment replacement. Amounts carried forward to the next fiscal year from Allocated Funds made by the 911 Board may not be used to lower the Allocated Funds unless the amount is greater than twenty percent (20%) of the average yearly amount distributed to the CFD in the prior two (2) years. The 911 Board may allow the CFD to carry forward a greater amount without changing the CFD's Allocated Funds.
  - 3.3. Administrative expenses or costs of the Parties are not eligible expenses for 911 Fund distributions.
  - 3.4. Each Party shall immediately notify the other of any change in conditions or applicable law, or any other event, which may significantly affect its ability to perform its obligations under this Agreement.
  - 3.5. The Parties agree that the CMPD, as a Primary PSAP, may assign this Agreement to its successor or continue the Agreement by amending the term if restructuring of City/County government and/or legislation is enacted that does, or may, affect the term of this Agreement.
  - 3.6. A request for change in the allocation of funds by the CFD must be submitted to the CMPD in writing to forward to the Executive Director. The Request must comply with the 911 Board's policies and state the basis for the request. The Request must be submitted at the same time that CMPD as a Primary PSAP would submit its requests for additional funds. The CFD shall submit a revised budget and any other documentation or information requested by the Executive Director to the CMPD indicating the planned use of such additional funds.
4. **TERM.** This Agreement shall commence on July 1, 2019 (the "Effective Date"), continue in effect for three (3) years, and automatically renew for two (2) additional one (1) year terms, unless otherwise terminated or amended as provided herein. Allocated Funds provided by the 911 Board may not be utilized for expenses incurred by the Parties prior to the Effective Date or subsequent to the termination of this Agreement.
  5. **DISTRIBUTION OF FUNDS.** Allocated Funds will be delivered to the CMPD together with the monthly base amount distributed to the CMPD.
    - 5.1. Allocated Funds shall be distributed only for expenses that are eligible under N.C.G.S. § 143B-1400, *et seq.* and the policies of the 911 Board.
    - 5.2. Administrative costs are not allowable expenses.
    - 5.3. Annually, the CFD and the CMPD shall develop an agreed upon budget identifying eligible 911 expenses for the CMPD as the Primary PSAP and a separate budget for the CFD as the Secondary PSAP. Each budget will identify the anticipated maintenance and operations expenses of the emergency dispatch and communications system, facilities and accessories for the coming fiscal year for the CFD and CMPD systems. Eligible 911 expenses submitted by the CMPD as the Primary PSAP to the 911 Board will not be subject to this Agreement.

- 5.4 The CFD shall provide its list of eligible 911 expenses to the CMPD for submission to the 911 Board as specified below. The 911 Board will provide disbursement of Allocated Funds to the CMPD for the eligible 911 expenses of the CFD based on the 911 Board's eligible expenditure list.
- 5.5. The CFD shall provide the City with three (3) quarterly reports and an annual report to receive reimbursement. The quarterly report, submitted by the CFD no later than the 20<sup>th</sup> day following the close of the end of each quarter, will consist of one completed Revenue-Expenditure Form, invoices for all expenses listed, and general ledger proof of payment and other documents as may be required by the 911 Board. The CFD shall be reimbursed quarterly up to the Allocated Funds held by CMPD at the time.
- 5.6. The final report will be due to the CMPD no later than August 8<sup>th</sup> of each calendar year. The report will be submitted to the 911 Board for approval. Any amount of Allocated Funds distributed to the CFD which are not approved by the 911 Board will be set-off from the CFD's Allocated Funds for the subsequent year.
- 5.7 Should the CMPD receive a request from the 911 Board for additional information relating to the CFD's operations or expenses, the CFD will promptly (within thirty (30) days or within the time period requested by 911 Board) provide the information requested to the CMPD for delivery to the 911 Board.
- 5.8. The Parties will maintain full, accurate, and verifiable accounting records to support the preparation of financial statements in conformity with accounting practices applicable to N.C. local governments as approved by, or consistent with, standards of the Local Government Commission.
- 5.9. In the event the CFD breaches any of the terms contained in this Agreement, or the 911 Board determines that the CFD has made material misrepresentations in any document received by the 911 Board, the CFD shall return any un-distributed Allocated Funds held by the CFD. The CFD's obligations that are created by this subsection to return Allocated Funds apply only to Allocated Funds held by the CFD. Allocated Funds are "held" by the CFD only to the extent they are in the actual, not constructive, possession of the CFD. The CFD understands that the 911 Board may set-off Allocated Funds for the subsequent year upon breach of this Agreement or the 911 Board's determination that expenditures were not eligible for reimbursement under State law or 911 Board policies.
- 5.10 The CFD understands that CMPD will be required to enforce subsection 5.9 by the 911 Board and that CMPD has no discretion to vary the requirements or to seek any exception to the decision(s) of the 911 Board.
- 5.11 The Parties are required to attend workshops or other instructional sessions relating to administration of the Grant and use of the 911 Funds provided by the 911 Board during the term of this Agreement.

## 6. INDEPENDENT STATUS OF PARTIES.

- 6.1. It is agreed between the Parties that neither this Agreement nor any provisions hereof shall be deemed to create a partnership or joint venture between or among the CMPD, the CFD or with the 911 Board.

- 6.2. The Parties acknowledge that they are each independent departments. Neither Party shall represent itself as an agent of the other, nor shall the Agreement be construed so as to make either party an agent of the 911 Board. Neither Party shall have the ability to bind the other Party or the 911 Board to any agreement for payment of goods or services, nor shall it represent to any person or entity that it has such ability.

7. RECORDS, RECORDS RETENTION.

- 7.1. The CFD shall maintain full, accurate and verifiable financial records, supporting documents, and all other pertinent data consistent with the 911 Board's funding model and policies.
- 7.2. The CFD shall retain all financial records, supporting documents, and all other pertinent records related to this Agreement for five (5) years from the termination of this Agreement. In the event such records are audited, all such records shall be retained beyond the five (5) year period until any and all audit findings have been resolved.
- 7.3. Pursuant to N.C.G.S. § 143C-6-23 and § 147-64.7, the CFD agrees to make available to the CMPD for the State Auditor, or designated representatives of the foregoing, all of its records requested, and agrees to allow the 911 Board or its representative to audit, examine and copy any and all requested data, documents, proceedings, records and notes of activity. Access to these records shall be allowed upon request at any time during normal business hours and as often as the State Auditor or 911 Board or its representative may deem necessary.
- 7.4. The CFD acknowledges and agrees that it will be subject to the audit and reporting requirements prescribed by N.C.G.S. § 143C-6-23, *et seq.*, and The Local Government and Fiscal Control Act - Annual Independent Audit, Rules, N.C.G.S. § 143B-1400, *et seq.* and the policies, procedures and rules of the 911 Board, as applicable.

8. TERMINATION; AVAILABILITY OF FUNDS.

- 8.1. If the CFD fails for any reason to fulfill in a timely and proper manner its obligations under this Agreement, the CMPD shall thereupon have the right to terminate this Agreement by giving written notice to the CFD of such termination and by specifying the effective date of termination. In such event, the CMPD shall have no responsibility to make additional payments under this Agreement after the Termination Date. The CFD shall return all undistributed Allocated Funds to the CMPD without the demand therefor. The CFD shall not be relieved of liability to the CMPD for damages sustained by the CMPD by virtue of any breach of this Agreement.
- 8.2. The CMPD may terminate this Agreement immediately upon notice to the CFD at any time if sufficient Allocated Funds are not available from the 911 Board.

- 8.3. Either party may terminate this Agreement upon sixty (60) days' notice, or by mutual consent as may be agreed. Notice may be given by either Party to the other at the addresses and to the attention of the Party's representative specified below.
  - 8.4. Termination of this Agreement by the CFD shall not prohibit the CMPD from seeking remedy for additional costs consequential to the termination, which are incurred by the CMPD from the 911 Board. The CFD shall repay to the CMPD, which will then be forwarded to the 911 Board, any Allocated Funds received in excess of such distributions due under this Agreement.
  - 8.5. The Parties recognize that the expenditure of money deposited in the State treasury, including the 911 Fund, is subject to acts of appropriation by the General Assembly and actions of the Budget Director.
9. LIABILITIES AND LOSS. Neither Party assumes liability, nor shall it have any liability under this Agreement, with respect to accidents, bodily injury, illness, or third party breach of contract, or any other damages, claims, or losses arising out of any activities undertaken by the other Party or its contractors.
10. REMEDIES. In the event of the CFD's non-compliance with any provision in this Agreement or the CFD's failure to adhere to the policies, rules and statutes of the 911 Board, or the provisions of this Agreement, the CMPD may take any actions authorized by the policies, rules and statutes of the 911 Board or by this Agreement. These remedies include, but are not limited to, reducing or suspending Allocated Funds or terminating such, including the withdrawal of all funds described in this Agreement except for funds already expended on otherwise eligible expenditures. However, no termination of this Agreement removes the reporting and records retention requirements of this Agreement.
11. CFD'S REPRESENTATION AND WARRANTIES. The CFD hereby represents and warrants that:
- 11.1. The CFD is a Secondary PSAP and duly organized and validly existing as a Department of the City of Charlotte, a municipal corporation under the laws of the State of North Carolina.
  - 11.2. This Agreement constitutes a binding obligation of the CFD, enforceable against it in accordance with its terms. The execution and delivery of this Agreement have been duly authorized by all necessary action on the part of the CFD and does not violate any applicable organizational documents of the CFD or any agreement or undertaking to which it is a party or by which it is bound.
  - 11.3. There is no action, suit, proceeding, or investigation at law or in equity or before any court, public board or body pending, or to the CFD's knowledge, threatened against or affecting it, that could or might adversely affect any of the transactions contemplated by this Agreement or the validity or enforceability of this Agreement or the CFD's ability to discharge its obligations under this Agreement.
  - 11.4. All consents or approvals necessary from any governmental authority as a condition to the execution and delivery of this Agreement have been obtained by the CFD.
  - 11.5. The parties will notify the Executive Director of any significant problems relating to the administrative or financial aspects associated with the Allocated Funds, such as

misappropriation of funds, use of 911 Funds for non-eligible expenses, placement or retaining 911 funds in any account other than the Emergency System Telephone Fund.

12. EXCUSABLE DELAY (FORCE MAJEURE). Neither Party shall be liable for any failure or delay in performing any of its obligations under this Agreement that is due to causes beyond its reasonable control, such as, but not limited to, acts of God, earthquakes and other natural catastrophes, governmental acts, shortages of supplies, riots, war, fire, epidemics, delays in common carriers, labor strikes or other difficulties or circumstances beyond its reasonable control. The CFD shall notify the CMPD promptly of any factor, occurrence or event that comes to its attention that may affect or delay the CFD's ability to perform any of its other obligations hereunder. The obligations and rights of the excused party shall be extended on a day to day basis for the time period equal to the period of the excusable delay.
13. DISPUTE RESOLUTION. The Parties agree that it is in their mutual interest to resolve disputes informally. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Agreement. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under this Agreement, or at law, or invite the other party to submit the matter to mediation. Provided, however, that this term shall not constitute an agreement by either Party to mediate or arbitrate any dispute, and that any agreement to mediate may be revoked or terminated without penalty therefore if so advised by either Party's legal counsel.
14. CONFIDENTIAL INFORMATION. The Parties acknowledge and agree that each is subject to the N.C. Public Records Act, which is set forth in N.C.G.S § 132-1, *et seq.* Proprietary information may be subject to N.C.G.S. § 143B-1412. The CFD shall ensure that any third party is encouraged to review the applicable laws prior to submitting any information or documentation believed to be proprietary, and that any proprietary information is properly identified at the time of receipt.
  - 14.1. The Parties shall maintain the confidentiality of certain types of information described in N.C.G.S. § 132-1, *et seq.* and N.C.G.S. § 143B-1412. Such information may include trade secrets defined by N.C.G.S. § 66-152 and other information exempted from disclosures pursuant to the Public Records Act pursuant to N.C.G.S. § 132-1.2.
  - 14.2. The CMPD may serve as custodian of confidential information and not as an arbiter of claims against an assertion of confidentiality. If an action is brought pursuant to N.C.G.S. § 132-9 to compel disclosure information marked confidential, each Party agrees that it will provide prompt notice of such action, intervene in the action through its counsel and participate in defending the Parties, including any public official(s) or public employee(s). The CMPD shall have no liability to the CFD or any third party with respect to the disclosure of confidential information ordered by a court of competent jurisdiction pursuant to N.C.G.S. §132-9 or other applicable law, nor by disclosure of unmarked information or information that is publicly known.
15. NOTICE. All notices required or permitted to be delivered hereunder and all communications in respect hereof shall be in writing and shall be deemed given when personally delivered by one or more of the following: when deposited in the United States mails, first class, postage prepaid and properly addressed, by facsimile, or by e-mail, as follows:

CMPD: Charlotte-Mecklenburg Police Department  
ATTN: Kellie High-Foster

Contract # \_\_\_\_\_

601 East Trade Street  
Charlotte, NC 28202  
E-MAIL: [khighfooster@cmpd.org](mailto:khighfooster@cmpd.org)

w/copy to: Charlotte-Mecklenburg Police Department  
ATTN: Richard Perlungher  
Police Attorney's Office  
601 East Trade Street  
Charlotte, NC 28202  
E-MAIL: [rperlungher@cmpd.org](mailto:rperlungher@cmpd.org)

CFD: Charlotte Fire Department  
ATTN:  
228 East 9<sup>th</sup> Street  
Charlotte, NC 28202  
E-MAIL:

w/copy to: City Attorney's Office  
ATTN: Anna Schleunes  
600 East Fourth Street  
Charlotte, NC 28202  
E-MAIL: [aschleunes@charlottenc.gov](mailto:aschleunes@charlottenc.gov)

or addressed to such other address or to the attention of such other individual as the 911 Board or CMPD shall have specified in a notice delivered pursuant to this subsection.

16. CONSTRUCTION. This Agreement shall be construed and governed by the laws of the State of North Carolina. The place of this Agreement, its situs and forum, shall be Mecklenburg County, North Carolina, where all matters, whether sounding in contract or in tort, relating to its validity, construction, interpretation and enforcement shall be determined. The Parties agree and submit, solely for matters relating to this Contract, to the jurisdiction of the courts of the State of North Carolina, and stipulate that Mecklenburg County shall be the proper venue for all matters.

#### 17. GENERAL PROVISIONS AND CONDITIONS.

17.1 The 911 Board may request CMPD to provide certain CFD information that will assist the 911 Board with evaluation of the short and long-range impact of its Secondary PSAP program. The CFD recognizes that such requests may occur after termination of this Agreement and agrees, to the extent possible, to provide to the 911 Board such information as requested.

17.2 Nondiscrimination. The Parties agree not to discriminate by reason of age, race, religion, color, sex, national origin, or handicap related to the activities of this Agreement.

17.3 Conflict of Interest. The Parties certify that to the best of their respective knowledge, none of their employees or officers have any pecuniary interest in the business of the 911 Board or Allocated Funds, and that no person associated with either Party has any interest that would conflict in any manner with the performance of this Agreement.

17.4 Compliance with Laws. The Parties shall at all times observe and comply with all laws, ordinances, and regulation of the state, federal and local governments which may affect the



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performance of the Agreement.

17.5 Non-Assignability. The CFD shall not assign any interest in this Agreement and shall not transfer any interest in the same without prior written consent of the CMPD and the 911 Board.

17.6 Future Cooperation. The Parties agree to cooperate fully with one another, to execute any and all supplementary documents and/or agreements that may be necessary or helpful to give full force and effect to tire terms of this Agreement and to the Parties' intentions in entering this Agreement.

18. Entire Agreement. This Agreement supersedes all and expresses the entire understanding of the Parties with respect to the transactions contemplated herein, and shall not be amended, modified or altered except pursuant to a writing signed by both Parties.

IN WITNESS WHEREOF, the undersigned parties, through their duly authorized representatives, have caused this Agreement to be executed as of the effective date set forth above.

**CHARLOTTE FIRE DEPARTMENT**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CHARLOTTE-MECKLENBURG POLICE DEPARTMENT**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

\_\_\_\_\_  
Finance Manager, City of Charlotte