

STATE OF GEORGIA

COUNTY OF COBB

SERVICE DELIVERY STRATEGY AGREEMENT

THIS SERVICE DELIVERY STRATEGY AGREEMENT (“Agreement”), made and entered into this _____ day of August, 2024, by and between the BOARD OF COMMISSIONERS OF COBB COUNTY, GEORGIA (hereinafter referred to as “County”) and the undersigned CITIES OF COBB COUNTY, GEORGIA, including Acworth, Austell, Kennesaw, Marietta, Powder Springs, and Smyrna (hereinafter referred to as “City or “Cities”), collectively referred to as the “Parties.” The City of Mableton (“Mableton”) shall not be a party to this Agreement because Mableton has been created but is a municipality in transition and therefore is “not subject to Chapter 70 of this title, relating to planning and service delivery strategies....” O.C.G.A. § 36-31-8.

RECITALS

WHEREAS, the Cities and County have reviewed the requirements of O.C.G.A. § 36-70-20 *et seq.* for the Cities and County to develop an efficient and responsive local government service delivery system and provide for funding equity; and

WHEREAS, the Cities and the County have undertaken studies to identify all local government services presently provided or primarily funded by each and identified the source of funding for each identified service; and

WHEREAS, the Cities and County have devised this Agreement in fulfillment of the requirements of O.C.G.A. § 36-70-20 *et seq.*; and

WHEREAS, this Agreement is an intergovernmental agreement by and between the Cities and the County entered into for a period of ten years as authorized and pursuant

APPROVED

Per the City of Smyrna

Mayor and Council

Official Meeting Minutes

to the provision of the State Constitution at Ga. Const. Art. IX, Sec. III, Par. I for the provision of services, facilities and equipment; and

WHEREAS, this Agreement shall constitute the implementation of the service delivery strategy of the Cities and County.

NOW THEREFORE, be it resolved that the preamble is agreed to and incorporated herein and the Cities and County have further agreed to the following terms.

1.

Compliance with the Act

The Parties hereto enter into this Intergovernmental Agreement for the purpose of complying with the Georgia Service Delivery Act, O.C.G.A. § 36-70-20; *et seq.*

2.

Service Agreement Forms

The Service Delivery Strategy for the County and the Cities consists of this Agreement, and all Form 2: Summary of Service Delivery Arrangements (the “Service Agreements”), which are attached hereto as Exhibit A and incorporated herein, and associated Intergovernmental Agreements (the “Associated Agreements”), which are listed in Exhibit B. This Agreement and all Service Agreements shall become effective upon the execution of this Agreement and shall remain in effect for the duration of this Agreement. The Associated Agreements shall be effective per their respective dates of adoption and shall remain in effect per their express terms.

3.

Revenues

Notwithstanding O.C.G.A. § 36-70-24 (3) (B), any future amendments to the Service Delivery Act, or the precise terms used in the Service Agreements, during the term of this Agreement, any Party shall be entitled to take advantage of all revenue sources to fund services provided by the Parties. The Parties further agree that any Party may use future SPLOST, TSPLOST, MSPLOST, or other sales tax funding source expended in accordance with then-existing Georgia Law for capital improvements associated with any service or facility under this Agreement, even if not specified in the Service Agreements, and to offset administrative costs as permitted by State law.

4.

Alternative Funding Mechanism for Supplemental City-Provided Services

As permitted in O.C.G.A. § 36-70-24(3)(B), the Parties agree, in consideration of Service Agreements, covenants, and conditions contained herein and without the need of rolling back the county-wide millage rate in each municipality and to ensure compliance with O.C.G.A. § 36-70-24(3)(A), the County will issue annual cash payments to the Cities on November 1 of each year in accordance with the following schedule which accounts for future inflation:

- i. 2024 - \$6,500,000
- ii. 2025 - \$7,000,000
- iii. 2026 - \$7,500,000
- iv. 2027 - \$8,000,000
- v. 2028 - \$8,500,000
- vi. 2029 - \$9,000,000
- vii. 2030 - \$9,500,000
- viii. 2031 - \$10,000,000
- ix. 2032 - \$10,500,000
- x. 2033 - \$11,000,000

The amounts identified above shall constitute the total amount of proceeds due to the Cities under this Agreement. The apportionment of each payment among the Cities shall be determined by the Cities' respective tax digests.

5.

Consideration

The payments provided for herein are supported by good and valuable consideration stated above and including, but not limited to:

- a. Payment by the County to the Cities entitling unincorporated residents to full access to City-owned parks and recreation programs on equal terms as City residents in the municipal jurisdiction where the park and recreation program is located. This equal term requirement shall not apply to parks operated by the City or County that are leased from the US Army Corps of Engineers. This equal term requirement shall not apply to parking lots operated by a City or the County;
- b. Payment by the County to the Cities entitling unincorporated residents to full access to any City-owned library on equal terms as City residents in the municipal jurisdiction where the library is located; and
- c. Payment by the County to the Cities entitling unincorporated residents to full access to any City-owned senior service facility (not including senior housing) on equal terms as residents in the municipal jurisdiction where the senior facility (not including senior housing) is located.

6.

Amending Agreement

This Agreement may be amended, supplemented, or otherwise modified solely by a document in writing duly executed and delivered by the County and the applicable City. No waiver, release or similar modification of this Agreement shall be established by conduct, custom, or course of dealing, but solely by a document in writing duly approved, executed and delivered by a duly authorized official of the County and the Cities or City.

The Service Agreements and Associated Agreements may be amended with approval of the County and one or more Cities without the consent of the remaining Cities, so long as the amendment does not affect the rights or obligations of the remaining Cities.

7.

Execution of Documents

None of the Service Agreements will be required to be individually executed in order to be in full force and effect. All such Service Agreements shall remain in effect for the duration of this Agreement. Following adoption by the County and each of the Cities of a resolution as required by O.C.G.A. § 36-70-25, the Parties shall submit the Services Agreements, along with the necessary Forms 1, 3, and 4 to the Department of Community Affairs. Adoption of this Agreement by each respective Party shall authorize the Chair of the County or the Mayor of a City to execute all necessary documents to facilitate transmission of the Cobb County Service Delivery Strategy (the “SDS”) to the Department of Community Affairs and to make any corrections or revisions to the Forms 1, 2, 3, or 4 as may be required by the Department of Community Affairs for verification of the SDS, provided that such corrections or revisions are not inconsistent with this Agreement and do not materially alter the Service Agreements after written notice of the proposed changes to the Cities.

8.

Binding Effect

This Agreement shall be binding upon the County and Cities provided that it is ratified at an open meeting by the respective governing authorities of the County and each of the Cities on or before August 14, 2024.

9.

Duration of Agreement

This Agreement shall become effective immediately upon the last Party to the Agreement approving same at a duly noticed Council or Board meeting and shall expire on October 31, 2034, unless earlier terminated as provided for herein.

10.

Termination

The County shall provide eighteen (18) months' advance written notice of its intention to unilaterally terminate this Agreement for reasons other than those identified in paragraph 11 below. If the County provides notice of its intention to terminate for reasons other than those identified in paragraph 11, the County shall pay that amount of "November 1" payments that remain under the paragraph 4 schedule that are or may thereafter become due during the eighteen (18) month notice period, plus a half (1/2) year payment based upon what would otherwise be due during the following year under the paragraph 4 schedule. For example, if the County issued notice of termination in July of 2026, the County shall pay the Cities \$7,500,000 by November 1, 2026, and \$12,250,000 by November 1, 2027 (which is \$8,000,000 plus \$4,250,000.00, one half of the scheduled payment of \$8,500,000.00 in 2028). By way of additional example, if the County issues a notice of termination in March of 2026, the County shall pay the Cities \$11,500,00 by November 1, 2026 (which is \$7,500,000 plus \$4,000,000, one half of the scheduled payment of \$8,000,000 in 2027).

The purpose of the aforementioned payments shall be to offset the cost incurred by the Cities in the operational investments and capital improvements made in reliance on this

Agreement with respect to the services and facilities contemplated in this Agreement on behalf of and in conjunction with the County. The Parties acknowledge that the payments required by this paragraph are in exchange for services, facilities, and other lawful consideration and shall not constitute a penalty or gratuity in violation of the Gratuities Clause of the Georgia State Constitution.

11.

Triggering Events

Notwithstanding any other requirement or provision herein, the County shall make the November 1, 2025 payment to the Cities, but the County shall have no obligation to make further payments under this Agreement if : (i) any entity with a statutory right to require the County to update or revise the SDS refuses to adopt an SDS consistent with the terms of paragraphs 3, 4, and 5 of this Agreement and the pre-sanction mediator declares an impasse, (ii) one or more local governments in the County are created, abolished, or consolidated, (iii) when the SDS expires, or (iv) when the Parties agree to revise this Agreement. If any of the triggers (i)-(iv) herein are satisfied, a termination of this Agreement and the existing SDS shall be deemed to have occurred. If a triggering event occurs and a future payment-based SDS is negotiated by the County and the Cities, any future annual payment by the County to the Cities will become due no earlier than November 1, 2026.

The Parties agree that House Bill 1407 (from 2023/2024) becoming operational and enforceable on January 1, 2026, shall not constitute a triggering event or otherwise require the Parties to review and revise the SDS.

12.

Joint Defense

Each City shall join in the defense of the County and each other City against any challenges to this Agreement. The County shall join in the defense of each City against any challenges to this Agreement.

13.

Notice

All notices required to be given hereby are to be given in writing addressed to the Chairman of the Board of Commissioners and the County Manager (for the County) and the Mayor and City Manager (for a City) and delivered as follows.

- A. Hand delivery with receipt signed; or
- B. Federal Express mail with return receipt requested.

14.

Governing Law

This Agreement and the rights and obligations of the parties hereto shall be governed, construed, and interpreted according to the laws of the State of Georgia. For the purposes of all legal proceedings arising out of or relating to this Agreement, unless otherwise provided by law, the Cities and County submit to the exclusive jurisdiction of the Superior Court of Cobb County, Georgia.

15.

Entire Agreement

This Agreement expresses the entire understanding and all agreements between the parties hereto with respect to the matters set forth herein.

16.

Severability

To the extent any term, provision, or portion of this Agreement is declared to be invalid, unenforceable, or nonbinding, such declaration shall not affect the remaining terms, provisions, and portions of this Agreement.

17.

Counterparts

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

IN WITNESS WHEREOF, the Parties have hereunto set their hands and affixed their seals the day and year first above written.

Signed, sealed and delivered
In the presence of:

Unofficial Witness

Notary Public

COBB COUNTY, GEORGIA

Date: _____

By: _____ (L.S.)
Chairwoman

Attest: _____ (L.S.)
Clerk

(SEAL)

Signed, sealed and delivered
In the presence of:

Unofficial Witness

Notary Public

CITY OF ACWORTH, GEORGIA

Date: _____

By: _____ (L.S.)
Mayor

Attest: _____ (L.S.)
Clerk

(SEAL)

Signed, sealed and delivered
In the presence of:

Unofficial Witness

Notary Public

CITY OF AUSTELL, GEORGIA
Date: _____

By: _____(L.S.)
Mayor

Attest: _____(L.S.)
Clerk

(SEAL)

Signed, sealed and delivered
In the presence of:

CITY OF KENNESAW, GEORGIA
Date: _____

Unofficial Witness

By: _____ (L.S.)
Mayor

Notary Public

Attest: _____ (L.S.)
Clerk

(SEAL)

Signed, sealed and delivered
In the presence of:

CITY OF MARIETTA, GEORGIA
Date: _____

Unofficial Witness

By: _____ (L.S.)
Mayor

Notary Public

Attest: _____ (L.S.)
Clerk

(SEAL)

Signed, sealed and delivered
In the presence of:

CITY OF POWDER SPRINGS, GEORGIA
Date: _____

Unofficial Witness

By: _____ (L.S.)
Mayor

Notary Public

Attest: _____ (L.S.)
Clerk

(SEAL)

Signed, sealed and delivered
In the presence of:

CITY OF SMYRNA, GEORGIA

Date: _____

Unofficial Witness

By: _____ (L.S.)
Mayor

Notary Public

Attest: _____ (L.S.)
Clerk

(SEAL)



EXHIBIT A

FORM 2 – SERVICE DELIVERY STRATEGY AGREEMENTS

EXHIBIT B

LIST OF ASSOCIATED INTERGOVERNMENTAL AGREEMENTS