

**AGREEMENT FOR GEORGIA MUNICIPAL ASSOCIATION, INC. TO PROVIDE
CONSULTING SERVICES FOR CITY OF CARTERVILLE**

THIS AGREEMENT FOR CONSULTING SERVICES (“Agreement”) is made and entered into by and between CITY OF CARTERVILLE, (“CITY”) and Georgia Municipal Association, Inc. ("GMA"), a private, nonprofit organization incorporated in the State of Georgia, located at 201 Pryor Street, S.W., Atlanta, Georgia, and is effective on the date when it is signed by both of them (the “Effective Date”).

RECITALS

WHEREAS, CITY has requested that GMA provide the services described in **Exhibit A**; and

WHEREAS, GMA and CITY (the "Parties") wish to enter into an Agreement pursuant to which GMA will provide the services described in **Exhibit A** ("Services") to CITY for the compensation set forth in **Exhibit A**.

WHEREAS, GMA may provide such Services directly or indirectly through a subcontracting arrangement;

THEREFORE, for and in consideration of the foregoing Recitals and the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, GMA and CITY (each individually a "Party" and collectively the "Parties") agree to the Recitals above and as follows:

1. Definitions

“Confidential Information.” Confidential Information means all confidential and proprietary information of either party or any third party disclosed by one party to the other, which in the case of written information is marked “trade secret,” “confidential” or “proprietary”, and which in the case of information disclosed orally, is identified at the time of the disclosure as confidential or proprietary. All oral disclosures of Confidential Information to the other party will be summarized and confirmed as confidential or proprietary by the disclosing party in writing within ten (10) business days of the disclosure.

2. Services and Compensation

GMA will perform the services set forth in the attached **Exhibit A** for the compensation set forth in **Exhibit A**. **Exhibit A** is expressly incorporated in this Agreement as if fully restated. CITY shall facilitate GMA's delivery of the Services by providing to GMA any documents and information held by CITY that is necessary for GMA's performance of this agreement. The Services shall not include any legal or tax advice, and CITY shall not regard or treat the Services as containing any legal or tax advice.

3. Term

This Agreement shall start on the Effective Date and shall end one year from the effective date. If this Agreement has not been terminated and Services have not been completed or compensation has not been paid at the end of one year from the Effective Date, this Agreement shall automatically renew.

4. Ownership and Use of Work Product

CITY shall retain ownership of all data and materials, and the intellectual property rights in that data, provided to GMA by CITY or its representatives. GMA provides similar consulting services for other Eligible Governments, and all of them benefit by GMA's ability to re-use and repurpose its intellectual property when providing such services. Unless otherwise stated in **Exhibit A**, GMA retains ownership of any intellectual property it develops in the performance of consulting services ("Work Product") and grants CITY a permanent, non-exclusive license to use the Work Product for its intended purpose. CITY shall not reference or distribute the Work Product without prior written consent of GMA or as required by law.

5. Confidential Information and Sensitive Personally Identifiable Information

Each party must hold the other party's Confidential Information in confidence and use the same degree of care (but not less than reasonable care) to safeguard such Confidential Information as the party uses to protect its own Confidential Information.

These obligations do not apply to information which was in the recipient's rightful possession without an obligation of confidentiality before receipt from the disclosing party, or is or becomes a matter of public knowledge through no fault of the recipient, or is rightfully received by the recipient from a third party without a duty of confidentiality, or is independently developed by the recipient without reliance on the Confidential Information, or is disclosed under operation of law, or is disclosed by the disclosing party to third parties habitually without restriction on subsequent disclosure.

The Parties may use and disclose Confidential Information for the purposes of performing services under this Agreement, exercising rights under this Agreement, and associated recordkeeping.

If GMA must create or obtain sensitive, personally identifiable information such as social security numbers, account numbers or payment method information in order to perform Services, GMA shall protect such information in accordance with applicable law and GMA's applicable information privacy and security policies.

If either Party receives a request for disclosure of the other Party's Confidential Information or sensitive personally identifiable information pursuant to the Georgia Open Records Act (i.e., O.C.G.A. § 50-18-70, et. seq.) or other state or federal law, the recipient of the open records request shall inform the other Party immediately and may make only disclosures required by law.

6. Hold Harmless

Each party shall bear the responsibility for liability for negligence, errors or omissions of its own officers, agents, employees or subcontractors in carrying out this Agreement. To the extent permitted by law, CITY holds harmless GMA for liability for the negligence or willful misconduct of CITY, its officers, agents, employees or subcontractors arising out of this

Agreement. GMA holds harmless CITY for the negligence or willful misconduct of GMA, its officers, agents, employees or subcontractors arising out of this Agreement.

CITY acknowledges that visiting GMA/LGRMS Workers have no obligation to enforce CITY's safety policy or remind attendees of CITY's safety policy during the meeting.

GMA affirms that the GMA/LGRMS Worker will comply with CITY 's safety guidelines during the visit.

7. Limitation of Liability

Notwithstanding anything to the contrary in this Agreement, the Parties agree to the following limitation of liability. CITY agrees that the aggregate limit of liability of GMA for any claims or damages arising from the Services provided under this Agreement shall be an amount equal to the fees paid to GMA pursuant to this Agreement. In no event shall either party, or its employees, officers, subcontractors or agents, be liable to the other for any incidental, consequential, or special damages for actions or omissions in providing services or otherwise complying with this Agreement.

8. Independent Contractor Relationship

This Agreement does not create and shall not be construed to create an employee, representative, joint venture, or partnership relationship between the Parties. Neither Party is an agent of the other Party for any purpose except as expressly stated in **Exhibit A**.

At all times during the term of this Agreement, neither party will function as or represent itself to be the other party or its agent, and no officer, employee, or agent of one party shall hold himself or herself out to be an officer, employee, or agent of the other party. Notwithstanding the foregoing, GMA may serve as an agent of CITY to the extent set forth in **Exhibit A**.

9. Excused Performance

Neither GMA nor CITY shall be deemed to be in default of this Agreement or be liable for any delay or failure in performance, resulting directly or indirectly from any act of the elements, civil or military authority, civil disturbance, war, strike, fire, earthquake or other cause beyond its control. The time within which GMA is required to perform in accordance with the terms and conditions of this Agreement shall be extended for any delays caused in whole or in part by CITY, provided however, that GMA notifies CITY in writing within ten (10) business days of discovering such delays.

10. Termination

a) Termination by GMA.

Termination for Cause. GMA shall have the right to terminate this Agreement: if CITY fails to make any payment of undisputed amounts or commits any other material breach of this Agreement and fails to cure such breach within 30 days after receiving written notice of the failure or other material breach and GMA's intention to terminate the Agreement unless cured.

Termination for Convenience. GMA may terminate this Agreement for convenience as follows:

GMA may terminate this Agreement with 120 days written notice to CITY.

b) Termination by CITY.

Termination for Cause. CITY shall have the right to terminate this Agreement if GMA commits any material breach of this Agreement and fails to cure such breach within 30 days after receiving written notice of the material breach and CITY 's intention to terminate the Agreement unless cured.

Termination for Convenience. CITY may terminate this Agreement for convenience as follows:

CITY may terminate this Agreement with 120 days written notice to GMA.

c) Effect of Termination.

Upon termination of this agreement, GMA shall be entitled to payment for services rendered to CITY pursuant to this Agreement through the effective date of the termination.

After submission of any documentation to CITY's as required by the agreement, GMA shall be entitled to reimbursement for any expenses incurred on behalf of CITY.

d) Survival. The terms of the following Sections shall survive any termination of this Agreement.

Ownership and Use of Work Product

Confidential Information

Hold Harmless

Limitation of Liability

Miscellaneous (Records Maintenance, Retention and Audit, Notices, Waiver and Severability, Governing Law, Dispute Resolution, No Third Party Beneficiaries)

11. Miscellaneous

a) Records Maintenance, Retention and Audit. GMA shall maintain all records pertaining to this Agreement for the later of three (3) years or the date set forth by the GMA Record Retention Policy. GMA's accounting procedures and practices shall conform to generally accepted accounting principles and the costs properly applicable to this Agreement shall be readily ascertainable from the records. Upon the request of GMA after reasonable notice to CITY, CITY shall make available to GMA such records as may be necessary to enable GMA to conduct an audit to assure that the appropriate fees have been paid to GMA.

b) Assignment. Neither Party may assign this Agreement without the prior written consent of the other Party and any attempted assignment or delegation without such consent shall be void.

c) Subcontracting.

GMA may subcontract the performance of Services in whole or in part.

d) Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the legal representatives, successors and permitted assigns of the

Parties.

- e) No other Agreement; Modification. This Agreement sets forth the entire understanding of the Parties with respect to the subject matter and supersedes any prior negotiations, understandings or agreements with respect to the subject matter hereto. Except as expressly set forth herein, neither Party has made any statement, representation or warranty in connection herewith which has been relied upon by the other party or which acted as an inducement for the other Party to enter into this Agreement. This Agreement may only be modified by a writing signed by both Parties.
- f) Notices. All notices under this Agreement shall be in writing and shall be delivered (a) personally, with a copy by email; (b) by overnight courier, with a copy by email; or (c) by United States mail, registered or certified, return receipt requested, postage prepaid, with a copy by email to the address/s supplied below. Notices shall be deemed received on the date of personal delivery, the date of action receipt as indicated on the delivery invoice or return receipt or the date receipt is refused; whichever is earlier. Notices shall be sent to the parties at the addresses set forth below, or at such other addresses as the parties may provide in writing from time to time.

GMA:

Georgia Municipal Association, Inc.
c/o Mr. Pete Pyrzenski, Member Services Consultant
201 Pryor Street, S.W.
Atlanta, Georgia 30303
ppyrzenski@gacities.com
404-967-5514

CITY:

City of Cartersville
c/o Mr. Dan Porta, City Manager
City of Cartersville
P.O. Box 1390
1 N. Erwin St.
Cartersville, GA 30120
dporta@cartersville.org
770-387-5616

- g) Waiver and Severability. The waiver of one breach or default under this Agreement will not constitute the waiver of any subsequent breach or default. Any provision of this Agreement held to be illegal or unenforceable will be deemed amended to conform to applicable laws or regulations, or if it cannot be so amended without materially altering the intention of the parties, it will be stricken and the remainder of this Agreement will continue in full force and effect.
- h) Governing Law. This Agreement will be governed in all respects by the laws

of the state of Georgia, without regard to any conflict of laws principles, decisional law, or statutory provision which would require or permit application of another jurisdiction's substantive law. The Parties agree that the venue of any legal or equitable action that arises out of or relates to this Agreement shall be in the Superior Court of Fulton County.

i) Dispute Resolution.

- i. The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between those who have authority to settle the controversy. Within ten (10) business days after receipt of the notice, the receiving Party shall submit to the other a written response. The notice and the response shall include (1) a statement of each Party's position and a summary of arguments supporting that position, and (2) the name and title of the person who will represent that Party and of any other person who will accompany that person. Within ten (10) business days after delivery of the disputing Party's notice, the representatives of both Parties shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to attempt to resolve the dispute. All reasonable requests for information made by one Party to the other will be honored.
- ii. All negotiations pursuant to this clause will be confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and the rules of evidence of the State of Georgia.

- j) No Third Party Beneficiaries. This Agreement is between GMA and CITY alone and neither intends there to be any third-party beneficiaries to this Agreement. Without limiting the generality of the foregoing, by entering into this Agreement and providing services to CITY, GMA is not assuming any duty or obligation to any of CITY's residents, employees, vendors, clients, subcontractors or agents.

[Signatures on Page to Follow]

In witness whereof, the Parties have executed this Agreement and it is effective on the Effective Date.

Georgia Municipal Association, Inc. (GMA)

CITY OF CARTERVILLE

By: _____

By: _____

Name: Pam Helton

Name: Julia Drake

Title: Director of Member Services

Title: City Clerk

By: _____

Name: Matt Santini

Title: Mayor

Date: _____

Date: _____

APPROVED

By Ryan Bowersox at 4:00 pm, Mar 26, 2023

Exhibit A – Services and Compensation

City of Cartersville Customer Service Training Class

Scope of Work:

GMA Member Services Consultant(s) will conduct onsite Customer Service training classes for the City of Cartersville and its employees.

- Training attendees will be selected and invited by City of Cartersville Human Resources Department.
- Specific dates of training sessions will be agreed upon by GMA and the City of Cartersville. The maximum number of attendees is 40 per session.
- Training sessions will be 3 hours each to be held on dates & times established by City of Cartersville & GMA.
- GMA will provide City of Cartersville with an electronic copy of each presentation.
- Any food or beverages will be provided by the city if it so chooses to do so. The city will have available all AV equipment which includes (1) LCD projector and (1) screen or equivalent; (2) six ft. tables for the use of GMA consultants during the workshop; and classroom style set-up with tables and chairs. The city of Cartersville agrees to provide a list of employees and job titles of those attending within 10 days of the workshop date.
- Each participant will receive a "Certificate of Attendance" at the end of the workshop.

Cost: For 10 scheduled classes, total costs will be \$8,500,

plus travel expenses for instructor (s)

Completion Date: Agreed upon by GMA & City of Cartersville

Instructor(s): GMA Member Service Consultants

Invoices: Payment shall be due no later than 30 days from completion of the Training. GMA will send all invoices via email to Anne Trent atrent@cityofcartersville.org

Location and Set-Up: The Training location and set up will be provided by City of Cartersville. Location must conform to all CDC COVID-19 protocols and guidance, if applicable.