

CONTRACT FOR THE PROVISION OF FIRE PROTECTION SERVICES

BETWEEN

CHATHAM COUNTY, GEORGIA

AND

SOUTHSIDE COMMUNITIES FIRE PROTECTION, INC., d/b/a CHATHAM EMERGENCY SERVICES

This Agreement is entered into by and between Chatham County, Georgia, hereinafter referred to as "County" and Southside Communities Fire Protection, Inc., d/b/a Chatham Emergency Services, Inc.", hereinafter referred to as "CES" this \_\_\_\_\_ day of \_\_\_\_\_, 2021 and shall become effective upon final approval by both parties.

WHEREAS, CES is a non-profit, fire department organized and created under the laws of the State of Georgia for the purpose of furnishing fire protection within Unincorporated Chatham County, Georgia; and,

WHEREAS, Chatham County is a political subdivision of the State of Georgia owning property within the aforesaid unincorporated areas, both improved and unimproved; and,

WHEREAS, it is in the best interest of the County that fire protection be afforded to properties the County owns in the areas served by CES; and,

WHEREAS, CES has provided subscription-based fire protection services to many residents and entities located within the unincorporated area of Chatham County; and,

WHEREAS, CES has stated publicly that the lack of payment by the property owners for their subscription service fees is severely limiting the ability of CES to operate within the County; and,

#E: CES MOU 12-16-21 final (4613 : CES Fire Services MOU)

WHEREAS, CES fire service personnel and equipment provide other response activities within the unincorporated area including responses to motor vehicle crashes at the County’s request; and

WHEREAS, CES presently has fourteen fire stations located throughout the unincorporated area of the county and provides fire protection, fire apparatuses, and equipment and,

WHEREAS, CES and the County have had a longstanding relationship wherein CES has provided fire protection to the County that dates back to at least 1984; and,

WHEREAS, CES has been a County designated fire department for certain fire districts in the County’s five designated fire service districts; and,

WHEREAS, the County has engaged in extensive community outreach to determine the needs of the unincorporated area for fire protection services; and,

WHEREAS, the County presently appoints one person to the CES governing board as outlined in the previous fire protection contract, and the parties herein agree to increase that to three (3) members to be appointed by the County; and,

WHEREAS, County and CES are both necessary for the health, welfare and safety of the public especially during times of declared emergencies;

Therefore, the parties do hereby agree to the following terms of this contract:

Article I. Obligations of CES:

1. All recitals referenced above are incorporated into this agreement.
2. CES shall provide fire protection services, alarm response, and other fire protection related services to property owners within its designated fire service districts.

#E: CES MOU 12-16-21 final (4613 : CES Fire Services MOU)

3. CES shall provide fire department related roadside/emergency response and assistance to motor vehicle crashes at the County's request.
4. CES shall provide fire protection services to all improved county-owned properties in the unincorporated area of the County at no cost to the County.
5. CES shall provide fire protection services as a secondary service to supplement the Georgia Forestry Commission for all fires on all vacant property owned by Chatham County in the unincorporated portion of the county at no cost to the County.
6. CES shall have three (3) members on its Board of Directors appointed by the Chatham County Board of Commissioners and the number of members of Board of Directors shall not be increased without the County's approval. CES shall amend its Bylaws to be consistent with the terms of this agreement.
7. CES will maintain an ISO rating of not higher than a 4 throughout the term of this contract. Should the rating slip above 4.0, the CES shall seek to cure any deficiency and seek re-evaluation of the rating. CES may provide expertise and supplement County resources for fire inspections and investigations. This agreement authorizes CES to conduct fire inspections and investigations.
8. CES will not charge any citizen or property owner of unincorporated Chatham County a "readiness" fee or any other fire fee during the term of this agreement.
9. CES will cease its fire subscription billing effective December 31, 2021. The service period for subscriptions will terminate on June 30, 2022. CES will provide customers with pro rata refunds for the portion of their paid subscription applicable to the service period after June 30, 2022.
10. CES shall provide the County with financial statements for its fire services division through December 31, 2021. The financial statements will identify prepaid subscription

- revenue and an estimate of refunds due to subscribers at the end of the service period.
11. Effective February 1, 2022 and for each month thereafter, CES will provide a monthly invoice to the County for actual fire service expenses incurred during the previous month. Each invoice will include a monthly and year to date expense report showing balances for each line item. County agrees to reimburse CES monthly for expenditures incurred for fire services, roadside/emergency assistance and debt service as substantiated by CES accounting records and invoiced by CES. County may utilize any available subscription payments held by CES to offset its reimbursements.
  12. CES will provide an annual budget to the County Manager on March 1, 2022 and each March thereafter for the annual period starting July 1<sup>st</sup>. The budget will include all costs of operations for unincorporated area fire services, roadside emergency response, and debt service. CES will participate in County budget meetings and will provide detailed information about its budget requests to the County Manager. The County Manager will then provide a formal budget recommendation to the Board of Commissioners. CES agrees that any budget approved by the Board of Commissioners will represent the County's total operational cost for the ensuing twelve-month period beginning July 1<sup>st</sup>.
  13. At the conclusion of each quarter, CES will provide a quarterly financial report detailing the differences between budget and actual revenues/expense line items. CES will also prepare a quarterly operating report to the County that lists response data which includes type of calls, number of apparatuses, support vehicles and responders per call, and, response times for each incident. The report shall be organized by fire district for services rendered in the preceding quarter and submitted to the County within 30 days after the end of the quarter. The quarterly report for the last quarter of each fiscal year shall also include cumulative

numbers for all quarters. If the County requests more frequent reports such request shall be in writing and the report shall be returned to the County within 20 business days of the request for any such interim report.

14. CES agrees to utilize any payments made by County for depreciation expense for debt service repayment of fire service property and equipment. Any other use of these funds must be pre-approved by the County Manager. CES will not commingle payments made by County with its other operating activities.
15. At the conclusion of the fiscal period, CES will provide County with an audited financial report for its fire services division or any surviving corporate entity to include all revenues received and expenses incurred. The audit report will also include a detailed asset listing. The IRS 990s shall be provided on an annual basis at the time such forms are filed with the IRS.

#### Article II. Obligations of the County

1. All recitals referenced above are incorporated into this agreement.
2. Effective July 1, 2022, County may use any fire protection service fees collected by the County including fee revenues collected by the Chatham County Tax Commissioner to compensate CES for services provided under this contract.
3. County may provide CES with additional funds, property or equipment upon Board of Commissioner approval. County may purchase assets from CES or other parties, and/or may lease assets to CES for use in their operations. County and CES will enter into lease agreements specifying the terms of any such action including the use of County proceeds.
4. County will coordinate grant application requests with CES for fire service operations and capital items in order to maximize the use of available external funding sources.
5. If County shall utilize CES during declared states of emergencies and as otherwise needed pursuant to Chapter 4,

Article III of the Chatham County Code titled Emergency Management Ordinance, any payments owed for such services to CES shall be governed by the Memorandum of Agreement between Chatham County, Chatham Emergency Management Agency and Southside Communities Fire Protection, Inc. (d/b/a Chatham Emergency Services).

6. County shall continue to designate CES as the County's designated fire department for unincorporated areas of the County that do not have other approved fire service providers.

### Article III: Other Terms and Conditions

1. Terms and Termination of Agreement – This Agreement shall be for one year beginning on the date on which the contract is signed. This agreement shall automatically renew for four additional one (1) year terms without further action by the County or CES unless one party acts to terminate the contract. The County may terminate this Agreement only by majority vote of the Chatham County Commissioners with six (6) months' notice to CES. CES may terminate this Agreement by majority vote of the Board of Directors of CES with six (6) months' notice given to the County.
2. Notices – Any and all notices, which may be required hereunder by any party to the other party, shall be executed in writing by either personal delivery, or by mail, registered or certified, postage pre-paid with a return receipt requested. Mailed notices must be addressed to the parties at the addresses herein contained in this Agreement. However, each party may change their address, thus requiring written notice of such change of address in accordance with this section. Any hand delivered notice shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated after five (5) days of mailing.
  - a. Notice for the County: County Manager, P.O. Box 8161, Savannah, GA 31412

- b. Notice for CES: CEO or designee: 1399 Dean Forest Rd.  
Savannah, GA 31405
3. Jurisdiction and Venue – This Agreement is to be construed pursuant to the current laws of the State of Georgia. Jurisdiction and venue for any claim arising out of this Agreement shall be made in the State of Georgia, County of Chatham.
4. Termination:
- a. Notwithstanding the terms for termination of this contract set forth herein, pursuant to O.C.G.A. Section 36-60-13, this Contract will terminate immediately and absolutely if the County determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the County cannot fulfill its obligations under the Contract, which determination is at the County's sole discretion and shall be conclusive. Further, the County may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:
- i. In the event the CES fails to maintain its certifications or licenses as a condition precedent to providing fire protection services, the revocation or such other fire certification and licenses or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect; or,
  - ii. The Board of Commissioners finds that the actions, or failure to act, of the CES, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized; or,
  - iii. CES fails to comply with confidentiality laws or provisions; and/or
  - iv. CES intentionally furnishes any statement, representation, document or certification in connection with this agreement which is materially false,

deceptive, incorrect or incomplete or fails to furnish any statement, representation, document or certification required under this agreement.

b. For Cause: The occurrence of any one or more of the following events shall constitute cause for the County to declare CES in default of its obligations under the Contract:

- i. CES fails to deliver firefighting protection services as deemed required by the County Manager by this agreement or is in violation of a material provision of this agreement; or,
- ii. CES fails to make available for review an outside audit of income and expenses for fire protection services, said audit being made available during reasonable business hours for review at CES' headquarters located on Dean Forest Road. Said outside audit will be conducted annually by a licensed CPA firm.; or,
- iii. Notwithstanding any provision of (ii) of this Section of this Article, an audit of the financial affairs, books, and accounts may be performed by the county accountant or internal auditor employed by the governing authority of the county, if they are either a certified public accountant or certified internal auditor. The County may also hire a third party certified public accountant to perform the audit as work-product for the County Attorney's Office to monitor compliance of this contract if asked to do so by either the County Manager or Board of Commissioners. The determination of the performance of such audit by the county accountant, the internal auditor, or a certified public accountant shall be made by the county.



- iv. CES becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws;
  - v. CES terminates or suspends its business; or the County reasonably believes that CES has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law; or,
  - vi. CES fails to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract; or,
  - vii. CES engages in conduct that exposes the County to liability from third parties for fire protection services, as determined in the County's sole discretion.
  - viii. The provisions of this sub-section (b) are cumulative to any other basis for termination of this contract by the County.
5. Indemnification: CES promises to reimburse the County from and against any and all "losses, liabilities, claims, and causes of action" incurred by County that "cause," "arise from," or are "related to" CES providing of fire protection services under this contract. CES further agrees to indemnify the County from any and all liability, losses, claims and causes of action that arise from, directly or indirectly caused or are related to CES providing of fire protection services under this contract. The provisions of this paragraph shall not be interpreted to be a waiver of any sovereign immunity of the County.
6. Notice of Default: If there is a default event or should the County believe default caused by CES is imminent, then the County shall provide written notice to CES requesting that the breach or noncompliance be remedied in not less than sixty (60) days. If the breach or noncompliance is not remedied within the period of time specified in the written notice, the County may:

- a. Immediately terminate the Contract without additional written notice; and/or
  - b. Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.
  - c. CES Termination Duties: Upon receipt of notice of termination or upon request of the County, CES shall:
    - i. Cease work under the Contract (unless the County in writing waives the requirement to cease work) and take all necessary or appropriate steps to limit disbursements (except activities to facilitate pro-rata reimbursement to fire protection providers), and minimize costs, and furnish a report within sixty (60) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting there from, and any other matters the County may reasonably require; and
    - ii. Comply with the County's reasonable instructions for the timely transfer of any active files and work product produced by the CES under the Contract, and
    - iii. Cooperate in good faith with the County and its employees, agents and service providers during the transition period between the notification of termination and the substitution of any replacement for CES; and
    - iv. Immediately return to the County any payments made by the County for services that were not delivered or rendered by CES.
7. Dispute Resolution: If a dispute arises between the parties it is agreed that the terms of this contract shall prevail over any conflict in the language of this contract with the Bylaws of CES. The Parties will attempt in good faith to resolve any dispute or claim arising out of or in relation to this Contract through negotiations between the County Manager and CES. If the

dispute cannot be settled amicably within THIRTY (30) days from the date on which either Party has served written notice on the other of the dispute, then the remaining provisions of this Clause shall apply. Both parties agree to non-binding mediation and to attempt to resolve any dispute in good faith. Should it be necessary, both parties agree to select a mediator to help resolve disputed matters.

[Signature page below]

**Chatham Emergency Services**

\_\_\_\_\_  
Tim Blanco, Chairman Chatham Emergency Services

**Chatham County**

\_\_\_\_\_  
Chester A. Ellis, Chairman of the Chatham County Commissioners

Approved as to legal form:

\_\_\_\_\_  
Assistant County Attorney

Attest:

\_\_\_\_\_  
Janice E. Bocook, County Clerk Chatham County Commissioners

#E: CES MOU 12-16-21 final (4613 : CES Fire Services MOU)