

**INTERGOVERNMENTAL AGREEMENT BETWEEN CHEROKEE COUNTY,
GEORGIA AND THE CITY OF CANTON, GEORGIA REGARDING
PARAMEDIC TRAINING PROGRAM PARTICIPATION**

THIS AGREEMENT is effective as of this ____ day of _____, 2016 by and between Cherokee County, Georgia, a political subdivision of the State of Georgia acting by and through its duly authorized governing authority, the Board of Commissioners of Cherokee County ("Cherokee County" or "the County"), and the City of Canton, Georgia, by and through the Canton City Council, a body politic and corporate ("Canton" or "the City"). Cherokee County and Canton are collectively referred to as the Parties.

WITNESSETH THAT:

WHEREAS, the Parties are authorized to enter into this Agreement in accordance with Article IX, Section III, Paragraph I of the Constitution of the State of Georgia, which authorizes cities and counties to enter into an agreement for the provision of services as permitted by law; and

WHEREAS, the Parties are further authorized to enter into this Agreement in accordance with Article IX, Section 11, Paragraph III of the Constitution of the State of Georgia, which authorizes cities and counties to provide for fire protection, as well as ambulance and emergency rescue services; and

WHEREAS, Cherokee County has designed and intends to implement a paramedic training program for certain individuals employed by the Cherokee County Fire and Emergency Services Department (the "Training Program"); and

WHEREAS, Canton provides fire and emergency services to its citizens and from time to time has need to train certified paramedics; and

WHEREAS, Canton desires Cherokee County to permit Canton employees to participate in the Training Program, Cherokee County has granted this request on the terms set forth below, and the Parties agree that this arrangement is in the interest of the public.

NOW THEREFORE, based upon the statements set forth in the above Preamble- with the same being incorporated herein by reference and forming a material and substantive part of this Agreement – and for other good and valuable consideration exchanged, the receipt and sufficiency of which are acknowledged by the signatures below, the Parties do agree to the following:

1. RIGHTS AND DUTIES

a. City Employee Participation.

Cherokee County shall allow City employees to participate in its Training Program. The number of seats available for City employees in each entering class of the Training Program will be determined based upon availability, at the discretion of Cherokee County. Cherokee County shall provide eligibility requirements for the Training Program to the City in advance of the beginning of each Training Program.

b. City Provision of Instruction Hours.

As consideration for the right to send employees to train in the Training Program, at Cherokee County's request, the City shall be responsible for assisting with the Training Program. Specifically, for each City employee participating in an entering class of the Training Program, the City shall provide eight (8) hours of qualified guest instruction and testing each month to that class, as a component of the overall paramedic training curriculum. Cherokee County shall have the right to reasonably control the timing and content of guest instruction and testing, and to set reasonable requirements for the qualifications of the instructors who may provide such guest instruction.

c. County Control over Training Program.

Cherokee County shall have sole discretion in designing and implementing the Training Program, including but not limited to areas of student discipline (including expulsion from the program), evaluations, and coursework. Nothing in this Agreement may be understood to limit this discretion, or to create any right or expectation on the part of the City, or any trainee, relating to the substance or execution of the Training Program.

d. City Trainees as Independent Actors.

The Parties agree that trainees participating in the Training Program at the request of the City shall not under any circumstances be considered agents, servants or employees of Cherokee County. It is understood that Cherokee County shall not provide any payment to such trainees, including but not limited to benefits or workers' compensation. There shall be no contractual relationship between any trainee and Cherokee County by virtue of this Agreement, and trainees shall have no third-party beneficiary rights under this Agreement.

e. Required Insurance.

- i. Requirements: The Parties shall have and maintain in full force and effect for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the Training Program. All policies shall be subject to approval by the other Party as to form and content.
- ii. Minimum Limits of Insurance: The Parties shall maintain the following insurance policies with coverage and limits no less than:
 1. Commercial General Liability coverage of at least \$1,000,000 (one million dollars) combined single limit per occurrence and \$2,000,000 (two million dollars) aggregate for comprehensive coverage including for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.

2. Professional Liability coverage of at least \$1,000,000 (one million dollars) limit for claims arising out of professional services and caused by City employee errors, omissions, or negligent acts.
- iii. Other Insurance Provisions: Each policy shall contain, or be endorsed to contain, the following provisions respectively:
1. General Liability Coverage.
 - a. Additional Insured Requirement. Each Party and its elected and appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents and volunteers (individually "County" or "City" and collectively "County Parties" or "City Parties") are to be covered as additional insureds as to liability arising out of activities performed in connection with the Training Program. The coverage shall contain no special limitations on the scope of protection afforded to the County Parties or City Parties.
 - b. Primary Insurance Requirement. As to claims arising out of the actions of a City employee, the City's insurance coverage shall be primary noncontributing insurance as to any other insurance or self-insurance available to the County Parties. Any insurance or self-insurance maintained by the County Parties shall be in excess of the City's insurance and shall not contribute with it. As to claims arising out of the actions of a County employee, the County's insurance coverage shall be primary noncontributing insurance as to any other insurance or self-insurance available to the City Parties.
 - c. Reporting Requirement. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County Parties or City Parties, as the case may be.
 - d. Subrogation. The insurer shall agree to waive all rights of subrogation against the County Parties or City Parties, as the case may be.
 2. All Coverages.
 - a. Notice Requirement. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, or canceled except after thirty (30) days prior written notice (or 10 days if due to non-payment) has been given to the County or the City, as the case may be. The Parties reserve the right to accept alternate notice terms and provisions, provided they meet the minimum requirements under Georgia law.

b. Starting and Ending Dates. Policies shall have concurrent starting and ending dates.

iv. Acceptability of Insurers: The insurance to be maintained by the Parties must be placed with insurers with an A.M. Best Policyholder's rating of no less than "A-" and with a financial rating of Class VII or greater.

v. Claims-Made Policies: The Parties shall extend any claims-made insurance policy for at least six (6) years after termination of this Agreement.

f. Responsibility for Student Acts and Omissions.

The City covenants and agrees to take all responsibility for the actions of its employees in connection with the Training Program. The City shall bear all losses and damages directly or indirectly resulting to it, any County Party(ies), or any other third parties, on account of its employees' conduct. To the extent allowed by law, the City shall defend, indemnify and hold harmless the County Parties from and against any and all claims, suits, actions, judgments, injuries, damages, losses, costs, expenses and liability of any kind whatsoever, including but not limited to attorney's fees and costs of defense ("Liabilities"), which may arise from or be the result of alleged willful, negligent or tortious conduct of a City Employee arising out of or related to the Training Program, regardless of whether or not the act or omission is caused in part by a party indemnified hereunder, provided that this indemnity obligation does not include Liabilities caused by or resulting from the sole negligence of an indemnified party. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this provision. This obligation to indemnify, defend, and hold harmless the County Party(ies) is a material term of this Agreement and shall survive expiration or termination of this Agreement, provided that the claims are based upon or arise out of actions or omissions that occurred in connection with the Training Program.

g. Title VI Compliance.

The Parties agree that they will comply with all applicable Title VI requirements, and any contracts let related to this Agreement shall contain all required Title VI requirements under applicable law.

h. E-Verify Compliance.

The Parties agree that they will comply with all applicable E-Verify requirements, and any contracts let related to this Agreement shall contain all required E-Verify requirements under applicable law.

2. **MODIFICATION AND EXTENSION**

This Agreement may be amended or extended by mutual agreement of the Parties. Any and all amendments must be made in writing and must be agreed to and executed by the Parties before becoming effective.

3. TERMINATION

Unless otherwise terminated, this Agreement shall extend for 50 years from the date of execution below. The County and the City shall each have the right to terminate its participation in this Agreement for convenience by providing written notice thereof at least thirty (30) calendar days in advance of the termination date.

4. GOVERNING LAW

This Agreement shall be construed and governed in accordance with the laws of the State of Georgia.

5. ENTIRE AGREEMENT

This Agreement constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Agreement not contained in this Agreement shall be valid or binding.

6. SEVERABILITY

If any sentence, phrase, provision, portion, or clause of this Agreement should at any time be declared or adjudged invalid, unlawful, unconstitutional, or unenforceable for any reason, said adjudication or declaration shall in no manner or way affect the other sentences, phrases, provisions, portions, or clauses hereof, and all remaining portions shall remain in full force and effect as if the portion adjudged or declared invalid was not originally a part hereof.

7. CONSTRUCTION

Should any provision of this Agreement require interpretation or construction, it is agreed by the Parties hereto that the court, administrative body, or other entity interpreting or constructing this Agreement shall not apply a presumption that the provisions hereof shall be more strictly construed against one Party by reason of the rule of construction that a document is to be construed more strictly against the Party who itself or through its agents prepared the same, it being agreed that all Parties hereto and their respective attorneys and agents have fully participated in the preparation of all provisions of this Agreement.

8. NO WAIVER

No failure by any Party to enforce any right or power granted under this Agreement, or to insist upon strict compliance by the other Parties to this Agreement, and no custom or practice of a Party at variance with the terms and conditions of this Agreement, shall constitute a general waiver of any future breach or default or affect the Party's right to demand exact and strict compliance with the terms and conditions of this Agreement. Further, no express waiver shall affect any term or condition other than the one specified in such waiver, and that one only for the time and manner specifically stated.

9. NO THIRD PARTY RIGHTS

This Agreement shall be exclusively for the benefit of the Parties and shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action or other right.

10. SOVEREIGN IMMUNITY

Nothing contained in this Agreement shall be construed to be a waiver of the City or County's sovereign immunity or any individual's qualified good faith or official immunities.

11. NOTICE

All notices, requests, demands, writings, or correspondence, as required by this Agreement, shall be in writing and shall be deemed received, and shall be effective, when: (1) personally delivered, or (2) on the third day after the postmark date when mailed by first class US mail, postage prepaid, return receipt requested, or (3) upon actual delivery when sent via national overnight commercial carrier to the Parties at the addresses given below, or at a substitute address previously furnished to the opposite Party by written notice in accordance herewith:

To the County: Cherokee County, c/o Fire Chief
Fire Department Headquarters
150 Chattin
Drive
Canton, GA
30115

To the City: City of Canton, c/o Fire Chief
Fire Department Headquarters
151 Elizabeth St.
Canton, GA
30114

So agreed this ____ day of _____, 2016.

SIGNATURES ON FOLLOWING PAGE

CHEROKEE COUNTY

By: _____

Its: _____

County Clerk

CITY OF CANTON

By: _____

Its: _____

City Clerk

Approved as to form:

Robert M. Dyer, City Attorney