

**INTERLOCAL AGREEMENT
FOR EMERGENCY DISPATCH AND COMMUNICATIONS SERVICES**

This INTERLOCAL AGREEMENT FOR EMERGENCY DISPATCH AND COMMUNICATIONS SERVICES, dated the ____ day of _____, 20__ (“Agreement”), is between the Town of Cary (“Cary”), the Town of Apex (“Apex”) and the Town of Morrisville (“Morrisville”), each being municipal corporations organized and existing under the laws of the State of North Carolina. Cary, Apex, and Morrisville are sometimes referred to jointly as “Parties.”

WITNESSETH

WHEREAS, The Town of Cary is a Primary Public Safety Answering Point (“Primary PSAP), the first point of reception for 9-1-1 calls made within its municipal boundary. As a Primary PSAP, Cary is capable of receiving and processing 9-1-1 calls from all voice communications service providers; and

WHEREAS, Apex is a Secondary PSAP capable of receiving and processing 9-1-1 calls from a Primary PSAP. Apex currently has 9-1-1 calls made from within the Apex municipal boundary routed to Cary, which then dispatches Fire response calls and transfers all Police response calls to Apex’s Secondary PSAP; and

WHEREAS, Morrisville does not operate a PSAP. Instead, Cary answers all 9-1-1 calls made from within the Morrisville municipal boundary and dispatches all Fire and Police responses for Morrisville; and

WHEREAS, the Parties, which are all municipalities located primarily within the western part of Wake County, recognize advantages to having a unified emergency dispatch and communications system capable of improving the service level to the western Wake region; and

WHEREAS, the Parties entered into a previous interlocal agreement on January 1th, 2019 under which Cary began to serve as a Primary PSAP and provide emergency dispatch and communications services to the Parties in accordance with the terms and conditions stated in that prior agreement; and

WHEREAS, the pre-operability components of that prior agreement have been completed and the Parties have been successfully operating under that prior agreement since it was adopted; and

WHEREAS, the Parties now desire to replace that prior agreement with a new interlocal agreement that contains updated terms that implement lessons learned from the past several years; and

WHEREAS, the Parties agree that Cary shall continue to operate the Primary PSAP with Morrisville and Apex retaining their responsibilities in securing and maintaining necessary system infrastructure and upgrades within their respective jurisdictions to allow the Primary PSAP to operate effectively in accordance with the terms and conditions hereinafter stated; and

WHEREAS, the Parties further agree that each shall continue to share in the costs of maintaining and operating the Primary PSAP in accordance with the terms and conditions hereinafter stated; and

WHEREAS, Article 20, Interlocal Cooperation, of North Carolina General Statutes 160A authorizes and empowers any units of local government to enter into interlocal agreements for the contractual exercise by one unit for one or more other units of any power, function, public enterprise, right, privilege or immunity of local government; and

NOW THEREFORE, for and in consideration of the recitals and the mutual promises and covenants contained in this Agreement, the Parties agree as follows;

1. **Incorporation of Recitals and Purpose:** The Recitals are true and are incorporated into this Agreement. The purposes of this Agreement include:
 - a. To provide the terms and conditions under which Cary will serve as the Primary PSAP and provide Communications Services for the Parties;
 - b. To define Apex and Morrisville's obligations as they relate to the ongoing funding of the Primary PSAP.

2. **Definitions:**

In addition to the terms defined in the Recitals, the following definitions apply to this Agreement:

- a. "Agreement" means this document, as it may be amended from time to time.
- b. "Communications Services" means
 - i. the receipt of incoming 9-1-1 calls;
 - ii. the Transfer of certain 9-1-1 calls to the appropriate Secondary PSAP;
 - iii. the Dispatch of Public Safety Responders in response to 9-1-1 calls;
 - iv. the collection and maintenance of data concerning incidents to which Transfer or Dispatch services were provided; and
 - v. such other activities incidental to the above as the Primary PSAP deems necessary and appropriate.

- c. “CAD” means the computer-aided dispatch system that is a combination of hardware and software used by ECOs that provides data entry, makes resource recommendations, notifies and tracks those resources before, during, and after 9-1-1 calls, and preserves records of those calls and status changes for later analysis.
- d. “Cost per Dispatch/Transfer” means the costs incurred by Cary each time the Primary PSAP Dispatches Public Safety Responders in response to a Call or Transfers a 9-1-1 Call to the Secondary PSAP.
- e. “Dispatch” means the receipt and processing of incoming calls, including the routing of Public Safety Responders as required by the nature of the emergency and the monitoring of the same throughout the incident to which the call relates.
- f. “Fiscal Year” means the period commencing on July 1 of any calendar year and concluding on June 30 of the following calendar year.
- g. “Operation Costs” means the costs incurred by Cary for the operation and maintenance of the Primary PSAP after the Operation Date. Operation Costs includes 1) the Cost per Dispatch/Transfer Cary incurs when Dispatching and Transferring calls, 2) costs for any Primary PSAP Improvements needed to continue operation of the Primary PSAP as a result of the growth of, or enhancements requested by, Apex or Morrisville, and 3) the proportionate costs of any Operational License required or requested by Apex or Morrisville to allow each Party and their respective personnel to connect to the CAD system. Any individual costs for network connections into Cary networks will be the responsibility of the respective, individual Party.
- h. “Operational License” means any license required or requested by Apex or Morrisville that is used to access the CAD system. The term includes, but is not limited to, Mobile Data Computer (“MDC”) licenses required to connect computers to the system, Freedom licenses that are required to connect mobile devices to the system, and CAD Status Monitor (“CSM”) licenses used to access system data.
- i. “Performance Standards” means the standards for the provision of Communications Services to be provided by the Primary PSAP as outlined in “Exhibit A” to this Agreement.
- j. “Primary PSAP” means the Town of Cary, the PSAP that is the first point of reception of a 9-1-1 call and from which the call is either Dispatched or Transferred to the Secondary
- k. “Primary PSAP Improvement” means any improvement or software upgrade incurred by Cary to maintain operation of the Primary PSAP’s functions of 9-1-1 call reception, processing, and dispatching that is made due to the growth of, or enhancements requested by, Apex or Morrisville and not of a type that is

not eligible to receive complete funding from the North Carolina 911 Board. This term includes, but is not limited to, the following:

- i. The purchase of additional call reception, process, and dispatch equipment to be located at the Primary PSAP;
 - ii. Building construction to the Primary PSAP; and
 - iii. Upgrades to or replacement of radio infrastructure equipment.
- l. “Public Safety Answering Point (PSAP)” means the location that receives an incoming 9-1-1 call and Dispatches appropriate public safety agencies to respond to the call or Transfers the call.
 - m. “Public Safety Responder(s)” means the police and fire department personnel employed by the respective Parties.
 - n. “Secondary PSAP” means a PSAP capable of receiving a 9-1-1 call Transferred from the Primary PSAP.
 - o. “Transfer” means the transfer of 9-1-1 calls received by the Primary PSAP to the Secondary PSAP.

3. Duration and Term:

- a. This Agreement shall have an “Initial Term” of three (3) years from the date listed in the first paragraph of this Agreement (“Effective Date”) and shall thereafter automatically renew for up to nine (9) successive (3) year renewal terms (each a “Renewal Term”). If not earlier terminated in accordance with its terms, this Agreement shall terminate at the conclusion of the final Renewal Term.
- b. Upon full execution by all Parties, this Agreement shall replace the prior “Interlocal Agreement for Emergency Dispatch and Communications Services” dated January 15th, 2019 and that prior Interlocal Agreement shall terminate.
- c. Cary may terminate this Agreement as to either or both of the other Parties by providing two hundred seventy (270) days written notice of termination prior the then current Renewal Term (“Termination Notice”). If Cary provides Termination Notice to only one Party, this Agreement shall terminate at the end of the then current term as to such noticed Party and shall continue as to the other Party. If Cary provides Termination Notice to both Parties, the Agreement shall terminate at the end of the then current term.
- d. Apex or Morrisville may terminate this Agreement by providing Termination Notice to Cary prior to the end of the Initial Term or any Renewal Term. If only one of Apex or Morrisville provide Termination Notice, this Agreement shall terminate at the end of the then current term as to the Party who provided the Termination Notice only. If both Apex and Morrisville provide

Termination Notice, this Agreement shall terminate at the end of the then current term.

4. **Roles and Responsibilities of each Party:** No joint agency is established by this Agreement. Cary shall have sole responsibility and authority to appoint or otherwise employ the personnel necessary for the implementation of the Primary PSAP as outlined in this Agreement.

A. Cary's Roles and Responsibilities:

- a. The Town of Cary shall operate a Primary PSAP that shall provide Communication Services to the Public Safety Responders of the Parties;
- b. Cary shall provide Communication Services in the following manner:
 - i. Cary shall provide Dispatch of Public Safety Responders from the Cary Police Department and Cary Fire Department;
 - ii. Cary shall provide Dispatch of Public Safety Responders from the Morrisville Police Department and Morrisville Fire Department;
 - iii. Cary shall provide Dispatch of Public Safety Responders from the Apex Fire Department; and
 - iv. Cary shall provide Transfer of incoming 9-1-1 calls that require response from Public Safety Responders from the Apex Police Department to the Secondary PSAP operated by Apex.
- c. Cary shall work with the other Parties to continually endeavor to provide Communications Services at levels detailed in the attached Exhibit A;
- d. Cary shall cause the Primary PSAP to accurately track all Dispatches and Transfers pursuant to Section 5(a)(i) of this Agreement;
- e. Cary shall obtain and administer Operational Licenses required or requested by Apex and Morrisville;
- f. Cary shall budget appropriate funds for the payment of its share of the Operation Costs pursuant to Section 5(a) of this Agreement;
- g. Cary shall invoice Apex and Morrisville for their apportioned share of Operation Costs pursuant to Section 5(a)
- h. Cary shall appoint up to three Cary staff members to serve on the PSAP Advisory Committee pursuant to Section 6 of this Agreement.
- i. Cary shall ensure that all interlocal or mutual aid agreements related to the ability for its Public Safety Responders to respond to calls within the territorial jurisdictions of the other Parties are in effect and complied with.

B. Apex Roles and Responsibilities:

- a. Apex shall be responsible for its respective share of the Operation Costs incurred pursuant to Section 5(a) of this Agreement;
- b. Apex shall route all requests for Operational Licenses through Cary's CAD Coordinator (or equivalent position).
- c. Apex shall operate and maintain a Secondary PSAP that shall:
 - i. Receive 9-1-1 calls that require response from Public Safety Responders from the Apex Police Department Transferred from the Primary PSAP;

- ii. Dispatch Public Safety Responders from the Apex Police Department to 9-1-1 calls Transferred from the Primary PSAP.
- d. Apex shall work with the other Parties to continually endeavor to provide Communications Services at levels detailed in the attached Exhibit A;
- e. Apex shall provide and maintain improvements and services necessary to allow the Primary PSAP to provide Communications Services at a level that meets the Performance Standards;
- f. Apex shall ensure that its Fire Public Safety Responders shall respond to Dispatches given by the Primary PSAP and that the Secondary PSAP shall Dispatch its Police Public Safety Responders upon receipt of a call Transferred by the Primary PSAP.
- g. Apex shall appoint up to three Apex staff members to serve on the PSAP Advisory Committee pursuant to Section 6 of this Agreement.
- h. Apex shall ensure that all interlocal or mutual aid agreements related to the ability for its Public Safety Responders to respond to calls within the territorial jurisdictions of the other Parties are in effect and complied with.

C. Morrisville's Role and Responsibilities:

- a. Morrisville shall work with the other Parties to continually endeavor to provide Communications Services at levels detailed in the attached Exhibit A
- b. Morrisville shall be responsible for its respective share of the Operation Costs incurred pursuant to Section 5(a) of this Agreement;
- c. Morrisville shall route all requests for Operational Licenses through Cary's CAD Coordinator (or equivalent position).
- d. Morrisville shall ensure that its Public Safety Responders shall respond to Dispatch orders given by the Primary PSAP
- e. Morrisville shall appoint up to three Morrisville staff members to serve on the PSAP Advisory Committee pursuant to Section 6 of this Agreement.
- f. Morrisville shall ensure that all interlocal or mutual aid agreements related to the ability for its Public Safety Responders to respond to calls within the territorial jurisdictions of the other Parties are in effect and complied with.

5. Costs:

a. Operation Costs:

- i. Dispatch/Transfer Tracking. Cary shall maintain call logs that show each time a particular Public Safety Responder type is Dispatched as a result of a call or when a call is Transferred to the Secondary PSAP.
- ii. Cost per Dispatch/Transfer Allocation. Each Party shall be responsible for the costs of all Dispatches of Public Safety Responders from that Party's jurisdiction, including Dispatches to any unincorporated areas for which that Party may be contracted to provide service. Apex shall be responsible for costs of all calls Transferred to the Secondary PSAP.

The costs of each Dispatch or Transfer shall be calculated as detailed below and as shown on the attached Exhibit B.

- a) the Cost per Dispatch/Transfer shall be calculated based on the following formulas:
 - a. Cost per Dispatch: The cost per call for North Carolina as determined by the most recent FCC Annual Report to Congress on State Collection and Distribution of 9-1-1 Fees, multiplied by a “growth factor percentage” representing the average increase in call volume for the Parties over the prior three (3) years, multiplied by a “response factor percentage” representing the average percentage of calls Dispatched by the Primary PSAP per Public Safety Responder agency type over the prior three (3) years. This formula is outlined in further detail in the attached Exhibit B.
 - b. Cost per Transfer: The cost per call for North Carolina as determined by the most recent FCC Annual Report to Congress on State Collection and Distribution of 9-1-1 Fees, multiplied by a “growth factor percentage” representing the average increase in call volume for the Parties over the prior three (3) years. This formula is outlined in further detail in the attached Exhibit B.
- b) Cary shall recalculate the Cost per Dispatch/Transfer amounts using the above formulas at the end of each calendar year, and provide Apex and Morrisville notice of the same, to allow the Parties time to incorporate said costs into their respective upcoming fiscal-year budgets. The newly-calculated values will then be charged upon commencement of the following Fiscal Year pursuant to the billing cycle outlined in Section 5(a)(iv) of this Agreement.
- iii. Primary PSAP Improvements Cost Allocation. The cost of any PSAP Improvements shall be apportioned between the Parties in percentages equal to the average percentage of calls Dispatched/Transferred by the Primary PSAP for each respective jurisdiction during the prior 3 fiscal years.
 - a) From time to time, and in sufficient time for Apex and Morrisville to arrange financing for their respective shares of Primary PSAP Improvement Costs, Cary shall provide its best estimate of expected Primary PSAP Improvement Costs and of each party’s share of those costs. The Parties hereby acknowledge that the amount so provided shall be an estimate only based upon the information available, and that Primary PSAP Improvement Costs, whether less or greater than the

estimate, are to be allocated to and borne as set forth in this Agreement.

- iv. Operational License Cost Allocation. The costs of any Operational Licenses required or requested by Apex or Morrisville shall be borne by Cary. Beginning in Fiscal Year 2026, the costs of any Operational Licenses required or requested by Apex or Morrisville shall be initially borne by Cary and then be reimbursed by Apex or Morrisville. For licenses that Cary obtains as individual licenses, Cary shall invoice the respective Party for the cost of individual licenses assigned to the personnel of that respective Party. For licenses that Cary obtains via site licenses, Cary shall invoice the respective party a share of the site license cost equal to the percentage of licenses assigned to that respective party at the time of invoicing.
- v. Invoicing and Payment. Cary shall invoice Apex and Morrisville for their respective portions of the Operation Costs in the following manner:
 - a) Cost per Dispatch/Transfer: Cary shall invoice Apex and Morrisville for each Parties' respective share of the Costs per Dispatch/Transfer on a quarterly basis. At the conclusion of each quarter, Cary shall generate an invoice for the Costs per Dispatch/Transfer incurred for that quarter. These invoices shall be sent to Apex and Morrisville Within 30 calendar days of the last day of the quarter.
 - b) Primary PSAP Improvements Cost: Cary shall invoice Apex and Morrisville for each Parties' respective share of Primary Improvement Costs on an annual basis. At the conclusion of a Fiscal Year, Cary shall generate an invoice for the Primary PSAP Improvement costs incurred during that year. Invoices shall be sent to Apex and Morrisville by August 1st.
 - c) Operational License Cost: Cary shall invoice Apex and Morrisville for each Parties' respective share of the Operational License costs on a quarterly basis. At the conclusion of each quarter, Cary shall generate an invoice for the respective Operational License costs incurred for that quarter. These invoices shall be sent to Apex and Morrisville Within 30 calendar days of the last day of the quarter
 - d) Apex and Morrisville shall, within ninety (90) days of receipt of an invoice, make payment in the amount of the invoice to Cary. If Apex or Morrisville disagrees with any expense allocated to it by Cary, it may notify Cary of the disagreement and request a review and that an adjustment be made. When challenging an expense, the challenging Party shall pay to Cary half of the expense amount. If it is determined a challenging Party was

improperly charged a challenged expense, Cary shall refund the half payment made by that Party when first challenging the expense. If it is determined a challenged Party was properly charged a challenged expense, that Party shall pay the remaining half to Cary within thirty (30) days of the determination.

e) Any amounts due and payable by Apex or Morrisville hereunder that are not paid by the second monthly invoice following the month in which the unpaid amount was invoiced (approximately sixty (60) days) shall bear interest at the rate of six percent (6%) per annum until paid.

vi. Budgeting. Each Party shall be responsible for budgeting appropriate funds during each Fiscal Year for the payment of their respective Operation Costs obligations as outlined in this Agreement.

6. **Primary PSAP Advisory Committee**: The Town Managers, Police Chiefs, and/or Fire Chiefs of any of the Parties can request a meeting of the Parties to discuss any aspect of this Agreement. Any such meeting shall be held within a reasonable time of the initial request and shall be attended by up to three of designees from each Party. Each designee shall be appointed by their respective Town Manager. The attendees may discuss and make recommendations related to any aspect of this Agreement. The Committee shall meet at minimum once per calendar year, with a preference meeting once per calendar quarter.

Each Party shall designate PSAP Committee members with the intent for each member to serve a minimum of two years on the Committee for the purposes of ensuring continuity and fostering the development of institutional knowledge within the Committee. The Parties agree that each shall only relieve an appointed member of their duties related to the Committee in the event of a significant change in that member's employment status or a substantial shift in their roles and responsibilities that would hinder their ability to fulfill their Committee obligations.

Cary is solely responsible for the operation of the Primary PSAP and while Committee member recommendations will be carefully considered and evaluated, such recommendations are advisory only.

7. **Termination**:

a. Upon termination for any reason, all equipment and assets of the Primary PSAP shall be and remain the property of Cary. In the event a Party terminates their participation in this Agreement pursuant to Section 3 of this Agreement, that Party shall remain responsible for its share of the Operation Costs for the remainder of time that Cary is providing services and for any

fees for the termination of services being provided by third-parties that result from the terminating Party's termination.

8. Breach and Default:

- a. Any material breach of the terms or conditions of this Agreement shall constitute a default. In the event of a default, the defaulting Party shall be given notice of such alleged default in the manner prescribed in Section 9 of this Agreement. Upon receipt of notice, the defaulting Party shall have the opportunity to cure the default within thirty (30) days.
 - b. In the event Cary is the defaulting Party and fails to cure all defaults within the thirty (30) day cure period, Apex or Morrisville shall have the ability to provide Termination Notice as described in Section 3 of this agreement, irrespective of current Term. Cary shall continue to provide the services described in this agreement to the terminating Party for the two hundred seventy (270) day notice period or until the terminating Party obtains Communication Services from another source, whichever is sooner. The terminating Party shall remain responsible for its share of Operations Costs for the remainder of time that Cary is providing services, minus any costs for Primary PSAP Improvements.
 - c. In the event that Apex or Morrisville are the defaulting party and have failed to cure all defaults within the thirty (30) day cure period, Cary shall cease to provide the services described in this Agreement to the defaulting party two hundred seventy (270) days after the conclusion of the cure period. If services are terminated in this manner, the defaulting Party shall be responsible for its share of the Operations Costs for the remainder of time that Cary is providing services.
- 9. Notices.** Unless otherwise provided, all notices provided for herein shall be in writing and shall be sent properly addressed by first class mail, with a copy sent by e-mail, to the Parties at the addresses shown below:

Town of Cary
Town Manager
Town of Cary
PO Box 8005
Cary, North Carolina 27512-8005

Attention: Town Manager

Email address: sean.stegall@carync.gov
With copies to: Terry.sult@carync.gov (Police Chief) mike.cooper@carync.gov (Fire Chief)

Town of Apex
Town Manager
Town of Apex

PO Box 250
Apex, North Carolina 27502

Attention: Town Manager

Email address: randy.vosburg@apexnc.org

With copies to:

jason.armstrong@apexnc.org (Police Chief); timothy.herman@apexnc.org (Fire Chief)

Town of Morrisville

Town Manager
100 Town Hall Drive
Morrisville, NC 27650

Attention: Town Manger

Email address: bzuidema@morrisvillenc.gov

With copies to: grodriguez@morrisvillenc.gov (Deputy Town Manager);
nlozinsky@morrisvillenc.gov (Fire Chief), pacosta@morrisvillenc.gov (Police Chief).
All notices shall be effective three (3) days after having been deposited, properly
addressed and postage prepaid, in the US Postal Service. Any Party hereto may
change the person to whom or the address to which notices should be provided by
giving written notice to the other Parties of the change.

10. Public Records. The Parties may provide copies of public records, including
copyrighted records, in response to public record requests.

11. Due Diligence Assessment. Each Party has conducted such due diligence
assessment as it deems appropriate to verify that the assumption of
Communications Services by Cary in accordance with the assumptions used to
develop the terms and conditions of this Agreement are reasonable.

12. Force Majeure. No Party shall be responsible for any default, delay, or failure to
perform if such default, delay, or failure to perform is due to causes beyond the
Party's reasonable control, including, but not limited to, actions or inactions of
governmental authorities, epidemics, wars, actions of malicious actors, embargoes,
fires, hurricanes, unusual adverse weather, acts of God, or the default of a common
carrier. In the event of a default, delay, or failure to perform due to causes beyond a
Party's reasonable control, the Party shall diligently and in good faith act to the
extent within its power to remedy the circumstances affecting its performance and to
complete its performance in as timely a manner as is reasonably possible.

13. Entire Agreement/Amendments. This Agreement constitutes the entire
agreement between the Parties with respect to its general subject matter. This
Agreement may not be changed except in writing signed by all the Parties.

14. 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. Neither such Party's execution and delivery of this Agreement, nor its compliance with its obligations under this Agreement, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.

15. Dispute Resolution. 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.

16. 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 Parties 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.

17. Governing Law. The Parties intend that this Agreement be governed by the law of the State of North Carolina. Proper venue for any action shall solely be Wake County.

18. Assignment. The Parties may not sell or assign any interest in or obligation under this Agreement without the prior express written consent of the other Parties.

- 19. 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.
- 20. Execution in Counterparts/Electronic Version of Agreement.** This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The Parties 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.
- 21. No Third-Party Beneficiaries.** This Agreement is not intended to and does not confer any right, power, or benefit on any person other than the Parties and only the Parties may enforce, modify or terminate this Agreement as provided herein. There are no third-party beneficiaries to this Agreement.
- 22. Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. If one or more paragraphs, sections sentences, clauses, or phrases shall be declared void, invalid or otherwise unenforceable for any reason by the valid, final judgment or decree of any court of competent jurisdiction, such judgment or decree shall not affect the remaining provisions of this Agreement and the same shall continue to be fully effective and enforceable on the basis that said remaining provisions would have been agreed to by the Parties without the incorporation of such void, invalid or otherwise unenforceable paragraph, section, sentence, clause or phrase.
- 23. Time.** Time is of the essence in this Agreement and each and all of its provisions.
- 24. Further Assurances/Corrective Instruments; Good Faith/Due Diligence.** The Parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of this Agreement. The Parties agree to work together in good faith and with all due diligence to provide for and carry out the purpose of this Agreement.
- 25. Verification of Work Authorization.** The Parties shall comply with Article 2, Chapter 64, of the North Carolina General Statutes to the extent applicable.

26. Pre-Audit Requirement. This Agreement has not been fully executed and is not effective until the Preaudit Certificate (if required by N.C.G.S § 159-28) has been affixed and signed by the Parties' finance officers or deputy finance officers.

IN TESTIMONY WHEREOF, the Town of Apex, the Town of Cary, and the Town of Morrisville, pursuant to resolutions of their respective governing boards spread upon their minutes, have caused this Agreement to be executed and attested by their duly authorized officers and their official seals affixed, the day and year first written above.

[SIGNATURES]

EXHIBIT A

Performance Standards

The Towns of Apex, Cary, and Morrisville shall work together to assure the provision of accurate, consistent, and timely Communication Services. The Towns are sometimes referred to individually as “Party” and jointly as “Parties.”

1. **Definitions:** Terms used in this Exhibit A shall have the same meanings as the identical terms found in the INTERLOCAL AGREEMENT FOR EMERGENCY DISPATCH AND COMMUNICATIONS SERVICES (“Agreement”) to which this is attached. In addition, the following terms shall be given the meanings defined below:
 - a. “Benchmark” means the service levels identified in Section 2 of this Exhibit B which the Parties shall work towards achieving for single processes.
 - b. “Baseline” means the service levels for the measurable activities identified in Section 2 that are actually achieved by the Primary PSAP at the time Agreement is entered into. An individual Baseline is the quantitative representation of the actual performance of the Primary PSAP for a single process.
 - c. “Call Answering Time” means the time between when the Primary PSAP receives a 9-1-1 call until the time the call is acknowledged by an ECO. (The time it takes for the ECO to answer a 9-1-1 call);
 - d. “Call Handling Time” means the total of the Call Answering Time, Call Transfer Time (if applicable), and the Call Processing Time;
 - e. “Call Processing Time” means the time between when a call is acknowledged by an ECO and the ECO begins to relay information via voice or electronic about the call to the appropriate Public Safety Responders;
 - f. “Call Transfer Time” means the time between when an ECO determines a received call needs to be Transferred to the Secondary PSAP and the time when the Transfer of that call to the Secondary PSAP is completed;
 - g. “Computer-Aided Dispatch” (“CAD”) means a combination of hardware and software used by ECOs that provides data entry, makes resource recommendations, and notifies and tracks those resources before, during, and after 9-1-1 calls, and preserves records of those calls and status changes for later analysis.
 - h. “Emergency Communication Officer” (“ECO”) means an individual handling calls from within the Primary PSAP.

- i. "Timestamp" means information encoded by ECOs into CAD entries by that identify when certain events occur.

2. Service Level:

- a. **Benchmarks:** The Parties shall continually work towards the reduction of the intervals between Baseline performance and these agreed upon Benchmarks:

i. **For Calls that Require Fire Department Response:**

- 1) Call Answering Time Benchmark: Ninety-five percent (95%) of calls answered within 15 seconds.

- 2) Call Processing Time Benchmark.

- (1) For the eight types of calls listed below, the Call Processing Time Benchmark shall be ninety percent (90%) of calls processed within 90 seconds:

- i. Calls requiring emergency medical dispatching questioning and pre-arrival medical instructions;
- ii. Calls requiring language translation;
- iii. Calls requiring the use of a TTY/TDD device or audio/video relay services;
- iv. Calls of criminal activity that require information vital to emergency responder safety prior to dispatching units;
- v. Hazardous materials incidents;
- vi. Technical rescue;
- vii. Calls that require determining the location of the alarm due to insufficient information; and
- viii. Calls received by text message.

- (2) For all other calls, the Call Processing Time Benchmark shall be ninety percent (90%) of calls processed within 64 seconds.

- 3) Call Transfer Time Benchmark: Ninety-five percent (95%) of 9-1-1 Calls received by the Primary PSAP that are determined to need to be Transferred to the Secondary PSAP are then Transferred within 30 seconds of that determination being made.

ii. **For Calls that Require Police Department Response:**

- 1) **Call Processing Time Benchmark**: Maintain an average Call Processing Time for Emergency Response call types at or less than 90 seconds.
 - b. **Call Transfers**: When a 9-1-1 call needs to be transferred from the Primary PSAP to the Secondary PSAP:
 - i. The ECO shall Transfer the call without delay;
 - ii. If received by phone, the ECO shall advise the caller of the transfer; and
 - iii. The ECO shall maintain the connection until it is certain that the Transfer is complete and verified by the Secondary PSAP.
 - c. **Timestamps**: When possible, ECOs shall cause to be applied Timestamps to individual CAD entries for the purposes of incident response data aggregation and review. The Cary PSAP will honor requests from the parties to timestamp events. A list of timestamps will be maintained within CAD by Cary.
3. **Data Reporting**: The Parties shall, upon request, make available to one another Baseline and Benchmark data to assist each Party in evaluating its current processes and for preparation of monthly, quarterly, or annual reports. In addition and upon request, the Parties shall make available to one another Primary and Secondary PSAP data for the purposes of analyzing specific Dispatch events.
4. **Quality Assurance Standards**: Cary acknowledges that Apex and Morrisville seek to continue to meet their respective community expectations as they relate to the provision of Communications Services and shall strive to provide Apex and Morrisville with a level of service supporting each agencies' goal to meet those expectations. Cary shall make any documentation required to meet these goals available to Apex and Morrisville staff upon request. Apex and Morrisville shall make any such requests in a manner that provides Cary with the amount of time to provide the requested data within a time period acceptable to Cary and the requesting Party.

EXHIBIT B

Cost per Dispatch/Transfer Valuation

- A. **Cost per Dispatch.** the Cost per Dispatch for each Public Safety Responder agency type except the Apex Police Department shall be calculated based on the following formula:

The cost per call for North Carolina as determined by the most recent FCC Annual Report to Congress on State Collection and Distribution of 9-1-1 Fees.	X	A growth factor percentage representing the average increase in call volume for the Parties over the prior three (3) years.	X	A response factor percentage representing the average percentage of calls Dispatched by the Primary PSAP per Public Safety Responder agency type over the prior three (3) years.
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For the purposes of this Agreement, the response factor percentages will be determined from the average percentage of Dispatches performed by the Primary PSAP over the prior three (3) years, not the national average as reported in the Study. In addition, because the Parties intend for the Primary PSAP to Dispatch Fire Public Safety Responders to all EMS calls in addition to Fire calls, the response factor percentage for the Cost per Dispatch for Fire calls shall be the total percentages of both Fire Dispatches and EMS Dispatches performed by the Primary PSAP.

- B. **Cost per Transfer** the Cost per Transfer for the Apex Police Department shall be calculated based on the following formula:

The cost per call for North Carolina as determined by the most recent FCC Annual Report to Congress on State Collection and Distribution of 9-1-1 Fees.	X	A growth factor percentage representing the average increase in call volume for the Parties over the prior three (3) years.
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