

AGREEMENT BETWEEN
THE CITY OF FOREST PARK
AND
THE GEORGIA MUNICIPAL ASSOCIATION, INC.
FOR TELECOMMUNICATIONS & RIGHT OF WAY MANAGEMENT

WHEREAS, the City of Forest Park (“City”) desires to provide regulation and oversight of cable television and other telecommunications services being provided to the citizens of the City;

WHEREAS, the Georgia Municipal Association, Inc. (“GMA”) has available a telecommunications and right of way management program; and,

WHEREAS, the City has a need for such telecommunications and right of way management program.
THEREFORE, THE CITY AND GMA AGREE AS FOLLOWS:

Section 1. Services Provided to the City of Forest Park

GMA agrees to provide, either directly or through its agents or subcontractors, the following consulting services, (all of which are explained more fully below) which are to be known as GMA’s Telecommunications and Right of Way Management Program:

- a) Local Franchise Management, as more fully described in Section 2 of this agreement;
- b) State Issued Franchise Management, as more fully described in Section 3 of this agreement;
- c) Cellular Tower and PCS Tower Site Consultation Services, as more fully described in Section 4 of this agreement;
- d) Franchise Compliance Monitoring Services as more fully described in Section 5 of this agreement.
- e) Right of Way Ordinance Development as more fully described in Section 6 of this agreement.

Section 2. Local Franchise Management

Local Franchise Management shall include assisting the City with the following:

- a) Facilitating the City’s compliance with the 1984 and 1992 Federal Cable Acts, the Telecommunications Act of 1996 and the rules of the FCC affecting municipal regulation of cable and video service providers;
- b) Regulating cable rates for basic service, equipment and installation, and performing rate analysis to determine compliance with the Federal Communications Commission (“FCC”) rate regulations, if the City is a rate regulator;
- c) Evaluating and responding to requests for approval of franchise grant, transfer, modification or renewal;

- d) Recommending and developing customer service standards for cable and video service providers; and
- e) Assisting with Public Educational and Government Channel (PEG) development and implementation issues.

Section 3. State Issued Franchise Management

State Issued Franchise Management shall include assisting the City as needed with the following based on O.C. G. A. 36-76-1 *et seq.*:

- a) Reviewing requests for state issued franchises submitted to the Secretary of State's Office to provide service within the city's corporate limits, including facilitating the Secretary of State's procedural processes related to the franchise fee percentage for a holder of a state issued franchise;
- b) Assisting with Public Educational and Government Channel (PEG) development and implementation issues;
- c) Reviewing requests for transfers of state issued franchises submitted to the Secretary of State's Office for service provided within the city's corporate limits; and
- d) Assisting with customer complaints rules as established by the Governor's Office of Consumer Affairs.

Section 4. Cellular and PCS Tower Site Consultation Services

Cellular and PCS and Tower Site Consultation Services shall include:

- a) Negotiating agreement between the City and any cellular or PCS provider for use of the city's property by the provider;
- b) Advising Cities on the provisions of tower site agreements for the use of public land;
- c) Informing Cities concerning federal policies related to siting of wireless technologies; and
- d) Referring Cities to engineering or other professional resources on an as needed basis.

Section 5. State and Local Franchise Compliance Monitoring Services

Franchise compliance monitoring services shall include systematically reviewing the cable operator's or video provider's compliance with the terms of certain aspects of a local or state issued franchise agreement to encompass the following:

- a) Upon receipt of revenue report forms from the city, monitor compliance with the definition of "gross revenue" and assist with recovery of any identified underpayments;
- b) Periodically perform a review of the franchisee's books and records to determine compliance with the definition of gross revenue and assisting with recovery of any identified underpayment;
- c) Advising government concerning conducting the local performance review of an operator's performance in compliance with provisions of a local franchise agreement;

- d) Reviewing funding or other issues related to the government channel, tower rental fees or pole agreement fees if applicable;
- e) Documenting operator's carriage of appropriate insurance coverage;
- f) Checking and documenting the status of system construction timeframes, if applicable;
- g) Handling and resolving subscriber complaints as referred;
- h) Monitoring operator's adherence to federal, state or local customer service standards;
- i) Notifying Cities of any identified areas of noncompliance and resolution of same or notification that the operator was found to be in compliance;

Section 6. Rights of Way Ordinance Development

- a) Review existing Rights of Way Ordinance to determine City's current rights of way practices;
- b) Review existing permit process and other ordinances that impact use and restoration of the rights of way;
- c) Evaluate current Rights of Way practices and recommend changes; and
- d) Provide updated Rights of Way Ordinance based on the unique needs of the City

Section 7. Other Services

In addition to the services outlined above, the City may obtain technical performance auditing of a cable operator or telecommunications company and technical assistance in the development of public, educational and governmental access channels and institutional networks as well as engineering consulting services concerning cellular tower siting. These other services may be obtained from GMA, its agents, employees or subcontractors. The parties to the agreement may execute an addendum or addenda to this agreement for the City to obtain such services; provided, however, the additional fee for each such additional service shall not exceed \$10,000.

Section 8. Effective Date, Renewal and Termination.

- a) This Agreement shall terminate absolutely and without further obligation on the part of the City at the close of the Calendar year in which it was executed and at the close of each succeeding Calendar year for which it may be renewed as provided for herein.
- b) This Agreement shall commence as of _____, 20____. It is automatically renewed for successive one-year calendar terms thereafter, unless terminated by either GMA or the City by giving 30 days advance written notice of such termination to the other party. GMA shall be entitled to payment for services rendered to the City, including compensation due for additional services rendered to the City, including compensation due for additional services reasonably substantiated by GMA as of the effective date of termination.

- c) The total obligation of the City under this Agreement for the calendar year of execution shall initially be \$10,000.00. The total obligation of the City which will be incurred in each Calendar year renewal term shall be reflected in an annual invoice to be submitted to the City thirty (30) days prior to the due date. The invoice shall state the total amount of obligation for the upcoming year exclusive of amounts for any Other Services as the City may elect to obtain through the provisions of Section 7 of this agreement. The rendering of services by GMA or its subcontractors to the City after any renewal of this Agreement for such services shall result in additional obligations for the City.

Section 9. 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, the City holds harmless GMA for liability for the negligence of the City, its officers, agents, employees, or subcontractors arising out of this agreement. GMA holds harmless the City for the negligence of GMA, its officers, agents, employees, or subcontractors arising out of this agreement. No agency relationship created for other purposes including but not limited to workers compensation and employee benefits and neither party or their officers, agents or employees shall be deemed employees of the other party.

Section 10. Agency

In addition by executing the attached Agent Representation Form the City designates GMA, its officers, agents, employees, and contractors as agents of the City for purposes of Section 635A of the Communications Act of 1934, as amended, the applicable provisions of the Local Government Antitrust Act of 1984 and O.C. G. A. 36-76-1 *et seq* known as the Georgia Consumer's Choice for Television Act of 2008.

Section 11. Amendments.

This contract may be amended by future written agreements executed on behalf of the City and GMA.

Section 12. Georgia Security and Immigration Compliance Act

GMA attests compliance with the requirements of O.C.G.A. §13-10-91 and Rule 300-10-1-.02 by the execution of the contractor affidavit attached as Appendix A as shown in Rule 300-10-1-.07, or a substantially similar contractor affidavit, which document is attached to and made a part of this contract as Exhibit A.

GMA agrees that, in the event GMA employs or contracts with any subcontractor(s) in connection with the covered contract, GMA will secure from such subcontractor(s) attestation of the subcontractor's compliance with O.C.G.A. 13-10-91 and Rule 300-10-1-.02 by the subcontractor's execution of the subcontractor affidavit shown in Rule 300-10-1-.08 or a substantially similar subcontractor affidavit, and maintain records of such attestation for inspection by the City at any time.

Section 13. Law Applicable.

This agreement shall be construed under the laws of the State of Georgia.

Section 14. Consulting Services

None of the services provided pursuant to this agreement shall be regarded or treated as the practice of law or accountancy.

EXECUTED ON BEHALF OF THE CITY OF FOREST PARK THIS _____ DAY OF _____, 20____.

ATTEST:

CITY OF FOREST PARK:

City Clerk

By: _____
Authorized Signatory, Title

APPROVED AS TO FORM:

City Attorney

GEORGIA MUNICIPAL ASSOCIATION, INC.

By: _____
Larry H. Hanson, Executive Director

A RESOLUTION OF THE CITY OF FOREST PARK THROUGH THE COUNCIL
TO AUTHORIZE THE MAYOR OF SAID CITY TO EXECUTE A
TELECOMMUNICATIONS & RIGHT OF WAY MANAGEMENT PROGRAM
AGREEMENT

WHEREAS, the City of Forest Park desires to regulate the provision of cable television and other telecommunications management services so as to assure that the citizens of said City receive quality service;

WHEREAS, the Georgia Municipal Association has available a telecommunications and right of way management program to assist the City in such regulation;

NOW THEREFORE BE IT RESOLVED, that the Mayor of the City of Forest Park is hereby authorized to execute a telecommunications and right of way management program agreement on behalf of the City, in substantially the same form as Appendix A which is attached to and made a part of this resolution.

RESOLVED by the Mayor and Council of the City of Forest Park this _____ day of _____, 20 ____.

ATTEST:

By: _____
City Clerk

Mayor: _____
City of Forest Park

(SEAL)

Georgia Municipal Association Telecommunications and Right of Way Management Program

AGENT REPRESENTATION FORM

The undersigned is a participant in the Georgia Municipal Association's (GMA) Telecommunications and Right of Way Management (TRM) program. GMA's TRM program provides assistance with all aspects of federal and state cable and video franchising, including but not limited to franchise renewals and modifications, state franchise application process, franchise fee reviews and customer service issues. As a participant in GMA's TRM program, authorization is hereby granted to allow GMA's staff and/or subcontractors to act on the Participants behalf as listed above.

This AGENT REPRESENTATION FORM is effective upon date signed and until further notice.

Name of City, Town or County

Street Address

City

Zip Code

Phone #

Fax #

Email Address

Submitted By – Print Name

Title

Signature

Date