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## SPECIAL CALLED COUNCIL MEETING AGENDA

Mike Mason, Mayor

Phil Sadd – Post 1, Council Member  
James Lowe – Post 2, Council Member  
Alex Wright – Post 3, Council Member

Jeanne Aulbach – Post 4, Council Member  
Lorri Christopher – Post 5, Council Member  
Weare Gratwick – Post 6, Council Member

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October 30, 2012

**COUNCIL AGENDA**

**7:30 PM**

Robert Fowler YMCA

5600 West Jones Bridge Road, Peachtree Corners, GA 30092

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**A) CALL TO ORDER**

**B) ROLL CALL**

**C) PLEDGE OF ALLEGIANCE**

**D) MAYOR'S OPENING REMARKS**

**E) MINUTES**                      Consideration of October 16, 2012 Council Meeting Minutes

**F) CONSIDERATION OF MEETING AGENDA**

**G) PUBLIC COMMENTS**

**H) APPROVAL OF MEETING AGENDA**

**I) CONSENT AGENDA-No Items**

**J) REPORTS AND PRESENTATIONS**

**D. Wheeler**                      »Update on Community Development Planning Issues  
   »Initial Review of Property Maintenance Code

**J. Jackson**                      »Overview of Employee Benefit Package

**K) OLD BUSINESS**

**L) NEW BUSINESS**

**1. O2012-10-66**                      **FIRST READ** and Consideration of Ordinance Amending Chapter 18: Businesses

**AN ORDINANCE TO AMEND CHAPTER 18, BUSINESSES, TO PROVIDE FOR TAXATION ON FINANCIAL INSTITUTIONS; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

**2. R2012-10-25**                      Consideration of Resolution Authorizing the Mayor to Sign Agreement with Gwinnett County Regarding the Energy Excise Tax

**3. R2012-10-26**                      Consideration of Resolution to Appoint a Member to the Gwinnett Village CID Board for the City of Peachtree Corners

4. **R2012-10-27** Consideration of Resolution to Approve and Authorize Membership in the Georgia Municipal Association Workers Compensation Self-Insurance Fund for the City of Peachtree Corners and for Other Purposes
5. **R2012-10-28** Consideration of Resolution to Approve and Participate in the Georgia Municipal Association Deferred Compensation Plan for the City of Peachtree Corners and for Other Purposes
6. **R2012-10-29** Consideration of Resolution to Approve and Participate in the Georgia Municipal Association Defined Compensation Plan for the City of Peachtree Corners and for Other Purposes
7. **ACTION ITEM** Consideration to Approve and Authorize the Participation into the GMEBS Program for the City of Peachtree Corners, GA
8. **ACTION ITEM** Consideration to Review and Authorize the Notification to Gwinnett County Regarding Certain City Services
9. **ACTION ITEM** Consideration of Request for Proposal for the Development of the 2033 Peachtree Corners Comprehensive Plan
10. **ACTION ITEM** Review and Consideration to Authorize the Purchase of a Telephone System for the City of Peachtree Corners, GA.

**M) OTHER BUSINESS**

**N) EXECUTIVE SESSION**

**O) ADJOURNMENT**

**CITY OF PEACHTREE CORNERS**  
**COUNCIL MEETING**  
**October 16, 2012 @ 7:30pm**

The Mayor and Council of the City of Peachtree Corners held a Council Meeting on Tuesday, October, 16, 2012 at 7:30pm and it was held at the Robert Fowler YMCA, located at 5600 West Jones Bridge Road, in Peachtree Corners, GA 30092. The following were in attendance:

Mayor	Mike Mason
Council Member	Phil Sadd - Post 1- <b>Absent</b>
Council Member	James Lowe - Post 2
Council Member	Alex Wright - Post 3
Council Member	Jeanne Aulbach - Post 4
Council Member	Lorri Christopher - Post 5
Council Member	Weare Gratwick - Post 6
City Attorney	Bill Riley, Scott Robichaux, Scott Hasteay
City Manager	Julian Jackson
Acting City Clerk	Joan Jones

**PLEDGE OF ALLEGIANCE:** Mayor Mason led the Pledge of Allegiance.

**OPENING COMMENTS:** Mayor Mason thanked everyone for attending.

**MINUTES:** Mayor Mason called for a motion to consider the October 2, 2012 Council Meeting Minutes. Council Member Gratwick motioned, seconded by Council Member Wright to approve the minutes as amended. There being no further discussion, the motion carried unanimously.

**PUBLIC COMMENT:** No public comments made.

**AGENDA CONSIDERATION:** Mayor Mason requested council to consider amending tonight's agenda to allow consideration of the Logo/Tagline adoption directly after the presentation. Council Member Lowe motioned, seconded by Council Member Christopher to approve tonight's agenda as amended. There being no discussion, the motion carried and the amended agenda was approved.

**CONSENT AGENDA:** No Consent Agenda Items

**REPORTS and PRESENTATIONS:** Accent South Media Owner Pam Ledbetter introduced the committee members and reported on the process and development of the city's logo and tagline. She outlined how data was collected, the various committee meetings held and a survey was conducted to find out what makes Peachtree Corner stand out/what makes it special. In addition, Ms. Ledbetter described how the trees, river and beautiful landscapes around Peachtree Corners helped to develop the logo which will be unveiled at the December City Hall Open House. She explained the brainstorming sessions the committee held regarding the development of the city tagline and once the logo and tagline were finalized, she explained there were separate meetings of council members in groups of 2-3 to present the logo/tagline. In closing, Council Member Lowe asked Ms. Ledbetter to provide general information on how costly this process is, to which she stated there is no cost to the city for this project, but this type of project cost approximately 30-45K and she highlighted her company's accomplishments and credentials.

**CITY LOGO and TAGLINE ADOPTED:** Mayor Mason called for consideration of the Resolution adopting

the City Logo and Tagline. Acting City Clerk Jones reviewed the revised wording of Resolution 2012-10-23 which adopts the City Logo and Tagline as described in the presentation by Accent South Media at tonight's meeting. Council Member Lowe motioned to approve Resolution 2012-10-23 as amended adopting the City Logo and Tagline for the City of Peachtree Corners. Council Member Gratwick seconded the motion. There being no further discussion, the motion carried unanimously. (**RESOLUTION 2012-10-23**)

Community Development Director Diana Wheeler provided her report on staff activities during October 8<sup>th</sup> through October 12<sup>th</sup>. Director Wheeler also provided an overview of a draft Request for Proposal for the Comprehensive Plan, explaining the purpose and scope of this project. She asked the Mayor and Council to review this proposal and provide feedback over the next few weeks. There was a brief discussion to clarify what a "community work program" is, when and how the council provides input into the development of the plan, funding a plan and the evaluation criteria. Mayor Mason asked Ms. Wheeler to provide sample comprehensive plans they may review to get a better idea of what is in a plan.

### **OLD BUSINESS:**

**AGL FRANCHISE AGREEMENT:** The Second Reading of Ordinance 2012-10-64 Granting to **Atlanta Gas Light Company** the Right and Franchise to Use and Occupy the Streets, Avenues, Roads, Public Highways, Alleys, Lanes, Ways Parks and Other Public Places of the City of Peachtree Corners, for Constructing, Maintaining, Renewing, Repairing and Operating a Gas Works and Gas Distribution System, and other Necessary Means for Manufacturing, Transmitting, Distributing and Selling or Manufactured, Natural or Commingled Gas Within and through the City of Peachtree Corners and the Fixing Terms and Conditions of Such Grant; To Provide Provisions Governing the Franchise Fee Calculations proved and Effective Date and for Other Purposes was held. There was a brief discussion on the base rate (14.14) and the calculation formula which was clarified as the standard formula by City Manager Jackson and the attorneys. Council Member Christopher motioned, seconded by Council Member Gratwick to approve Ordinance 2012-10-64 adopting the Atlanta Gas Light Franchise Agreement. There being no further discussion the motion carried unanimously. (**ORDINANCE 2012-10-64**)

**AMENDING CHAPTER 18:** The Second Reading of Ordinance 2012-10-65 Amending Chapter 18; Businesses, To Provide For **Insurance License Fees**; To Provide for Codification; to Provide for Severability; to Provide an Effective Date and for Other Purposes was held. Council Member Lowe motioned, seconded by Council Member Gratwick to approve Ordinance 2012-10-65 amending Chapter 18 as presented. There being no further discussion, the motion carried unanimously. (**ORDINANCE 2012-10-65**)

### **NEW BUSINESS:**

**RFP for DEVELOPMENT SERVICES:** Director Wheeler provided an update on the minor change to Section 3 of the Request for Proposals for Development Services. Council Member Christopher motioned to approve the amended RFP for Development Services. Council Member Gratwick seconded the motion. There being no further discussion, the motion carried unanimously. (**ACTION ITEM**)

**WEBSITE DOMAIN TRANSFER:** Council Member Christopher motioned, seconded by Council Member Gratwick to approve Resolution 2012-10-22 approving the transfer of ownership of the current city website domain to the City of Peachtree Corners. During discussion, Mayor Mason thanked Council Member Lowe on behalf of the council for developing the website which greatly assisted with keeping the citizens informed. There being no further discussion, the motion carried. (**RESOLUTION 2012-10-22**)

**EMERGENCY OPERATION PLAN:** City Manager Julian Jackson reviewed this resolution adopting the revised emergency operation plan for Gwinnett County, explaining this would make the city eligible for funding in emergency situation, reminding the council the governor has the authority to declare a state of emergency. Council Member Wright motioned, seconded by Council Member Aulbach to approve Resolution 2012-10-24 adopting the revised emergency operations plan of Gwinnett County. There being no discussion, the motion carried unanimously. **(RESOLUTION 2012-10-24)**

**GA ER MGMT MUTUAL AID AGREEMENT:** City Manager Jackson explained this Agreement is an extension of the emergency operation plan. Council Member Gratwick motioned, seconded by Council Member Wright to approve the Georgia Emergency Management Agency-Homeland Security Statewide Mutual Aid and Assistance Agreement as presented. There being no discussion, the motion carried unanimously. **(ACTION ITEM)**

**FINANCIAL SOFTWARE RFP:** City Manager Jackson provided an overview of the proposals received for financial software and of the five responses, he recommended QS1 in the amount of \$17,480. He explained this is a three (3) year contract with a cost reduction in year two (2) and three (3). Council Member Aulbach motioned, seconded by Council Member Wright to authorize the purchase of QS1 Financial Software package. There was discussion of the data storage and data conversion. There being no further discussion, the motion carried unanimously. **(ACTION ITEM)**

**COOPERATION AGREEMENT – GWINNETT VILLAGE CID:** Attorney Riley reviewed this cooperation agreement between Gwinnett County, the City of Norcross and the City of Peachtree Corners and the Gwinnett Village Community Improvement District Board. He explained there are no monies involved in this agreement; it addresses how these entities work with the CID Board. Council Member Christopher motioned, seconded by Council Member Gratwick to approve this agreement as presented. There being no further discussion, the motion carried unanimously. **(ACTION ITEM)**

**OTHER BUSINESS:** There was discussion on next week's Work Session Agenda Items. City Manager Jackson said he has no items at this time and recommended cancelling the Work Session and meeting the following week. There was council consensus to cancel the Work Session and have a Special Called Meeting on Tuesday, October 30<sup>th</sup>.

**EXECUTIVE SESSION:** Mayor Mason explained there is a need to go into an Executive Session for one legal matter, but the council will not be taking any action and wished everyone a good night. Council Member Gratwick motioned, seconded by Council Member Lowe to go into Executive Session for the discussion of one (1) litigation matter. There being no further discussion, the motion carried unanimously.

Council Member Christopher motioned, seconded by Council Member Wright to come out of Executive Session and resume the regular meeting. There being no discussion, the motion carried unanimously and the regular session was resumed.

**ADJOURNMENT:** There being no further business, Council Member Christopher motioned, seconded by Council Member Gratwick to adjourn the meeting. There being no further discussion, the motion carried unanimously and the meeting was adjourned.

Approved,

Attest:

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Mike Mason, Mayor

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Joan C. Jones, Acting City Clerk



# Memo

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TO: Mayor and Council  
CC: Julian Jackson, City Manager  
FROM: Diana Wheeler, Community Development Director  
SUBJECT: Staff Activity Report

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The following is a summary of Staff activity during the week of 10/22/12 – 10/26/12.

- A. Meetings with:
1. A developer to discuss his property on Peachtree Industrial Boulevard.
  2. A builder to discuss property on Peachtree Parkway.
  3. Pond and Co. to improve City maps by adding streets, public buildings, parks, and schools.
- B. Participated in a conference call regarding a GA Gas Co. sponsored event that provides special needs children and their families with circus tickets. 15, family 4-pack tickets are offered to each participating community at no cost to the city or families. The city contributes staff time to coordinate the distribution of tickets.
- C. Attended Women's Networking meeting at Ippolitos.
- D. Completed draft Property Maintenance Code.
- E. Completed site visits for upcoming Planning Commission cases.
- F. Responded to phone calls and e-mails from residents, business people, and others.

## **Gwinnett County Activity Report**

- A. 21 building permits were issued.
- B. no development permits were issued.
- C. no development plans were submitted.



**GWINNETT COUNTY**

DEPARTMENT OF PLANNING AND DEVELOPMENT  
 ONE JUSTICE SQUARE  
 446 West Crogan Street, Lawrenceville, Georgia 30046  
 Phone: 678.518.6020 Fax: 678.518.6028  
 678.518.6277 24 Hour Inspection Requests  
 www.gwinnettcountry.com

**PERMITS ISSUED BETWEEN 10/8/2012 AND 10/19/2012 FOR THE CITY OF PEACHTREE CORNERS**

CASE NUMBER	BLD2012-07637	PARCEL #	6258 254	ISSUED ON	10/15/2012	PROJECT:	SPRINT PCS AT03XC164
	0/S Fire Repair, Sign, Above Ground Pool, Mech			<b>CONTRACTOR:</b>	TOWERCOM LLC	<b>ZONING DISTRICT:</b>	M1
<b>CENSUS TRACT:</b>	050309				6017 TRIANGLE DR	<b>NO. OF UNITS:</b>	
<b>LOT:</b>						<b>ESTIMATED COST:</b>	\$20,000.00
<b>BLOCK:</b>					RALEIGH, NC 27617	<b>HEATED AREA:</b>	
<b>SUBDIVISION:</b>					919.781.3496	<b>UNHEATED AREA:</b>	
<b>ST ADDRESS, CITY:</b>	4708 SOUTH OLD PEACHTREE RD, NORCROSS			<b>TENANT:</b>	SPRINT PCS AT03XC164	<b>Sewer/Septic:</b>	Sewer
<b>COMM/RES:</b>	Commercial			<b>USE:</b>	Commercial Manufacturing		
<b>WORK DESC:</b>	ANTENNA UPGRADE AT 200-FT ON EXISTING TO 220			<b>TYPE OF WORK:</b>	Communication Tower Co-Locate		
CASE NUMBER	BLD2012-09004	PARCEL #	6274 077	ISSUED ON	10/11/2012	PROJECT:	FAMOUS FOOTWEAR
	437 Alterations (Non-Res), Interior Finish			<b>CONTRACTOR:</b>	MARK & WAYNE BUILDERS LLC	<b>ZONING DISTRICT:</b>	C2
<b>CENSUS TRACT:</b>	050310				DBA M & W BUILDERS	<b>NO. OF UNITS:</b>	
<b>LOT:</b>					411 BAILEY MILL RD	<b>ESTIMATED COST:</b>	\$75,000.00
<b>BLOCK:</b>					YATESVILLE, GA 31097	<b>HEATED AREA:</b>	5586
<b>SUBDIVISION:</b>					214.373.4700	<b>UNHEATED AREA:</b>	
<b>ST ADDRESS, CITY:</b>	3200 HOLCOMB BRIDGE RD, NORCROSS			<b>TENANT:</b>	FAMOUS FOOTWEAR	<b>Sewer/Septic:</b>	
<b>COMM/RES:</b>	Commercial			<b>USE:</b>	Commercial Zoning C1,C2,C3		
<b>WORK DESC:</b>	INTERIOR FINISH PERMIT, FAMOUS FOOTWEAR, SUITE 200, 5586 sq. ft.			<b>TYPE OF WORK:</b>	Interior Finish		
CASE NUMBER	BLD2012-09412	PARCEL #	6283 072	ISSUED ON	10/8/2012	PROJECT:	THE CORNERS OFFICE PARK - SPRINT-NEXTEL DATA CENTER HVAC MODIFICATION
	0/S Fire Repair, Sign, Above Ground Pool, Mech			<b>CONTRACTOR:</b>	MAXAIR MECHANICAL INC	<b>ZONING DISTRICT:</b>	C2
<b>CENSUS TRACT:</b>	050310				1621 SANDS PLACE	<b>NO. OF UNITS:</b>	
<b>LOT:</b>						<b>ESTIMATED COST:</b>	\$123,120.00
<b>BLOCK:</b>					MARIETTA, GA 30067	<b>HEATED AREA:</b>	
<b>SUBDIVISION:</b>	undefined				770.956.1200	<b>UNHEATED AREA:</b>	
<b>ST ADDRESS, CITY:</b>	6575 - 5 THE CORNERS PKWY SUITE 500, NORCROSS			<b>TENANT:</b>	SPRINT-NEXTEL	<b>Sewer/Septic:</b>	Sewer
<b>COMM/RES:</b>	Commercial			<b>USE:</b>	Commercial Zoning C1,C2,C3		
<b>WORK DESC:</b>	OTHER PERMIT, SUITE 500, (HVAC MODIFICATIONS W/ ASSOCIATED ELECTRICAL)			<b>TYPE OF WORK:</b>	Other		

CASE NUMBER	BLD2012-09732	PARCEL # 6270 223	ISSUED ON 10/8/2012	PROJECT: BERKELEY CHASE BLDG 18 UNIT 59A
		102 Single Family - Attached, Townhouse	<b>CONTRACTOR:</b> FIELDSTONE PROPERTIES & DEVELOPMENT LLC	<b>ZONING DISTRICT:</b> RTH
<b>GENSUS TRACT:</b>	050309		6650 SUGARLOAF PKWY	<b>NO. OF UNITS:</b>
<b>LOT:</b>	059		SUITE 200	<b>ESTIMATED COST:</b> \$77,333.33
<b>BLOCK:</b>	A		DULUTH, GA 30097	<b>HEATED AREA:</b> 1856
<b>SUBDIVISION:</b>	BERKELEY CHASE		404.863.8197	<b>UNHEATED AREA:</b> 389
<b>ST ADDRESS, CITY:</b>	4893 ALLSTON CV, NORCROSS		<b>TENANT:</b>	<b>Sewer/Septic:</b> Sewer
<b>COMM/RES:</b>	Residential		<b>USE:</b> Townhouse Condominium	
<b>WORK DESC:</b>	TOWNHOUSE CONDO, BLDG 18, UNIT 59A		<b>TYPE OF WORK:</b> Complete Building Permit	

CASE NUMBER	BLD2012-09733	PARCEL # 6270 224	ISSUED ON 10/8/2012	PROJECT: BERKELEY CHASE BLDG 18 UNIT 60A
		102 Single Family - Attached, Townhouse	<b>CONTRACTOR:</b> FIELDSTONE PROPERTIES & DEVELOPMENT LLC	<b>ZONING DISTRICT:</b> RTH
<b>GENSUS TRACT:</b>	050309		6650 SUGARLOAF PKWY	<b>NO. OF UNITS:</b>
<b>LOT:</b>	060		SUITE 200	<b>ESTIMATED COST:</b> \$77,333.33
<b>BLOCK:</b>	A		DULUTH, GA 30097	<b>HEATED AREA:</b> 1856
<b>SUBDIVISION:</b>	BERKELEY CHASE		404.863.8197	<b>UNHEATED AREA:</b> 389
<b>ST ADDRESS, CITY:</b>	4883 ALLSTON CV, NORCROSS		<b>TENANT:</b>	<b>Sewer/Septic:</b> Sewer
<b>COMM/RES:</b>	Residential		<b>USE:</b> Townhouse Condominium	
<b>WORK DESC:</b>	TOWNHOUSE CONDO, BLDG 18, UNIT 60A		<b>TYPE OF WORK:</b> Complete Building Permit	

CASE NUMBER	BLD2012-09735	PARCEL # 6270 222	ISSUED ON 10/8/2012	PROJECT: BERKELEY CHASE BLDG 18 UNIT 58A
		102 Single Family - Attached, Townhouse	<b>CONTRACTOR:</b> FIELDSTONE PROPERTIES & DEVELOPMENT LLC	<b>ZONING DISTRICT:</b> RTH
<b>GENSUS TRACT:</b>	050309		6650 SUGARLOAF PKWY	<b>NO. OF UNITS:</b>
<b>LOT:</b>	058		SUITE 200	<b>ESTIMATED COST:</b> \$77,333.33
<b>BLOCK:</b>	A		DULUTH, GA 30097	<b>HEATED AREA:</b> 1856
<b>SUBDIVISION:</b>	BERKELEY CHASE		404.863.8197	<b>UNHEATED AREA:</b> 389
<b>ST ADDRESS, CITY:</b>	4903 ALLSTON CV, NORCROSS		<b>TENANT:</b>	<b>Sewer/Septic:</b> Sewer
<b>COMM/RES:</b>	Residential		<b>USE:</b> Townhouse Condominium	
<b>WORK DESC:</b>	TOWNHOUSE CONDO, BLDG 18, UNIT 58A		<b>TYPE OF WORK:</b> Complete Building Permit	

<b>CASE NUMBER</b>	<b>BLD2012-09740</b>	<b>PARCEL #</b>	<b>6270 225</b>	<b>ISSUED ON</b>	<b>10/8/2012</b>	<b>PROJECT:</b>	<b>BERKELEY CHASE BLDG 18 UNIT 61A</b>
	102 Single Family - Attached, Townhouse			<b>CONTRACTOR:</b>	FIELDSTONE PROPERTIES & DEVELOPMENT LLC	<b>ZONING DISTRICT:</b>	RTH
<b>CENSUS TRACT:</b>	050309				6650 SUGARLOAF PKWY	<b>NO. OF UNITS:</b>	
<b>LOT:</b>	061				SUITE 200	<b>ESTIMATED COST:</b>	\$77,333.33
<b>BLOCK:</b>	A				DULUTH, GA 30097	<b>HEATED AREA:</b>	1856
<b>SUBDIVISION:</b>	BERKELEY CHASE				404.863.8197	<b>UNHEATED AREA:</b>	389
<b>ST ADDRESS, CITY:</b>	4873 ALLSTON CV, NORCROSS			<b>TENANT:</b>		<b>Sewer/Septic:</b>	Sewer
<b>COMM/RES:</b>	Residential			<b>USE:</b>	Townhouse Condominium		
<b>WORK DESC:</b>	TOWNHOUSE CONDO, BLDG 18, UNIT 61A			<b>TYPE OF WORK:</b>	Complete Building Permit		

<b>CASE NUMBER</b>	<b>BLD2012-09741</b>	<b>PARCEL #</b>	<b>6270 226</b>	<b>ISSUED ON</b>	<b>10/8/2012</b>	<b>PROJECT:</b>	<b>BERKELEY CHASE BLDG 18 UNIT 62A</b>
	102 Single Family - Attached, Townhouse			<b>CONTRACTOR:</b>	FIELDSTONE PROPERTIES & DEVELOPMENT LLC	<b>ZONING DISTRICT:</b>	RTH
<b>CENSUS TRACT:</b>	050309				6650 SUGARLOAF PKWY	<b>NO. OF UNITS:</b>	
<b>LOT:</b>	062				SUITE 200	<b>ESTIMATED COST:</b>	\$77,333.33
<b>BLOCK:</b>	A				DULUTH, GA 30097	<b>HEATED AREA:</b>	1856
<b>SUBDIVISION:</b>	BERKELEY CHASE				404.863.8197	<b>UNHEATED AREA:</b>	389
<b>ST ADDRESS, CITY:</b>	4863 ALLSTON CV, NORCROSS			<b>TENANT:</b>		<b>Sewer/Septic:</b>	Sewer
<b>COMM/RES:</b>	Residential			<b>USE:</b>	Townhouse Condominium		
<b>WORK DESC:</b>	TOWNHOUSE CONDO, BLDG 18, UNIT 62A			<b>TYPE OF WORK:</b>	Complete Building Permit		

<b>CASE NUMBER</b>	<b>BLD2012-09744</b>	<b>PARCEL #</b>	<b>6284 026</b>	<b>ISSUED ON</b>	<b>10/15/2012</b>	<b>PROJECT:</b>	<b>PEACHTREE RIDGE DRIVE - POND &amp; COMPANY</b>
	437 Alterations (Non-Res), Interior Finish			<b>CONTRACTOR:</b>	KR-WITWER INC	<b>ZONING DISTRICT:</b>	M1
<b>CENSUS TRACT:</b>	050310				3883 ROGERS BRIDGE ROAD STE 703	<b>NO. OF UNITS:</b>	
<b>LOT:</b>						<b>ESTIMATED COST:</b>	\$21,000.00
<b>BLOCK:</b>					DULUTH, GA 30097	<b>HEATED AREA:</b>	
<b>SUBDIVISION:</b>	ROYAL PEACHTREE CORNERS				678.775.3150	<b>UNHEATED AREA:</b>	
<b>ST ADDRESS, CITY:</b>	3500 - 7 PARKWAY LN SUITE 740, NORCROSS			<b>TENANT:</b>	POND & COMPANY	<b>Sewer/Septic:</b>	
<b>COMM/RES:</b>	Commercial			<b>USE:</b>	Commercial Manufacturing		
<b>WORK DESC:</b>	INTERIOR FINISH PERMIT, SUITE 740, POND & COMPANY			<b>TYPE OF WORK:</b>	Interior Finish		

CASE NUMBER	BLD2012-09775	PARCEL # 6331 461	ISSUED ON 10/10/2012	PROJECT: TILLMAN HALL 17 A
	101 Single Family - Detached		<b>CONTRACTOR:</b> PEACHTREE RESIDENTIAL PROPERTIES INC	<b>ZONING DISTRICT:</b> R100
<b>CENSUS TRACT:</b>	503.07		7380 MCGINNIS FERRY RD	<b>NO. OF UNITS:</b>
<b>LOT:</b>	017		SUWANEE, GA 30024	<b>ESTIMATED COST:</b> \$173,708.33
<b>BLOCK:</b>	A		770.622.2522	<b>HEATED AREA:</b> 4169
<b>SUBDIVISION:</b>	TILLMAN HALL		<b>TENANT:</b>	<b>UNHEATED AREA:</b> 2819
<b>ST ADDRESS, CITY:</b>	4496 WOOD FOREST DR, NORCROSS		<b>USE:</b> Single Family Detached Dwelling	<b>Sewer/Septic:</b> Sewer
<b>COMM/RES:</b>	Residential		<b>TYPE OF WORK:</b> Complete Building Permit	
<b>WORK DESC:</b>	SINGLE FAMILY, IRRIGATION INCLUDED			

CASE NUMBER	BLD2012-09782	PARCEL # 6304 192	ISSUED ON 10/10/2012	PROJECT: PEACHTREE FOREST 4 D
	0/S Fire Repair, Sign, Above Ground Pool, Mech		<b>CONTRACTOR:</b> FTL ELECTRIC LLC	<b>ZONING DISTRICT:</b> R100
<b>CENSUS TRACT:</b>	503.10		1051 ALBRIGHT RD	<b>NO. OF UNITS:</b>
<b>LOT:</b>	004		STE 107	<b>ESTIMATED COST:</b> \$200.00
<b>BLOCK:</b>	D		ROCK HILL, SC 29730	<b>HEATED AREA:</b>
<b>SUBDIVISION:</b>	PEACHTREE FOREST		800.974.5066	<b>UNHEATED AREA:</b>
<b>ST ADDRESS, CITY:</b>	6275 COURTSIDE DR, NORCROSS		<b>TENANT:</b>	<b>Sewer/Septic:</b>
<b>COMM/RES:</b>	Residential		<b>USE:</b> Single Family Detached Dwelling	
<b>WORK DESC:</b>	ELECTRICAL ONLY, SINGLE CIRCUIT UPGRADE TO 240V			
			<b>TYPE OF WORK:</b> Electrical Only	

CASE NUMBER	BLD2012-09827	PARCEL # 6317 127	ISSUED ON 10/11/2012	PROJECT: AMBERFIELD, 226A
	434 Alterations(Res), Deck, Porch, Remodel		<b>CONTRACTOR:</b> KIM KALOYANNIDES / HOMEOWNER	<b>ZONING DISTRICT:</b> R75
<b>CENSUS TRACT:</b>	050308		4175 TREADDUR BAY LANE	<b>NO. OF UNITS:</b>
<b>LOT:</b>	226		NORCROSS, GA 30092	<b>ESTIMATED COST:</b> \$37,250.00
<b>BLOCK:</b>	A		404.606.5902	<b>HEATED AREA:</b> 534
<b>SUBDIVISION:</b>	AMBERFIELD		<b>TENANT:</b>	<b>UNHEATED AREA:</b> 739.80
<b>ST ADDRESS, CITY:</b>	4175 TREADDUR BAY LN, NORCROSS		<b>USE:</b> Single Family Detached Dwelling	<b>Sewer/Septic:</b>
<b>COMM/RES:</b>	Residential		<b>TYPE OF WORK:</b> Additions	
<b>WORK DESC:</b>	ADDITION TO RESIDENCE, 7 X 24.6 COVERED FRONT PORCH, 22.6 X 12 GARAGE WITH A HEATED BONUS ROOM, 19 X 15.6 COVERED REAR DECK, 22 X 15.6 HEATED ADDITION AND SOME INTERIOR REMODELING			

CASE NUMBER	BLD2012-09841	PARCEL # 6258 254	ISSUED ON 10/15/2012	PROJECT: METRO PCS ATL572	
	0/S Fire Repair, Sign, Above Ground Pool, Mech		<b>CONTRACTOR:</b>	METRO PCS GEORGIA LLC	<b>ZONING DISTRICT:</b> M2
<b>CENSUS TRACT:</b>	050309			2990 GATEWAY DR. SUITE 950	<b>NO. OF UNITS:</b>
<b>LOT:</b>					<b>ESTIMATED COST:</b> \$5,000.00
<b>BLOCK:</b>				NORCROSS, GA 30071	<b>HEATED AREA:</b>
<b>SUBDIVISION:</b>	EASTWOODS BUSINESS CENTER			770.256.8876	<b>UNHEATED AREA:</b>
<b>ST ADDRESS, CITY:</b>	4708 SOUTH OLD PEACHTREE RD, NORCROSS		<b>TENANT:</b>	METRO PCS ATL572	<b>Sewer/Septic:</b> Sewer
<b>COMM/RES:</b>	Commercial		<b>USE:</b>	Commercial Manufacturing	
			<b>TYPE OF WORK:</b>	Communication Tower Co-Locate	
<b>WORK DESC:</b>	OTHER, ANTENNA CO-LOCATION AT 165-FT ON EXISTING 220 FT				
CASE NUMBER	BLD2012-09843	PARCEL # 6280 018	ISSUED ON 10/15/2012	PROJECT: METRO PCS ATL976	
	0/S Fire Repair, Sign, Above Ground Pool, Mech		<b>CONTRACTOR:</b>	METRO PCS GEORGIA LLC	<b>ZONING DISTRICT:</b> C2
<b>CENSUS TRACT:</b>	050304			2990 GATEWAY DR. SUITE 950	<b>NO. OF UNITS:</b>
<b>LOT:</b>					<b>ESTIMATED COST:</b> \$5,000.00
<b>BLOCK:</b>				NORCROSS, GA 30071	<b>HEATED AREA:</b>
<b>SUBDIVISION:</b>				770.256.8876	<b>UNHEATED AREA:</b>
<b>ST ADDRESS, CITY:</b>	5025 WINTERS CHAPEL RD, DORAVILLE		<b>TENANT:</b>	METRO PCS ATL976	<b>Sewer/Septic:</b> Sewer
<b>COMM/RES:</b>	Commercial		<b>USE:</b>	Commercial Other	
			<b>TYPE OF WORK:</b>	Communication Tower Co-Locate	
<b>WORK DESC:</b>	OTHER, ANTENNA CO-LOCATION AT 120-FT ON EXISTING 175-FT TOWER				
CASE NUMBER	BLD2012-09845	PARCEL # 6283 002	ISSUED ON 10/15/2012	PROJECT: METRO PCS ATL1545	
	0/S Fire Repair, Sign, Above Ground Pool, Mech		<b>CONTRACTOR:</b>	METRO PCS GEORGIA LLC	<b>ZONING DISTRICT:</b> C2
<b>CENSUS TRACT:</b>	050310			2990 GATEWAY DR. SUITE 950	<b>NO. OF UNITS:</b>
<b>LOT:</b>					<b>ESTIMATED COST:</b> \$5,000.00
<b>BLOCK:</b>				NORCROSS, GA 30071	<b>HEATED AREA:</b>
<b>SUBDIVISION:</b>				770.256.8876	<b>UNHEATED AREA:</b>
<b>ST ADDRESS, CITY:</b>	3380 HOLCOMB BRIDGE RD, NORCROSS		<b>TENANT:</b>	METRO PCS ATL1545	<b>Sewer/Septic:</b> Sewer
<b>COMM/RES:</b>	Commercial		<b>USE:</b>	Commercial Zoning C1,C2,C3	
			<b>TYPE OF WORK:</b>	Communication Tower Co-Locate	
<b>WORK DESC:</b>	OTHER, ANTENNA CO-LOCATION AT 165-FT ON EXISTING 175-FT TOWER				

CASE NUMBER	BLD2012-09871	PARCEL # 6314 213	ISSUED ON 10/12/2012	PROJECT: SPALDING CORNERS 44 C
	0/S Fire Repair, Sign, Above Ground Pool, Mech		<b>CONTRACTOR:</b> VICTORY HEATING AND AIR	<b>ZONING DISTRICT:</b> R100
<b>CENSUS TRACT:</b>	503.10		6447 E WINDOR LN	<b>NO. OF UNITS:</b>
<b>LOT:</b>	044			<b>ESTIMATED COST:</b> \$4,200.00
<b>BLOCK:</b>	C		NORCROSS, GA 30093	<b>HEATED AREA:</b>
<b>SUBDIVISION:</b>	SPALDING CORNERS		678.773.7010	<b>UNHEATED AREA:</b>
<b>ST ADDRESS, CITY:</b>	6586 ROSECOMMON DR, NORCROSS		<b>TENANT:</b>	<b>Sewer/Septic:</b>
<b>COMM/RES:</b>	Residential		<b>USE:</b> Single Family Detached Dwelling	
			<b>TYPE OF WORK:</b> Mechanical Only	
<b>WORK DESC:</b>	HVAC ONLY, REPLACE 2.5TON A/C, COIL AND FURNACE			
CASE NUMBER	BLD2012-09917	PARCEL # 6313G005	ISSUED ON 10/15/2012	PROJECT: CENTURY PARK EXECUTIVE SUITES
	0/S Fire Repair, Sign, Above Ground Pool, Mech		<b>CONTRACTOR:</b> CENTURY PARK EXECUTIVE SUITES	<b>ZONING DISTRICT:</b> OI
<b>CENSUS TRACT:</b>	503.10		4005 WETHERBURY WAY	<b>NO. OF UNITS:</b>
<b>LOT:</b>			TENANT NAME CHANGE	<b>ESTIMATED COST:</b> \$0.00
<b>BLOCK:</b>			PEACHTREE CORNERS, GA 30092	<b>HEATED AREA:</b> 1650
<b>SUBDIVISION:</b>	undefined		770.912.5701	<b>UNHEATED AREA:</b>
<b>ST ADDRESS, CITY:</b>	4005 - 2 WETHERBURN WAY SUITE D, NORCROSS		<b>TENANT:</b> CENTURY PARK EXECUTIVE SUITES	<b>Sewer/Septic:</b> Sewer
<b>COMM/RES:</b>	Commercial		<b>USE:</b> Commercial, Office & Industrial	
			<b>TYPE OF WORK:</b> Tenant Change	
<b>WORK DESC:</b>	TENANT NAME CHANGE, SUITE D, SECOND FLOOR CENTURY PARK EXECUTIVE SUITES			
CASE NUMBER	BLD2012-10009	PARCEL # 6304F037	ISSUED ON 10/17/2012	PROJECT: FORESTHILLS AT PEACHTREE FOREST 26 A
	434 Alterations(Res), Deck, Porch, Remodel		<b>CONTRACTOR:</b> CARDINAL CONSTRUCTION INC	<b>ZONING DISTRICT:</b> R100
<b>CENSUS TRACT:</b>	503.10		3221-B HILL ST	<b>NO. OF UNITS:</b>
<b>LOT:</b>	026		STE 112	<b>ESTIMATED COST:</b> \$8,753.33
<b>BLOCK:</b>	A		DULUTH, GA 30096	<b>HEATED AREA:</b> 210.08
<b>SUBDIVISION:</b>	FORESTHILLS AT PEACHTREE FOREST		770.814.7331	<b>UNHEATED AREA:</b>
<b>ST ADDRESS, CITY:</b>	6223 FOREST HILLS DR, NORCROSS		<b>TENANT:</b>	<b>Sewer/Septic:</b> Sewer
<b>COMM/RES:</b>	Residential		<b>USE:</b> Duplex	
			<b>TYPE OF WORK:</b> Additions	
<b>WORK DESC:</b>	ADDITION, SUNROOM (10.1X20.8)			

CASE NUMBER	BLD2012-10036	PARCEL # 6284 026	ISSUED ON 10/18/2012	PROJECT: PEACHTREE RIDGE DRIVE - BERKELY CAPITAL PARTNERS
	437 Alterations (Non-Res), Interior Finish		<b>CONTRACTOR:</b> DOVE CONTRACTING INC	<b>ZONING DISTRICT:</b> M1
<b>CENSUS TRACT:</b>	050310		292 SOUTH MAIN ST	<b>NO. OF UNITS:</b>
<b>LOT:</b>			STATE AUTHORIZED FORM	<b>ESTIMATED COST:</b> \$28,325.38
<b>BLOCK:</b>			ALPHARETTA, GA 30009	<b>HEATED AREA:</b> 2460
<b>SUBDIVISION:</b>	undefined		770.777.0055	<b>UNHEATED AREA:</b>
<b>ST ADDRESS, CITY:</b>	3500 - 4 PARKWAY LN 430, NORCROSS		<b>TENANT:</b> BERKELY CAPITAL PARTNERS	<b>Sewer/Septic:</b>
<b>COMM/RES:</b>	Commercial		<b>USE:</b> Commercial Manufacturing	
			<b>TYPE OF WORK:</b> Interior Finish	
<b>WORK DESC:</b>	INTERIOR FINISH PERMIT, BERKELY CAPITAL PARTNERS, SUITE 430			

CASE NUMBER	BLD2012-10043	PARCEL # 6331 255	ISSUED ON 10/18/2012	PROJECT: WENTWORTH 413C
	434 Alterations(Res), Deck, Porch, Remodel		<b>CONTRACTOR:</b>	<b>ZONING DISTRICT:</b> R100
<b>CENSUS TRACT:</b>	050308			<b>NO. OF UNITS:</b>
<b>LOT:</b>	0413			<b>ESTIMATED COST:</b> \$33,276.00
<b>BLOCK:</b>	C			<b>HEATED AREA:</b>
<b>SUBDIVISION:</b>	WENTWORTH			<b>UNHEATED AREA:</b>
<b>ST ADDRESS, CITY:</b>	5155 WENTWORTH DR, NORCROSS		<b>TENANT:</b>	<b>Sewer/Septic:</b> Septic
<b>COMM/RES:</b>	Residential		<b>USE:</b> Single Family Detached Dwelling	
			<b>TYPE OF WORK:</b> Remodel	
<b>WORK DESC:</b>	REMODEL, MASTER BATHROOM, ELECTRICAL & PLUMBING			

CASE NUMBER	BLD2012-10045	PARCEL # 6288 129	ISSUED ON 10/18/2012	PROJECT: BENTLEY PLACE 025A
	434 Alterations(Res), Deck, Porch, Remodel		<b>CONTRACTOR:</b> CSI KITCHEN & BATH STUDIO	<b>ZONING DISTRICT:</b> R100
<b>CENSUS TRACT:</b>	050309		6527 JIMMY CARTER BLVD	<b>NO. OF UNITS:</b>
<b>LOT:</b>	025		STE C2	<b>ESTIMATED COST:</b> \$25,935.00
<b>BLOCK:</b>	A		NORCROSS, GA 30071	<b>HEATED AREA:</b>
<b>SUBDIVISION:</b>	BENTLEY PLACE		770-729-1999	<b>UNHEATED AREA:</b>
<b>ST ADDRESS, CITY:</b>	3467 CLEMENT CT, DULUTH		<b>TENANT:</b>	<b>Sewer/Septic:</b> Septic
<b>COMM/RES:</b>	Residential		<b>USE:</b> Single Family Detached Dwelling	
			<b>TYPE OF WORK:</b> Remodel	
<b>WORK DESC:</b>	REMODEL, KITCHEN AND POWER ROOM			

**TOTAL PERMITS ISSUED: 21**

**CITY OF  
PEACHTREE CORNERS  
PROPERTY  
MAINTENANCE  
CODE**



**ADOPTED , 2012**

## PROPERTY MAINTENANCE CODE SUMMARY

- **Burned Structures(Sec. 313):** Damaged portions must be removed within 30 days. If repairs are possible, they must commence within 60 days and completed within 120 days. If the repairs are not possible, structures must be removed within 60 days.
- **Enforcement(104):** The Community Development Department enforces the Property Maintenance Code and may call on personnel from other agencies such as police officers to assist in code enforcement.
- **Exterior Building Maintenance(Sec. 304):** Maintenance is required of all exterior surfaces and building components including walls, roof, doors, windows, and stairways.
- **Grass and Weeds (Sec. 302.4):** Over 12 inches prohibited.
- **Hazardous Trees(Sec. 311):** Required to be removed.
- **Inactive Construction Sites(309):** Property must be stabilized and all construction materials removed off sites where no construction has taken place in at least one year.
- **Junk Cars (Inoperable Vehicles) (Sec. 302.8A):** Prohibited except when stored in an enclosed space or when located within a permitted zoning district.
- **Location of Parked Vehicles (Sec. 302.8B):** All vehicles must be parked on a paved surface.
- **Open or Outdoor Storage(Sec. 310):** Outdoor storage of appliances, building materials, rubbish, garbage, equipment, materials, merchandise and similar items is prohibited to be located on property for more than 24 hours except in permitted zoning districts, or for authorized sale of harvested products items such as Christmas trees and pumpkins, or firewood stacked in side or rear yards of residential property for the occupant's use.
- **Penalties(Sec. 106.4):** Minimum fine of \$250; maximum fine of \$1000 and / or up to 60 days in jail.
- **Registered Agents(Sec. 312):** an agent must be designated for every multi-family, commercial, office, and industrial property and the agent's, name, address, and phone number must be on file with the Community Development Department and updated once a year or prior to issuance of Certificate of Occupancy or Occupation Tax Certificate (business license).
- **Swimming Pools and Spas(Sec. 303.1):** Must be maintained clean, free of algae and mosquitoes, and in good repair.
- **Tree Stumps and Tree Debris(Sec. 311.1, 311.2):** Stumps over 12 inches above ground level and tree debris must be removed no more than 14 days after the tree has been cut.
- **Vacant Buildings(Sec. 301.3):** Must be secured and kept in good repair, free of holes and infestation.
- **Walls and Fences (Sec. 304.6):** Maintenance in sound condition required.

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## CHAPTER 1

### ADMINISTRATION

#### SECTION 101 GENERAL

**101.1 Title.** These regulations shall be known as the Property Maintenance Code of the City of Peachtree Corners hereinafter referred to as "this code."

**101.2 Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

**101.3 Intent.** This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the *Georgia State Minimum Standard Existing Building Code*.

**101.4 Severability.** If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

#### SECTION 102 APPLICABILITY

**102.1 General.** The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

**102.2 Maintenance.** Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any

occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

**102.3 Application of other codes.** Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the *Georgia State Minimum Standard Existing Building Code*. Nothing in this code shall be construed to cancel, modify or set aside any provision of the city *Unified Development Code* and such other state and city codes and laws, rules and regulations that may be applicable, as determined by the code official.

**102.4 Existing remedies.** The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe, and unsanitary.

**102.5 Workmanship.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

**102.6 Historic buildings.** The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety, and welfare.

**102.7 Referenced codes and standards.** The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

Wherever in this code the word "International" appears referencing particular ICC codes, the word "International" shall be deleted and the words "Georgia State" shall be inserted in its place.

**102.8 Requirements not covered by code.** Requirements necessary for the strength, stability, or proper operation of an existing fixture, structure, or equipment, or for the public safety, health, and general welfare, not specifically covered by this code, shall be determined by the code official.

## SECTION 103

### COMMUNITY DEVELOPMENT DEPARTMENT

**103.1 General.** The Community Development Department is authorized to enforce this code and the Community Development Director, or her designee, is hereinafter referred to as the code official.

**103.2 Deputies.** The code official shall have the authority to appoint inspectors, other related technical officers, and personnel from other agencies to assist in implementing this code. Such officials shall also include police officers, fire department staff, and other public safety personnel.

**103.4 Liability.** The code official, officer, or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of official duties.

Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

**103.5 Fees.** The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as established by the Community Development director.

## SECTION 104

### DUTIES AND POWERS OF THE CODE OFFICIAL

**104.1 General.** The code official shall enforce the provisions of this code.

**104.2 Rule-making authority.** The code official shall have authority as necessary in the interest of public health, safety, and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety.

**104.3 Inspections.** The code official shall make all of the required inspections, or may accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

**104.4 Right of entry.** The code official is authorized to enter the structure, property or premises at reasonable times to inspect. If entry or access is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

**104.5 Identification.** The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

**104.6 Notices and orders.** The code official shall issue all necessary notices or orders to ensure compliance with this code.

**104.7 Department records.** The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records as long as the building or structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

**104.8 Coordination** of inspections. Whenever in the enforcement of this code, the responsibility of more than one agency or employee is involved, it shall be the duty of the code official to coordinate inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the code official.

## SECTION 105 APPROVAL

**105.1 Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases, provided the code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The

details of action granting modifications shall be recorded and entered in the department files.

**105.2 Alternative materials, methods and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability, and safety.

**105.3 Required testing.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

**105.4 Material and equipment reuse.** Materials, equipment, and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition, and approved.

## SECTION 106 VIOLATIONS

**106.1 Unlawful acts.** It shall be unlawful for a person, firm, or corporation to be in conflict with, or in violation of, any of the provisions of this code.

**106.2 Notice of violation.** The code official shall serve a notice of violation or order in accordance with Section 107.

**106.3 Prosecution of violation.** Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a misdemeanor and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official may institute the appropriate proceeding at law or in equity to restrain, correct, or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. In addition, the court shall have the power and authority to order the violation corrected in compliance with this code and the court may require payment of restitution or impose other punishment allowed by law. Any action taken by the court or the city against such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**106.4 Violation penalties.** Any person convicted by a court of competent jurisdiction of violating any provision of this code shall be guilty of violating a duly adopted ordinance of the city and shall be punished either by a fine of not less than \$250 per day and not to exceed \$1,000 per day, or by a sentence of imprisonment not to exceed 60 days in jail, or both. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

**106.5 Abatement of violation.** The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business, or utilization of the building, structure, or premises.

## SECTION 107 NOTICES AND ORDERS

**107.1 Notice to person responsible.** Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3.

**107.2 Form.** Such notice prescribed in Section 107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include statement to contact the code official to receive orders for violation correction.

**107.3 Method of service.** Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail, or professional courier addressed to the last known address; or
3. If the notice is returned showing that the notice was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

**107.4 Penalties.** Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

**107.5 Transfer of ownership.** It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions

of the compliance order or notice of violation have been complied with.

**107.6 Stop Work Order.** A Stop Work Order (Cease and Desist Notice) shall be issued to those sites found in violation of working without required city permits or licenses or using a site in violation of city codes and ordinances.

## **SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT**

**108.1 General.** When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure may be condemned pursuant to the provisions of this code.

**108.1.1 Unsafe structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

**108.1.2 Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or unsafe condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

**108.1.3 Structure unfit for human occupancy.** A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful, or because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary, or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

**108.1.4 Unlawful structure.** An unlawful structure is one found in whole or in part to be occupied or used by more persons than permitted under this code, or was erected, altered, or occupied contrary to law.

**108.2 Closing of vacant structures.** If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to

post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

**108.3 Notice.** Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

**108.4 Placarding.** Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment, or removing the placard.

**108.4.1 Placard removal.** The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

**108.5 Prohibited occupancy.** Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premise or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.

## **SECTION 109 EMERGENCY MEASURES**

**109.1 Imminent danger.** When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupancy of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases, or materials, or operation of defective or dangerous equipment,

the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith.

The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

**109.2 Temporary safeguards.** Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

**109.3 Closing streets.** When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

**109.4 Emergency repairs.** For the purposes of this section, the code official may employ the necessary labor and materials to perform the required work as expeditiously as possible.

**109.5 Costs of emergency repairs.** Costs incurred in the performance of emergency work may be paid by the city. The city attorney may institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

**109.6 Hearing.** Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

## SECTION 110 DEMOLITION

**110.1 General.** The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated, or has become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, use, or occupancy and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repair, to repair and make safe and sanitary or to demolish and remove at the owner's option, or where there has been a cessation of normal construction of any structure for a period of more than one year (see inactive construction site).

**110.2 Notices and orders.** All notices and orders shall comply with Section 107.

**110.3 Failure to comply.** If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official may cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

**110.4 Salvage materials.** When any structure has been ordered demolished and removed, the city council or its designee shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

## SECTION 111 APPEALS

**111.1 Application for appeal.** Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the city Zoning Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

**111.2 Board decision.** The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

**111.2.1 Records and copies.** The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

**111.2.2 Administration.** The code official shall take immediate action in accordance with the decision of the board.

**111.3 Court review.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the Community Development Director.

**111.4 Stays of enforcement.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Zoning Board of Appeals.

## CHAPTER 2

### DEFINITIONS

#### SECTION 201 GENERAL

**201.1 Scope.** Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

**201.2 Interchangeability.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

**201.3 Terms defined in other codes.** Where terms are not defined in this code and are defined in the Georgia State Minimum Standard Building and Fire Codes, such terms shall have the meanings ascribed to them as in those codes.

**201.4 Terms not defined.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

**201.5 Parts.** Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "housekeeping unit," "structure," or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

#### SECTION 202 GENERAL DEFINITIONS

**APPROVED.** Approved by the code official.

**BASEMENT.** That portion of a building which is partly or completely below grade.

**BATHROOM.** A room containing plumbing fixtures including a water closet, lavatory, and bathtub, or shower.

**BEDROOM.** Any room or space used or intended to be used for sleeping purposes.

**CODE OFFICIAL.** The Community Development Director or her designee.

**CONDEMN.** To adjudge unfit for occupancy or use.

**DWELLING UNIT.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**EASEMENT.** That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

**EXTERIOR PROPERTY.** The open space on the premises and on adjoining property under the control of owners or operators of such premises.

**EXTERMINATION.** The control and elimination of insects, rats, or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.

**GARBAGE.** The animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

**GUARD.** A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

**HABITABLE SPACE.** Space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage, or utility spaces, and similar areas are not considered habitable spaces.

**HOUSEKEEPING UNIT.** A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking, and eating which does not contain, within such a unit, a toilet, lavatory, and bathtub or shower.

**IMMINENT DANGER.** A condition which could cause serious or life threatening injury or death at any time.

**INACTIVE CONSTRUCTION SITE.** A property under development that has had no construction in at least one year, or has a permit that has been expired for at least six months, or a property that has not passed an inspection in at least six months.

**INFESTATION.** The presence, within or contiguous to, a structure or premises of insects, rats, vermin, or other pests.

**INOPERABLE MOTOR VEHICLE (JUNK CAR).** A vehicle which can not be driven upon the public streets for reason including, but not limited to, being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

**LABELED.** Devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol, or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of the production of the above labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

**LET FOR OCCUPANCY OR LET.** To permit, provide, or offer possession, or occupancy, of a dwelling, dwelling unit, rooming unit, building, premise, or structure, or any portion thereof, by a person who is or is not the legal owner of record, or not the owner with the owner's written permission, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

**MAINTENANCE.** The act of keeping property, structures or vegetation in a proper condition so as to prevent their decline, failure or uncontrolled growth.

**OCCUPANCY.** The purpose for which a building or portion thereof is utilized or occupied.

**OCCUPANT.** Any individual living or sleeping in a building, or having possession of a space within a building.

**OPENABLE AREA.** That part of a window, skylight, or door which is available for unobstructed ventilation and which opens directly to the outdoors.

**OPERATOR.** Any person who has charge, care, or control of a structure, or premises, which is let or offered for occupancy.

**OWNER.** Any person, agent, operator, firm, or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**PERSON.** An individual, corporation, partnership, or any other group acting as a unit.

**PREMISES.** A lot, plot, or parcel of land, easement, or public way, including any structures thereon.

**PUBLIC WAY.** Any street, alley, or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated, or otherwise permanently appropriated to the public for public use.

**ROOMING HOUSE.** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one or two family dwelling.

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit, occupied or intended to be occupied, for sleeping, or living, but not for cooking purposes.

**RUBBISH.** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials. (The term **TRASH** is used interchangeably with the term **RUBBISH**)

**STRICT LIABILITY OFFENSE.** An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

**STRUCTURE.** That which is built or constructed or a portion thereof.

**TENANT.** A person, corporation, partnership, or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

**TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.

**VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

**WEEDS.** All grasses, annual plants, and rank vegetative growth including but not limited to kudzu, poison ivy, jimsonweed, burdock, ragweed, thistle, cocklebur, dandelion, plants of obnoxious odors, or other similar unsightly vegetative growths; however, this term shall not include cultivated flowers, fruits and vegetables, and gardens, trees or shrubs.

**WORKMANLIKE.** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged, and without marring adjacent work.

**YARD.** An open space on the same lot with a structure.

**YARD TRIMMINGS.** Vegetative materials resulting from property maintenance such as grass clippings, leaves, brush, and tree pruning along with discarded vegetative material such as Christmas Trees.

## CHAPTER 3 GENERAL REQUIREMENTS

### SECTION 301 GENERAL

**301.1 Scope.** The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment, and exterior property.

**301.2 Responsibility.** The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit, or housekeeping unit are responsible for keeping in a clean, sanitary, and safe condition that part of the dwelling unit, rooming unit, housekeeping unit, or premises which they occupy and control.

**301.3 Vacant structures and land.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure, and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

### SECTION 302 EXTERIOR PROPERTY AREAS

**302.1 Sanitation.** All exterior property and premises shall be maintained in a clean, safe, and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

**302.2 Grading and drainage.** All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

**Exception:** Approved retention areas and reservoirs.

**302.3 Sidewalks and driveways.** All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

**302.4 Yards.** All premises yards and exterior property shall be maintained free from weeds in excess of 12 inches in height. All noxious weeds shall be prohibited.

Weeds shall be defined as all grasses, annual plants, and rank vegetative growth including but not limited to kudzu, poison ivy, jimsonweed, burdock, ragweed, thistle, cocklebur, dandelion, plants of obnoxious odors, or other similar unsightly vegetative growths; however, this term shall not include

cultivated flowers, fruits and vegetables, and gardens, trees or shrubs.

. All trees, shrubs, or other vegetation on the premises that block visibility of oncoming traffic from driveways or road intersections, or that are a danger to the public, or that are in advanced stages of rot, decay, or dying, as determined by the city arborist, shall be moved or removed and disposed of by the premises owner in a manner approved by the city.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a violation notice, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the city.

Upon failure to comply with the notice of violation, any duly authorized employee of the city, volunteer group, or contractor hired by the city, shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

**302.5 Rodent harborage.** All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

**302.6 Exhaust vents.** Pipes, ducts, conductors, fans, or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors, or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

**302.7 Accessory structures.** All accessory structures, including garages, storage buildings, playhouses, barns, fences, and walls, shall be maintained structurally sound and in good repair.

**302.8 Motor vehicles.** (A) Except in areas allowed by the Zoning Code, no inoperative or unlicensed motor vehicle shall be parked, kept, or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

**Exception:** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

(B) All vehicles must be parked on a paved surface. (See Zoning Code Sec.1001.5)

**302.9 Defacement of property.** No person shall willfully or wantonly damage, mutilate, or deface any exterior surface of

any structure or building on any private or public property by placing thereon any marking, carving, or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

### SECTION 303

#### SWIMMING POOLS, SPAS AND HOT TUBS

**303.1 Swimming pools and similar structures.** Swimming pools and similar structures, such as spas and hot tubs, shall be maintained in a clean and sanitary condition, free of algae and mosquitoes, and kept in good repair.

**303.2 Enclosures.** Private swimming pools, hot tubs and spas, containing water more than 24 inches in depth shall be surrounded by an effective barrier at least 60 inches in height above the finished ground level measured on the side of the barrier away from the pool.

**Exception:** When such pools are located on property abutting a lake, pond, creek or river, the barrier may be omitted along the water side, provided side barriers extend to the water's edge.

Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches from the gatepost.

No existing pool enclosure shall be removed, replaced, or changed in a manner that reduces its effectiveness as a safety barrier.

### SECTION 304

#### EXTERIOR STRUCTURE

**304.1 General.** The exterior of a structure shall be maintained in good repair, structurally sound, and sanitary so as not to pose a threat to the public health, safety, or welfare.

**304.2 Protective treatment.** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting, or other protective covering or treatment. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

**304.3 Premises identification.** Buildings shall have approved address numbers placed in a position to be plainly legible and

visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

**304.4 Structural members.** All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

**304.5 Foundation walls.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

**304.6 Exterior walls and Fences.** All exterior walls and fences shall be free from holes, breaks, and loose or rotting materials and maintained weatherproof and properly surface coated where required to prevent deterioration. All damaged or missing portions of a fence shall be replaced with comparable materials and shall be attached to the existing portion of fence. Fences shall not be externally braced in lieu of replacing or repairing structural members.

**304.7 Roofs and drainage.** The roof and flashings shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

**304.8 Decorative features.** All cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

**304.9 Overhang extensions.** All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

**304.10 Stairways, decks, porches and balconies.** Every exterior stairway, deck, porch, balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

**304.11 Chimneys and towers.** All chimneys, cooling towers, smoke stacks, other towers, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

**304.12 Handrails and guards.** Every handrail and guard shall be firmly fastened in place and capable of supporting normally imposed loads and shall be maintained in good condition.

**304.13 Window, skylight and door frames.** Every window, skylight, door, and frame shall be kept in a sound condition, in good repair, and weather tight.

**304.13.1 Glazing.** All glazing materials shall be maintained free from cracks and holes.

**304.13.2 Openable windows.** Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

**304.14 Insect screens.** During the period from 1 April through 30 September, every exterior door, window, and other outside opening required for ventilation of commercial buildings, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored, shall be supplied with approved tight fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

**Exception:** This requirement does not apply to restaurant patio seating areas.

**304.15 Doors.** All exterior doors, garage doors, door assemblies, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units, and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3. Garage doors shall be capable of being closed reasonably plumb, properly attached and free of rot or noticeable deterioration.

**304.16 Basement hatchways.** Every basement hatchway shall be maintained to prevent the entrance of rodents, rain, and surface drainage water.

**304.17 Guards for basement windows.** Every basement window that is openable shall be supplied with rodent shields, storm windows, or other approved protection against the entry of rodents.

**304.18 Building security.** Doors, windows, or hatchways for dwelling units, room units, or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

**304.18.1 Doors.** Doors providing access to a dwelling unit, rooming unit, or housekeeping unit that is rented, leased, or let shall be equipped with a deadbolt lock meeting specifications set forth herein. Such deadbolt locks shall be operated only by the turning of a knob, or a key, and shall have a lock throw of not less than 1-inch. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock. Such deadbolt locks shall be installed according to manufacturer's specifications and maintained in good working order. All deadbolt locks required by this section shall be designed and installed in such a manner so as to be operable inside of the dwelling unit, rooming unit, or housekeeping unit without the use of a key, tool, combination thereof, or any other special knowledge or effort.

**304.18.2 Windows.** Operable windows, located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below, that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased, or let shall be equipped with a window sash locking devices.

**304.18.3 Basement hatchways.** Basement hatchways that provide access to a dwelling unit, rooming unit, or housekeeping unit that is rented, leased, or let shall be equipped with devices that secure the units from unauthorized entry.

## SECTION 305 INTERIOR STRUCTURE

**305.1 General.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound, and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

**305.2 Structural members.** All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

**305.3 Interior surfaces.** All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking, or abraded paint shall be repaired, removed, or covered. Cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.

**305.4 Stairs and walking surfaces.** Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in a safe and sound condition and in good repair.

**305.5 Handrails and guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**305.6 Interior doors.** Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

## SECTION 306 HANDRAILS AND GUARDRAILS

**306.1 General.** Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony or porch, deck, ramp or other walking surface which is more than 30 inches above the floor or grade below shall have guards.

Handrails shall not be less than 30 inches high or more than 38 inches high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces.

Guards shall not be less than 36 inches high in residential dwelling unit uses, or 42 inches high in other uses, above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

**Exception:** Guards shall not be required where exempted by the adopted building code.

## **SECTION 307 RUBBISH AND GARBAGE**

**307.1 Accumulation of rubbish or garbage.** All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

**307.2 Disposal of rubbish.** Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

**307.2.1 Rubbish storage facilities.** The owner of every occupied premise shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

**307.2.2 Refrigerators.** Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

**307.3 Disposal of garbage.** Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

**307.3.1 Garbage facilities.** The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leakproof, covered, outside garbage container.

**307.3.2 Containers.** The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close fitting covers for the storage of such materials until removed from the premises for disposal.

## **SECTION 308 EXTERMINATION**

**308.1 Infestation.** All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

**308.2 Owner.** The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

**308.3 Single occupant.** The occupant of a one family dwelling or of a single tenant nonresidential structure shall be responsible for extermination on the premises.

**308.4 Multiple occupancy.** The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house, or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for extermination.

**308.5 Occupant.** The occupant of any structure shall be responsible for the continued rodent and pest free condition of the structure.

**Exception:** Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination.

## **SECTION 309 INACTIVE CONSTRUCTION SITE**

**309.1 Construction Inactivity.** Whenever a development property remains inactive for at least one year, the property shall no longer be considered a construction site and shall be subject to the mitigation requirements of 309.2.

**309.2 Mitigation.** Within 30 days of notification by the city, the responsible party associated with an inactive construction site shall do the following:

- a. Remove all construction materials, supplies, and equipment from the site; and
- b. Remove all storage containers, construction trailers and security trailers from the site; and
- c. Remove all signage except permitted 'For Sale' or comparable real estate sign; and
- d. Stabilize the soil on the site pursuant to best practices; and
- e. Remove silt fencing and tree protection fencing as directed by the code official; and
- f. Remove any standing water and eliminate ponding conditions on site; and
- g. Complete any required drainage improvements needed to prevent downstream impacts; and
- h. Remove or safeguard any hazards on the site; and
- i. Remove unsafe partial structures; and
- j. Re-vegetate and/or screen the site (using materials approved by the code official) along roadways; and
- k. Mow, weed, and trim existing vegetation on site such that grass does not exceed eight inches in height, weeds are removed, and shrubs and trees are free of dead limbs or growth.

1. Submit a letter to the code official identifying the plan for on-going site maintenance (including watering schedule for vegetation) until such time as the construction permit is re-activated.

**309.3 Non-Compliance.** If the responsible party associated with an inactive construction site does not comply with any or all of the mitigation requirements established in Sec. 309.2, then the city may perform the minimum work necessary for compliance. Costs incurred in the performance of such work may be paid by the city and the city may institute all legal remedies available against the property and/or property owner to recover such costs incurred including, but not limited to, the filing of liens.

**310. Open or Outdoor Storage.** The open or outdoor storage of appliances, building materials, rubbish, equipment, garbage, goods, glass, materials, merchandise, or similar items shall not be permitted, maintained or stored on any property for more than 24 hours, except as follows:

1. Property where outdoor storage is allowed by the Zoning Code; and
2. Seasonal harvested products such as Christmas trees, pumpkins, firewood in conjunction with an authorized sale; and
3. Cut wood neatly stacked in lengths not exceeding 3 ft. and located on residential property for the personal use of the occupant.

**311. Trees.** Dead or hazardous trees shall not be allowed and shall be removed from property where they pose a threat to people or adjacent property. A finding by a forester or arborist or indisputable direct observation shall constitute sufficient evidence that a tree is in danger of falling upon adjacent lots or public streets.

**311.1 Tree Stumps.** Except on active construction sites, tree stumps greater than 12 inches in height above ground level shall not be permitted or maintained on any premises for more than 14 days after the tree has been cut.

**311.2 Tree Debris.** Felled trees or tree limbs shall not be permitted or maintained on the ground on any premises

for more than 14 days except on active construction sites or where wood has been cut in lengths not exceeding three feet and neatly stacked in a side or rear yard of residential property for the occupant's use.

**312. Registered Agents.** Prior to the issuance of a Certificate of Occupancy for a multi-family development, commercial, office, or industrial property or during the first thirty days of each year, whichever occurs earlier, the owner and each Occupation Tax Certificate (business license) holder for each multi-family development, commercial, office, or industrial property must designate the name, local address, e-mail address, and 24-hour phone number of an agent for the property. The agent shall reside in Gwinnett County and shall be on 24-hour call, seven days a week, to accept notices of violation regarding any provision of this code. In addition, written notice to such agent shall be deemed delivered on the third business day following the mailing of such notice by first class mail to the agent at the address listed in the registration. The registration required shall be submitted to the Community Development Department and the information shall be confirmed annually at the time of Occupational Tax Certificate (business license) renewal. Changes to contact information must be made by the business or property owner in writing and are not effective until received by the Community Development Department.

**313. Burned Structures.** Whenever any building or structure is partially burned, the owner or responsible party, within thirty days after the scene investigation by the Fire Department and/or insurer of the property, shall remove from the premises all refuse, debris, and all charred and partially burned lumber and materials. If such building or structure is burned to such an extent that it cannot be repaired, then the owner or responsible party, within sixty days after the Fire Department and insurer have completed their investigation, shall remove the remaining portions of the building or structure from the property. If the building or structure is to be repaired, work shall begin within sixty days and shall be completed within one-hundred and twenty days after the Fire Department and insurer have completed their investigation.

## CHAPTER 4

# LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

### SECTION 401 GENERAL

**401.1 Scope.** The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation, and space for occupying a structure.

**401.2 Responsibility.** The owner of the structure shall provide and maintain light, ventilation, and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

**401.3 Alternative devices.** In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the *Georgia State Minimum Standard Building Codes* shall be permitted.

### SECTION 402 LIGHT

**402.1 Habitable spaces.** Every habitable space shall have at least one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors, nor to a court, and shall not be included as contributing to the required minimum total window area for the room.

**Exception:** Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m<sup>2</sup>). The exterior glazing area shall be based on the total floor area being served.

**402.2 Common halls and stairways.** Every common hall and stairway in residential occupancies, other than in one and two family dwellings, shall be lighted at all times with at least a 60 watt standard incandescent light bulb for each 200 square feet (19m<sup>2</sup>) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress stairways shall be

illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 foot-candle (11 lux) at floors, landings and treads.

**402.3 Other spaces.** All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

### SECTION 403 VENTILATION

**403.1 Habitable spaces.** Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 402.1.

**Exception:** Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m<sup>2</sup>). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

**403.2 Bathrooms and toilet rooms.** Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

**403.3 Cooking facilities.** Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit.

**Exception:** Where specifically approved in writing by the code official.

**403.4 Process ventilation.** Where injurious, toxic, irritating or noxious fumes, gases, dusts, or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

**403.5 Clothes dryer exhaust.** Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

**SECTION 404  
OCCUPANCY LIMITATIONS**

**404.1 Privacy.** Dwelling units, hotel units, housekeeping units, rooming units, and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

**404.2 Minimum room widths.** A habitable room, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

**404.3 Minimum ceiling heights.** Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet (2134 mm).

**Exceptions:**

1. In one and two family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.
2. Basement rooms in one and two family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study, or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.

**404.4 Bedroom requirements.** Every bedroom shall comply with the requirements of Sections 404.4.1 through 404.4.5.

**404.4.1 Area for sleeping purposes.** Every bedroom occupied by one person shall contain at least 70 square feet (6.5 m<sup>2</sup>) of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet (4.6 m<sup>2</sup>) of floor area for each occupant thereof.

**404.4.2 Access from bedrooms.** Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

**Exception:** Units that contain fewer than two bedrooms.

**404.4.3 Water closet accessibility.** Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

**404.4.4 Prohibited occupancy.** Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

**404.4.5 Other requirements.** Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water heating facilities requirements of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

**404.5 Overcrowding.** Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

**TABLE 404.5  
MINIMUM AREA REQUIREMENTS**

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living Room <sup>a,b</sup>	No requirements	120	150
Dining Room <sup>a,b</sup>	No requirements	80	100
Bedrooms	Shall comply with Section 404.4		

For SI: 1 square foot = 0.093 m<sup>2</sup>

- a. See Section 404.5.2 for combined living/dining room spaces.
- b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

**404.5.1 Sleeping area.** The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4.

**404.5.2 Combined spaces.** Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

**404.6 Efficiency unit.** Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet (20.4 m<sup>2</sup>). A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet (29.7 m<sup>2</sup>). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance, and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.

3. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
4. The maximum number of occupants shall be three.

**404.7 Food preparation.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare, and serve foods in a sanitary manner.

There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

## CHAPTER 5

# PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

### SECTION 501 GENERAL

**501.1 Scope.** The provisions of this chapter shall govern the minimum plumbing systems, facilities, and plumbing fixtures to be provided.

**501.2 Responsibility.** The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premise which does not comply with the requirements of this chapter.

### SECTION 502 REQUIRED FACILITIES

**502.1 Dwelling units.** Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet, and kitchen sink which shall be maintained in a sanitary, safe, working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

**502.2 Rooming houses.** At least one water closet, lavatory, and bathtub or shower shall be supplied for each four rooming units.

**502.3 Hotels.** Where private water closets, lavatories, and baths are not provided, one water closet, one lavatory, and one bathtub, or shower having access from a public hallway shall be provided for each ten occupants.

**502.4 Employees' facilities.** A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

**502.4.1 Drinking facilities.** Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler, or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

### SECTION 503 TOILET ROOMS

**503.1 Privacy.** Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall, or other space, or to the exterior. A door and interior locking device shall be provided for all toilet rooms and bathrooms.

**Exception:** Common or shared public toilet rooms with more than one toilet shall not be lockable but shall be provided with privacy screening at each toilet facility

**503.2 Location.** Toilet rooms and bathrooms serving hotel units, rooming units, or dormitory units, or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

**503.3 Location of employee toilet facilities.** Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

**Exception:** Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease, or control, shall not exceed a travel distance of 500 feet (152m) from the employees' regular working area to the facilities.

**503.4 Floor surface.** In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

### SECTION 504 PLUMBING SYSTEMS AND FIXTURES

**504.1 General.** All plumbing fixtures shall be properly installed and maintained in good working order, and shall be kept free from obstructions, leaks, and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary, and functional condition.

**504.2 Fixture clearances.** Plumbing fixtures shall have adequate clearances for usage and cleaning.

**504.3 Plumbing system hazards.** Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure, by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration, or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

**SECTION 505  
WATER SYSTEM**

**505.1 General.** Every sink, lavatory, bathtub, or shower, drinking fountain, water closet, or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system.

All kitchen sinks, lavatories, laundry facilities, bathtubs, and showers shall be supplied with hot or tempered and cold running water in accordance with the *Georgia State Minimum Standard Plumbing Code*.

**505.2 Contamination.** The water supply shall be maintained free from contamination and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture.

Shampoo basin faucets, janitor sink faucets, and other hose bibs, or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

**505.3 Supply.** The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

**505.4 Water heating facilities.** Water heating facilities shall be properly installed, maintained, and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower, and laundry facility at a temperature of not less than 110°F (43°C).

A gas burning water heater shall not be located in any bathroom, toilet room, bedroom, or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

**SECTION 506  
SANITARY DRAINAGE SYSTEM**

**506.1 General.** All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

**506.2 Maintenance.** Every plumbing stack, vent, waste and sewer line, fixture, fitting, appliance, and appurtenance shall function properly and be kept in good working order and in a sanitary condition free from obstructions, leaks, and defects.

**SECTION 507  
STORM DRAINAGE**

**507.1 General.** Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

**507.2 Flow control.** Discharge from roofs, paved areas, yards and courts, and other areas on premises shall flow away from building foundations, shall not flow into sanitary sewers, and shall flow to a location approved by the city.

Yards and premises shall not be graded or shaped to direct undue storm water discharge upon adjacent land or property and shall not contain low areas where water may be trapped and induce insect breeding.

Storm water discharge piping systems shall be constructed and installed in accordance with Georgia State Minimum Standard Plumbing Code.

## CHAPTER 6

# MECHANICAL AND ELECTRICAL REQUIREMENTS

### SECTION 601 GENERAL

**601.1 Scope.** The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided in a structure intended to be occupied by humans.

**601.2 Responsibility.** The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this chapter.

### SECTION 602 HEATING FACILITIES

**602.1 Facilities required.** Heating facilities shall be provided in structures as required by this section.

**602.2 Residential occupancies.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in the *Georgia State Energy Code for Buildings (IECC)*.

Cooking appliances shall not be used to provide space heating to meet the requirements of this section. Such heating facilities shall be kept clean and in good working order.

**602.3 Heat supply.** Every owner and operator of any building who rents, leases, or lets one or more dwelling unit, rooming unit, dormitory, or guest room, on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from 1 October through 30 April to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Such heating facilities shall be kept clean and in good working order.

**602.4 Occupiable work spaces.** Indoor occupiable work spaces shall be supplied with heat during the period from 1 October through 30 April to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied. Such heating facilities shall be kept clean and in good working order.

#### Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

**602.5 Room temperature measurement.** The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

### SECTION 603 MECHANICAL EQUIPMENT

**603.1 Mechanical appliances.** All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances, and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

**603.2 Removal of combustion products.** All fuel-burning equipment and appliances shall be connected to an approved chimney or vent in good working order.

**Exception:** Fuel burning equipment and appliances which are labeled for unvented operation.

**603.3 Clearances.** All required clearances to combustible materials shall be maintained in accordance to the appliance manufacturer's instructions.

Fuel fired appliances located in garages or other areas where motorized vehicles may be stored shall have their source of ignition elevated at least 18 inches above the floor.

Where subject to vehicle impact, all appliances shall be protected by an effective barrier sufficient to resist an impact force of 6,000 pounds at a point 36 inches above the floor.

**603.4 Safety controls.** All safety controls for fuel burning equipment shall be maintained in effective operation.

**603.5 Combustion air.** A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel burning equipment shall be provided for the fuel burning equipment.

**603.6 Energy conservation devices.** Devices intended to reduce fuel consumption by attachment to a fuel burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

**603.7 Duct systems.** Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

All ductwork, grilles, registers, controls, and similar accessories of an appliance system shall be firmly secured in place and in good working order.

**SECTION 604  
ELECTRICAL FACILITIES**

**604.1 Facilities required.** Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

**604.2 Service.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the *Georgia State Minimum Standard Electrical Code*.

Dwelling units shall be served by a three-wire, 120/240 volt, single phase electrical service and disconnecting means having a rating of not less than 100 amperes.

For all other installations, the service and disconnecting means shall have a rating of not less than 60 amperes.

**604.3 Electrical system hazards.** Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

**SECTION 605  
ELECTRICAL EQUIPMENT**

**605.1 Installation.** All electrical equipment, wiring and appliances, fixtures, devices, and appurtenances shall be properly installed and maintained in a safe and approved manner and shall be maintained in good working order.

**605.2 Receptacles.** Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

**605.3 Lighting fixtures.** Every exterior entry door, public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, furnace room, water heater room, garage, and basement shall contain at least one switched lighting fixture. Other rooms shall contain at least one switched lighting fixture or outlet for connecting portable lighting.

**Exception:** Existing chain-pull type lighting fixtures or automatically controlled motion sensor lighting fixtures, with a manual switching override, installed in rooms and other areas and in good working order may remain in place.

**SECTION 606  
ELEVATORS, ESCALATORS AND DUMBWAITERS**

**606.1 General.** Elevators, dumbwaiters, and escalators shall be maintained to safely sustain all imposed loads, to operate properly, and to be free from physical defects and fire hazards. The most current certificate of inspection shall be on display at all times within the elevator, or attached to the escalator or dumbwaiter; or the certificate shall be available for public inspection in the office of the building operator.

**606.2 Elevators.** In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

**Exception:** Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

## CHAPTER 7

# FIRE SAFETY REQUIREMENTS

### SECTION 701 GENERAL

**701.1 Scope.** The provisions of this chapter, the *Georgia State Minimum Standard Fire Prevention Code*, and the *Life Safety Code* shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment and requirements for and maintenance of fire resistance rated construction to be provided.

**701.2 Responsibility.** The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

### SECTION 702 MEANS OF EGRESS

**702.1 General.** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the *Life Safety Code*.

**702.2 Aisles.** The required width of aisles in accordance with the *Georgia State Minimum Standard Fire Prevention Code* shall be unobstructed.

**702.3 Locked doors.** All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *Georgia State Minimum Standard Building Code*.

**702.4 Emergency escape openings.** Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following.

Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools.

Bars, grilles, grates, or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction.

Such devices shall be releasable or removable from the inside without the use of a key, tool, or force greater than that which is required for normal operation of the escape and rescue opening.

### SECTION 703 FIRE-RESISTANCE RATINGS

**703.1 Fire-resistance-rated assemblies.** The required fire resistance rating of fire resistance rated walls, fire stops, shaft enclosures, partitions, and floors shall be maintained.

**703.2 Opening protectives.** Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

### SECTION 704 FIRE PROTECTION SYSTEMS

**704.1 General.** All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire, or any combination thereof, shall be maintained in an operable condition at all times in accordance with the *Georgia State Minimum Standard Fire Prevention Code*.

**704.2 Smoke alarms.** Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels; a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single or multiple-station smoke alarms shall be installed in other groups in accordance with the *Georgia State Minimum Standard Fire Prevention Code*.

**704.3 Power source.** In Group R occupancies and in dwellings not regulated as Group R occupancies, single station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent

and without a disconnecting switch other than as required for overcurrent protection at the panel location.

**Exception:** Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source, and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available which could provide access for building wiring without the removal of interior finishes.

**704.4 Interconnection.** Where more than one smoke alarm is required to be installed within an individual dwelling unit in Group R-2, R-3, R-4 and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

**Exceptions:**

1. Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space, or basement available which could provide access for interconnection without the removal of interior finishes.

## **CHAPTER 8**

### **REFERENCED STANDARDS**

Reference standards shall be those reference standards listed in the Georgia State Minimum Standard Codes for construction, the City of Peachtree Corners Zoning Code, and other laws and regulations particular to the use and systems addressed.

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**THE GEORGIA MUNICIPAL ASSOCIATION  
401(a) DEFINED CONTRIBUTION PLAN**

**MASTER PLAN DOCUMENT  
Amended and Restated  
As of January 1, 2006**

**Administered by:  
Georgia Municipal Association  
201 Pryor Street, SW  
Atlanta, Georgia 30303  
Telephone: 404-688-0472  
Facsimile: 678-686-6289**

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**THE GEORGIA MUNICIPAL ASSOCIATION  
DEFINED CONTRIBUTION PLAN**

The Georgia Municipal Association Defined Contribution Plan ("Plan") is hereby amended and restated, generally effective January 1, 2006, except as otherwise provided herein, pursuant to a resolution of the Board of Trustees of the Georgia Municipal Association, Inc. ("GMA") Defined Contribution and Deferred Compensation Program, adopted January 23, 2006. The Plan is a governmental qualified defined contribution plan under Sections 401(a) and 414(d) of the Internal Revenue Code and is part of the GMA Defined Contribution and Deferred Compensation Program, as established by resolution of the Board of Directors of GMA.

Plan provisions designed to comply with certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 are based on model amendments provided under Internal Revenue Service Notice 2001-57 and Internal Revenue Service Notice 2005-5 and are intended as good faith compliance with the requirements of EGTRRA to be construed in accordance with EGTRRA and guidance issued thereunder effective for Plan Years beginning on and after January 1, 2002.

The Plan consists of the provisions set forth in this Master Plan document, along with the provisions set forth in the Adoption Agreement and any Addendum of any Participating Employer, and any amendments to the Master Plan, the Adoption Agreement, and any Addendum.

**ARTICLE I - DEFINITIONS**

**1.01** "Account" means an account maintained for a Participant by the Administrator, which may include the following subaccounts and any other subaccounts established by the Administrator pursuant to Section 6.01: the Employer Contribution Account, the Employer

Matching Contribution Account, the Employer Non-Matching Contribution Account, the Rollover Account, and the Transfer Account.

1.02 "**Addendum**" means any Addendum to an Adoption Agreement entered into by an Employer.

1.03 "**Administrator**" means GMA, and includes the Service Manager with regard to functions delegated by the Trustees to the Service Manager.

1.04 "**Applicable Form**" means the appropriate form as designated and furnished by the Administrator to make an election or provide a notice as required by the Plan. If a written election or consent is not specifically required by the Code, the Administrator may prescribe a verbal, electronic, or telephonic instruction in lieu of or in addition to a written form.

1.05 "**Adoption Agreement**" the agreement entered into by an Employer to participate in this Plan.

1.06 "**Beneficiary**" means the person or persons designated by a Participant to receive any benefit payable upon the Participant's death.

1.07 "**Code**" means the Internal Revenue Code of 1986, as amended and as applicable to governmental plans as defined in Code Section 414(d). The term also includes the Internal Revenue Code of 1954, as amended and as applicable to governmental plans as defined in Code Section 414(d).

1.08 "**Compensation**" means all of a Participant's wages as defined in Code Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)); provided, however, compensation shall also include the amount of any

elective deferrals, as defined in Code Section 402(g)(3), and any amount contributed or deferred by the employer at the election of the Employee and which is not includable in the gross income of the Employee by reason of Code Section 125 or 457, and elective amounts that are not includable in the gross income of the Employee by reason of Code Section 132(f)(4). The compensation of each Participant for any Plan Year shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B).

**1.09** "Deferred Compensation Plan" means any eligible deferred compensation plan of the Employer under Code Section 457(b), including but not limited to the Georgia Municipal Association Deferred Compensation Plan.

**1.10** "Disability" or "Disabled" means a total and permanent disability determined as follows: (i) by the Social Security Administration for a Participant who is covered by Social Security; or (ii) by the Employer, for a Participant who is not covered by Social Security. With respect to (ii), an individual shall be considered to be Disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration; provided, however, an individual shall not be considered to be Disabled unless he furnishes proof of the existence thereof in such form and manner as the Secretary of the Treasury may require.

**1.11** "Eligible Employee" means an Employee who by the Adoption Agreement is eligible to participate in the Plan.

**1.12** "Employee" means any common law employee of an Employer and includes elected and appointed officials. However, the term does not include independent contractors.

1.13 "Employer" means any municipal corporation, consolidated government, political subdivision, or other governmental instrumentality in the State.

1.14 "Employer Contribution Account" means the subaccount maintained by the Administrator to which Employer Contributions pursuant to Article IV, if any, may be credited.

1.15 "Employer Contributions" means Matching Contributions and Non-Matching Contributions determined under the Adoption Agreement and made by a Participating Employer to an Account for a Participant.

1.16 "Employer Matching Contribution Account" means the subaccount maintained by the Administrator to which Employer Matching Contributions pursuant to Article IV, if any, may be credited.

1.17 "Employer Non-Matching Contribution Account" means the subaccount maintained by the Administrator to which Employer Non-Matching Contributions pursuant to Article IV, if any, may be credited.

1.18 "Forfeiture Account" means the account maintained by the Administrator to which forfeited amounts under the Plan shall be credited.

1.19 "Governing Authority" means the entity authorized by law to act for the Employer and adopt this Plan through the Adoption Agreement.

1.20 "Investment Fund" means an investment fund which forms part of the Trust Fund as established by the Trustees.

1.21 "Matching Contribution" means the Participating Employer matching contributions as determined under the Adoption Agreement and made pursuant to Article IV.

1.22 "Non-Matching Contribution" means the Participating Employer non-matching contributions as determined under the Adoption Agreement and made pursuant to Article IV.

1.23 "Normal Retirement Age" means the date a Participant attains age sixty-five (65).

1.24 "Participant" means an Eligible Employee who participates under this Plan by enrolling (including a default enrollment) and maintaining an Account balance.

1.25 "Participating Employer" means any Employer who elects to participate in the Plan pursuant to Article II with respect to the Eligible Employees of one (1) or more departments.

1.26 "Payroll Period" means the time period specified by the Participating Employer in the Adoption Agreement.

1.27 "Plan Year" means the plan year as determined by a Participating Employer in the Adoption Agreement.

1.28 "Practitioner" means Ice Miller LLP, Legal Counsel, who is the volume submitter practitioner sponsoring the Plan on behalf of GMA.

1.29 "Rollover Account" means the subaccount maintained by the Administrator to which rollovers pursuant to Article XIV will be credited. The Administrator may establish one or more rollover subaccounts for a Participant.

1.30 "Separation from Service" means severance of a Participant's employment with the Participating Employer for any reason, including retirement. A Participant shall be deemed to have Separated from Service with the Participating Employer for purposes of the Plan when, in accordance with the established personnel practices of the Participating Employer, the employment relationship is considered actually terminated. If a Participant has not been terminated, but the Participant has not performed services for the Participating Employer for a period of six (6) consecutive months and the Participant is not on a paid leave of absence, the

Participant shall be deemed Separated from Service for purposes of this Plan at the end of the six (6) month period.

1.31 "Service Manager" means the person or organization appointed by the Trustees to perform service and administrative functions delegated by the Trustees.

1.32 "State" means the State of Georgia.

1.33 "Transfer Account" means the subaccount maintained by the Administrator to which transfers to the Plan pursuant to Article XV will be credited. The Administrator may establish one or more transfer subaccounts for a Participant.

1.34 "Trust" means the trust established by the Trustees pursuant to a written agreement that constitutes a valid trust under the law of Georgia.

1.35 "Trustees" mean the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Program, which Trustees are appointed by the Board of Directors of GMA.

1.36 "Rules of Construction" words used herein in the masculine gender shall be construed to include the feminine gender where appropriate, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.

## ARTICLE II - PARTICIPATION BY EMPLOYERS

An Employer may make the Plan available to its Employees if it takes the following actions:

(a) The Governing Authority of the Employer must pass a resolution formally adopting this Plan for its Employees and approving the Adoption Agreement.

(b) The resolution must indicate the date of adoption.

(c) The resolution must commit to the terms of an Adoption Agreement as completed by the Employer.

(d) the resolution must specify that the Employer shall abide by the terms of the Plan and the Trust, including all investment, administrative, and service agreements of the Plan, and all applicable provisions of the Code and other applicable law.

(e) The resolution must acknowledge that the Trustees are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Employer.

(f) Employers whose Employees are participating in a defined contribution plan under Code Section 401(a) and 414(d) as of the effective date of the Adoption Agreement must inform the Administrator of the name of and the provider of that plan and must provide any other information requested by the Administrator.

The Trustees shall determine whether the resolution complies with this section. If it does, and provided the other requirements of the Plan and Trust are met, the Trustees shall execute the Adoption Agreement and provide appropriate forms for the Employer to implement its participation in the Plan.

### **ARTICLE III - ELIGIBLE EMPLOYEE PARTICIPATION**

**3.01 Participation Procedure.** Only Eligible Employees as defined by the Adoption Agreement may be Participants in the Plan. The Administrator shall prescribe the enrollment form for Eligible Employees to become Participants.

**3.02 Cessation of Plan Participation.** An Eligible Employee shall cease to be a Participant on the distribution and/or forfeiture of the Participant's entire interest in the Plan.

### **ARTICLE IV - CONTRIBUTIONS**

**4.01 Contributions.** Contributions shall be made to the Plan in accordance with this Article, the Adoption Agreement, and subject to the limitations under Article V. A Participating Employer shall specify in the Adoption Agreement whether it will make Matching Contributions and/or non-Matching Contributions. Matching Contributions shall be made to match all or a

portion of the Participant's contributions to a Deferred Compensation Plan, in accordance with the formula and method specified by the Participating Employer in the Adoption Agreement. Non-Matching Contributions are not tied to Participant contributions to a Deferred Compensation Plan and shall be made in accordance with the formula and method specified by the Participating Employer in the Adoption Agreement.

The Adoption Agreement establishing the amount and method of calculating contributions continues in effect from Plan Year to Plan Year until amended or repealed by the Governing Authority or until the Participating Employer's participation in the Plan is terminated.

**4.02 Matching Contributions.** If the Adoption Agreement provides for Matching Contributions, the Governing Authority shall determine and specify in the Adoption Agreement the formula for calculating the Matching Contributions, which may be all or a specified portion of a Participant's contribution to a Deferred Compensation Plan. In the Adoption Agreement, the Participating Employer may establish different classes of Participants who are eligible or ineligible to receive Matching Contributions. The Employer may also establish different Matching Contribution amounts or formulas applicable to different classes of Eligible Employees.

**4.03 Eligibility for Matching Contributions.**

(a) If the Adoption Agreement provides for Matching Contributions, a Participant shall be eligible for Matching Contributions for any Payroll Period only if the Participant meets the conditions set forth in the Adoption Agreement.

(b) In no event shall a Participant receive any Matching Contributions for any Payroll Period for which the Participant does not have an effective payroll deferral to a Deferred Compensation Plan for that Payroll Period.

**4.04 Non-Matching Contributions.** If the Adoption Agreement provides for Non-Matching Contributions, the Governing Authority shall determine and specify in the Adoption Agreement the formula for calculating the Non-Matching Contributions, which may be a fixed amount or a specified portion of a Participant's Compensation. In the Adoption Agreement, the Participating Employer may establish different classes of Participants who are eligible or ineligible to receive Non-Matching Contributions. The Employer may also establish different Non-Matching Contribution amounts or formulas applicable to different classes of Eligible Employees.

**4.05 Eligibility for Non-Matching Contributions.** If the Adoption Agreement provides for Employer Non-Matching Contributions, a Participant shall be eligible for Non-Matching Contributions only if the Participant meets the conditions set forth in the Adoption Agreement.

**4.06 Changes in Employer Contributions.** A Participating Employer may adjust the amount or method of Employer Contributions throughout the Plan Year by adopting a resolution to amend its Adoption Agreement in accordance with Section 20.03. The resolution must be sent to the Administrator. The Trustees must approve or disapprove the amendment and, if approved, establish the effective date of any change to the Employer Contributions.

**4.07 Employee Contributions, Rollovers, and Transfers.** Employee contributions under the Plan are not required or permitted. However, a Participant may rollover eligible rollover distributions to the Participant's Rollover Account, pursuant to Article XIV. In addition, the Plan may accept transfers to a Participant's Transfer Account, pursuant to Article XV.

**4.08 Remittance of Contributions.** The Employer Contributions shall be paid as specified in the Adoption Agreement. All amounts of Employer Contributions under the Plan

shall be transferred by the Participating Employers to the Trust within the time limits described in this Section. Contributions shall first be remitted to the Trust only after the Employer's Adoption Agreement is approved by the Trustees. Upon approval of the Adoption Agreement, the Trustees shall specify the date Employer Contributions are to commence. In no event shall contributions under the Plan be transferred by the Participating Employer to the Trust later than fifteen (15) business days after the Payroll Period specified in the Adoption Agreement or after the end of the Plan Year with respect to Employer Contributions made on a Plan Year basis.

**4.09 Delinquent Contributions.** It is the Participating Employer's responsibility to correctly calculate and remit the appropriate Employer Contributions. The Administrator reserves the right to give notice to the highest elected official, the designated representative of the Employer and/or the Eligible Employees of the delinquent Participating Employer in the event it comes to the Administrator's attention that Employer Contributions are not being remitted in a timely manner.

Neither GMA, the Trustees, nor the Administrator have any liability for the delinquency of a Participating Employer.

#### **ARTICLE V - LIMITATIONS ON CONTRIBUTIONS**

**5.01 Applicability of Article.** Notwithstanding any provision of the Plan to the contrary, contributions to the Plan and additions to Accounts of Participants shall be limited as provided in Code Section 415 as provided in this Article.

**5.02 Limitation under Code Section 415.** Notwithstanding anything in the Plan to the contrary, the following limitations shall apply:

(a) To the extent required under Code Section 415(c), in no event shall the "annual addition," as defined in this Section for a Participant for any limitation year, exceed the lesser of:

(1) Forty Thousand Dollars (\$40,000), as adjusted under Code Section 415(d);  
or

(2) One-hundred percent (100%) of Compensation (as defined in Article I) of such Participant received during the Plan Year.

(b) The Plan shall be administered so as to comply with the limitations of Code Section 415.

(c) For purposes of this Section, all defined contribution plans of a Participating Employer are to be treated as a single defined contribution plan. However, each Participating Employer is to be considered as a separate employer.

(d) If the annual addition for a Participant under the Plan, determined without regard to the limitation of paragraph (a), would have been greater than the annual addition for such Participant as limited by paragraph (a), then the excess, if due to a reasonable error in estimating compensation or such other circumstances as found by the Secretary of the Treasury to justify application of this paragraph, shall be reduced, to the extent necessary to satisfy such limitation by holding the excess unallocated in a suspense account and using it to reduce Participating Employer contributions in subsequent Plan Years.

(e) For purposes of this Section, "annual addition" means the annual addition as defined in Code Section 415(c) and as modified in Code Sections 415(l)(1) and 419A(d)(2). In general, Code Section 415(c) defines the annual addition as the sum of the following amounts credited to a Participant's accounts for the limitation year under this Plan and any other defined contribution plan maintained by a Participating Employer:

- (1) employer contributions;
- (2) employee contributions; and

(3) forfeitures.

(f) For purposes of this Section, limitation year means the calendar year.

**5.03 Participating Employer Responsibility for Contribution Limits.** The Participating Employer must monitor contributions to the Plan on behalf of a Participant to this Plan and any other 401(a) plan maintained by the Participating Employer to determine compliance with this Article. The Participating Employer must cease contributions to avoid exceeding the limits of Section 5.02 and must notify the Administrator if excess annual additions are made.

#### **ARTICLE VI - ACCOUNTS AND REPORTS**

**6.01 Account.** The Administrator shall maintain applicable Accounts within the Participant's Account with respect to each Participant which may include: the Employer Contribution Account, the Employer Matching Contribution Account, the Employer Non-Matching Contribution Account, the Rollover Account, and the Transfer Account. The Administrator may establish an Employer Matching Contribution Account and an Employer Non-Matching Contribution Account, consistent with the Participating Employer's elections in the Addendum to the Adoption Agreement. If established, the Employer Matching Contribution Account shall be credited with the Participant's Employer Matching Contributions for each Payroll Period, and the Employer Non-Matching Contribution Account shall be credited with the Participant's Employer Non-Matching Contributions for each designated period (pursuant to the Adoption Agreement). If the Administrator does not establish these accounts, Employer Contributions shall be credited to the Employer Contribution Account. The Rollover Account shall be credited with the Participant's rollover contributions, if any, under Article XIV. The Transfer Account shall be credited with the Participant's transfers to the Plan, if any, under Article XV. The balance of the Participant's Accounts shall be adjusted daily to reflect any

distribution to the Participant and all interest, dividends, account charges and changes of market value resulting from the investment of the Participant's Accounts. All Plan records, including individual account information, that are maintained by the Service Manager shall be the exclusive property of the Administrator. The Administrator may prescribe such minimum deposits to Participant's Accounts and each investment option for the Participant as it deems appropriate.

**6.02 Statements of Account.** A written report of the status of each Participant's Accounts shall be furnished to the Participant by the Administrator within thirty (30) days after the end of each Plan quarter. All reports to Participants shall be based on the fair market value of investments credited to Accounts as of the reporting dates. Participant reports shall be deemed to have been accepted by the Participant as correct unless written notice to the contrary is received by the Administrator within ninety (90) days after the mailing or distribution of a report to the Participant.

**6.03 Year End Reports.** Within ninety (90) days after the end of each Plan Year, a written report shall be prepared and maintained on file by the Administrator showing the assets held under the Plan, a schedule of all receipts and disbursements, and all material transactions of the Plan during the preceding year. This report shall be in a form and shall contain other information as the Administrator requires. The report shall also contain such information as is necessary to enable the Trustees to prepare their accounting due under the Trust.

#### **ARTICLE VII - VALUATION OF ACCOUNTS**

**7.01 Valuation.** The Administrator shall value the investments each business day based on acceptable industry practices. All daily transactions shall be based on that day's closing market values.

7.02 **Deposits.** In all cases, deposits of contributions shall be treated as actually made only as of the date the funds are accepted as in good order by the Administrator.

7.03 **Report from Administrator to Trustees.** The Administrator shall provide a report to the Trustees concerning the valuation of Accounts within forty-five (45) days after the end of each calendar quarter.

#### **ARTICLE VIII - TRUST**

8.01 **Trust Status.** All assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan.

8.02 **Trust Fund.** All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan and the Trust Agreement. All contributions to the Plan must be transferred by the Participating Employers to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

#### **ARTICLE IX - INVESTMENT OF ACCOUNTS**

9.01 **Investment Options.** From time to time, the Trustees shall determine the available Investment Funds for Participants (or Beneficiaries upon the death of the Participant). The Participants may direct the investment of their Accounts among the Investment Funds selected by the Trustees. Unless otherwise directed by the Participant (or Beneficiary), in

accordance with procedures established by the Service Manager, a Participant's (or Beneficiary's) Rollover Account and Transfer Account shall be invested in the same manner as the Participant's (or Beneficiary's) Employer Contribution Account; if a Participant has both an Employer Matching Contribution Account and Employer Non-Matching Contribution Account with different investment directives, the investment directive of the Matching Contribution Account shall be applied. The Administrator shall follow the Participants' (or Beneficiaries') directions with respect to the investment of the Accounts, except that the Administrator shall direct the investment of a Participant's (or Beneficiary's) Account to a default investment pursuant to Section 9.02 when there is no valid investment direction on file.

**9.02 Investment Default Option.** In the event that a Participant does not have a valid investment direction on file for any portion of the amount in that Participant's Account, that portion of the Account shall be invested in any default option or options as determined by the Trustees. In such event, the Participant shall be deemed to have directed that option (or options) for investment of such portion of their Account. The Trustees intend to establish one or more default options based upon various factors, including but not limited to, market risk, stability and rate of return. If the Trustees have appropriately exercised their fiduciary duty in selecting a default option(s), they have no liability for any loss sustained by a Participant or Beneficiary whose Account in whole or in part is invested in the default option(s).

## **ARTICLE X - VESTING**

**10.01 Vesting Standards.** The vesting standards for Employer Contributions shall be determined in the Adoption Agreement with the following exceptions:

(a) The Participant shall be 100% Vested in the Participant's Rollover Account and Transfer Account at all times.

(a) Upon attainment of Normal Retirement Age, Death or Separation from Service because of Disability, the Participant shall be 100% Vested in all the Participant's Accounts.

(b) Upon a Participating Employer's voluntary or involuntary termination of the Employer's Participation in the Plan or upon the Trustees' termination of the entire Plan, or upon the complete discontinuance of the Employer's contributions to the Plan, the Participant shall be 100% Vested in all the Participant's Accounts.

**10.02 Forfeitures.** If a Participant has a Separation from Service, the Participant's non-vested Employer Contributions shall be forfeited as of the date of the Participant's Separation from Service. The Employer is responsible for reporting forfeitures to the Administrator when they occur. Amounts forfeited during a Plan Year shall be held in suspense in the Forfeiture Account until they are used to reduce or otherwise supplement Employer Contributions as of the earliest possible date such contributions are required to be made to the Plan.

#### **ARTICLE XI - BENEFITS**

**11.01 Benefit Payments.** Benefits shall be paid from the Trust Fund in accordance with this Article. Benefits payable to a Participant or a Beneficiary shall be based upon the value of the Participant's Account.

(a) **Separation from Service.** Upon Separation from Service, a Participant may elect to have benefits commence on a date which is no later than the required beginning date under Code Section 401(a)(9), as specified in Article XII. All benefits shall be paid under a payment option under Section 11.02, subject to the restrictions in Article XII.

(b) **Death.** In the event of the Participant's death prior to the commencement of benefits under paragraph (a), the value of the Participant's Account shall be paid to the Beneficiary under a payment option elected by the Beneficiary under Section 11.02, subject to

the restrictions in Article XII. Such benefits shall be payable commencing within sixty (60) days after receipt by the Administrator of satisfactory proof of the Participant's death. However, if the Beneficiary is the spouse of the Participant, then the spouse may elect, within sixty (60) days of the Participant's death, to defer distribution to a date not later than the Participant's required beginning date as specified in Section 12.06(e). In the event of the Participant's death after commencement of benefits, benefits shall be paid subject to Article XII.

(c) **Disability.** Upon Separation from Service with the Participating Employer because of Disability, a Participant may elect to have benefits commence on a date which is no later than the required beginning date under Code Section 401(a)(9), as specified in Article XII. A Participant who is on leave without pay who becomes Disabled within the first six (6) months of the leave shall be considered to have Separated from Service on account of Disability. The commencement date must meet the required distribution commencement date provisions of Code Section 401(a)(9) as specified in Article XII. All benefits shall be paid under a payment option under Section 11.02, subject to the restrictions in Article XII.

**11.02 Payment Options.** The election of a payment option by a Participant or a Beneficiary under Section 11.01 must be made no later than thirty (30) days before the commencement of such benefits. Subject to restrictions established by the Administrator, the Plan shall permit payout options in the form of lump sums, periodic payments of a fixed amount or fixed duration, or life contingent annuities. Absent such an election, the Account will be paid in a lump sum.

**11.03 Lump Sum Settlement.** Notwithstanding anything in this Plan to the contrary, if a Participant's Account balance is not greater than \$5,000 (or such other lesser amount as determined by the Trustees with respect to the Plan Years of Participating Employers following

the determination) at the time of Separation from Service, the Administrator may effect a lump sum distribution of the Participant's Account, regardless of a Participant's or Beneficiary's direction. Effective for distributions made on or after March 28, 2005, if a lump sum distribution to be made under this Section is greater than \$1,000 and it is an eligible rollover distribution, and if the recipient of the distribution does not elect to have the distribution paid directly to an eligible retirement plan specified by the recipient in a direct rollover or does not elect to receive the distribution directly, then the Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Administrator.

**11.04 Designated Beneficiary.**

(a) If a Participant is a participant in the GMA Deferred Compensation Plan, the Participant's Beneficiary or Beneficiaries for purposes of this Plan shall be the Participant's Beneficiary or Beneficiaries under the GMA Deferred Compensation Plan.

(b) If the Participant is not a participant of the GMA Deferred Compensation Plan, the Participant's beneficiary is determined under this subsection (b). The Participant's beneficiary is the person designated on the Applicable Form provided by the Administrator. If the Participant dies without a valid Beneficiary designation on file, the benefit payment shall be made to the Participant's surviving spouse; if there is no surviving spouse, to the Participant's surviving dependent children equally; and if there are no surviving spouse or children, to the Participant's estate. A Participant shall have the right to designate at least one primary and contingent Beneficiary and to indicate whether the Beneficiaries in each class are to share equally or according to specified percentages. If a Beneficiary predeceases the Participant, the surviving Beneficiaries in the same class (i.e., primary or contingent) will share among each other all benefits in the same proportion as originally designated by the Participant. A contingent

Beneficiary shall receive benefit payments only if there is no surviving primary Beneficiary. In the event of the death of a Beneficiary after the Beneficiary has become entitled to receive benefits, the remaining benefits shall be paid to the estate of the Beneficiary in a lump sum. The Beneficiary designation may be changed by the Participant in writing on the Applicable Form at any time prior to the date benefits commence. Only the last designation of a Beneficiary prior to the date benefits commence shall have effect, and any new designation of a Beneficiary invalidates, supersedes, and revokes any prior designation.

#### **ARTICLE XII - MINIMUM DISTRIBUTION RULES**

**12.01 Precedence.** The requirements of this Article will take precedence over any inconsistent provisions of the Plan.

**12.02 Requirements of Treasury Regulations Incorporated.** Effective on and after January 1, 2003, all distributions required under this Article will be determined and made in accordance with Code Section 401(a)(9) and the Treasury regulations thereunder, including the incidental death benefit rules under Code Section 401(a)(9)(G).

#### **12.03 Time and Manner of Distribution.**

(a) The Participant's entire interest will be distributed, or begin to be distributed, to the Participant not later than the Participant's Required Beginning Date.

(b) If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70  $\frac{1}{2}$ , if later.

(2) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary may be made by lump sum, and distribution must be made no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse are required to begin, this subsection (b), other than subsection (b)(1), will apply as if the surviving spouse were the Participant.

For purposes of this subsection (b) and Section 12.05, unless subsection (b)(4) of this Section applies, distributions are considered to begin on the Participant's Required Beginning Date. If subsection (b)(4) of this Section applies, distributions are considered to begin on the date the distributions are required to begin to the surviving spouse under subsection (b)(1) of this Section. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (b)(1) of this Section), the date distributions are considered to begin is the date distributions actually commence.

(c) Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of

the first Distribution Calendar Year distributions will be made in accordance with Sections 12.04 or 12.05. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations.

**12.04 Required Minimum Distribution During Participant's Lifetime.**

(a) During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

(1) The quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9, Q&A-2, of the Treasury regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

(2) If the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, Q&A-3, of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

(b) Required minimum distributions will be determined under this Section beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

**12.05 Required Minimum Distributions After Participant's Death.**

(a) Death on or After Date Distributions Begin.

(1) If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:

(i) The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(ii) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(iii) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) Death Before Date Distributions Begin.

(1) If the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in subsection (a) of this Section.

(2) If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 12.03(b)(1), this subsection (b) will apply as if the surviving spouse were the Participant.

**12.06 Definitions for this Article.**

(a) "Designated Beneficiary" means the individual who is designated as the beneficiary under Article XI and is the Designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-4 of the Treasury regulations.

(b) "Distribution Calendar Year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first

Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 12.03(b). The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

(c) "Life Expectancy" means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q&A-1, of the Treasury regulations.

(d) "Participant's Account Balance" means the Account balance as of the last valuation date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.

(e) "Required Beginning Date" means April 1 of the calendar year following the later of (i) the calendar year in which the Participant reaches age seventy and one-half (70 ½), or (ii) the calendar year in which the Participant Separates from Service.

12.07 No Expansion of Payment Options. Nothing in this Article shall provide any individual entitled to a benefit under this Plan a benefit or payment option to which such individual would not otherwise be entitled pursuant to the provisions of the Plan.

### ARTICLE XIII - ELIGIBLE ROLLOVER FROM THIS PLAN

13.01 Plan Distributions and Withholding Requirements. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

13.02 Definitions. The following definitions shall apply to this Article:

(a) An "Eligible Rollover Distribution" is any distribution under Article XI of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9); or (iii) the portion of any distribution that is not includable in gross income, provided that any portion of any distribution that is not includable in gross income may be an Eligible Rollover Distribution for purposes of a rollover to either (1) a traditional individual retirement account or individual retirement annuity under Code Sections 408(a) or 408(b) or (2) a qualified trust which is part of a plan which is a defined contribution plan under Code Sections 401(a) or 403(a) that will separately account for the distribution, including the taxable and non-taxable portions of the distribution, in a direct trustee-to-trustee transfer.

(b) An "Eligible Retirement Plan" is an individual retirement account described in Code Section 408(a); an individual retirement annuity described in Code Section 408(b); an annuity plan described in Code Section 403(a); a qualified plan described in Code Section 401(a); a tax-sheltered annuity or account described in Code Section 403(b); or an eligible deferred compensation plan described in Code Section 457(b) which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state (which agrees to separately account for amounts transferred into such plan from this Plan), that accepts the Distributee's Eligible Rollover Distribution.

(c) A "Distributee" includes an Employee, former Employee, or an Employee's or former Employee's surviving spouse.

(d) A "Direct Rollover" is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

#### **ARTICLE XIV - ELIGIBLE ROLLOVERS TO THIS PLAN**

To the extent permitted by the applicable provisions of the Code and regulations issued thereunder, a Participant may contribute to the Plan in cash as a rollover contribution a qualified rollover amount from a qualified plan under Code Section 401(a); an annuity plan under Code Section 403(a); an individual retirement account or annuity under Code Sections 408(a) or (b); or an annuity contract under Code Section 403(b); provided that the Administrator, in its discretion, determines that the contribution satisfies all applicable requirements of the Code. A rollover contribution shall be allocated to the Rollover Account of the Participant as of the date of the contribution. The Participant's Rollover Account shall be available for distribution, under the payment options set forth in Section 11.02, at any time at the direction of the Participant, subject to any applicable penalties or other distribution requirements under the Code (including, but not limited to, Article XII).

## ARTICLE XV - TRANSFERS

To the extent permitted by the applicable provisions of the Code and regulations issued thereunder, a Participant may make a plan-to-plan transfer to this Plan from another qualified plan as provided in this Article. Such a transfer is permitted only if the other plan provides for the direct transfer of the Participant's interest therein to the Plan. The Administrator may require in its sole discretion that the transfer be in cash or other property acceptable to the Administrator. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer and to confirm that the other plan is a qualified plan as defined in Section 401(a) of the Code. The amount so transferred shall be credited to the Participant's Transfer Account and shall be held, invested, accounted for, administered and otherwise treated in the same manner as a rollover contribution under Article XIV, subject to any applicable distribution requirements or limitations under the Code.

## ARTICLE XVI - PARTICIPATING EMPLOYER OBLIGATIONS

Each Participating Employer is required to: (i) remit correct contributions on a timely basis pursuant to Article IV; (ii) notify the Administrator of any change in the Adoption Agreement at least thirty (30) days prior to the proposed effective date of the change; (iii) provide and/or distribute any reports, information, or notices as required by the Administrator; and (iv) comply with all requirements of the Plan. The Plan for a Participating Employer who fails to comply with its obligations under the Plan may be terminated by the Trustees in their discretion.

A Participating Employer shall not be liable for losses arising from expense charges of any kind or from depreciation or shrinkage in the value of investments made under this Plan.

## ARTICLE XVII - PLAN LOANS

Plan loans to Participants shall not be permitted.

## ARTICLE XVIII - ADMINISTRATION OF PLAN

**18.01 Compliance with Code Section 401(a).** At all times, the Plan shall be administered in accordance with and construed to be consistent with Section 401(a) of the Code and its accompanying regulations, as applicable to governmental plans as defined in Code Section 414(d). The Plan is a money purchase plan, whereby contributions are determined pursuant to Article IV of the Plan.

**18.02 Trustees' Duties and Powers.** The Trustees shall have the authority to control and manage the operation and administration of the Plan and shall be a named fiduciary of the Plan.

(a) The Trustees shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable or convenient to enable the Trustees to carry out their duties under the Plan. The Trustees also have the powers and duties specified in the Trust Agreement. By way of illustration and not limitation, the Trustees are empowered and authorized:

(1) to establish procedures with respect to administration of the Plan, not inconsistent with the Plan and the Code, and to amend or rescind such procedures;

(2) to determine, consistent with the Plan, applicable law, rules or regulations, all questions of law or fact that may arise as to the eligibility for participation in the Plan and eligibility for distribution of benefits from the Plan, and the status of any person claiming benefits under the Plan, including without limitation, Participants, former Participants, Beneficiaries, Employees and former Employees;

(3) pursuant to Article XI of the Plan, to make payments from the Trust Fund to Participants, their Beneficiaries and other persons as the Trustees may determine;

(4) to contract with one or more Service Managers to perform education, enrollment, and administrative services under this Plan;

(5) to accept service of legal process;

(6) subject to and consistent with the Code, to construe and interpret the Plan as to administrative issues and to correct any defect, supply any omission or reconcile any inconsistency in the Plan with respect to same.

(b) Any action by the Trustees, which is not found to be an abuse of discretion, shall be final, conclusive and binding on all individuals affected thereby. The Trustees may take any such action in such manner and to such extent as the Trustees in their sole discretion may deem expedient and the Trustees shall be the sole and final judge of such expediency.

(c) The Trustees may delegate any power or duty to the Administrator except where the Trustees are required to review a determination of the Administrator.

**18.03 Advice.** The Trustees may employ one (1) or more persons to render advice with regard to their responsibilities under the Plan.

**18.04 Delegation by Trustees.** In addition to the powers stated in Section 18.02, the Trustees may delegate to an individual, committee or organization certain of their fiduciary or other responsibilities under the Plan. Any such individual, committee or organization shall remain a fiduciary until the delegation of fiduciary duty is revoked by the Trustees, which revocation may be without cause and without advance notice. Such individual, committee or organization shall have power and authority with respect to such delegated fiduciary or other responsibilities as the Trustees have under the Plan.

**18.05 Fiduciary Insurance.** The Trustees may require the purchase of fiduciary liability insurance for any of such fiduciaries to cover liability or losses occurring by reason of the act or omission of a fiduciary.

**18.06 Payment of Benefits.**

(a) **Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

(b) **Correctness of Actions.** The Trustees or Administrator, if in doubt concerning the correctness of their action in making a payment of a benefit, may suspend payment until satisfied as to the correctness of the payment or the person to receive the payment, or may file, in any state court of competent jurisdiction, a suit, in such form as it considers appropriate, for legal determination of the benefits to be paid and the persons to receive them. The Trustees or Administrator may also bring a suit or take such other action as it deems appropriate in the case of questions involving investment directions. The Trustees and Administrator shall comply with the final order of the court in any such suit, and Participants, Beneficiaries, and the Participating Employers shall be bound thereby insofar as such order affects the benefits payable under this Plan or the method or manner of payment.

**18.07 Limitation on Recovery.** Participating Employers, Participants, and Beneficiaries may not seek recovery against the Trustees, GMA, or any employee or agent of the

Trustees, for any loss sustained by any Participating Employer, Participant, or Beneficiary due to the nonperformance of their duties, negligence or any other misconduct of the above-named persons. Participants and Beneficiaries may not seek recovery against Participating Employers, or any employee or agent of the Participating Employer, due to the non-performance of their duties, negligence, or any other misconduct of the above named persons.

This paragraph shall not, however, excuse fraud or a wrongful taking by any person.

#### **ARTICLE XIX - CLAIMS PROCEDURE**

**19.01 Claims Procedure: Service Manager.** Any Participant may present a claim in writing to the Service Manager for any issue involving the Participant's Account investments or record-keeping. In addition, the Administrator may refer such issues to the Service Manager for review and resolution. The Service Manager shall utilize the protocol agreed to with the Administrator. The Service Manager shall resolve any such claim presented to it. If a Participant is not satisfied with the resolution determined by the Service Manager, the Participant may request in writing a claim review under Section 19.04.

**19.02 Claims Procedure: Employer.** Any Participant may present a claim in writing to the Participant's Employer for any issue involving eligibility or vesting. In addition, the Administrator may refer such issues to the Employer for review and resolution. The Employer shall resolve any such claim presented to it. If a Participant is not satisfied with the resolution determined by the Employer, the Participant may request in writing a claim review under Section 19.04.

**19.03 Claims Procedure: Administrator.** The Administrator shall have sole discretion to determine, based upon the Issue(s) raised, to determine if a claim should be resolved by the Service Manager, Employer, or the Administrator pursuant to Sections 19.01, 19.02 or 19.03 respectively. A Participant, Beneficiary, or other person claiming benefits under

this Plan ("Claimant") may present a claim in writing to the Administrator for any issue not covered by Section 19.01 or 19.02. The Administrator shall resolve any such claim presented to it in accordance with the procedures specified in Section 19.04(b) - (d). If the Claimant is not satisfied with the resolution determined by the Administrator, the Claimant may appeal the Administrator's decision under Section 19.05.

**19.04 Claims Review.**

(a) Within thirty (30) days after the Claimant is notified of a decision under Section 19.01 or 19.02, the Claimant may submit a written request for review of the decision by the Administrator. If such request is not filed within thirty (30) days, the decision of the Service Manager or Employer, as applicable, shall be final and binding. The thirty (30) day period may be waived by the Trustees for good cause shown.

(b) The Administrator shall within ninety (90) days provide adequate notice in writing to any Claimant as to its decision on any review. Such notice shall be written in a manner calculated to be understood by the Participant. If such claim is denied by the Administrator, in whole or in part, such notice shall set forth:

- (1) the specific reasons for such denial,
- (2) specific reference to any pertinent provisions of the Plan on which denial is based,
- (3) a description of any additional material or information necessary for the Claimant to perfect the claim and an explanation of why such material or information is necessary, and
- (4) an explanation of the appeals procedure for the Plan.

(c) The Administrator shall act as a fiduciary in making a full and fair review of such claim.

(d) The Claimant or a duly authorized representative may review any Plan document which is pertinent to the claim and may submit issues and comments to the Administrator in writing at any time prior to the issuance of the Administrator's decision on review.

**19.05 Appeals Procedure.**

(a) Within sixty (60) days after receipt by the Claimant of notification of denial under Section 19.03 or 19.04, the Claimant shall have the right to present a written appeal to the Trustees, including submission of any additional written material that is pertinent to the claim. If such appeal is not filed within the sixty (60) day period, the decision of the Administrator shall be final and binding.

(b) A decision by the Trustees shall be made no later than sixty (60) days after their receipt of the appeal. However, if the Trustees decide that a hearing at which the Claimant or a duly authorized representative may be present is necessary and such a hearing is held, such decision shall be rendered as soon as possible, but not later than one hundred twenty (120) days after their receipt of the appeal. Any such decision of the Trustees shall be in writing and shall provide adequate notice to the Claimant setting forth the specific reasons for any denial and written in a manner calculated to be understood by a Participant. Any such decision by the Trustees shall be final and binding.

**19.06 Report to Trustees Concerning Claims and Appeals.** The Administrator shall present a quarterly summary report to the Trustees concerning any claim or appeal under this Article.

## ARTICLE XX - AMENDMENT OF THE PLAN

### 20.01 Amendment of Master Plan and the Adoption Agreement.

(a) Subject to the provisions of any applicable law, the Trustees may at any time direct the Practitioner to amend or modify this Master Plan without the consent of the Participating Employers or of Participants (or any Beneficiaries thereof). Any modification, alteration, or amendment of the Master Plan, made in accordance with this Section, may be made retroactively, if deemed necessary or appropriate by the Trustees. A certified copy of the resolution of the Trustees directing such amendment shall be delivered to the Administrator, and the Master Plan shall be amended in the manner and effective as of the date set forth in such resolution, and the Participating Employers, Employees, Participants, Beneficiaries, Trustees, and Administrator shall be bound by the amendment. A Participating Employer may not amend the Master Plan in any way.

(b) Subject to provisions of applicable law, the Trustees and the Administrator may at any time direct the Practitioner to amend or modify the form of the Adoption Agreement with the consent of the Participating Employers, unless otherwise required under Section 20.02.

(c) As required by guidance issued by the Internal Revenue Service, the Trustees and the Administrator shall ensure that each Participating Employer receives a copy of any modification, alteration, or amendment of the Master Plan and adopts a modified, altered, or amended Adoption Agreement when necessary.

### 20.02 Amendment for Interim Qualification of Plan.

(a) It is the intent of the Trustees that the Plan shall be and remain qualified for tax purposes under Code Section 401(a) and other applicable provisions. Therefore, pursuant to Internal Revenue Service Announcement 2005-37 and Revenue Procedure 2005-16, effective on and after February 17, 2005, with the approval of the Trustees, the Practitioner may make any

modifications, alterations, or amendments to the Master Plan, Adoption Agreement, or Addendum necessary to obtain and retain approval of the Secretary of the Treasury or his delegate as may be necessary to establish and maintain the status of the Plan as qualified under the provisions of the Code or other federal legislation, as now in effect or hereafter enacted, and the regulations issued thereunder. Any modification, alteration, or amendment of the Master Plan, Adoption Agreement, or Addendum, made in accordance with this Section, may be made retroactively, if necessary or appropriate. A certified copy of the resolution of the Trustees approving such amendment shall be delivered to the Administrator, and the Master Plan, Adoption Agreement, or Addendum shall be amended in the manner and effective as of the date set forth in such resolution, and the Participating Employers, Employees, Participants, Beneficiaries, Trustees, Administrator, and all others having any interest under the Plan shall be bound thereby. As provided in the Plan, the notice and signature requirements have been met and Participating Employers are aware that the Practitioner may amend the Plan on their behalf on and after February 17, 2005.

(b) With the approval of the Trustees, the Practitioner shall amend the Plan on behalf of all Participating Employers, including those Participating Employers who have adopted the Plan prior to this restatement of the Plan, for changes in the Code, the regulations thereunder, revenue rulings, other statements published by Internal Revenue Service, including model, sample, or other required good faith amendments (but only if their adoption will not cause such Plan to be individually designed), and for corrections of prior approved plans. These amendments shall be applied to all Participating Employers.

Notwithstanding the foregoing paragraph, the Practitioner shall no longer have the authority to amend the Plan on behalf of any Participating Employer as of either:

(i) the date the Internal Revenue Service requires the Participating Employer to file Form 5300 as an individually designed plan as a result of an amendment by the Participating Employer to incorporate a type of Plan not allowable in a volume submitter plan as described in Revenue Procedure 2005-16; or

(ii) as of the date of the Plan is otherwise considered an individually designed plan due to the nature and extent of the amendments.

If the Participating Employer is required to obtain a determination letter for any reason in order to maintain reliance on the advisory letter, the Practitioner's authority to amend the Plan on behalf of the Participating Employer is conditioned on the Plan receiving a favorable determination letter. In any event, any amendment made by the Practitioner is subject to the approval of the Trustees.

GMA will maintain or have maintained on behalf of the Practitioner, a record of the Participating Employers, and GMA on behalf of the Practitioner will make reasonable and diligent efforts to ensure that Participating Employers have actually received and are aware of all Plan amendments and that such Participating Employers adopt new documents when necessary. The provisions of this Section 20.02(b) shall supersede other provisions of the Plan to the extent those other provisions are inconsistent.

**20.03 Amendment of Adoption Agreement and/or Addendum by Participating Employer.** The Governing Authority shall have the right at any time to amend, in whole or in part, any or all of its elections under the Adoption Agreement and/or Addendum without the consent of the Participants or any Beneficiaries. Provided, however, that no such amendment shall:

(a) Deprive any Participant or Beneficiary of any of the benefits to which the Participant or Beneficiary is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment; or

(b) Authorize or permit any part of the Trust Fund to be diverted to purposes other than for the exclusive benefit of Participants or their Beneficiaries; or

(c) Become effective until approved by the Trustees. In order to be approved by the Trustees, any amendment must comply with the Master Plan and all applicable state and federal laws, including Code Section 401(a) as applicable to governmental plans. If the Trustees do not approve an amendment, the Trustees and Administrator shall continue to administer the Plan as if such amendment had not been made.

(d) If an amendment limits or otherwise restricts the deferral and distribution rights of the Participants, the amendment shall become effective on the first day of the month following the giving of not less than forty-five (45) days prior notice of the amendment to Participants. If the amendment was made by the Trustees, notice shall be deemed given when the amendment is posted in the office of the Administrator and is sent to each Participating Employer. If the amendment was made by the Participating Employer, notice shall be deemed given when the amendment is posted in the office of the Participating Employer and is sent to the Administrator. No amendments shall deprive any Participant of any of the benefits to which the Participant is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment, and

(e) If the Plan is amended or modified, the Administrator shall nonetheless be responsible for the supervision and the payment of benefits resulting from amounts contributed prior to the amendment or modifications in accordance with this Article.

#### ARTICLE XXI - TERMINATION

**21.01 Plan Termination by Participating Employer.** A Participating Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements, if it takes the following actions:

(a) The Governing Authority of the Participating Employer must adopt a resolution terminating its participation in the Plan.

(b) The resolution must specify when the Plan will be closed to any additional participation by Eligible Employees, which must be a date at least sixty (60) days after the adoption of the resolution.

(c) The resolution must be submitted to the Trustees.

The Trustees shall determine whether the resolution complies with this section, and all applicable federal and state laws, shall determine an appropriate effective date for the termination of Employer participation, which date shall be no later than twelve (12) months from the Trustees' receipt of the resolution. The Administrator shall provide appropriate forms to the Participating Employer to terminate ongoing participation. Distributions under the Plan of existing accounts to the Participants and Beneficiaries affected by the termination are subject to Article XI. However, if the Participating Employer requests a plan-to-plan transfer of Plan assets with respect to the Participating Employer's Employees who are Participants, the Trustees may in their discretion make the transfer.

**21.02 Discontinuance of Contributions.** At the discretion of the Trustees, a Participating Employer who fails to make contributions for a period of one (1) year or who fails to make timely contributions over a period of two (2) years shall be considered to have terminated participation.

**21.03 Effect of Termination by Participating Employer.** In the case of the complete or partial termination of the Plan as to one (1) or more Participating Employers, including a termination arising from the discontinuance and/or delinquency of contributions, the affected portion of the Trust Fund shall continue to be held pursuant to the direction of the Trustees, for

the benefit of affected Participants pursuant to Article XI. The Plan shall remain in full effect with respect to each Participating Employer that does not terminate its participation in the Plan on behalf of its Employees or whose participation is not terminated by the Trustees.

**21.04 Termination of the Entire Plan.** This Plan in its entirety may be terminated at any time by official action of the Trustees, with notice to all Participating Employers and Participants. The last date for contributions and earnings to be credited to Participant Accounts must be specified in the Trustees' official action and must be no sooner than ninety (90) days after the adoption of the official action. All actions associated with the termination of the plan, including a final accounting, must be completed within twelve (12) months after the adoption of the official action. In the event of a complete Plan termination, the Trustees must take all steps reasonable to avoid a distribution to the Participants and Beneficiaries, except pursuant to benefit options under Article XI, including identifying successor plan(s). However if distributions must be made, the Administrator shall be responsible for directing distribution of all assets of the Trust Fund to Participants and Beneficiaries.

#### **ARTICLE XXII - NONASSIGNABILITY**

**22.01 Nonassignment.** No Participant, Beneficiary or designee may commute, sell, assign, transfer, or otherwise convey the right to receive any payment under the Plan.

**22.02 Rights.** The rights of Participants and Beneficiaries under this Plan shall not be subject to the rights of their creditors, and shall be exempt from execution, attachment, prior assignment or any other judicial relief or order for the benefit of creditors or other third person, except to the extent a benefit distributable under Article XI is subject to a federal tax levy and except as provided in Article XXIII concerning Plan-Approved Domestic Relations Orders.

## ARTICLE XXIII - DOMESTIC RELATIONS ORDERS

**23.01 General Provisions.** Domestic relations orders which satisfy the requirements of Code Section 414(p)(A)(i) and 414(p)(1)(B), this Article, and the procedures established by the Administrator or Service Manager for such orders shall be considered Plan-Approved Domestic Relations Orders ("PADROs") and shall be honored by the Plan. The Plan shall not honor any domestic relations orders issued by a court before January 26, 2004. The Administrator or Service Manager is authorized to establish and amend procedures for the determination of PADROs consistent with the above-referenced Code provisions and this Article.

**23.02 Investment.** During the period that the issue of whether an order satisfies the applicable requirements of the Code and the procedures established by the Administrator or Service Manager is under consideration, the investment direction of the Participant with respect to the Participant's Accounts shall remain in effect, subject to a determination by the Administrator or Service Manager that such investment direction would be contrary to a final court order. After a determination has been made that a domestic relations order satisfies the applicable requirements of the Code and the procedures established by the Administrator or Service Manager and a separate Plan Account has been established for the alternate payee, the alternate payee shall direct the investment of his or her Plan Account. The Administrator or Service Manager shall direct the investment of an alternate payee's Account to a default investment pursuant to Section 9.02 when there is no valid investment direction on file. The alternate payee's Account shall be assessed administrative fees in the same amount and in the same manner as a Participant's Account.

**23.03 Distributions to Alternate Payees.** Distributions of benefits to the alternate payee shall commence as soon as administratively practicable after (i) a determination is made that the order satisfies the applicable requirements of the Code and the procedures established by

the Administrator or Service Manager, and (ii) receipt by the Administrator or Service Manager of the Applicable Forms for the election of benefits. In the event of an alternate payee's death, any remaining benefits shall be payable solely to the alternate payee's estate, via the duly appointed and then-currently serving executor of the alternate payee's estate.

#### **ARTICLE XXIV - MISCELLANEOUS**

**24.01 Federal Taxes.** The Trustees, the Employers, and the Administrator do not guarantee that any particular Federal or State income, payroll or other tax consequence will occur because of participation in this Plan.

**24.02 Contract.** This Plan and the Adoption Agreement, including any properly adopted or executed amendments thereof, shall constitute the total agreement or contract between the Employer and any Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by any Participant or other person.

**24.03 Conflicts.** In resolving any conflict between provisions of the Plan and in resolving any other uncertainty as to the meaning or intention of any provision of the Plan, the interpretation that (i) causes the Plan to constitute a qualified governmental plan under the provisions of Code Sections 401 and 414(d) and the Trust to be exempt from tax under Code Sections 115 and 501, (ii) causes the Plan to comply with all applicable requirements of the Code, and (iii) causes the Plan to comply with all applicable Georgia statutes and rules, shall prevail over any different interpretation.

**24.04 Limitation on Rights.** Neither the establishment or maintenance of the Plan, nor any amendment thereof nor any act or omission under the Plan (or resulting from the operation of the Plan) shall be construed:

(a) as conferring upon any Participant, Beneficiary or any other person a right or claim against the Trust, Trustees, Participating Employers or Administrator, except to the extent that such right or claim shall be specifically expressed and provided in the Plan;

(b) as creating any responsibility or liability of the Participating Employers for the validity or effect of the Plan;

(c) as a contract between the Participating Employers and any Participant or other person;

(d) as being consideration for, or an inducement or condition of, employment of any Participant or other person, or as affecting or restricting in any manner or to any extent whatsoever the rights or obligations of the Participating Employers or any Participant or other person to continue or terminate the employment relationship at any time; or

(e) as giving any Participant the right to be retained in the service of the Participating Employers or to interfere with the right of the Participating Employers to discharge any Participant or other person at any time.

**24.05 USERRA Compliance.** Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Code Section 414(u), and as required by the Uniformed Services Employment and Reemployment Rights Act ("USERRA").

**24.06 Procedure when Distributee Cannot be Located.** The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer's or the Administrator's records, (b) notification sent to the Social Security

Administration, the Pension Benefit Guaranty Corporation, or the Internal Revenue Service (under its program to identify payees under retirement plans), as determined by the Administrator subject to any applicable Unclaimed Property Act provisions, and (c) the payee has not responded within six (6) months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trust Fund shall continue to hold the benefits due such person.

**24.07 Erroneous Payments.** If the Trustees make any payment that according to the terms of the Plan and the benefits provided hereunder should not have been made, the Trustees may recover that incorrect payment, by whatever means necessary, whether or not it was made due to the error of the Trustees, from the person to whom it was made or from any other appropriate party. For example, if any such incorrect payment is made directly to a Participant, the Trustees may deduct it when making any future payments directly to that Participant.

**24.08 Mistaken Contributions.** If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Participating Employer.

**24.09 Release.** Any payment to any Participant shall, to the extent thereof, be in full satisfaction of the claim of such Participant being paid thereby and the Administrator may condition payment thereof on the delivery by the Participant of the duly executed receipt and release in such form as may be determined by the Administrator.

24.10 **Liability.** The Administrator shall not incur any liability in acting upon any notice, request, signed letter, telegram or other paper or document or electronic transmission believed by the Administrator to be genuine or to be executed or sent by an authorized person.

24.11 **Governing Laws.** The law of the State of Georgia, except to the extent pre-empted by federal law, shall apply in determining the construction and validity of this Plan.

24.12 **Necessary Parties to Disputes.** Necessary parties to any accounting, litigation or other proceedings relating to the Plan shall include only the Trustees and the Administrator. However, the Service Manager is a necessary party for those duties that have been delegated to the Service Manager. The settlement or judgment in any such case in which the Trustees are duly served shall be binding upon all affected Participants in the Plan, their beneficiaries, estates and upon all persons claiming by, through or under them.

24.13 **Severability.** If any provision of the Plan shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.

24.14 **Supersession.** The terms of the Plan shall supersede any previous Agreement between the parties pertaining to the Plan.

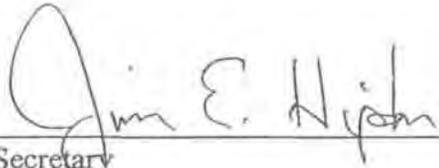
24.15 **Counterparts.** This Plan may be executed in one (1) or more counterparts, each of which shall constitute an original.

24.16 **General Provision.** Trustees may adopt procedures for persons to act on behalf of incompetent Participants and Beneficiaries.

This amended and restated GMA 401(a) Defined Contribution Master Plan Document, and the accompanying amended Adoption Agreement and Addendum shall supersede and replace the GMA 401(a) Defined Contribution Master Plan Document, Adoption Agreement, and Addendum previously approved by the Board of Trustees on January 23, 2006.

IN WITNESS WHEREOF the Board of Trustees has caused to be affixed the signature of its duly authorized Representatives:

6/22/08  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Secretary

*Approved by the Board of Trustees of the GMA Defined Contribution-Deferred Compensation Program at its June 22, 2008 meeting.*

**AMENDMENT 1 TO  
THE GEORGIA MUNICIPAL ASSOCIATION  
401(a) DEFINED CONTRIBUTION PLAN  
MASTER PLAN DOCUMENT**

WHEREAS, the Board of Trustees of the Georgia Municipal Association, Inc. ("GMA") Defined Contribution and Deferred Compensation Program ("Trustees") established the Georgia Municipal Association Defined Contribution Plan ("Master Plan"), effective January 1, 2001;

WHEREAS, with the approval of the Trustees, Ice Miller LLP, Legal Counsel, the volume submitter practitioner who sponsors the Plan on behalf of the GMA ("Practitioner") is granted the authority to amend the Master Plan on behalf of all Participating Employers for changes in the Code, the regulations thereunder, revenue rulings, other statements published by the Internal Revenue Service, or other required good faith amendments (but only if their adoption will not cause such Plan to be individually designed), and for corrections of prior approved plans; and

WHEREAS, the Trustees grant authority to the Practitioner to amend the Master Plan, pursuant to this Amendment 1, to reflect the changes to federal law pursuant to the Pension Protection Act of 2006; Heroes Earnings Assistance and Relief Tax Act of 2008; Worker, Retiree, and Employer Recovery Act of 2008; and, the Final Regulations under Code Section 415.

NOW, THEREFORE, this Amendment 1 is hereby adopted to amend the Master Plan effective as set forth herein:

1. Effective for Plan Years beginning on or after July 1, 2007, Section 1.08 is amended to be an read as follows:

**1.08** "**Compensation**" means all of a Participant's wages as defined in Code Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)); provided, however, compensation shall also include the amount of any elective deferrals, as defined in Code Section 402(g)(3), and any amount contributed or deferred by the employer at the election of the Employee and which is not includable in the gross income of the Employee by reason of Code Section 125 or 457, and elective amounts that are not includable in the gross income of the Employee by reason of Code Section 132(f)(4). If so elected in the Adoption Agreement, Compensation also includes certain additional amounts if paid no later than 2 ½ months after severance from employment or the end of the

calendar year that includes a Participant's severance from employment that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Participating Employer. The compensation of each Participant for any Plan Year shall not exceed \$245,000 (for 2009), as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B).

2. Effective for limitation years beginning on or after July 1, 2007, Section 5.02(a) is amended to be and read as follows:

(a) To the extent required under Code Section 415(c), in no event shall the "annual addition," as defined in this Section for a Participant for any limitation year, exceed the lesser of:

(1) Forty Thousand Dollars (\$40,000), as adjusted under Code Section 415(d); or

(2) One-hundred percent (100%) of Compensation (as defined in Article I) actually paid or includable in gross income during such limitation year. Compensation also includes certain additional amounts if paid no later than 2 ½ months after severance from employment or the end of the calendar year that includes a Participant's severance from employment that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Participating Employer. Such additional amounts include regular compensation for services during the Participant's regular working hours or compensation for services outside the Participant's regular work hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and, payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued. Any payment to a Participant paid by the Participating Employer not described above is not considered compensation if paid after severance from employment, even if it is paid within 2½ months following severance from employment.

An Employee who is in qualified military service (within the meaning of Internal Revenue Code Section 414(u)(1)) shall be treated as receiving compensation from the Participating Employer during such period of qualified military service equal to (i) the compensation the Employee would have received during such period if the Employee were not in qualified military service, determined based on the rate of pay the Employee would have received from the Participating Employer but for the absence during the period of qualified military service, or (ii) if the compensation the Employee would have received during such period was not reasonably certain, the Employee's average compensation from the Participating Employer during the twelve month period immediately

preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

Compensation of each Participant shall not exceed the applicable limit established by Code Section 401(a)(17) as of the first day of the limitation year, as increased for the Cost of Living Adjustment (\$245,000 for 2009). The Cost of Living Adjustment in effect for a limitation year applies to compensation for the Plan Year that begins with or within such limitation year.

3. Effective for limitation years beginning on or after July 1, 2007 Section 5.02(d) is amended to be and read as follows:

(d) For limitation years prior to July 1, 2007, if the annual addition for a Participant under the Plan, determined without regard to the limitation of paragraph (a), would have been greater than the annual addition for such Participant as limited by paragraph (a), then the excess, if due to a reasonable error in estimating compensation or such other circumstances as found by the Secretary of the Treasury to justify application of this paragraph, shall be reduced, to the extent necessary to satisfy such limitation by holding the excess unallocated in a suspense account and using it to reduce Participating Employer contributions in subsequent Plan Years.

4. Effective for Plan Years beginning after December 31, 2006, Sections 13.02(b) and (c) are amended to be and read as follows:

(b) An "eligible retirement plan" is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a Roth IRA described in section 408A of the Code, an annuity plan described in section 403(a) of the Code, a qualified trust described in section 401(a) of the Code that accepts the distributee's eligible rollover distribution or an annuity contract described in Code Section 403(b) and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p). The definition of an Eligible Retirement Plan for a nonspouse designated beneficiary of a deceased participant means an individual retirement annuity account established for the purpose of receiving a distribution from this Plan and treated as an inherited individual retirement account or annuity (within the meaning of Code Section 408(d)(3)(C)).

(c) A "distributee" includes an employee, former employee, and, effective for Plan Years beginning on or after December 31, 2009, a nonspouse designated beneficiary (as defined in section 401(a)(9)(E) of the Code) of a

deceased Participant. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

5. Effective for Plan Years beginning after December 31, 2006, a new subsection 13.02(e) is amended to be and read as follows:

(e) Not fewer than 30 nor more than 180 days before a Plan distribution, the Administrator shall provide the recipient with a written tax explanation as required by Code Section 402(f), if applicable, including an explanation of (i) the direct transfer of benefits, if applicable; (ii) the applicability of withholding taxes; (iii) the availability of direct transfers or rollovers; (iv) the availability of the special forward income averaging of Code Section 402(d); and (v) the applicability of such provisions to an alternate payee under Code Section 402(e). Notwithstanding the preceding sentence, a distribution may begin fewer than 30 days after the notice described in the preceding sentence is given, provided that:

(1) the Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a participant distribution option), and

(2) the Participant, after receiving a notice, affirmatively elects a distribution.

6. Effective January 1, 2007, Section 24.05 is amended to be and read as follows:

**24.05 USERRA Compliance.** Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") [as codified at Chapter 43, Title 38, of the United States Code]; Code Section 414(u); and Code Section 401(a)(37), as amended from time to time.

For purposes of this section, "qualified military service" means any service in the uniformed services as defined in USERRA by any individual if such individual is entitled to reemployment rights under USERRA with respect to such service.

A Participant, whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service who timely resumes employment with the Participating Employer in accordance with USERRA, may elect to make-up deferral contributions to a Code Section 457(b) Plan in accordance with Code Section 414(u) reduced by deferral contributions under Code Section 457(b), if any, actually made for the Participant during the

period of such interruption or leave. Except to the extent otherwise provided under Code Section 414(u), this right applies for five (5) years following such resumption of employment (or, if shorter, for a period equal to three (3) times the period of the interruption or leave). Such contribution by the Participant may only be made during such period and while the Participant is employed by the Participating Employer.

If such Participant elects to make such make-up contributions, then the Participating Employer shall make-up the related Employer Contributions which would have been required had such contributions actually been made during the period of qualified military service. The make-up contributions by the Participating Employer shall be made as soon as practicable after the Participant makes such make-up contributions.

If the Participant timely resumes employment in accordance with USERRA after a qualified military leave, the Participating Employer shall make any other Employer Contribution that would have been made if the Participant had remained employed during the Participant's qualified military service. Such contributions must be made no later than ninety (90) days after the date of such reemployment or when contributions are normally due for the year in which the qualified military service was performed, if later.

In determining the amount of Employer Contribution, a Participant shall be treated as receiving compensation from the Participating Employer during such period of qualified military service equal to (i) the compensation the Participant would have received during such period if the Participant were not in qualified military service, determined based on the rate of pay the Participant would have received from the Participating Employer but for the absence during the period of qualified military service, or (ii) if the compensation the Participant would have received during such period is not reasonably certain, the Participant's average compensation from the Participating Employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

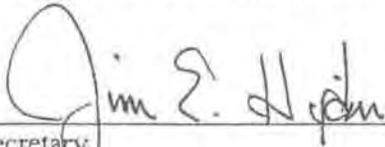
Effective January 1, 2007, to the extent provided under Code Section 401(a)(37), in the case of a Participant whose employment is interrupted by qualified military service and who dies while performing qualified military service, the survivor of such Participant shall be entitled to any additional benefit (other than benefit accruals) provided under the Plan as if the Participant timely resumed employment in accordance with USERRA and then, on the next day, terminated employment on account of death.

The terms of the foregoing Amendment 1 to the Master Plan are hereby adopted and agreed to.

IN WITNESS WHEREOF, the Board of Trustees of the Georgia Municipal Association Defined Contribution and Deferred Compensation Program has caused to be affixed the signature of its duly authorized Representative:

BOARD OF TRUSTEES OF THE  
GEORGIA MUNICIPAL ASSOCIATION  
DEFINED CONTRIBUTION AND DEFERRED  
COMPENSATION PROGRAM

Date 6/24/09

  
Secretary

*Approved by the Board of Trustees at the meeting held June 21, 2009.*

**THE GEORGIA MUNICIPAL ASSOCIATION**

**401(a) DEFINED CONTRIBUTION PLAN**

**Amended and Restated  
As of January 1, 2006**

**RESOLUTION AND  
ADOPTION AGREEMENT**

**CITY OF PEACHTREE CORNERS**

**Administered by:  
Georgia Municipal Association  
201 Pryor Street, SW  
Atlanta, Georgia 30303  
Telephone: 404-688-0472  
Facsimile: 678-686-6289**

## RESOLUTION

WHEREAS, the City of Peachtree Corners, Georgia, (hereinafter referred to as the "Participating Employer") has determined that in the interest of attracting and retaining qualified employees, it wishes to offer a defined contribution plan, funded by employer contributions;

WHEREAS, the Participating Employer has also determined that it wishes to encourage employees' saving for retirement by offering  matching and/or  non-matching contributions;

WHEREAS, the Participating Employer has reviewed the Georgia Municipal Association ("GMA") Defined Contribution Plan, as amended and restated effective as of January 1, 2006 ("Plan");

WHEREAS, the Participating Employer wishes to  participate or  continue participating in the Plan to provide certain benefits to its employees, reduce overall administrative costs, and afford attractive investment opportunities;

WHEREAS, the Participating Employer is an Employer as defined in the Plan;

WHEREAS, the Participating Employer has executed an Adoption Agreement (and, if applicable, an Addendum) for the Plan; and

WHEREAS, the Mayor and Council of the City of Peachtree Corners ("Governing Authority") is authorized by law to adopt this resolution approving the Adoption Agreement (and, if applicable, Addendum) on behalf of the Participating Employer;

Therefore, the Governing Authority of the Participating Employer hereby resolves:

Section 1. The Participating Employer adopts the Plan and the Trust Agreement ("Trust") for the Plan for its Employees.

Section 2. The Participating Employer acknowledges that the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Plan ("Trustees") are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Participating Employer.

### Section 3.

(a) The Participating Employer hereby adopts the terms of the Adoption Agreement and any Addendum, which is attached hereto and made a part of this resolution. The Adoption Agreement (and, if applicable, the Addendum) sets forth the Employees to be covered by the Plan, the benefits to be provided by the Participating Employer under the Plan, and any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plan. The Participating Employer reserves the right to amend its elections under the Adoption Agreement and any Addendum, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Trustees of the Plan.

(b) The Participating Employer acknowledges that it may not be able to rely on the volume submitter letter if it makes certain elections under the Adoption Agreement or the Addendum.

Section 4. The Participating Employer hereby authorizes Ice Miller LLP, Legal Counsel, the volume submitter practitioner who sponsors the Plan on behalf of GMA, to amend the Plan on its behalf as provided under Revenue Procedure 2005-16 and Announcement 2005-37. The Participating Employer understands that the implementing amendment reads as follows:

With the approval of the Trustees, the Practitioner shall amend the Plan on behalf of all Participating Employers, including those Participating Employers who have adopted the Plan prior to this restatement of the Plan, for changes in the Code, the regulations thereunder, revenue rulings, other statements published by Internal Revenue Service, including model, sample, or other required good faith amendments (but only if their adoption will not cause such Plan to be individually designed), and for corrections of prior approved plans. These amendments shall be applied to all Participating Employers.

Notwithstanding the foregoing paragraph, the Practitioner shall no longer have the authority to amend the Plan on behalf of any Participating Employer as of either:

- the date the Internal Revenue Service requires the Participating Employer to file Form 5300 as an individually designed plan as a result of an amendment by the Participating Employer to incorporate a type of Plan not allowable in a volume submitter plan as described in Revenue Procedure 2005-16; or
- as of the date of the Plan is otherwise considered an individually designed plan due to the nature and extent of the amendments.

If the Participating Employer is required to obtain a determination letter for any reason in order to maintain reliance on the advisory letter, the Practitioner's authority to amend the Plan on behalf of the Participating Employer is conditioned on the Plan receiving a favorable determination letter. In any event, any amendment made by the Practitioner is subject to the approval of the Trustees.

GMA will maintain or have maintained on behalf of the Practitioner, a record of the Participating Employers, and GMA on behalf of the Practitioner will make reasonable and diligent efforts to ensure that Participating Employers have actually received and are aware of all Plan amendments and that such Participating Employers adopt new documents when necessary. The provisions of this Section shall supersede other provisions of the Plan to the extent those other provisions are inconsistent.

The Participating Employer further understands that, if it does not give its authorization hereunder or, in the alternative, adopt another pre-approved plan, its Plan will become an individually designed plan and will not be able to rely on the volume submitter advisory letter.

Section 5.

(a) The Participating Employer shall abide by the terms of the Plan and the Trust, including amendments to the Plan made under Section 4 and to the Trust made by the Trustees of the Plan, all investment, administrative, and other service agreements of the Plan and the Trust, and all applicable provisions of the Internal Revenue Code and other applicable law.

(b) The Participating Employer accepts the administrative services to be provided by GMA and any services provided by a Service Manager as delegated by the Trustees. The Participating Employer acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participants' Accounts.

Section 6.

(a) The Participating Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements, if it takes the following actions:

- (i) A resolution must be adopted terminating its participation in the Plan.
- (ii) The resolution must specify when the participation will end.

The Trustees shall determine whether the resolution complies with the Plan, and all applicable federal and state laws, shall determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distributions under the Plan of existing accounts to Participants will be made in accordance with the Plan.

(b) The Participating Employer acknowledges that the Plan contains provisions for involuntary Plan termination.

Section 7. The Participating Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the Participating Employer to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

Section 8. This resolution and the Adoption Agreement (and any Addendum) shall be submitted to the Trustees for their approval. The Trustees shall determine whether the resolution complies with the Plan, and, if it does, shall provide appropriate forms to the Participating Employer to implement participation in the Plan. The Trustees may refuse to approve an Adoption Agreement (and any Addendum) by an Employer that does not have state statutory authority to participate in the Plan. The Governing Authority hereby acknowledges that it is responsible to assure that this resolution and the Adoption Agreement (and any Addendum) are adopted and executed in accordance with the requirements of applicable law.

Adopted by the Governing Authority on \_\_\_\_\_, 2012, in accordance with applicable law.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

Attest: \_\_\_\_\_

Date: \_\_\_\_\_

**[Governing Authority should assure that applicable law is followed in the adoption and execution of this resolution.]**

# GMA 401(a) DEFINED CONTRIBUTION PLAN ADOPTION AGREEMENT

## ADMINISTRATOR

Georgia Municipal Association  
201 Pryor Street, SW  
Atlanta, Georgia 30303  
Telephone: 404-688-0472  
Facsimile: 404-577-6663

## PARTICIPATING EMPLOYER

Name: City of Peachtree Corners

## GOVERNING AUTHORITY

Name: Mayor and Council of the City of Peachtree Corners  
Address: 147 Technology Pkwy, N.W., Peachtree Corners, GA 30092  
Phone: 678-591-1030  
Facsimile: \_\_\_\_\_  
E-mail: julian.jackson3@gmail.com  
Person Authorized to receive Official Notices from the Plan or GMA:  
City Manager

## DISCLOSURE OF OTHER 401(a) PLAN(S)

This Participating Employer  does or  does not have an existing defined contribution plan(s). If the Participating Employer does have one or more defined contribution plans, the Governing Authority must provide the plan name, name of the provider, and such other information requested by the Administrator.

## TYPE OF ADOPTION AND EFFECTIVE DATE

**NOTE:** This Adoption Agreement, with the accompanying Master Plan Document, is designed to comply with Internal Revenue Code Section 401(a), as applicable to a governmental qualified defined contribution plan, and is part of the GMA Defined Contribution and Deferred Compensation Program. Plan provisions designed to comply with certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) are effective for Plan Years beginning on and after January 1, 2002. Plan provisions designed to comply with certain provisions of additional changes in federal law and guidance from the Internal Revenue Service under Internal Revenue Service Notice 2004-84 (the 2004 Cumulative List) are effective as of the applicable effective dates set forth in the Adoption Agreement and Master Plan Document. By adopting this Adoption Agreement, with its accompanying Master Plan Document, the Participating Employer is adopting a plan document intended to comply with Internal Revenue Code Section 401(a), as updated by EGTRRA and the 2004 Cumulative List with the applicable effective dates.

This Adoption Agreement is for the following purpose (**check one**):

- This is a new defined contribution plan adopted by the Participating Employer for its Employees effective July 1, 2012, (**insert effective date of this Adoption Agreement not earlier than January 1, 2006**), with respect to Contributions as approved by the Board of Trustees below.
- Check this box if any non-conforming provisions will be included in Plan provisions. An Addendum must be requested from GMA to be completed as part of the Adoption Agreement.
- This is an amendment and restatement of the current GMA 401(a) Defined Contribution Plan or other defined contribution plan of the Participating Employer, the effective date of which shall be \_\_\_\_\_, \_\_\_\_\_ (**insert effective date of this Adoption Agreement not earlier than January 1, 2006**). This Adoption Agreement is intended to replace and serve as an amendment and restatement of the Employer's preexisting plan, which became effective on \_\_\_\_\_, \_\_\_\_\_ (**insert original effective date of preexisting plan**).
  - Check this box if (i) any preexisting plan provisions will be preserved from a superseded non-GMA plan or (ii) any non-conforming provisions will be included in Plan provisions. An Addendum must be requested from GMA to be completed as part of the Adoption Agreement.
- This is an amendment to be effective as of \_\_\_\_\_, \_\_\_\_\_, of the current GMA 401(a) Defined Contribution Plan previously adopted by the Participating Employer, which was originally effective \_\_\_\_\_, \_\_\_\_\_, as follows (**please specify type below**):

- This is an amendment to change one or more of the Participating Employer's contribution design elections in the Adoption Agreement.
- This is an amendment to add a new Department or a new class of Eligible Employees.
- This is an amendment to discontinue participation in the Plan by one or more Departments or classes of Employees.
- Other **(must specify elective provisions in this Adoption Agreement)**:  


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- Check this box if any non-conforming provisions will be included in Plan provisions. An Addendum must be requested from GMA to be completed as part of the Adoption Agreement.

### PLAN YEAR

Plan Year means the Participating Employer's Fiscal Year. For purposes of the limitations under Code Section 415(c) set forth in Article V of the Master Plan Document, the limitation year means the calendar year.

The Employer's Fiscal Year starts on: July 1 (insert month and day e.g., July 1).

### COVERED DEPARTMENTS

A Participating Employer may cover all of its departments in the Plan or only those listed (check one):

- All Departments
- All Departments eligible to participate under the Employer's GMEBS defined benefit plan. Note: This box may only be checked if the Participating Employer's defined benefit plan is administered by GMEBS.
- Covered Departments **(must specify)**:  


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### ELIGIBLE EMPLOYEES

Only Employees as defined in the Plan may be covered by the Adoption Agreement. Independent contractors may not participate in the Plan. Subject to other conditions in the Plan

and this Adoption Agreement, the following Employees of the Covered Departments are eligible to participate in the Plan, provided that they satisfy any additional eligibility requirements specified under "Other Eligibility Requirements" below (**check one**):

- All
- All with the following exclusions:
  - Municipal Legal Officer
  - Elected or appointed officials
  - Other (**must specify**): \_\_\_\_\_
- Only employees in any 457(b) plan of the Employer. Note: This box must be checked if the sole purpose of this Plan is to provide Employer contributions to match Employee contributions to a 457(b) Plan.
- Only employees in the GMEBS defined benefit plan. Note: This box may only be checked if the Participating Employer's defined benefit plan is administered by GMEBS.
- Other (**must specify; Eligible Employees shall not include non-governmental employees, independent contractors, or any other ineligible individuals**): \_\_\_\_\_

The Employer shall provide the Trustees with the name, address, Social Security Number, and date of birth for each Eligible Employee, as defined by the Adoption Agreement.

### OTHER ELIGIBILITY REQUIREMENTS

**Minimum Hours Per Week** – A Participating Employer may prescribe a minimum number of hours that an Employee must be scheduled and normally work in order to be an Eligible Employee under the Plan. The Employer hereby elects the following (elect either “No Minimum Hours Required” or “Minimum Hours Required” below. If you elect to have a minimum hour requirement you must specify the number of hours required in the space provided below).

- No Minimum Number of Hours Required**
- Minimum Hours Required Per Week (regularly scheduled):**
  - 40 (must not exceed 40 hours/week)**
  - Same Minimum Hours Required as provided in GMEBS defined benefit plan. Number of Hours: \_\_\_\_\_. Note: This box may only be checked if the Participating Employer's defined benefit plan is administered by GMEBS.
- Other Minimum Hour Requirement (must specify):** \_\_\_\_\_

If any Eligible Employee ceases to meet the Minimum Hour Requirement (if any), he or she becomes ineligible for additional contributions until he or she once again meets the requirement. It is the Participating Employer's responsibility to monitor this requirement and to report to the Administrator a change in employee eligibility.

**Waiting Period** — A Participating Employer may establish a waiting period before an Eligible Employee may become a Participant in the Plan. The Employer hereby elects the following (elect "no waiting period" or one of the waiting period options below):

- No waiting period.** An Eligible Employee may become a Participant immediately upon meeting the eligibility conditions of the Plan.
- A waiting period described under one of the following options (check one):**

- Minimum Period of Service (please complete items below):**

The waiting period for participation in the Plan shall be \_\_\_\_\_ (not to exceed 12 months) of service, calculated from the commencement of the Eligible Employee's employment with the Employer.

Eligible Employees who are employed on the date the Plan is adopted  
 will be  will not be given credit for prior service as an Employee for purposes of satisfying the waiting period.

Different periods of service  will be  will not be added together to determine whether the waiting period has been satisfied.

- Minimum Period of Contributions to 457(b) Plan (please complete items below):**

The waiting period for participation in the Plan shall be \_\_\_\_\_ (not to exceed 12 months) of the Eligible Employee's making contributions to the Employer's 457(b) plan(s).

Eligible Employees who are employed on the date the Plan is adopted  
 will be  will not be given credit for prior contributions made to the 457(b) Plan for purposes of satisfying the waiting period.

After initially meeting the waiting period, any interruption of employee contributions to the 457(b) plan(s)  will  will not require the employee to meet another waiting period to qualify for matching contributions.

Different periods of service in which deferrals are made as an Eligible Employee  will  will not be added together to determine if the waiting period has been satisfied.

## EMPLOYER CONTRIBUTIONS

A Participating Employer may make Matching Contributions **and/or** Non-Matching Contributions as specified below. Matching Contributions and Non-Matching Contributions that are tied to Payroll Periods (as defined in this Adoption Agreement) must be remitted to the Administrator no later than 15 business days after the Payroll Period. Annual Contributions must be remitted to the Administrator no later than 15 days after the end of the Plan Year. A Participating Employer may establish one or more classes of employees for contribution purposes in this Adoption Agreement.

The Participating Employer hereby elects to make contributions as follows (**check matching, non-matching, or both as applicable**):

**Matching Contributions**

Employer Contributions shall be made to match all or a portion of a Participant's contribution to an eligible 457(b) deferred compensation plan, including the GMA Deferred Compensation Plan. The Employer must identify the class or classes of Participants for whom contributions will be made and the contribution formula:

**Class A Matching Contributions** will be made on the following basis for Class A Participants:

**Class A** Participants are (**check one**):

- All Eligible Employees  
 Other (**must specify; any individuals specified must be Eligible Employees**): \_\_\_\_\_

The Employer elects the following matching contribution formula for Class A Participants (**check and complete "Percentage Match," "Flat Dollar Match," or "Other Formula" below**):

- Percentage Match**: For each Payroll Period in which the Participant contributed to a 457(b) Plan of the Employer, the Employer will contribute 100% (**insert percentage**) of the dollar amount contributed to the 457(b) Plan. (For example, if an Employer elects a 50% match, then for every \$10 the Participant contributes to the 457(b) Plan, the Employer will contribute \$5 to this Plan).

**Cap on Percentage Match** - The Employer may wish to establish a cap on its matching contributions, so that the percentage (%) match amount indicated above cannot exceed a certain amount per Payroll Period. The Employer hereby elects the following cap on its percentage matching contribution (**check and fill in \$ or % of compensation limit to apply below, or check "no cap" below**):

- Flat Dollar Cap:** In no event will Matching Contributions made on behalf of a Participant exceed a flat dollar amount equal to (**complete as applicable**):

\$ \_\_\_\_\_ per weekly Payroll Period  
\$ \_\_\_\_\_ per bi-weekly Payroll Period  
\$ \_\_\_\_\_ per semi-monthly Payroll Period  
\$ \_\_\_\_\_ per monthly Payroll Period

[Note: If the Employer has more than one Payroll Period, you should indicate dollar cap that will apply with respect to each Payroll Period e.g., \$100 per weekly Payroll Period, and \$200 per bi-weekly Payroll Period].

- Cap Equal to Percentage of Total Compensation:** In no event will Matching Contributions made on behalf of a Participant exceed 5% of the Participant's §457(e)(5) includable compensation (gross income from the Employer) per Payroll Period.

- No Cap**

- Flat Dollar Match:** For each Payroll Period in which the Participant contributed at least \$ \_\_\_\_\_ (**may be \$1 to \$25**) to a 457(b) Plan of the Employer, the Participating Employer will contribute a flat dollar amount as shown below (**complete as applicable**):

\$ \_\_\_\_\_ per weekly Payroll Period  
\$ \_\_\_\_\_ per bi-weekly Payroll Period  
\$ \_\_\_\_\_ per semi-monthly Payroll Period  
\$ \_\_\_\_\_ per monthly Payroll Period

- Other Formula for Calculating Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):**

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[Do not complete following section on Class B Matching Contributions if all Eligible Employees are included in Class A above].

Class B Matching Contributions will be made on the following basis for Class B Participants:

Class B Participants are (must specify; all individuals specified must be Eligible Employees):

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The Employer elects the following matching contribution formula for Class B Participants (check and complete "Percentage Match," "Flat Dollar Match," or "Other Formula" below):

- Percentage Match:** For each Payroll Period in which the Participant contributed to a 457(b) Plan of the Employer, the Employer will contribute \_\_\_\_\_% (insert percentage) of the dollar amount contributed to the 457(b) Plan. (For example, if an Employer elects a 50% match, then for every \$10 the Participant contributes to the 457(b) Plan, the Employer will contribute \$5 to this Plan).

**Cap on Percentage Match** - The Employer may wish to establish a cap on its matching contributions, so that the percentage (%) match amount indicated above cannot exceed a certain amount per Payroll Period. The Employer hereby elects the following cap on its percentage matching contribution (check and fill in \$ or % of compensation limit to apply below, or check "no cap" below):

- Flat Dollar Cap:** In no event will Matching Contributions made on behalf of a Participant exceed a flat dollar amount equal to (complete as applicable):

\$ \_\_\_\_\_ per weekly Payroll Period  
\$ \_\_\_\_\_ per bi-weekly Payroll Period  
\$ \_\_\_\_\_ per semi-monthly Payroll Period  
\$ \_\_\_\_\_ per monthly Payroll Period

[Note: If the Employer has more than one Payroll Period, you should indicate dollar cap that will apply with respect to each Payroll Period e.g., \$100 per weekly Payroll Period, and \$200 per bi-weekly Payroll Period].

- Cap Equal to Percentage of Total Compensation:** In no event will Matching Contributions made on behalf of a Participant exceed \_\_\_\_\_% of the Participant's §457(e)(5) includable compensation (gross income from the Employer) per Payroll Period.

- No Cap**

- Flat Dollar Match:** For each Payroll Period in which the Participant contributed at least \$ \_\_\_\_\_ (may be \$1 to \$25) to a 457(b) Plan of the Employer, the Participating Employer will contribute a flat dollar amount as shown below (complete as applicable):

\$ \_\_\_\_\_ per weekly Payroll Period  
\$ \_\_\_\_\_ per bi-weekly Payroll Period  
\$ \_\_\_\_\_ per semi-monthly Payroll Period  
\$ \_\_\_\_\_ per monthly Payroll Period

- Other Formula for Calculating Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):**

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[Skip to "Payroll Period" below if Employer is not going to make Non-Matching Contributions]

**Non-Matching Contributions**

The Employer hereby elects to make contributions to the Plan without regard to a Participant's contribution to a 457(b) plan(s). The Employer must identify the class or classes of Participants for whom these contributions will be made and the contribution formula:

**Non-Matching Contributions** shall be made on the following basis for Class C Participants:

**Class C** Participants are (check one):

- All Eligible Employees  
 Other (must specify; any individuals specified must be Eligible Employees): \_\_\_\_\_

The Employer elects the following contribution formula for Class C Participants (check one):

- Year-End Contributions: A one-time Plan Year-end contribution of \$ \_\_\_\_\_ or \_\_\_\_\_% of Compensation per Participant.

- 12% of Compensation per Participant for each Payroll Period.
- A flat dollar amount per Payroll Period as shown below (**complete as applicable**):

\$ \_\_\_\_\_ per weekly Payroll Period  
 \$ \_\_\_\_\_ per bi-weekly Payroll Period  
 \$ \_\_\_\_\_ per semi-monthly Payroll Period  
 \$ \_\_\_\_\_ per monthly Payroll Period

- Other Formula for Calculating Non-Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):

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**[Do not complete the following section on Class D Non-Matching Contributions if all Eligible Employees are included in Class C above].**

Non-Matching Contributions shall be made on the following basis for Class D Participants:

Class D Participants are (**must specify; all individuals specified must be Eligible Employees**): \_\_\_\_\_.

The Employer elects the following contribution formula for Class D Participants (**check one**):

- Year-End Contributions: A one-time Plan Year-end contribution of \$ \_\_\_\_\_ or \_\_\_\_\_ % of Compensation per Participant.
- \_\_\_\_\_ % of Compensation per Participant for each Payroll Period.
- A flat dollar amount per Pay Period as shown below (**complete as applicable**):

\$ \_\_\_\_\_ per weekly Payroll Period  
 \$ \_\_\_\_\_ per bi-weekly Payroll Period  
 \$ \_\_\_\_\_ per semi-monthly Payroll Period  
 \$ \_\_\_\_\_ per monthly Payroll Period

- Other Formula for Calculating Non-Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):

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For purposes of computing non-matching contributions, "Compensation" is defined in the Plan, subject to the limits imposed by Georgia Code Section 47-1-13(b) and Internal Revenue Code Section 401(a)(17), as adjusted for cost-of-living increases under Internal Revenue Code Section 401(a)(17)(B).

### PAYROLL PERIOD

The payroll period of the Participating Employer is:

- Weekly
- Bi-Weekly
- Semi-Monthly
- Monthly

### VESTING FOR EMPLOYER MATCHING CONTRIBUTIONS (Complete if Employer is Making Matching Contributions)

A Participating Employer may establish a vesting schedule for Employer Matching Contributions. This means that if the Participant leaves the Participating Employer's employment prior to completing a specified period of service (not to exceed 5 years), the Participant forfeits all or part of the Employer's Matching Contributions. However, upon Death or Disability or the termination of the Plan, the Participant is 100% vested in the Participant's Employer Matching Contributions, notwithstanding any vesting schedule. If a vesting schedule is established, it is the Employer's responsibility to calculate the Eligible Employee's service and report it to the Administrator. Unless otherwise specified below, for purposes of vesting, service means the number of years and complete months of service of a Participant as an Eligible Employee of the Employer and the Participant's service begins with the first day of employment as an Eligible Employee. The Employer hereby elects the following (check one):

- Immediate Vesting.** No vesting schedule. Employer Matching Contributions are 100% vested from the time credited to the Participant's Account (**if this option is elected, do not complete the rest of this section**).

- Cliff Vesting.** Employer Matching Contributions are 100% vested after a Participant has been employed as an Eligible Employee for \_\_\_\_\_ years (**not to exceed 5 years**) (the "Vesting Period"). Matching contributions remain 0% vested until the Participant satisfies the full Vesting Period.
- Graduated Vesting Schedule.** Employer Matching Contributions are vested on the following graduated scale (**insert vesting % for each completed year of service as an Eligible Employee. Note: Maximum waiting period for 100% vesting may not exceed 5 years**):

<u>Completed Years of Service as Eligible Employee</u>	<u>Vested %</u>
1 year	_____ %
2 years	_____ %
3 years	_____ %
4 years	_____ %
5 years	_____ 100 %

**Complete the following items if Employer has elected Cliff Vesting or Graduated Vesting:**

In determining the Participant's total years of service for vesting purposes, Eligible Employees who are employed on the date the Plan is adopted by the Employer (**check one**):  will be  will not be given credit for prior service as an Eligible Employee.

In determining the Participant's total years of service for vesting purposes, different periods of employment as an Eligible Employee (**check one**):  will be added together  will not be added together  will be added together if the Participant is reemployed with the Employer before completing a period of separation of \_\_\_\_\_ years (not to exceed 5 years).

**VESTING FOR EMPLOYER NON-MATCHING CONTRIBUTIONS**  
(Complete if Employer is making Non-Matching Contributions)

A Participating Employer may establish a vesting schedule for Employer Non-Matching Contributions. This means that if the Participant leaves the Participating Employer's employment prior to completing a specified period of service (not to exceed 5 years), the Participant forfeits all or part of the Employer's Non-Matching Contributions. However, upon Death or Disability or the termination of the Plan, the Participant is 100% vested in the Participant's Employer Non-Matching Contributions, notwithstanding any vesting schedule. If a vesting schedule is established, it is the Employer's responsibility to calculate the Eligible Employee's service and report it to the Administrator. Unless otherwise specified below, in calculating the Vesting Period, service means the number of years and complete months of service of a Participant as an Eligible Employee of the Employer, and the Participant's service

begins with the first day of employment as an Eligible Employee. The Employer hereby elects the following (**check one**):

- Immediate Vesting.** No vesting schedule. Employer Non-Matching Contributions are 100% vested from the time credited to the Participant's Account (**if this option is elected, do not complete the rest of this section**).
- Cliff Vesting.** Employer Non-Matching Contributions are 100% vested after a Participant has been employed as an Eligible Employee for \_\_\_\_\_ years (**not to exceed 5 years**) (the "Vesting Period"). Non-Matching Contributions remain 0% vested until the Participant satisfies the full Vesting Period.
- Graduated Vesting Schedule.** Employer Non-Matching Contributions are vested on the following graduated scale (**insert vesting % for each completed year of service as an Eligible Employee. Note: Maximum waiting period for 100% vesting may not exceed 5 years**):

<u>Completed Years of Service as Eligible Employee</u>	<u>Vested %</u>
1 year	_____ %
2 years	_____ %
3 years	_____ %
4 years	_____ %
5 years	_____ 100 %

**Complete the following items if the Employer has elected Cliff Vesting or Graduated Vesting:**

In determining the Participant's total years of service for vesting purposes, Eligible Employees who are employed on the date the Plan is adopted by the Employer (**check one**):  will be  will not be given credit for prior service as an Eligible Employee.

In determining the Participant's total years of service for vesting purposes, different periods of employment as an Eligible Employee (**check one**):  will be added together  will not be added together  will be added together if the Participant is reemployed with the Employer before completing a period of separation of \_\_\_\_\_ years (not to exceed 5 years).

## **TREATMENT OF FORFEITURES**

If a Participant separates from service, the Participant's non-vested Employer Matching Contributions and/or non-vested Employer Non-Matching Contributions shall be forfeited as of the date of the Participant's Separation from Service. Amounts forfeited during a Plan Year shall be held unallocated until they are used to reduce or otherwise supplement Employer Contributions as of the earliest possible date such contributions are required to be made to the Plan.

## **MODIFICATION OF THE TERMS OF THE ADOPTION AGREEMENT**

If a Participating Employer desires to amend any of its elections contained in this Adoption Agreement (or any Addendum), the Governing Authority by official action must adopt an amendment of the Adoption Agreement (or any Addendum) or a new Adoption Agreement (or Addendum) must be adopted and forwarded to the Trustees for approval. The amendment of the new Adoption Agreement (or Addendum) is not effective until approved by the Trustees and other procedures required by the Plan have been implemented.

The Administrator will inform the Participating Employer of any amendments made by the Trustees to the Plan.

## **TERMINATION OF THE ADOPTION AGREEMENT**

This Adoption Agreement (and any Addendum) may be terminated only in accordance with the Plan.

The Administrator will inform the Participating Employer of the discontinuance or abandonment of the Plan by the Trustees.

## **EXECUTION BY EMPLOYER**

This Adoption Agreement (and any Addendum) may only be used in conjunction with The Georgia Municipal Association 401(a) Defined Contribution Plan Master Plan Document approved by the Internal Revenue Service under an advisory letter M580185a dated March 31, 2008.

The failure to properly complete this Adoption Agreement (or any Addendum), or to operate and maintain the Plan and Trust in accordance with the terms of the completed Adoption Agreement (and any Addendum), Master Plan Document and Trust, may result in disqualification of the Plan under the Code. Inquiries regarding the adoption of the Plan, the meaning of Plan provisions, or the effect of the IRS advisory letter should be directed to the Administrator. The Administrator is the Georgia Municipal Association, with its primary business offices located at: 201 Pryor Street, SW, Atlanta, Georgia 30303. The business telephone number is: (404) 688-0472. The primary person to contact is: Angela Nixon, RMEBS Legal Counsel.

The foregoing Adoption Agreement is hereby adopted and approved on the \_\_\_\_ day of \_\_\_\_\_, 2012, by the Mayor and Council of the City of Peachtree Corners, Georgia.

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

### TRUSTEES APPROVAL

The Adoption Agreement is approved by the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Plan.

**[Complete the following if the purpose of this Adoption Agreement is to establish a new defined contribution plan or to restate a preexisting defined contribution plan of the Participating Employer (other than a GMA 401(a) Defined Contribution Plan).]**

Contributions shall first be remitted as follows:

- within 15 business days after the Payroll Period ending \_\_\_\_\_.
- On the following prospective date (specify a specific date): \_\_\_\_\_.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Title: Secretary/Treasurer

on behalf of the Board of Trustees

918466.11

**AMENDMENT 1  
TO  
THE GEORGIA MUNICIPAL ASSOCIATION  
401(a) DEFINED CONTRIBUTION PLAN  
ADOPTION AGREEMENT**

This is an Amendment to the Adoption Agreement for the City of Peachtree Corners ("Participating Employer") under the GMA 401(a) Defined Contribution Plan ("GMA Plan"), which became effective July 1, 2012. This Amendment modifies the Adoption Agreement as follows (complete as applicable):

**COMPENSATION**

**Compensation Paid After Severance From Employment** -- A Participating Employer may elect to include certain post-severance payments in Compensation for purposes of computing contributions under the Plan, but only if these amounts are paid no later than 2½ months after severance from employment or, if later, the end of the calendar year that includes a Participant's severance from employment, and only if it is a payment that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Participating Employer. The Participating Employer makes the following election with respect to including post-severance payments in Compensation (Note: if the following is not completed, no post-severance payments will be included in Compensation by default):

- No post-severance payments will be included in Compensation for purposes of computing contributions under the Plan (if this box is checked, skip to "Execution by Employer" below).
- For purposes of calculating contributions under the Plan, the following post-severance payments will be included in Compensation, as long as: 1) they are paid no later than 2 ½ months after severance from employment or, if later, the end of the calendar year that includes the Participant's severance from employment; and 2) absent a severance from employment, they would have been paid to the Participant while the Participant continued in employment with the Participating Employer (check all that apply):
  - regular compensation paid after severance from employment for services rendered prior to severance during the Participant's regular working hours
  - compensation paid after severance from employment for services rendered prior to severance outside the Participant's regular work hours (such as overtime or shift differential), commissions, bonuses, or other similar payments

post-severance payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### EXECUTION BY EMPLOYER

The terms of the foregoing Amendment to the Adoption Agreement are hereby adopted and approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the Mayor and Council of the City of Peachtree Corners. This Amendment will be effective July 1, 2012.

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: Mayor

Date of Signature: \_\_\_\_\_

### TRUSTEES' APPROVAL

The terms of the foregoing Amendment are approved by the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Program.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Title: Secretary/Treasurer

on behalf of the Board of Trustees

**THE GEORGIA MUNICIPAL ASSOCIATION  
401(a) DEFINED CONTRIBUTION PLAN  
TRUST AGREEMENT**

**Board of Trustees  
of the  
GMA Defined Contribution  
and Deferred Compensation Program  
201 Pryor Street, S.W.  
Atlanta, Georgia 30303  
Telephone: 404-688-0472  
Facsimile: 678-686-6289**

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TRUST AGREEMENT FOR THE  
GEORGIA MUNICIPAL ASSOCIATION  
DEFINED CONTRIBUTION PLAN

THIS TRUST AGREEMENT is made and entered into effective as of January 1, 2001, by and between the members of the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Program ("Trustees").

PRELIMINARY INFORMATION

The Georgia Municipal Association, Inc. ("GMA") has established the Georgia Municipal Association Defined Contribution Plan ("Plan") for the exclusive benefit of Eligible Employees of Participating Employers. The authority to conduct the general investment operation and the general administration of the Plan is vested in the Trustees. The Trustees now desire to formalize the trust ("Trust") pursuant to this trust agreement ("Trust Agreement") to serve as the funding vehicle for the Plan.

GMA is the Administrator of the Plan and the Trust. The Trustees may contract with a Service Manager to perform delegated functions with respect to the Trust. If the Trustees contract with a Service Manager, the term "Administrator" herein includes the Service Manager with respect to those duties delegated to the Service Manager.

The Trustees shall maintain the plan for the exclusive benefit of the Participants. The Trustees intend to establish sound prudent practices designed to provide easy and convenient access to information and transactions for Participants, including transfers from one Investment Fund to another at the Participant's direction. The Trustees intend to establish these practices while maintaining a reasonable cost to the Participants. The Trustees intend to preserve employees' rights to choose freely among a broad range of Investment Funds and to self-direct their investments. Further, the Trustees intend to perform ongoing evaluations and reviews to ensure that the Investment Funds offered remain diversified, competitive and attractive to Participants. It is the Trustees' intent that the Trust be exempt under Sections 501(a) and 115 of the Internal Revenue Code of 1986, as amended.

ARTICLE I - TRUST ADMINISTRATION

**1.1 Trust Fund.** The Trustees shall receive and accept for the purposes hereof all property paid to them by or at the direction of the Participating Employers and shall hold, invest, reinvest, manage, administer and distribute property and the increments, proceeds, earnings and income thereof for the exclusive benefit of the Participants and Beneficiaries under the Plan. All assets held by the Trustees in the Trust are referred to herein as the "Trust Fund." The Trustees have authority to invest, in accordance with valid participant instructions, and manage the assets of the Trust Fund.

**I.2 Exclusive Benefit Rule.** No portion of the principal or the income of the Trust Fund shall revert to the Participating Employer, or ever be used for or diverted to any purpose other than for (i) the exclusive benefit of Participants in the Plan and persons claiming under or through them pursuant to the Plan and (ii) the payment of reasonable expenses of the Plan and this Trust. The Trustees shall administer the Trust in compliance with Code Section 503(b).

**I.3 Trustee Standard.** The Trustees and any other fiduciary shall discharge duties with respect to the Plan with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose and in accordance with a good-faith interpretation of the law governing the Plan.

**I.4 Investment Policy.** The Trustees shall adopt a statement of investment objectives and policies for the Plan. At least annually, the Trustees shall review the statement and change or reaffirm it.

**I.5 Plan.** All references in the Trust Agreement to the Plan shall mean the Georgia Municipal Association Defined Contribution Plan. The Plan, as amended from time to time, is incorporated herein by reference, and the terms herein shall have the meanings attributed to them in the Plan.

**I.6 Property.** The word "property" used in the Trust Agreement shall be deemed to refer to any property, real or personal, or part interest therein, wherever situated, including, but without being limited to, preferred and common stocks, shares of investment companies, bonds, notes, debentures and mortgages, equipment trust certificates, investment trust certificates, interest in partnerships whether limited or general, or in any insurance contract, policy, annuity or other investment media offered by an insurance company.

**I.7 Unclaimed Benefit Payments.** If any check or share certificate in payment of a benefit hereunder, which has been mailed by regular United States first-class mail to the last address of the payee furnished to the Trustees by the Administrator, is returned unclaimed, the Trustees shall notify the Administrator and shall discontinue further payments to such payee until they receive the further instructions of the Administrator, subject to any applicable Unclaimed Property Act provisions.

**I.8 Duty to Furnish Information.** Both the Administrator and the Trustees shall furnish to each other any document, report, return, statement or other information that the other reasonably deems necessary to perform duties imposed under the Plan or the Trust Agreement or otherwise imposed by law.

## ARTICLE II - DEPOSITS AND DISBURSEMENTS FROM THE TRUST FUND

**II.1 Trust Deposits.** The Trustees shall delegate to the Administrator the responsibility for accepting deposits to the Trust.

**II.2 Trust Payments.** The Trustees shall delegate to the Administrator the responsibility for making payments from the Trust Fund. Administrator shall make payments from the Trust Fund to Participants, their Beneficiaries and such other persons as the Plan may provide. Such payments shall be made in such manner, in such amounts and for such purposes, including the payment of Plan benefits and the payment of expenses of administration of the Plan, as may be specified in the Plan. The Administrator shall ensure that any payment directed under this Section conforms to the provisions of the Plan, the Trust Agreement, and the provisions of any applicable law. Payments from the Trust shall be made by check (or the check of an agent) or deposit to the order of the payee. Payments or other distributions hereunder may be mailed to the payee at the address last furnished to the Administrator. The Trustees shall not incur any liability or other damage on account of any payment or other distribution made by the Trust in accordance with this Section.

**II.3 Allocation of Trust Expenses.** The Trustees shall pay all expenses of the Trust from the Trust Fund. All expenses of the Trust which are allocable to a particular Investment Fund or Account may be allocated and charged to such Investment Fund or Account as determined by the Trustees. All expenses of the Trust which are not allocable to a particular Investment Fund or Account shall be charged to each such Investment Fund or Account in the manner established by the Trustees.

## ARTICLE III - INVESTMENT FUNDS

The Trustees, in accordance with provisions of the Plan, may establish one (1) or more investment options within the Trust Fund, each option being hereinafter referred to as an "Investment Fund." The Trustees shall transfer to each such Investment Fund such portion of the assets of the Trust Fund as appropriate. The Trustees shall manage, acquire or dispose of the assets in an Investment Fund in accordance with valid specific investment directions given by the Participants. All income received with respect to, and all proceeds received from, the disposition of property held in an Investment Fund shall be credited to, and reinvested in, such Investment Fund. The Trustees shall establish a default investment option in the absence of valid Participant investment direction.

From time to time, the Trustees may eliminate an Investment Fund, and the proceeds thereof shall be reinvested in another Investment Fund in accordance with the directions of the Trustees.

#### ARTICLE IV - INVESTMENT IN INSURANCE CONTRACTS

The Trustees may offer one (1) or more Investment Funds pursuant to one (1) or more agreements with insurance companies qualified to do business in the State of Georgia. Any asset invested pursuant to such an agreement shall be held by the insurance company. Each insurance company so selected shall certify the value of the Trust's interest in the property held by it at least annually. The Trustees shall be entitled to rely conclusively on such valuation for all purposes under the Trust Agreement.

#### ARTICLE V - INVESTMENT IN MUTUAL FUNDS

The Trustees may offer one (1) or more Investment Funds pursuant to one (1) or more agreements with companies offering mutual fund products. Any asset invested pursuant to such an agreement shall be held by the Trustees. Each mutual fund so selected shall certify the value of the Trust's interest in that fund at least annually. The Trustees shall be entitled to rely conclusively on such valuation for all purposes under the Trust Agreement.

#### ARTICLE VI - APPOINTMENT OF INVESTMENT MANAGERS

**VI.1 Investment Managers.** The Trustees, from time to time, may appoint one (1) or more independent investment managers ("Investment Manager"), pursuant to a written investment management agreement with each, describing the powers and duties of the Investment Manager to manage a particular Investment Fund. The Investment Manager shall have the power to direct the management, acquisition or disposition of any asset held in any Investment Fund for which it is responsible hereunder.

The Trustees shall be responsible for ascertaining that, while each Investment Manager is acting in that capacity hereunder, the following requirements are satisfied:

(a) The Investment Manager is either (i) registered as an investment adviser under the Investment Advisers Act of 1940, as amended; (ii) a bank as defined in that Act; or (iii) an insurance company qualified to perform the services described herein under the laws of more than one state.

(b) The Investment Manager has acknowledged in writing to the Trustees that it is a fiduciary with respect to the Plan.

**VI.2 Investment Manager Duties.** Subject to the approval of the Trustees, each Investment Manager shall establish and carry out an investment policy and method for the Investment Fund subject to its direction and management that is consistent with the objectives of the Fund. At least annually, the Investment Manager shall review its investment policy and method with the Trustees. The Investment Manager shall make investments consistent with its investment policy, any applicable law, and the cash requirements of the Fund, as advised by the Administrator.

Each Investment Manager shall, at the request of the Trustees, certify the value of any security or other property held in any Investment Fund managed by such Investment Manager at least annually. The Trustees shall be entitled to rely conclusively upon such valuation for all purposes under the Trust Agreement.

## ARTICLE VII - POWERS AND DUTIES OF THE TRUSTEES

**VII.1 Exercise of Powers and Authority.** Except to the extent that the same has been delegated to an Investment Manager or Insurance Company with respect to an Investment Fund, the Trustees, in administering the Trust, shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable or convenient to the Trustees, in their sole discretion; subject to the provisions of this Trust Agreement, including the power and authority:

- (a) To serve as trustees and fiduciaries of the Plan;
- (b) To adopt by-laws governing the Trustees' operations and procedures, with the by-laws and amendments to such by-laws being recommended and submitted to the GMA Board of Directors for approval;
- (c) To contract with municipal corporations, political subdivisions and other public entities of this State or of local government and private entities for the provision of Plan services and for the use or furnishing of services and facilities necessary, useful, or incident to providing Plan services;
- (d) To contract with public or private entities for the provision of administrative services;
- (e) To adopt plans, trust agreements, investment guidelines and other documents necessary or desirable for the Plan;
- (f) To charge fees for administrative services in addition to any fees charged by a Service Provider;
- (g) To collect and disburse all funds due or payable under the Plan;
- (h) To provide for and promulgate all rules, regulations, and forms deemed necessary or desirable in contracting with Employers and Participants, in fulfilling the Trustees' purposes of providing Plan benefits, and in maintaining proper records and accounts;
- (i) To expend funds as budgeted by the Board, subject to the approval of the GMA Board of Directors with respect to GMA funds for the purchase of fidelity and surety bonds and liability insurance for the protection and indemnification of the Trustees in the performance of their duties;
- (j) To allocate and pay the reasonable expenses of the Plan and the Trustees while in the performance of their duties as budgeted by the Board subject to the approval of the GMA Board of Directors with respect to GMA funds;
- (k) To employ insurance companies, banks, trust companies, investment brokers, investment advisors, or others as agents for the receipt and disbursement of funds held in trust for Participants in the Plan;

- (l) To participate in a tax exempt group trust that has been determined by the Internal Revenue Service to be a pooled fund arrangement pursuant to Revenue Ruling 81-100.
- (m) To determine, consistent with the applicable laws, rules or regulations, and the claims procedure under the Plan all questions of law or fact that may arise as to investments and the rights of any person claiming rights under the Plan, including without limitation, Participants, former Participants, Beneficiaries, Employees and former Employees;
- (n) Subject to and consistent with the Code, to construe and interpret the Trust and to correct any defect, supply any omissions, or reconcile any inconsistency in the Trust;
- (o) To accept or reject a Participating Employer's adoption of or withdrawal from the Plan;
- (p) To contract for, purchase or otherwise procure insurance and investment products;
- (q) To register any Trust asset in the name of the Trust, in the name of its agent or in the name of a nominee or to hold any instrument in bearer form (but the books and records of the Plan shall at all times show that such investments are part of the Trust Fund);
- (r) To consult with and rely on the advice of legal counsel;
- (s) To make, execute, acknowledge and deliver any and all instruments necessary or appropriate to carry out the powers herein granted;
- (t) To take all actions consistent with this Trust Agreement necessary or appropriate to administer or carry out the purposes of the Trust and the Plan; provided, however, the Trustees need not take any action unless in their opinion there are sufficient Trust assets available for the expense thereof.

**VII.2 Authority of Individual Trustees.** Any action to be taken by the Trustees shall be taken only upon the authorization or vote of a majority of such individual trustees. However, the Trustees may delegate a particular function, power or authority to an individual trustee (the "Individual Trustee"). When such delegation occurs, no person dealing with the Individual Trustee shall be required to make inquiry as to the authority of the Individual Trustee to do any act hereunder. Any such person shall be entitled, conclusively, to assume that the Individual Trustee is properly authorized to do any act which he/she purports to do hereunder, and any such person shall be under no liability to any person, whomsoever, for any act done hereunder pursuant to such written direction of the Individual Trustee. When such action is so authorized by the Individual Trustee, any such person may assume conclusively that the Individual Trustee has full power and authority to receive and give receipt for any money or property becoming due and payable to the Trustees, and no such person shall be bound to inquire as to the disposition or application of any money or property paid or delivered to the Individual Trustee, or paid or delivered in accordance with such written direction of the Individual Trustee.

## ARTICLE VIII - LIMITATIONS OF RESPONSIBILITY

**VIII.1 Standard of Review.** In evaluating performance of the Trustees or other fiduciary, compliance by the Trustees or other fiduciary with the Trust must be determined in light of the

facts and circumstances existing at the time of the Trustees or fiduciary's decision or action and not by hindsight.

**VIII.2 Limitations on Liability.** The Trustees' responsibilities and liabilities shall be subject to the following limitations:

- (a) The Trustees shall have no duties other than those expressly set forth in this Trust Agreement or the Plan and those imposed on the Trustees by applicable laws.
- (b) The Trustees shall be responsible only for money and property actually received by the Trustees, and then to the extent described in this Trust. The Trustees shall not be under any duty to require payment of any contribution to the Trust Fund or to see that any payment made to them is computed in accordance with the provisions of the Plan.
- (c) The Trustees shall not be responsible for the correctness of any determination of payments or disbursements from the Trust Fund.
- (d) The Trustees shall have no liability for the acts or omissions of any predecessor or successor in office.
- (e) The Trustees shall have no liability for (i) the acts or omissions of any Investment Manager or Managers; (ii) the acts or omissions of any Insurance Company; (iii) the acts or omissions of any Mutual Fund; or (iv) following directions that are given to the Trustees by the Participants or the Administrator in accordance with this Trust Agreement or the Plan.

#### ARTICLE IX - ACCOUNTS OF THE TRUSTEES - RECORDKEEPING AND VALUATION

The Trustees shall maintain or cause to be maintained suitable records, data and information relating to their responsibilities hereunder, in accordance with applicable Georgia law. Individual Participant Accounts shall be maintained by the Administrator pursuant to the Plan.

#### ARTICLE X - RELIANCE ON COMMUNICATIONS

The Trustees may rely upon a certification of the Administrator with respect to any instruction, direction, or approval of such Administrator and may continue to rely upon such certification until a subsequent certification is filed with the Trustees. The Trustees shall have no duty to make any investigation or inquiry as to any statement contained in any such writing but may accept the same as fully authorized by the Administrator.

The Trustees shall be protected further in relying upon a written certification from any Investment Manager, insurance company or mutual fund as to the person or persons authorized to give instructions or directions on behalf of such Investment Manager or insurance company and

may continue to rely upon such certification until a subsequent written certification is filed with the Trustees.

#### ARTICLE XI - RESIGNATION AND REMOVAL OF TRUSTEES

The resignation, removal and appointment of Trustees is governed by applicable Georgia law. Upon such resignation or removal, a successor individual co-trustee shall be appointed by the GMA Board of Directors, and shall have the same powers and duties as those conferred upon the Trustees hereunder.

#### ARTICLE XII - AMENDMENT

This Trust Agreement may be amended by written agreement between the Trustees at any time and in any manner permitted by applicable law.

#### ARTICLE XIII - TERMINATION

This Trust Agreement and the Trust created hereby may be terminated at any time by the Trustees with respect to an Employer when the Employer's participation in the Plan is terminated. The Trust Agreement and the Trust may be terminated in its entirety when the Plan is terminated in its entirety. Notwithstanding the foregoing, the Trustees shall not be required to pay out any asset of the Trust Fund to Participants and Beneficiaries or a successor plan upon termination of the Trust until the Trustees have received written certification from the Administrator (i) that all provisions of law with respect to such termination have been complied with; and (ii) after the Trustees have made a determination of the fair market value of the assets of the Plan, that the assets of the Plan are sufficient to discharge when due all obligations of the Plan required by law. The Trustees shall rely conclusively on such written certification and shall be under no obligation to investigate or otherwise determine its propriety.

#### ARTICLE XIV - MISCELLANEOUS

**XIV.1 Construction and Governing Law.** This Trust Agreement shall be construed, enforced and administered and the validity thereof determined in accordance with the Code and the laws of the State of Georgia.

Words used herein in the masculine gender shall be construed to include the feminine gender, where appropriate, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate. The headings and subheadings in this Trust

Agreement are inserted for convenience of reference only and are not to be considered in the construction of any provision of the Trust Agreement.

In resolving any conflict among provisions of this Trust Agreement and in resolving any other uncertainty as to the meaning or intention of any provision of this Trust Agreement, the interpretation that (i) causes the Plan and Trust to satisfy the applicable requirements of Code Sections 401(a) and 414(d) and the Trust to be exempt from tax under Code Sections 115 and 501(a), and (ii) causes the Plan and Trust to comply with all applicable requirements of state or federal law shall prevail over any different interpretation.

**XIV.2 Duration of Trust.** Unless sooner terminated, the Trust created under the Trust Agreement shall continue for the maximum period of time permitted by the laws of the State of Georgia.

**XIV.3 No Guarantees.** Neither the Administrator nor the Trustees guarantee the Trust Fund from loss or depreciation or the payment of any amount which may become due to any person under the Plan or the Trust Agreement.

**XIV.4 Parties Bound.** This Trust Agreement shall be binding upon the parties hereto, the Participating Employers, all Participants in the Plan and persons claiming under or through them pursuant to the Plan, and, as the case may be, the heirs, executors, administrators, successors and assigns of each of them.

**XIV.5 Necessary Parties to Disputes.** Necessary parties to any accounting, litigation or other proceedings relating to the Trust Agreement shall include only the Trustees and the Administrator. The settlement or judgment in any such case in which the Trustees are duly served or cited shall be binding upon all Participants in the Plan and their Beneficiaries and estates, and upon all persons claiming by, through or under them.

**XIV.6 Severability.** If any provisions of the Trust Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Trust Agreement shall continue to be fully effective. If any provision of the Trust Agreement is held to violate the Code or to be illegal or invalid for any other reason, that provision shall be deemed to be null and void, but the invalidation of that provision shall not otherwise affect the Plan or Trust.

**XIV.7 Supersession.** The terms of the Trust Agreement shall supersede any previous oral agreement between the parties pertaining to the Trust.

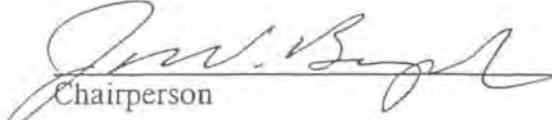
**XIV.8 Acceptance of Trust.** Each trustee hereby accepts the trust under the Trust Agreement.

**XIV.9 Counterparts.** This Trust Agreement may be executed in one (1) or more counterparts, each of which shall constitute an original.

IN WITNESS WHEREOF, the Board of Trustees has caused to be affixed the signature of its duly authorized Representative:

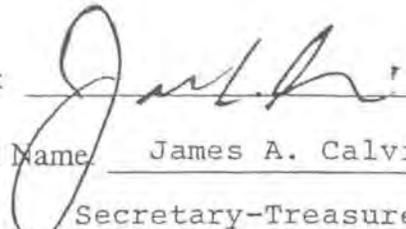
Board of Trustees of the GMA Defined  
Contribution and Deferred Compensation  
Program

2-8-01  
Date

  
Chairperson

ADMINISTRATOR

2/8/01  
Date

Signed:   
Printed Name: James A. Calvin  
Title: Secretary-Treasurer

**THE GEORGIA MUNICIPAL ASSOCIATION  
457(b) DEFERRED COMPENSATION PLAN  
MASTER PLAN DOCUMENT**

**ADMINISTERED BY:  
GEORGIA MUNICIPAL ASSOCIATION  
201 PRYOR STREET, SW  
ATLANTA, GEORGIA 30303  
TELEPHONE: 404-688-0472  
FACSIMILE: 678-686-6289**

*Restated Effective January 1, 2009*



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## **THE GEORGIA MUNICIPAL ASSOCIATION DEFERRED COMPENSATION PLAN**

Effective January 1, 2001, pursuant to a resolution of the Board of Trustees of the Georgia Municipal Association, Inc. ("GMA") Defined Contribution and Deferred Compensation Program, adopted December 4, 2000, the Board of Trustees of the Georgia Municipal Association Defined Contribution and Deferred Compensation Plan hereby establishes the GMA Deferred Compensation Plan ("Plan") under Section 457(b) of the Internal Revenue Code. This Plan is part of the GMA Defined Contribution and Deferred Compensation Program, as established by resolution of the Board of Directors of GMA.

The Trustees last authorized the Plan to be amended and completely restated effective January 1, 2002 in order to provide for employer contributions, to authorize distributions under qualified domestic relations orders, and to incorporate changes in federal law under the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") and final regulations issued to implement Code Section 457(b).

Effective January 1, 2009 (unless otherwise provided herein), the Trustees have authorized the Plan to be amended and completely restated in order to incorporate changes in federal law under the Pension Protection Act of 2006; Heroes Earnings and Assistance Relief Tax Act of 2008; Worker, Retiree, and Employer Recovery Act of 2008; final regulations issued under Code 415; and, model language promulgated by the Internal Revenue Service.

The Plan consists of the provisions set forth in this Master Plan document, as amended and restated, along with the provisions set forth in an Adoption Agreement of any Participating Employer, and any amendments to the Master Plan and the Adoption Agreement.

### **ARTICLE I - DEFINITIONS**

1.1. "**Account**" means the account maintained for a Participant by the Administrator which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Annual Deferrals, the earnings or loss of the Trust Fund (net of Trust Fund expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. The Account includes the following subaccounts and any other subaccounts established by the Administrator: the Employee Contribution Account, the Employer Contribution Account, and the Rollover Account.

1.2. "**Addendum**" means any Addendum to an Adoption Agreement entered into by an Employer.

1.3. "**Administrator**" means GMA, and includes the Service Manager with regard to functions delegated by the Trustees to the Service Manager.

1.4. "**Adoption Agreement**" means the agreement entered into by an Employer to participate in this Plan.

1.5. "**Annual Deferral**" means the amount of Compensation deferred by a Participant in any year pursuant to Articles IV, V and VI.

1.6. "**Applicable Form**" means the appropriate form as designated and furnished by the Administrator to make an election or provide a notice as required by the Plan. If a written election or consent is not specifically required by the Code, the Administrator may prescribe a verbal, electronic or telephonic instruction in lieu of or in addition to a written form.

1.7. "**Beneficiary**" means the person or persons designated by a Participant to receive any benefit payable upon the Participant's death, or, if none, the Participant's estate.

1.8. "**Code**" means the Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.9. "**Compensation**" means all cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employer's gross income for the calendar year but for a compensation reduction election under Section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election by the Participant to defer compensation under Article IV). If so elected in the Adoption Agreement, Compensation also includes certain additional amounts if paid no later than 2½ months after severance from employment or the end of the calendar year that includes a Participant's severance from employment that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Participating Employer.

1.10. "**Disability**" or "**Disabled**" means a total and permanent disability determined as follows: (i) by the Social Security Administration for a Participant who is covered by Social Security; or (ii) by the Employer, for a Participant who is not covered by Social Security. With respect to (ii), the Employer shall use the definition of disability found in Code Section 72(m)(7).

1.11. "**Eligible Employee**" means an Employee who by the Adoption Agreement is eligible to participate in the Plan. In designating Eligible Employees under the Adoption Agreement, the Participating Employer may designate that all Employees (including elected or appointed members of the Governing Authority), may participate, or may designate that all Employees, other than those specifically excluded, may participate. A Participating Employer may also specify that independent contractors may participate in the Plan.

1.12. "**Employee**" means any common law employee of an Employer and includes elected and appointed officials. However, the term does include independent contractors if permitted by the Adoption Agreement.

1.13. "**Employee Contribution**" means the amount of Compensation deferred pursuant to an Employee's Participation Agreement as provided under Article IV.

1.14. "**Employee Contribution Account**" means the subaccount maintained by the Administrator to which deferrals pursuant to Article IV and transfers pursuant to Article XVIII will be credited.

1.15. "**Employer**" means any municipal corporation, consolidated government, political subdivision, or other governmental instrumentality in the State.

1.16. "**Employer Contribution**" means Matching Contributions and Non-Matching Contributions which may be provided under an Addendum to the Adoption Agreement and made by a Participating Employer to the Employer Contribution Account for a Participant pursuant to Article V.

1.17. "**Employer Contribution Account**" means the subaccount maintained by the Administrator to which Employer Contributions, if any, will be credited.

1.18. "**Forfeiture Account**" means the account maintained by the Administrator to which forfeited amounts under the Plan shall be credited.

1.19. "**Governing Authority**" means the entity authorized by law to act for the Employer and adopt this Plan through the Adoption Agreement.

1.20. "**Includible Compensation**" means an Employee's Compensation within the meaning of Section 415(c)(3) of the Code required to be reported as actual wages in Box 1 of Form W-2 for a year for services to the Employer plus any compensation reduction election under Section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election to defer Compensation under Article IV) that is actually paid or includable in gross income during the calendar year. Effective January 1, 2008 Compensation also includes certain additional amounts if paid no later than 2½ months after severance from employment or the end of the calendar year that includes a Participant's severance from employment that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Participating Employer. Such additional amounts include regular compensation for services during the Participant's regular working hours or compensation for services outside the Participant's regular work hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and, payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued.

An Employee who is in qualified military service (within the meaning of Internal Revenue Code Section 414(u)(1)) shall be treated as receiving compensation from the Participating Employer during such period of qualified military service equal to (i) the compensation the Employee would have received during such period if the Employee were not in qualified military service, determined based on the rate of pay the Employee would have received from the Participating Employer but for the absence during the period of qualified military service, or (ii) if the compensation the Employee would have received during such period was not reasonably certain, the Employee's average compensation from the Participating Employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

Compensation of each Participant shall not exceed the applicable limit established by Code Section 401(a)(17) as of the first day of the limitation year, as increased for the Cost of Living Adjustment (\$245,000 for 2009). The Cost of Living Adjustment in effect for a limitation year applies to compensation for the Plan Year that begins with or within such limitation year.

1.21. "**Investment Fund**" means an investment fund which forms part of the Trust Fund as established by the Trustees at the direction of the Administrator.

1.22. "**Matching Contribution**" means the matching contribution made by the Participating Employer as determined under the Addendum to the Adoption Agreement and made pursuant to Article V.

1.23. "**Non-Matching Contribution**" means the non-matching contribution made by the Participating Employer as determined under the Addendum to the Adoption Agreement and made pursuant to Article V.

1.24. "**Normal Retirement Age**" means the age selected by a Participant that fixes the eligibility period for utilizing the catch-up limitation under Section 6.3. The Normal Retirement Age selected by a Participant may be any age that is on or after the earlier of age sixty-five (65) or the earliest age that the Participant would become eligible to retire and receive unreduced benefits as a member of the defined benefit pension plan of the Participant's Employer, and not later than age seventy and a half (70½). A Participant's Normal Retirement Age established for catch-up does not have any bearing on the age at which the Participant actually retires. In the absence of an Employer defined benefit pension plan, Normal Retirement Age shall be 65. Provided, that a Participant may not have more than one Normal Retirement Age under all of the eligible deferred compensation plans offered by a Participating Employer.

1.25. "**Participant**" means an Eligible Employee who (i) is currently deferring or has previously deferred Compensation under the Plan by salary reduction, and who has not received a distribution of his entire benefit under the Plan, (ii) is currently receiving or has previously received Employer Contributions pursuant to an Addendum, even if the Employee has not entered into a Participation Agreement to defer Compensation, and has not received a distribution of his entire benefit under the Plan, or (iii) has made a rollover into the Plan, even if the Employee has not entered into a Participation Agreement to defer Compensation, and has not received a distribution of his entire benefit under the Plan. Only individuals who perform services for the Employer as an Employee may defer Compensation under the Plan.

1.26. "**Participating Employer**" means any Employer who elects to participate in the Plan pursuant to Article II with respect to the Eligible Employees of the Employer.

1.27. "**Participation Agreement**" means the Applicable Form completed by an Employee to participate in the Plan and defer Compensation.

1.28. "**Payroll Period**" is the time period specified by the Participating Employer in the Adoption Agreement. The Participating Employer may specify a payroll period that is weekly, bi-weekly, monthly, semi-monthly, or any other specified period.

1.29. "**Plan Year**" means the fiscal year of the Participating Employer, as specified in the Adoption Agreement.

1.30. "**Rollover Account**" means the subaccount maintained by the Administrator to which rollovers pursuant to Article XVI will be credited. The Administrator may establish one or more rollover subaccounts.

1.31. "**Service Manager**" means the person or organization appointed by the Trustees to perform service and administrative functions delegated by the Trustees.

1.32. "**Severance from Employment**" means the date that the Employee dies, retires, or otherwise has a severance from employment with the Employer. A Participant shall be deemed to have severed employment with the Participating Employer for purposes of the Plan when, in accordance with the established personnel practices of the Participating Employer, the employment relationship is considered actually terminated. If a Participant has not been terminated, but the Participant has not performed services for the Participating Employer for a period of six (6) consecutive months and the Participant is not on a paid leave of absence, the Participant shall be deemed Severed from Employment for purposes of this Plan at the end of the six (6) month period.

1.33. "**State**" means the State of Georgia.

1.34. "**Trust**" means the trust established by the Trustees pursuant to a written agreement that constitutes a valid trust under the law of Georgia.

1.35. "**Trustees**" mean the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Program, which Trustees are appointed by the Board of Directors of GMA.

1.36. "**Vesting**" means that a benefit of the Participant is no longer subject to a substantial risk of forfeiture in accordance with Code Section 457.

1.37. "**Rules of Construction**." Words used herein in the masculine gender shall be construed to include the feminine gender where appropriate, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.

## **ARTICLE II - PARTICIPATION BY EMPLOYERS**

2.1. "**Adoption by Employer**." Any Employer may make the Plan available to its Employees if it takes the following actions.

(a) The Governing Authority of the Employer must pass a resolution formally adopting this Plan for its Employees and approving the Adoption Agreement.

(b) The resolution must indicate the date of adoption.

(c) The resolution must commit to the terms of an Adoption Agreement completed by the Employer.

(d) The resolution must specify that the Employer shall abide by the terms of the Plan and the Trust, including all investments, administrative, and service agreements of the Plan, and all applicable provisions of the Code and other applicable law.

(e) The resolution must acknowledge that the Trustees are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Employer that are not part of the GMA Defined Contribution and Deferred Compensation Program.

The Trustees shall determine whether the resolution complies with this Section. If it does, and provided the other requirements of the Plan and Trust are met, the Trustees shall provide appropriate forms for the Employer to implement its participation in the Plan.

**2.2. Other 457(b) Plan Participation.** Employers whose Employees are already participating in a deferred compensation plan under Code Section 457(b) as of the effective date of the Adoption Agreement must inform the Administrator of the name of and the provider of that plan and must provide any other information requested by the Administrator. Upon reasonable request by the Participating Employer, the Administrator shall provide an Employer with information reasonably necessary to comply with the applicable deferral limits under the Plan, as detailed under Article VI.

All eligible plans of a Participating Employer (including all investments offered by vendors through a 457(b) arrangement) are considered to be a single plan for purposes of compliance with Code Section 457(b). The Participating Employer will be responsible for ensuring that all of its arrangements, treated as a single plan, comply with the applicable requirements of Code Section 457 and Regulations, including, but not limited to, the coordination of limitations on Annual Deferrals (including the basic limit, age 50 catch-up limit, and special 457 catch-up limit under Article VI), corrections of excess deferrals (Section 6.7), and plan-to-plan transfers (Article XVIII).

**2.3. Remittance of Contributions.** All amounts of Compensation deferred under the Plan shall be transferred by the Participating Employers to the Trust within a period that is reasonable for the proper administration of the Plan, as described in this Section. Contributions shall first be remitted to the Trust only after the Employer's Adoption Agreement is approved by the Trustees. Upon approval of the Adoption Agreement, the Trustees shall specify the date contributions are to commence. In no event shall contributions under the Plan be transferred by the Participating Employer to the Trust later than fifteen (15) business days after the Payroll Period specified in the Adoption Agreement or after the end of the Plan Year with respect to Employer Contributions made on a Plan Year basis.

**2.4. Delinquent Contributions.** It is the Participating Employer's responsibility to correctly calculate and remit the appropriate contributions. The Administrator reserves the right to give notice to the highest elected official, the designated representative of the Employer and/or the Eligible Employees of the delinquent Participating Employer in the event it comes to the Administrator's attention that contributions are not being remitted in a timely manner.

Neither GMA, the Trustees, nor the Administrator have any liability for the delinquency of a Participating Employer.

### ARTICLE III - ELIGIBLE EMPLOYEE PARTICIPATION

3.1. Participation Procedure. Only Eligible Employees as defined by the Adoption Agreement may be Participants in the Plan. The Administrator shall prescribe the enrollment form for Eligible Employees to become Participants.

3.2. Cessation of Plan Participation. An Eligible Employee shall cease to be a Participant on the distribution and/or forfeiture of the Participant's entire interest in the Plan.

### ARTICLE IV - ELECTION TO DEFER COMPENSATION

#### 4.1. Participation and Deferral Election Rules.

(a) Generally. A portion of an Employee's Compensation shall be deferred for any calendar month only if the Employee enters into a Participation Agreement prior to the beginning of the month in which the compensation is paid or made available. Upon signing a Participation Agreement, an Employee agrees to have Compensation for each pay period deferred by the amount specified in the Participation Agreement. Provided, however, a new Employee may defer Compensation payable in the calendar month during which the Participant first becomes an Employee if the Employee enters into a Participation Agreement providing for the deferral on or before the first day on which the Participant performs services for the Employer.

(b) Election Required for Participation. An Employee may elect to become a Participant by executing a Participation Agreement to defer a portion of his or her Compensation (and have that amount contributed as an Annual Deferral on his or her behalf) and filing it with the Administrator. This participation election shall be made on the Participation Agreement provided by the Administrator under which the Employee agrees to be bound by all the terms and conditions of the Plan. The participation election (whether on one form or multiple forms) shall also include designation of investment funds and a designation of Beneficiary. An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a Participation Agreement. Any such election shall remain in effect until a new election is filed.

(c) Deferral of Accumulated Sick Pay, Vacation Pay, or Back Pay. In general, an Employee may make a separate election to defer accumulated sick pay, vacation pay or back pay only if the Employee enters into a Participation Agreement prior to the beginning of the month in which such amounts would otherwise be paid or made available to the Employee and the participant is an Employee in that month. However, if an Eligible Employee is retiring or otherwise having a Severance from Employment during a month, the Eligible Employee may elect to defer accumulated sick pay, vacation pay or back pay if such amounts would otherwise be paid or made available before the Employee has a Severance from Employment and the Employee enters into a Participation Agreement providing for deferral of such amounts prior to the date such amounts would be paid. This paragraph shall apply only to the extent the Participant is entitled to receive a cash payment from the Participating Employer for accumulated sick pay, vacation pay, or back pay. This paragraph shall not be interpreted to establish any entitlement to sick pay, vacation pay, or back pay, not otherwise available under the Participating Employer's policies, rules, and procedures.

4.2. **Amendment of Annual Deferrals Election.** Subject to other provisions of the Plan, a Participant may at any time revise his or her participation election, including a change of the amount of his or her Annual Deferrals, his or her investment direction and his or her designated Beneficiary, on an Applicable Form in accordance with procedures established by the Administrator. Unless the election specifies a later effective date, a change in the amount of the Annual Deferrals shall take effect as of the first day of the next following month in which the compensation is paid or made available or as soon as administratively practicable if later. A change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees. A change in the Beneficiary designation shall take effect when the election is accepted by the Administrator.

4.3. **Information Provided by the Participant.** Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the plan, including, without limitation, whether the Employee is a participant in any other eligible plan under Code section 457(b).

4.4. **Effective Date of Deferrals.** In all cases, a deferral shall be considered effective as of the date the Employer withholds the Annual Deferral from the Participant's pay.

#### **ARTICLE V - EMPLOYER CONTRIBUTIONS**

5.1. **Employer Contributions.** Effective June 1, 2004, a Participating Employer may provide for Employer Matching and/or Non-Matching Contributions to the Plan by completing an Addendum to its Adoption Agreement to implement such contributions. Employer Contributions shall be made to the Plan in accordance with this Article, Article VI, the Adoption Agreement, and said Addendum.

(a) **Additional Eligibility Requirements.** A Participating Employer may prescribe under the Addendum a minimum number of hours that an Employee must be scheduled and normally work in order to receive an allocation of Employer Contributions under the Plan. It is the Participating Employer's responsibility to monitor this requirement and to report to the Administrator a change in Employee eligibility. Additionally, a Participating Employer may establish under the Addendum a waiting period before an Eligible Employee may become eligible to receive an Employer Contribution under the Plan. The waiting period may consist of a minimum period of service (not more than twelve (12) months), and the Employer may choose whether to give credit for service prior to adoption of the Plan and whether to add together different periods of service, or the Employer may specify a different waiting period.

(b) **Designation of Type of Contribution.** A Participating Employer shall specify in the Addendum whether it will make Matching Contributions and/or non-Matching Contributions. Matching Contributions shall be made to match all or a portion of the Participant's Compensation deferred under the Plan, in accordance with the formula and method specified by the Participating Employer in the Addendum. Non-Matching Contributions are not tied to Participant contributions to the Plan and shall be made in accordance with the formula and method specified by the Participating Employer in the Addendum.

(c) Effective Date of Addendum. The Addendum establishing the amount and method of calculating contributions continues in effect from Plan Year to Plan Year until amended or repealed by the Governing Authority or until the Participating Employer's participation in the Plan is terminated.

(d) Investment Options. Unless otherwise directed by the Participant, in accordance with procedures established by the Service Manager, Employer Matching and/or Non-Matching Contributions shall be invested in the same manner as the Participant's Employee Contribution Account.

**5.2. Matching Contributions.** If the Addendum provides for Matching Contributions, the Governing Authority shall determine and specify in the Addendum the formula for calculating the Matching Contributions, which may be all or a specified portion of a Participant's Compensation, to the extent deferred to the Plan. The Employer may calculate matching contributions based on (i) a percentage of the Compensation deferred by the Employee to the Plan, with no cap, a flat dollar cap, or a cap equal to a percentage of Compensation, (ii) a flat dollar match per payroll period, or (iii) any other specified formula in the Addendum.

**5.3. Eligibility for Matching Contributions.**

(a) In the Addendum, the Participating Employer may establish different classes of Participants who are eligible or ineligible to receive Matching Contributions. The Employer may also establish different Matching Contribution amounts or formulas applicable to different classes of Eligible Employees. If the Addendum provides for Matching Contributions, a Participant shall be eligible for Matching Contributions for any Payroll Period only if the Participant meets the conditions set forth in the Adoption Agreement and Addendum.

(b) In no event shall a Participant receive any Matching Contributions for any Payroll Period for which the Participant does not have an effective payroll deferral to the Plan for that Payroll Period.

**5.4. Non-Matching Contributions.** If the Addendum provides for Non-Matching Contributions, the Governing Authority shall determine and specify in the Addendum the formula for calculating the Non-Matching Contributions, which may be a fixed amount or a specified portion of a Participant's Compensation. The Employer may make Non-Matching Contributions as (i) a one-time year end contribution (either a flat dollar amount or percentage of Compensation), (ii) a percentage or flat dollar amount per payroll period, or (iii) any other specified formula in the Addendum.

**5.5. Eligibility for Non-Matching Contributions.** In the Addendum, the Participating Employer may establish different classes of Participants who are eligible or ineligible to receive Non-Matching Contributions. The Employer may also establish different Non-Matching Contribution amounts or formulas applicable to different classes of Eligible Employees. If the Addendum to the Adoption Agreement provides for Employer Non-Matching Contributions, a Participant shall be eligible for Non-Matching Contributions only if the Participant meets the conditions set forth in the Adoption Agreement and Addendum.

**5.6. Changes in Employer Contributions.** A Participating Employer may adjust the amount or method of Employer Contributions throughout the Plan Year by adopting a resolution to amend its Adoption Agreement and/or Addendum in accordance with Section 21.3. The resolution must be sent to the Administrator. The Trustees must approve or disapprove the amendment and, if approved, establish the effective date of any change to the Employer Contributions.

**ARTICLE VI - LIMITATIONS ON DEFERRALS**

**6.1. Basic Annual Limitation.** The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of (i) the Applicable Dollar Amount, or (ii) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount established under Section 457(e)(15) of the Code applicable as set forth below:

<u>For the Following Years:</u>	<u>The Applicable Dollar Amount is:</u>
2002	\$11,000
2003	\$12,000
2004	\$13,000
2005	\$14,000
2006 or thereafter	\$15,000 Adjusted for cost-of-living after 2006 to the extent provided under Section 415(d) of the Code

For purposes of this limit, all eligible 457(b) deferred compensation plans offered by a Participating Employer are treated as a single plan.

**6.2. Age 50 Catch-Up Annual Deferral Contributions.** A Participant who will attain age fifty (50) or more by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum age 50 catch-up Annual Deferrals for the year. The maximum dollar amount of the age 50 catch-up Annual Deferrals for a year is as follows:

<u>For the following years:</u>	<u>The maximum age 50 catch-up dollar amount is:</u>
2003	\$2,000
2004	\$3,000
2005	\$4,000
2006	\$5,000
Thereafter	Adjusted for cost-of-living after 2006 to the extent provided under the Code.

**6.3. Special Section 457 Catch-Up Limitation.** If the applicable year is one of a Participant's last 3 calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 6.3 exceeds the amount computed

under Sections 6.1 and 6.2, then the Annual Deferral limit under this Article V shall be the lesser of:

(a) An amount equal to 2 times the Section 6.1 Applicable Dollar Amount for such year; or

(b) The sum of:

(1) An amount equal to (A) the aggregate Section 6.1 limit for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus (B) the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus

(2) An amount equal to (A) the aggregate limit referred to in section 457(b)(2) of the Code for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee under the Plan (determined without regard to Sections 6.2 and 6.3), minus (B) the aggregate contributions to Pre-2002 Coordination Plans for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for the year.

#### **6.4. Coordination of Limits.**

(a) Participant Covered By More Than One Eligible Plan. If the Participant is or has been a participant in one or more other eligible plans within the meaning of section 457(b) of the Code, then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Article VI. For this purpose, the Administrator shall take into account any other such eligible plan maintained by the Employer for which the Administrator receives from the Employer sufficient information concerning such plan, and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan. However, the Participating Employer is responsible for monitoring Annual Deferrals to the Plan and directing the distribution of any excess Annual Deferrals. See Sections 6.5 and 6.7.

(b) Pre-Participation Years. In applying Section 6.3, a year shall be taken into account only if (i) the Participant was eligible to participate in the Plan during all or a portion of the year and (ii) Compensation deferred, if any, under the Plan during the year was subject to the Basic Annual Limitation described in Section 6.1 or any other plan ceiling required by section 457(b) of the Code.

(c) Pre-2002 Coordination Years. For purposes of Section 5.3(b)(2)(B), "contributions to Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension (SARSEP), Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in

section 501(c)(18) of the Code, including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of Section 5.3(b)(2)(B) to the extent that the total of such contributions does not exceed the aggregate limit referred to in section 457(b)(2) of the Code for that year.

(d) Current Rule. For 2002 and thereafter, any amounts contributed by the Participant to a tax-sheltered annuity pursuant to Section 403(b) or to a 401(k) plan pursuant to Code Section 402(e)(3) shall not reduce the maximum Annual Deferrals under Sections 6.1, 6.2, and 6.3.

(e) Coordination Responsibility. The Participant is responsible for ensuring coordination of and compliance with the individual limit under Code § 457(c), in the case of eligible plans of different employers.

**6.5. Participating Employer Responsibility for Contribution Limits.** The Participating Employer must monitor Annual Deferrals to the Plan on behalf of a Participant to this Plan and any other 457(b) plan maintained by the Participating Employer to determine compliance with the Annual Deferral limitations under this Article. The Participating Employer must cease payroll deferrals to avoid exceeding the Annual Deferral limits and must notify the Administrator if excess deferrals have been made. Upon reasonable request by a Participating Employer, the Administrator will provide a Participating Employer any information reasonably necessary to comply with these Annual Deferral limits. Additionally, upon reasonable request by a Participating Employer, the Administrator shall provide information needed by the Employer for the Employer to complete tax returns for employees.

**6.6. Employer Contribution Limits.** If the Employer agrees to make contributions to the Plan on behalf of a Participant under Article V pursuant to an Addendum to the Employer's Adoption Agreement, the Employer Contributions shall be deemed Annual Deferrals made by the Participant. For purposes of this Article, Employer Contributions shall be processed as payroll deferrals, shall apply toward the maximum Annual Deferral limits in the taxable year that they vest, and must comply with any procedure established by the Administrator.

**6.7. Correction of Excess Deferrals.**

(a) Excess Deferrals with Single Plan. If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above (other than the individual limit of Code Section § 457(c)), when this Plan is the only eligible plan offered by a Participating Employer, then the Annual Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant.

(b) Excess Deferrals with Multiple Plans. If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above (other than the individual limit of Code Section § 457(c)) when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under section 457(b) of the Code, then the Participating Employer shall instruct the Administrator as to whether the Annual

Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto) should be distributed from this Plan. If directed by the Employer, the excess deferrals shall be distributed from this Plan even if there would be no excess if only Annual Deferrals to this Plan were taken into account. Upon reasonable request by the Participating Employer, the Administrator will provide the Participating Employer any information reasonably necessary to comply with these responsibilities.

(c) Individual Limit. If Annual Deferrals are in excess of the individual limit of Code Section § 457(c), the Administrator may distribute excess deferrals at the direction of the Participant.

**6.8. Disregard Excess Deferral.** For purposes of Sections 6.1, 6.2, and 6.3, an individual is treated as not having deferred compensation under a plan for a prior taxable year to the extent excess deferrals under the plan are distributed, as described in Section 6.7. To the extent that the combined deferrals for pre-2002 years exceeded the maximum deferral limitations, the amount is treated as an excess deferral for those prior years.

## ARTICLE VII - VESTING STANDARDS

**7.1. Employee Contributions.** A Participant shall be 100% Vested in the Participant's Annual Deferrals made pursuant to Article IV, and in the Participant's transferred amounts under Article XVIII, at all times. A Participant shall also be 100% Vested in the Participant's Rollover Account at all times.

**7.2. Employer Contributions.** A Participant shall Vest in the Matching and/or Non-Matching Contributions made pursuant to Article V pursuant to the schedule elected by the Participating Employer in the Addendum to the Adoption Agreement. If a vesting schedule is selected by the Employer, it is the Employer's responsibility to calculate the Eligible Employee's service and report it to the Administrator. Unless otherwise specified in the Addendum, in calculating the vesting period, service means the number of years and complete months of service of a Participant as an Eligible Employee of the Employer, and the Participant's service begins with the first day of employment as a Eligible Employee. A Participating Employer may elect from the following types of vesting schedules, and may elect different vesting schedules for Matching and Non-Matching Contributions.

- (a) Immediate Vesting.
- (b) Cliff Vesting (100% vesting after a specified number of years of service).
- (c) Graduated Vesting (a specified percentage vested for each completed Year of Service, not to exceed five (5) years).

For cliff or graduated vesting, the Participating Employer may elect in the Addendum whether to give credit for service prior to adoption of the Plan and whether to add together different periods of employment.

**7.3. Forfeitures.** If a Participant has a Severance from Employment, the Participant's non-vested Employer Matching Contributions and/or non-vested Employer Non-Matching

Contributions shall be forfeited as of the date of the Participant's Severance from Employment. The Employer is responsible for reporting forfeitures to the Administrator when they occur.

### **ARTICLE VIII - ACCOUNTS AND REPORTS**

**8.1. Account.** The Administrator shall maintain applicable Accounts within the Participant's Account with respect to each Participant: the Employee Contribution Account, the Employer Contribution Account, and the Rollover Account. The Employee Contribution Account shall be credited with the Participant's Annual Deferrals for each Payroll Period and with amounts that are transferred to the Participant's Account under Article XVIII. The Administrator may establish an Employer Matching Contribution Account and an Employer Non-Matching Contribution Account, consistent with the Participating Employer's elections in the Addendum to the Adoption Agreement. If established, the Employer Matching Contribution Account shall be credited with the Participant's Employer Matching Contributions for each Payroll Period and the Employer Non-Matching Contribution Account shall be credited with the Participant's Employer Non-Matching Contributions for each designated period (pursuant to the Addendum to the Adoption Agreement). If the Administrator does not establish these accounts, Employer Contributions shall be credited to the Employer Contribution Account. The balance of the Participant's Accounts shall be adjusted daily to reflect any distribution to the Participant and all interest, dividends, account charges and changes of market value resulting from the investment of the Participant's Accounts. All Plan records, including individual account information, that are maintained by the Service Manager shall be the exclusive property of the Administrator. The Administrator may prescribe such minimum deposits to Participant's Accounts and each investment option for the Participant as it deems appropriate.

**8.2. Statements of Account.** A written report of the status of each Participant's Account shall be furnished to the Participant by the Administrator within thirty (30) days after the end of each Plan quarter. All reports to Participants shall be based on the fair market value of investments credited to their Accounts as of the reporting dates. Participant reports shall be deemed to have been accepted by the Participant as correct unless written notice to the contrary is received by the Administrator within ninety (90) days after the mailing or distribution of a report to the Participant.

**8.3. Year End Reports.** Within ninety (90) days after the end of each Plan Year, a written report shall be prepared and maintained on file by the Administrator showing the assets held under the Plan, a schedule of all receipts and disbursements and all material transactions of the Plan during the preceding year. This report shall be in a form and shall contain other information as the Administrator requires. The report shall also contain such information as is necessary to enable the Trustees to prepare their accounting due under the Trust.

### **ARTICLE IX - VALUATION OF ACCOUNTS**

**9.1. Valuation.** The Administrator shall value the investments each business day based on acceptable industry practices. All daily transactions shall be based on that day's closing market values.

9.2. **Deposits.** In all cases, deposits of contributions shall be treated as actually made only as of the date the funds are accepted as in good order by the Administrator.

9.3. **Report from Administrator to Trustees.** The Administrator shall provide a report to the Trustees concerning the valuation of Accounts within forty-five (45) days after the end of each calendar quarter.

#### **ARTICLE X - TRUST**

10.1. **Trust Status.** All assets held in connection with the Plan, including all contributions and amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan.

10.2. **Trust Fund.** To the extent required by Section 457(g) of the Code, all amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan shall be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan and the Trust Agreement. All contributions to the Plan must be transferred by the Participating Employers to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

#### **ARTICLE XI - INVESTMENT OF ACCOUNTS**

11.1. **Investment Options.** From time to time, the Trustees shall determine the available Investment Funds for Participants (or Beneficiaries upon the death of the Participant). The Participants may direct the investment of their Accounts among the Investment Funds selected by the Trustees. Unless otherwise directed by the Participant (or Beneficiary), in accordance with procedures established by the Service Manager, a Participant's (or Beneficiary's) Employer Contribution Account and Rollover Account shall be invested in the same manner as the Participant's (or Beneficiary's) Employee Contribution Account. The Administrator shall follow the Participant's (or Beneficiary's) directions with respect to the investment of each Participant's Account, except that the Administrator shall direct the investment of a Participant's (or Beneficiary's) Account to a default investment pursuant to Section 11.2 when there is no valid investment direction on file.

11.2. **Investment Default.** In the event that a Participant does not have a valid investment direction on file for any portion of the amount in that Participant's Account, the Account shall be invested in any default option or options as determined by the Trustees. In such event, the Participant shall be deemed to have directed that option (or options) for investment of their Account. The Trustees intend to establish one or more default options based upon various factors, including but not limited to, market risk, stability and rate of return. If the Trustees have appropriately exercised their fiduciary duty in selecting a default option(s), they have no liability

for any loss sustained by a Participant or Beneficiary whose Account is invested in the default option(s).

## ARTICLE XII - BENEFITS

**12.1. Benefit Payments.** Benefits shall be paid from the Trust Fund in accordance with this Article following a Participant's Severance from Employment, attainment of age seventy and one-half (70½), Death, Disability or the occurrence of an unforeseeable emergency, as described in Section 12.5. Benefits payable to a Participant or a Beneficiary shall be based upon the value of the Participant's Account.

(a) **Severance from Employment.** Upon Severance from Employment, a Participant is entitled to receive a distribution of his or her Account under any form of distribution permitted under Section 12.2, subject to Article XIV, commencing on a date selected by the Participant which may not be later than the required distribution date of Code Section 401(a)(9), as specified in Article XIV. A Participant may elect to change the commencement date of distribution of the Account to a later date otherwise permitted under this Article, so long as the commencement date meets the required distribution commencement date provisions of Code Section 401(a)(9). All benefits shall be paid under a payment option under Section 12.2, subject to Article XIV.

(b) **Attainment of Age Seventy and One-Half (70½).** Upon attaining age seventy and one-half (70½), a Participant may elect to have benefits commence on a date which is no later than the required distribution date of Code Section 401(a)(9), as specified in Article XIV. All benefits shall be paid under a payment option under Section 12.2, subject to Article XIV.

(c) **Death.** In the event of the Participant's death prior to the commencement of benefits under paragraph (a), the value of the Participant's Account shall be paid to the Beneficiary under Section 12.2, subject to the restrictions in Article XIV. Such benefits shall be payable commencing within sixty (60) days after receipt by the Administrator of satisfactory proof of the Participant's death. However, if the Beneficiary is the spouse of the Participant, then the spouse may elect, within sixty (60) days of Participant's death, to defer distribution to a date not later than the date when the Participant would have attained age 70½. In the event of the Participant's death after commencement of benefits, benefits shall be paid subject to Article XIV.

(d) **Disability.** Upon Severance from Employment with the Participating Employer because of Disability, a Participant may elect to have benefits commence on a date which is no later than the required beginning date under Code Section 401(a)(9), as specified in Article XIV. A Participant who is on leave without pay who becomes Disabled within the first six (6) months of the leave shall be considered to have separated from service on account of Disability. The commencement date must be no later than the required distribution date of Code Section 401(a)(9). A Participant may change the commencement date of distribution of the Account to a later date otherwise permitted under this Article, so long as the commencement date meets the required distribution commencement date provisions of Code Section 401(a)(9). All benefits shall be paid under a payment option under Section 12.2, subject to the restrictions in Article XIV.

**12.2. Payment Options.** The election of a payment option by a Participant or a Beneficiary under Section 12.1 must be made no later than thirty (30) days before the commencement of such benefits. Subject to restrictions established by the Administrator, the Plan shall permit payout options in the form of lump sums, periodic payments of a fixed amount or fixed duration, or life contingent annuities. Absent such an election, the Account will be paid in a lump sum. See Article XV for rollover distribution options.

**12.3. Designated Beneficiary.** A Participant shall have the right to file with the Administrator an Applicable Form designating the Beneficiary or Beneficiaries who shall receive the benefits payable under the Plan in the event of the Participant's death. No Beneficiary designation shall take effect until an Applicable Form is signed by the Participant and received and accepted by the Administrator. If the Participant dies without a valid Beneficiary form on file, the benefit payments shall be made to the Participant's surviving spouse; if there is no surviving spouse, then equally to the Participant's surviving children; if there are no surviving children, then to the Participant's estate in a lump sum.

A Participant shall have the right to designate at least one primary and contingent Beneficiary and to indicate whether the Beneficiaries in each class are to share equally or according to specified percentages. If a Beneficiary predeceases the Participant, the surviving Beneficiaries in the same class (i.e., primary or contingent) will share among each other all benefits in the same proportion as originally designated by the Participant. A contingent Beneficiary shall receive benefit payments only if there is no surviving primary Beneficiary. In the event of the death of a Beneficiary, after the Beneficiary has become entitled to receive benefits, the remaining benefits shall be paid to the estate of the Beneficiary in a lump sum. The Beneficiary designation may be changed by the Participant in writing on the Applicable Form at any time prior to Retirement. Only the last designation of a Beneficiary prior to Retirement shall have effect, and any new designation of a Beneficiary invalidates, supersedes, and revokes any prior designation.

**12.4. Voluntary In-Service Distribution.** A Participant who is an active employee of a Participating Employer may elect to receive a distribution of the Participant's entire Account under the Plan before a Severance from Employment if the following requirements are met:

(1) The Participant's entire Account balance does not exceed the amount specified in Code Section 411(a)(11) or such other amount as determined by the Administrator on the date of the distribution.

(2) The Participant has not previously received an in-service distribution of the Participant's Account, and

(3) No amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution.

This election must be made in accordance with the procedures established by the Administrator.

**12.5. Unforeseeable Emergency Distributions.** Notwithstanding any other provision herein and subject to guidelines and requirements set forth in procedures established by the

Administrator, if a Participant or Beneficiary has an unforeseeable emergency before Severance from Employment, the Participant may elect to receive a lump sum distribution equal to the amount requested or, if less, the maximum amount determined under the Administrator's procedures to be permitted to be distributed under this Section.

(a) Procedures. The Administrator shall establish procedures to review and approve or deny all requests for an unforeseeable emergency distribution. If the application for payment is approved by the Administrator, payment shall be effected as soon as practicable thereafter.

(b) Unforeseeable Emergency Defined. An unforeseeable emergency is defined as a severe financial hardship of the Participant resulting from: an illness or accident of the Participant, the Participant's spouse, or the Participant's dependent (as defined in section 152(a)); loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); the need to pay for the funeral expenses of the Participant's spouse or dependent (as defined in section 152(a) of the Code); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. For example, the imminent foreclosure of or eviction from the Participant's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Except as otherwise specifically provided in this Section 12.5, neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency.

(c) Unforeseeable Emergency Distribution Standard. Effective January 1, 2007, an unforeseeable emergency is defined as a severe financial hardship of the Participant or the Participant's primary beneficiary resulting from: an illness or accident of the Participant or the Participant's primary beneficiary, the Participant's or the Participant's primary beneficiary's spouse or dependent (as defined in Code Section 152 without regard to the Code Sections 152(b)(1), (b)(2), and (d)(1)(B)); loss of the Participant's or the Participant's primary beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); the need to pay for the funeral expenses of the Participant's or Participant's primary beneficiary's spouse or dependent (as defined in section 152 of the Code without regard to Code Section 152(b)(1), (b)(2), and (d)(1)(B)); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant or the Participant's primary beneficiary. For example, the imminent foreclosure of or eviction from the Participant's or Participant's primary beneficiary's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses for the Participant or the Participant's primary beneficiary, or of the Participant or the Participant's primary beneficiary's spouse or dependent (as defined in section 152 of the Code without regard to Code Sections 152(b)(1), (b)(2), and (d)(1)(B)), including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Except as otherwise specifically provided in this Section 12.5, neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency. For purposes of this Section "primary beneficiary" means an individual who is named as a beneficiary under the Plan and has an unconditional right to all or a portion of the Participant's Account Balance upon the death of the Participant.

(d) Distribution Necessary to Satisfy Emergency Need. Distributions because of an unforeseeable emergency may not exceed the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).

(e) Claim Procedures Applicable. The claim procedures of Article XX apply to the decision of the Administrator concerning financial hardship.

(f) Additional Restrictions. A Participating Employer may adopt a policy whereby Participants are prohibited from making any deferral under this Plan for a certain period after the Employer is notified by the Plan Administrator that the Participant has received an unforeseeable emergency distribution. The deferral prohibition period shall be determined by the Participating Employer and stated in the policy, but it shall not exceed six (6) months. The policy must be applied by the Participating Employer in a consistent manner to all Participants. A copy of the policy must be provided to the Plan Administrator.

**12.6. No Plan Loans.** Plan loans to Participants shall not be permitted.

### **ARTICLE XIII - DOMESTIC RELATIONS ORDERS**

**13.1. General Provisions.** Domestic relations orders which satisfy the requirements of Code Section 414(p)(1)(A)(i) and 414(p)(1)(B), this Article, and the procedures established by the Administrator or Service Manager for such orders shall be considered Plan-Approved Domestic Relations Orders ("PADROs") and shall be honored by the Plan. The Plan shall not honor any domestic relations orders issued by a court before January 26, 2004. The Administrator (or Service Manager) is authorized to establish and amend procedures for the determination of PADROs consistent with the above-referenced Code provisions and this Article.

**13.2. Investments.** During the period that the issue of whether an order satisfies the applicable requirements of the Code and the procedures established by the Administrator or Service Manager is under consideration, the investment direction of the Participant with respect to the Participant's Accounts shall remain in effect, subject to a determination by the Administrator or Service Manager that such investment direction would be contrary to a final court order. After a determination has been made that a domestic relations order satisfies the applicable requirements of the Code and the procedures established by the Administrator or Service Manager and a separate Plan Account has been established for the alternate payee, the alternate payee shall direct the investment of his or her Plan Account. The Administrator or Service Manager shall direct the investment of an alternate payee's Account to a default investment pursuant to Section 11.2 when there is no valid investment direction on file. The alternative payee's Account shall be assessed administrative fees in the same amount and in the same manner as a Participant's Account.

**13.3. Distributions to Alternate Payees.** Distribution of benefits to the alternate payee shall commence as soon as administratively practicable after (i) a determination is made that the order satisfies the applicable requirements of the Code and the procedures established by the Administrator or Service Manager, and (ii) receipt by the Administrator or Service Manager of

the Applicable Forms for the election of benefits. In the event of an alternative payee's death, any remaining benefits shall be payable solely to the alternate payee's estate, via the duly-appointed and then-currently serving executor of the alternative payee's estate.

#### **ARTICLE XIV - MINIMUM DISTRIBUTION RULES**

**14.1. Precedence.** The requirements of this Article will take precedence over any inconsistent provisions of the Plan.

**14.2. Requirements of Treasury Regulations Incorporated.** All distributions required under this Article will be determined and made in accordance with the Treasury regulations under Code Section 401(a)(9).

#### **14.3. Time and Manner of Distribution.**

(a) The Participant's entire interest will be distributed, or begin to be distributed, to the Participant not later than the Participant's Required Beginning Date.

(b) If the Participant dies before distribution begins, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(2) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary may be made by lump sum, and distribution must be made no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection (b), other than subsection (b)(2), will apply as if the surviving spouse were the Participant.

For purposes of this subsection (b) and Section 14.5, unless subsection (b)(4) of this Section applies, distributions are considered to begin on the Participant's Required Beginning Date. If subsection (b)(4) of this Section applies, distributions are considered to begin on the date the distributions are required to begin to the surviving spouse under subsection (b)(1) of this Section. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving

spouse under subsection (b)(1) of this Section), the date distributions are considered to begin is the date distributions actually commence.

(c) Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with Sections 14.4 or 14.5. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations.

**14.4. Required Minimum Distributions During Participant's Lifetime.**

(a) During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

(1) The quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

(2) If the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

(b) Required minimum distributions will be determined under this Section beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

**14.5. Required Minimum Distributions After Participant's Death.**

(a) Death on or After Date Distributions Begin.

(1) If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:

1. The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

2. If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar

Years after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

3. If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) **Death Before Date Distributions Begin.**

(1) If the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in subsection (a) of this Section.

(2) If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 14.3(b)(1), this subsection (b) will apply as if the surviving spouse were the Participant.

#### **14.6. Definitions for this Article.**

(a) "Designated Beneficiary" means the individual who is designated as the beneficiary under Article XI and is the Designated Beneficiary under Code Section 401(a)(9) and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(b) "Distribution Calendar Year" means a calendar year for which a minimum distribution is required pursuant to Section 401(a)(9) of the Code. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 14.3(b). The required minimum distribution for the Participant's first Distribution Calendar Year will be made

on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

(c) "Life Expectancy" means life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(d) "Participant's Account Balance" means the Account balance as of the last valuation date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year) (i) increased by the amount of any contributions or forfeitures allocated to the Participant's Account Balance in the valuation calendar year and (ii) decreased by distributions made in the valuation calendar year. The Participant's Account Balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.

(e) "Required Beginning Date" means April 1 of the calendar year following the later of (i) the calendar year in which the Participant reaches age seventy and one-half (70½), or (ii) the calendar year in which the Participant retires from a Participating Employer.

**14.7. No Expansion of Payment Options.** Nothing in this Article shall provide any individual entitled to a benefit under this Plan a benefit or payment option to which such individual would not otherwise be entitled pursuant to the provisions of the Plan.

#### **ARTICLE XV - ELIGIBLE ROLLOVER FROM THIS PLAN**

**15.1. Plan Distributions and Withholding Requirements.** To the extent required by applicable provisions of the Code and regulations issued thereunder, a Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

**15.2. Definitions.** The following definitions shall apply to this Article:

(a) An "Eligible Rollover Distribution" is any distribution under Article XII of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9); (iii) the portion of any distribution that is not includable in gross income; or (iv) any distribution which is made upon the hardship of the Distributee.

(b) An "Eligible Retirement Plan" is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, a qualified trust described in

section 401(a) of the Code that accepts the distributee's eligible rollover distribution or an annuity contract described in Code Section 403(b), an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, and, effective January 1, 2008, a Roth IRA described in section 408A of the Code. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p). The definition of an Eligible Retirement Plan for a nonspouse designated beneficiary of a deceased participant means an individual retirement annuity account established for the purpose of receiving a distribution from this Plan and treated as an inherited individual retirement account or annuity (within the meaning of Code Section 408(d)(3)(C)).

(c) A "distributee" includes an employee, former employee, and, effective January 1, 2010, a nonspouse designated beneficiary (as defined in section 401(a)(9)(E) of the Code) of a deceased Participant. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(d) A "Direct Rollover" is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

**15.3. Notice Requirements.** Effective January 1, 2007, not fewer than 30 nor more than 180 days before a Plan distribution, the Administrator shall provide the recipient with a written tax explanation as required by Code Section 402(f), if applicable, including an explanation of (i) the direct transfer of benefits, if applicable; (ii) the applicability of withholding taxes; (iii) the availability of direct transfers or rollovers; (iv) the availability of the special forward income averaging of Code Section 402(d); and (v) the applicability of such provisions to an alternate payee under Code Section 402(e). Notwithstanding the preceding sentence, a distribution may begin fewer than 30 days after the notice described in the preceding sentence is given, provided that:

- (1) the Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a participant distribution option), and
- (2) the Participant, after receiving a notice, affirmatively elects a distribution.

#### **ARTICLE XVI - ELIGIBLE ROLLOVERS TO THIS PLAN**

To the extent permitted by the applicable provisions of the Code and regulations issued thereunder, a Participant may contribute to the Plan in cash as a rollover contribution a qualified rollover amount from a governmental deferred compensation plan under Code Section 457(b), provided that the Administrator, in its discretion, determines that the contribution satisfies all applicable requirements of the Code. A rollover contribution shall be allocated to the Rollover Account in the Participant's Account as of the date of the contribution. Unless otherwise

directed by the Participant, in accordance with procedures established by the Service Manager, the Participant's Rollover Account shall be invested in the same manner as the Participant's Employee Contribution Account. The Participant's Rollover Account shall be available for distribution, under the payment options set forth in Section 12.2, at any time at the direction of the Participant, subject to any applicable penalties or other distribution requirements under the Code (including, but not limited to, Article XIV).

Prior to and as of the effective date of this Restated Plan, only eligible rollovers from a governmental deferred compensation plan under Code Section 457(b) shall be accepted by the Plan. In the event that the Service Manager establishes a procedure under which all amounts received from a qualified plan, individual retirement account or annuity, or a tax-sheltered 403(b) plan would be separately accounted for, a Participant may contribute to the Plan in cash as a rollover contribution a qualified rollover amount from a qualified plan under Code Section 401(a), an annuity plan under Code Section 403(a), an individual retirement account or annuity, or a tax-sheltered annuity under Code Section 403(b), provided that the Administrator, in its discretion, determines that the contribution satisfies all applicable requirements of the Code.

#### **ARTICLE XVII - PARTICIPATING EMPLOYER OBLIGATIONS**

Each Participating Employer is required to: (i) remit contributions on a timely basis pursuant to Articles IV, V and VI; (ii) notify the Administrator of any change in the Adoption Agreement at least thirty (30) days prior to the proposed effective date of the change; (iii) provide and/or distribute any reports, information, or notices as required by the Administrator; and (iv) comply with all requirements of the Plan. The Participating Employer will also be responsible for ensuring that all of its arrangements, treated as a single plan, comply with the applicable requirements of Code Section 457 and Regulations, including, but not limited to, the coordination of limitations on Annual Deferrals (including the basic limit, age 50 catch-up limit, and special 457 catch-up limit under Article VI), corrections of excess deferrals (Section 6.7), and plan-to-plan transfers (Article XVIII). The Plan for a Participating Employer who fails to comply with its obligations under the Plan may be terminated by the Trustees in their discretion. A Participating Employer shall not be liable for losses arising from expense charges of any kind or from depreciation or shrinkage in the value of investments made under this Plan.

#### **ARTICLE XVIII - PLAN TO PLAN TRANSFERS**

**18.1. Direct Transfers Among Plans of the Same Employer.** A transfer from this Plan to another eligible governmental plan of the same Employer and a transfer to this Plan from another eligible governmental plan of the same Employer is permitted under the following conditions:

(a) The transfer is from an eligible governmental plan to another eligible governmental plan of the same employer (and, for this purpose, the employer is not treated as the same employer if the participant's compensation is paid by a different entity);

(b) The transferor plan provides for transfers;

(c) The receiving plan provides for the receipt of transfers;

(d) The participant or beneficiary whose amounts deferred are being transferred will have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that participant or beneficiary immediately before the transfer; and

(e) The participant or beneficiary whose deferred amounts are being transferred is not eligible for additional annual deferrals in the receiving plan unless the participant or beneficiary is performing services for the entity maintaining the receiving plan.

**18.2. Plan-to-Plan Transfers from the Plan to the Plan of Another Employer.**

(a) At the direction of the Participating Employer, the Administrator may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of section 457(b) of the Code and section 1.457-2(f) of the Income Tax Regulations. A transfer is permitted under this Section 18.2(a) for a Participant only if the Participant has had a Severance from Employment with the Participating Employer and is an employee of the entity that maintains the other eligible governmental plan. Further, a transfer is permitted under this Section 18.2 (a) only if the other eligible governmental plan provides for the acceptance of plan-to-plan transfers only with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

(b) Upon the transfer of assets under this Section 18.2, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 18.2 (for example, to confirm that the receiving plan is an eligible governmental plan under paragraph (a) of this Section 18.2, and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to section 1.457-10(b) of the Income Tax Regulations.

**18.3. Plan-to-Plan Transfers to the Plan.** At the direction of the Participating Employer, the Administrator may permit a class of Participants who are participants in another eligible governmental plan under section 457(b) of the Code to transfer assets to the Plan as provided in this Section. Such a transfer is permitted only if the other plan provides for the direct transfer of each Participant's interest therein to the Plan. The Administrator may require in its sole discretion that the transfer be in cash or other property acceptable to the Administrator. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with section 457(e)(10) of the Code and section 1.457-10(b) of the Income Tax Regulations and to confirm that the other plan is an eligible governmental plan as defined in section 1.457-2(f) of the Income Tax Regulations. The amount so transferred shall be credited to the Participant's Account and shall be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Annual Deferral under the Plan in determining the maximum deferral under Article VI.

**18.4. Permissive Service Credit Transfers.**

(a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in section 414(d) of the Code) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan. A transfer under this Section 18.4(a) may be made before the Participant has had a Severance from Employment.

(b) A transfer may be made under Section 18.4(a) only if the transfer is either for the purchase of permissive service credit (as defined in section 415(n)(3)(A) of the Code) under the receiving defined benefit governmental plan or a repayment to which section 415 of the Code does not apply by reason of section 415(k)(3) of the Code.

**18.5. Direct Transfers to this Plan.** Subject to the approval of the Administrator, this Plan shall accept cash transfers of Participants' accounts maintained under an eligible Section 457 plan directly to this Plan.

**ARTICLE XIX - ADMINISTRATION OF PLAN**

**19.1. Compliance with Code Section 457.** At all times, the Plan shall be administered in accordance and construed to be consistent with Section 457 of the Code and its accompanying regulations.

**19.2. Duties and Powers of the Trustees.** The Trustees shall have the authority to control and manage the operation and administration of the Plan and shall be a named fiduciary of the Plan.

(a) The Trustees shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable or convenient to enable the Trustees to carry out their duties under the Plan. The Trustees also have the powers and duties specified in the Trust Agreement. By way of illustration and not limitation, the Trustees are empowered and authorized:

1. to establish procedures with respect to administration of the Plan, not inconsistent with the Plan and the Code, and to amend or rescind such procedures;
2. to determine, consistent with the Plan, applicable law, rules or regulations, all questions of law or fact that may arise as to the eligibility for participation in the Plan and eligibility for distribution of benefits from the Plan, and the status of any person claiming benefits under the Plan, including without limitation, Participants, former Participants, Beneficiaries, Employees and former Employees;
3. pursuant to Article XII of the Plan, to make payments from the Trust Fund to Participants, their Beneficiaries and other persons as the Trustees may determine;
4. to contract with one or more Service Managers to perform education, enrollment, and administrative services under this Plan;

5. to accept service of legal process;

6. subject to and consistent with the Code, to construe and interpret the Plan as to administrative issues and to correct any defect, supply any omission or reconcile any inconsistency in the Plan with respect to same.

(b) Any action by the Trustees, which is not found to be an abuse of discretion, shall be final, conclusive and binding on all individuals affected thereby. The Trustees may take any such action in such manner and to such extent as the Trustees in their sole discretion may deem expedient and the Trustees shall be the sole and final judge of such expediency.

(c) The Trustees may delegate any power or duty to the Administrator except where the Trustees are required to review an action by the Administrator.

**19.3. Advice.** The Trustees may employ one (1) or more persons to render advice with regard to their responsibilities under the Plan.

**19.4. Delegation by Trustees.** In addition to the powers stated in Section 19.2, the Trustees may from time to time delegate to an individual, committee or organization certain of their fiduciary or other responsibilities under the Plan. Any such individual, committee or organization shall remain a fiduciary until the delegation of fiduciary duty is revoked by the Trustees, which revocation may be without cause and without advance notice. Such individual, committee or organization shall have such power and authority with respect to delegated fiduciary or other responsibilities as the Trustees have under the Plan.

**19.5. Fiduciary Insurance.** The Trustees may require the purchase of fiduciary liability insurance for any of their fiduciaries to cover liability or losses occurring by reason of the act or omission of a fiduciary.

**19.6. Payment of Benefits.**

(a) **Payments to Minors and Incompetents.** If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

(b) **Correctness of Actions.** The Trustees or Administrator, if in doubt concerning the correctness of its action in making a payment of a benefit, may suspend payment until satisfied as to the correctness of the payment or the person to receive the payment, or may file, in any state court of competent jurisdiction, a suit, in such form as it considers appropriate, for legal determination of the benefits to be paid and the persons to receive them. The Trustees or Administrator may also bring a suit or take such other action as it deems appropriate in the case of questions involving investment directions. The Trustees and Administrator shall comply with the final order of the court in any such suit, and Participants, Beneficiaries, and Participating

Employers shall be bound thereby insofar as such order affects the benefits payable under this Plan or the method or manner of payment.

**19.7. Limitation on Recovery.** Participating Employers, Participants, and Beneficiaries may not seek recovery against the Trustees, GMA or any employee or agent of the Trustees, for any loss sustained by any Participating Employer, Participant, or Beneficiary due to the nonperformance of their duties, negligence or any other misconduct of the above-named persons. Participants and Beneficiaries may not seek recovery against Participating Employers or any employee or agent of the Participating Employer, for any loss sustained by the Participant or Beneficiary due to the nonperformance of their duties, negligence or any other misconduct of the above-named persons.

This paragraph shall not, however, excuse fraud or a wrongful taking by any person.

## **ARTICLE XX - CLAIMS PROCEDURE**

**20.1. Claims Procedure: Service Manager.** Any Participant may present a claim in writing to the Service Manager for any issue involving the Participant's Account investments or record-keeping. In addition, the Administrator may refer such issues to the Service Manager for review and resolution. The Service Manager shall utilize the protocol agreed to with the Administrator. The Service Manager shall resolve any such claim presented to it. If a Participant is not satisfied with the resolution determined by the Service Manager, the Participant may request in writing a claim review under Section 20.4.

**20.2. Claims Procedure: Employer.** Any Participant may present a claim in writing to the Participant's Employer for any issue involving eligibility. In addition, the Administrator may refer such issues to the Employer for review and resolution. The Employer shall resolve any such claim presented to it. If a Participant is not satisfied with the resolution determined by the Employer, the Participant may request in writing a claim review under Section 20.4.

**20.3. Claims Procedure: Administrator.** The Administrator shall have sole discretion to determine, based upon the issue(s) raised, if a claim should be resolved by the Service Manager, the Employer, or the Administrator pursuant to Sections 20.1, 20.2, or 20.3, respectively. A Participant, Beneficiary, or other person claiming benefits under this Plan ("Claimant") may present a claim in writing to the Administrator for any issue not covered by Section 20.1 or 20.2. The Administrator shall resolve any such claim presented to it in accordance with the procedure specified in Section 20.4(b) - (d). If the Claimant is not satisfied with the resolution determined by the Administrator, the Claimant may appeal the Administrator's decision under Section 20.5.

### **20.4. Claims Review.**

(a) Within thirty (30) days after the Claimant is notified of a decision under Section 20.1 or 20.2, the Claimant may submit a written request for review of the decision by the Administrator. If such request is not filed within thirty (30) days, the decision of the Service Manager or Employer, as applicable, shall be final and binding. The thirty-day period may be waived by the Trustees for good cause shown.

(b) The Administrator shall within ninety (90) days provide adequate notice in writing to any Claimant as to its decision on any review. Such notice shall be written in a manner calculated to be understood by the Claimant. If such claim is denied by the Administrator, in whole or in part, such notice shall set forth:

1. the specific reasons for such denial,
2. specific reference to any pertinent provisions of the Plan on which denial is based,
3. a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary, and
4. an explanation of the appeals procedure for the Plan.

(c) The Administrator shall act as a fiduciary in making a full and fair review of such claim.

(d) The Claimant or a duly authorized representative may review any Plan document which is pertinent to the claim and may submit issues and comments to the Administrator in writing at any time prior to the issuance of the Administrator's decision on review.

#### **20.5. Appeals Procedure.**

(a) Within sixty (60) days after receipt by the Claimant of notification of denial under Section 20.3 or 20.4, the Claimant shall have the right to present a written appeal to the Trustees, including submission of any additional material that is pertinent to the claim. If such appeal is not filed within the sixty (60) day period, the decision of the Administrator shall be final and binding.

(b) A decision by the Trustees shall be made no later than sixty (60) days after its receipt of the appeal. However, if the Trustees decide that a hearing at which the claimant or his duly authorized representative may be present is necessary and such a hearing is held, such decision shall be rendered as soon as possible, but not later than one hundred twenty (120) days after their receipt of the appeal. Any such decision of the Trustees shall be in writing and shall provide adequate notice to the claimant setting forth the specific reasons for any denial and written in a manner calculated to be understood by a Participant. Any such decision by the Trustees shall be final and binding.

**20.6. Report to Trustees Concerning Claims and Appeals.** The Administrator shall present a quarterly summary to the Trustees concerning any claim or appeal under this Article.

## ARTICLE XXI - AMENDMENT OF THE PLAN

### **21.1. Amendment of the Master Plan and the Adoption Agreement.**

(a) Subject to the provisions of any applicable law, the Trustees and the Administrator may at any time amend or modify this Master Plan without the consent of the Participating Employers or of Participants (or any Beneficiaries thereof). Any modification, alteration, or amendment of the Master Plan, made in accordance with this Section, may be made retroactively, if deemed necessary or appropriate by the Trustees. A certified copy of the resolution of the Trustees making such amendment shall be delivered to the Administrator, and the Master Plan shall be amended in the manner and effective as of the date set for in such resolution, and the Participating Employers, Employees, Participants, Beneficiaries, Trustees, and the Administrator shall be bound by the amendment. A Participating Employer may not amend the Master Plan in any way.

(b) Subject to the provisions of any applicable law, the Trustees and the Administrator may at any time amend or modify the form of the Adoption Agreement with the consent of the Participating Employers unless otherwise required under Section 21.2.

**21.2. Amendment for Eligible Plan Status.** It is the intent of the Trustees that the Plan shall be and remain an eligible plan under the provisions of Code Section 457 and that the Trust be exempt from tax under Code Section 457. The Trustees shall promptly submit the Master Plan for approval under the Code and all expenses incident thereto shall be borne by the Trust. The Trustees may make any modifications, alterations, or amendments to the Master Plan, Adoption Agreement, or Addendum necessary to obtain and retain approval of the Secretary of the Treasury or his delegate as may be necessary to establish and maintain the status of the Plan as an eligible plan under the Code or other federal legislation, as now in effect or hereafter enacted, and the regulations issued thereunder. Any modification, alteration, or amendment of the Master Plan, Adoption Agreement, or Addendum, made in accordance with this Section, may be made retroactively, if necessary or appropriate. A certified copy of the resolution of the Trustees making such amendment shall be delivered to the Administrator, and the Master Plan, Adoption Agreement, or Addendum shall be amended in the manner and effective as of the date set forth in such resolution, and the Participating Employers, Participants, Beneficiaries, Trustees, the Administrator and all others having any interest under the Plan shall be bound thereby.

**21.3. Amendment of Adoption Agreement and/or Addendum by Participating Employer.** The Governing Authority shall have the right at any time to amend, in whole or in part, any or all of its elections under of the Adoption Agreement and/or Addendum; provided, however, that no such amendment shall:

(a) Deprive any Participant or Beneficiary of any of the benefits to which the Participant or Beneficiary is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment; or

(b) Authorize or permit any part of the Trust Fund to be diverted to purposes other than for the exclusive benefit of Participants or their Beneficiaries; or

(c) Become effective until approved by the Trustees. In order to be approved by the Trustees, any amendment must comply with all applicable state and federal laws, including Code Section 457(b), and the Master Plan. If the Trustees do not approve an amendment, the Trustees or Administrator shall continue to administer the Plan as if such amendment had not been made.

**21.4. Effective Date of Amendments.** If an amendment limits or otherwise restricts the deferral or distribution rights of the Participants, the amendment shall become effective on the first day of the month following the giving of not less than forty-five (45) days prior notice of the amendment. If the amendment was made by the Trustees, notice shall be deemed given when the amendment is posted in the office of the Administrator and is sent to each Participating Employer. If the amendment was made by the Participating Employer, notice shall be deemed given when the amendment is posted in the office of the Participating Employer and is sent to the Administrator. No amendments shall deprive any Participant of any of the benefits to which the Participant is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment.

If the Plan is amended or modified, the Administrator shall nonetheless be responsible for the supervision and the payment of benefits resulting from amounts contributed prior to the amendment or modifications in accordance with this Article.

## **ARTICLE XXII - FROZEN PLANS AND PLAN TERMINATION**

**22.1. Frozen Plan by Participating Employer.** A Participating Employer may freeze its participation in the Plan if it takes the following actions:

(a) The Governing Authority of the Participating Employer must pass a resolution freezing its Employees' rights to participate in the Plan.

(b) The resolution must specify when the Plan will be closed to any additional participation by Eligible Employees, which date must be at least sixty (60) days after the adoption of the resolution.

(c) The resolution must be submitted to the Trustees.

The Trustees shall determine whether the resolution complies with this Section, and all applicable federal and state laws, and shall determine an appropriate effective date for the freezing of Employer participation, which date shall be no later than twelve (12) months from the Trustees' receipt of the resolution. The Administrator shall provide appropriate forms to the Participating Employer and the Participants to freeze ongoing participation. Distributions under the Plan of existing accounts to these Participants are subject to Article XII. However, if the Participating Employer requests a plan-to-plan transfer of Plan assets with respect to the Participating Employer's Employees who are Participants, the Trustees may in their discretion make the transfer.

**22.2. Discontinuance of Contributions.** At the discretion of the Trustees, a Participating Employer who fails to make contributions for a period of one (1) year or who fails to make timely contributions over a period of one (1) year shall be considered to have frozen participation.

22.3. **Effect of Freezing Plan by Participating Employer.** In the case of the complete or partial freezing of the Plan as to one (1) or more Participating Employers, including from the discontinuance and/or delinquency of contributions, the affected portion of the Trust Fund shall continue to be held pursuant to the direction of the Trustees, for the benefit of affected Participants pursuant to Article XII. The Plan shall remain in full effect with respect to each Participating Employer that does not freeze its participation in the Plan on behalf of its Employees, or whose participation is not frozen by the Trustees.

22.4. **Termination of the Entire Plan.** This Plan in its entirety may be terminated at any time by official action of the Trustees, with notice to all Participating Employers and Participants. The last date for contributions and earnings to be credited to Participant Accounts must be specified in the Trustees' official action and must be no sooner than ninety (90) days after the adoption of the official action. In the event of a complete Plan termination, the Trustees must distribute all assets of the Trust Fund to Participants and Beneficiaries as soon as administratively practicable after the termination of the Plan, pursuant to benefit options under Article XII.

#### **ARTICLE XXIII - NONASSIGNABILITY**

23.1. **Nonassignment.** No Participant, Beneficiary or designee may commute, sell, assign, transfer or otherwise convey the right to receive any payment under the Plan.

#### **23.2. Rights.**

(a) Except as provided in Article XIII concerning Plan-Approved Domestic Relations Orders, and Section 23.2(b), the rights of Participants and Beneficiaries under this Plan shall not be subject to the rights of their creditors, and shall be exempt from execution, attachment, prior assignment or any other judicial relief or order for the benefit of creditors or other third person.

(b) Notwithstanding Section 23.2(a), the Administrator may pay from a Participant's or Beneficiary's Account the amount the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to the Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

#### **ARTICLE XXIV - MISCELLANEOUS**

24.1. **Federal Taxes.** The Trustees, the Participating Employers, and the Administrator do not guarantee that any particular Federal or State income, payroll or other tax consequence will occur because of participation in this Plan.

24.2. **Contract.** This Plan, the Adoption Agreement, and the Participation Agreement, including any properly adopted or executed amendments thereof, shall constitute the total agreement or contract between the Participating Employer and any Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by any Participant or other person.

**24.3. Conflicts.** In resolving any conflict between provisions of the Plan and in resolving any other uncertainty as to the meaning or intention of any provision of the Plan, the interpretation that (i) causes the Plan to constitute an eligible plan under the provisions of Code Section 457 and the Trust to be exempt from tax under Code Section 457, (ii) causes the Plan to comply with all applicable requirements of the Code, and (iii) causes the Plan to comply with all applicable Georgia statutes and rules, shall prevail over any different interpretation.

**24.4. Limitation on Rights.** Neither the establishment or maintenance of the Plan (including the Adoption Agreement), nor any amendment thereof nor any act or omission under the Plan (or resulting from the operation of the Plan) shall be construed:

(a) As conferring upon any Participant, Beneficiary or any other person a right or claim against the Trust, Trustees, Participating Employer, or Administrator, except to the extent that such right or claim shall be specifically expressed and provided in the Plan;

(b) As creating any responsibility or liability of the Participating Employer for the validity or effect of the Plan;

(c) As a contract between the Participating Employer and any Participant or other person;

(d) As being consideration for, or an inducement or condition of, employment of any Participant or other person, or as affecting or restricting in any manner or to any extent whatsoever the rights or obligations of the Participating Employer or any Participant or other person to continue or terminate the employment relationship at any time; or

(e) As giving any Participant the right to be retained in the service of the Participating Employer or to interfere with the right of the Participating Employer to discharge any Participant or other person at any time.

**24.5. USERRA Compliance.** Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") [as codified at Chapter 43, Title 38, of the United States Code]; Code Section 414(u); and Code Section 401(a)(37), as amended from time to time.

For purposes of this section, "qualified military service" means any service in the uniformed services as defined in USERRA by any individual if such individual is entitled to reemployment rights under USERRA with respect to such service.

A Participant, whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service who timely resumes employment with the Participating Employer in accordance with USERRA, may elect to make-up deferral contributions to the Plan in accordance with Code Section 414(u) reduced by deferral contributions under Code Section 457(b), if any, actually made for the Participant during the period of such interruption or leave. Except to the extent otherwise provided under Code Section 414(u), this right applies for five (5) years following such resumption of employment (or, if shorter, for a period equal to three (3) times the period of the interruption or leave). Such

contribution by the Participant may only be made during such period and while the Participant is employed by the Participating Employer.

If such Participant elects to make such make-up contributions, then the Participating Employer shall make-up the related Employer Contributions which would have been required had such contributions actually been made during the period of qualified military service. The make-up contributions by the Participating Employer shall be made as soon as practicable after the Participant makes such make-up contributions.

If the Participant timely resumes employment in accordance with USERRA after a qualified military leave, the Participating Employer shall make any other Employer Contribution that would have been made if the Participant had remained employed during the Participant's qualified military service. Such contributions must be made no later than ninety (90) days after the date of such reemployment or when contributions are normally due for the year in which the qualified military service was performed, if later.

In determining the amount of Employer Contribution, a Participant shall be treated as receiving compensation from the Participating Employer during such period of qualified military service equal to (i) the compensation the Participant would have received during such period if the Participant were not in qualified military service, determined based on the rate of pay the Participant would have received from the Participating Employer but for the absence during the period of qualified military service, or (ii) if the compensation the Participant would have received during such period is not reasonably certain, the Participant's average compensation from the Participating Employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

Effective January 1, 2007, to the extent provided under Code Section 401(a)(37), in the case of a Participant whose employment is interrupted by qualified military service and who dies while performing qualified military service, the survivor of such Participant shall be entitled to any additional benefit (other than benefit accruals) provided under the Plan as if the Participant timely resumed employment in accordance with USERRA and then, on the next day, terminated employment on account of death.

Effective January 1, 2009, a Participant whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service and who receives a differential wage payment within the meaning of Code Section 414(u)(12)(D) from the Employer, shall be treated as a Participant who is eligible to make deferral contributions under Code Section 457(b). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. However, such individual shall be treated as having a severance from employment during any period the individual is performing qualified military service for purposes of electing to take a distribution from the Plan. An individual who elects to take a distribution on account of qualified military service may not make an Employee Contribution with respect to differential wage payments during the 6-month period beginning on the date of the distribution.

**24.6. Procedure when Distributee Cannot be Located.** The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on [Insert Name of the Employer]'s or the Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trust Fund shall continue to hold the benefits due such person.

**24.7. Erroneous Payments.** If the Trustees or Administrator make any payment that according to the terms of the Plan and the benefits provided hereunder should not have been made, the Trustees or Administrator may recover that incorrect payment, by whatever means necessary, whether or not it was made due to the error of the Trustees or Administrator, from the person to whom it was made or from any other appropriate party. For example, if any such incorrect payment is made directly to a Participant, the Trustees or Administrator may deduct it when making any future payments directly to that Participant.

**24.8. Mistaken Contributions.** If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Participating Employer.

**24.9. Release.** Any payment to any Participant shall, to the extent thereof, be in full satisfaction of the claim of such Participant being paid thereby and the Trustees or Administrator may condition payment thereof on the delivery by the Participant of the duly executed receipt and release in such form as may be determined by the Trustees or Administrator.

**24.10. Liability.** The Administrator shall not incur any liability in acting upon any notice, request, signed letter, telegram or other paper or document or electronic transmission believed by the Administrator to be genuine or to be executed or sent by an authorized person.

**24.11. Governing Laws.** The law of the State of Georgia, except to the extent preempted by federal law, shall apply in determining the construction and validity of this Plan.

**24.12. Necessary Parties to Disputes.** Necessary parties to any accounting, litigation or other proceedings relating to the Plan shall include only the Trustees and the Administrator. However, the Service Manager is a necessary party for those duties that have been delegated to the Service Manager. The settlement or judgment in any such case in which the Trustees are duly served shall be binding upon all affected Participants in the Plan, their beneficiaries, estates and upon all persons claiming by, through or under them.

24.13. **Severability.** If any provision of the Plan shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Plan shall continue to be fully effective.

24.14. **Supersession.** The terms of the Plan shall supersede any previous agreement between the parties pertaining to the Plan.

24.15. **Counterparts.** This Plan may be executed in one (1) or more counterparts, each of which shall constitute an original.

IN WITNESS WHEREOF the Board of Trustees has caused to be affixed the signature of its duly authorized Representative:

Board of Trustees of the GMA Defined  
Contribution and Deferred Compensation Program

6/24/09  
Date

Jim E. High  
Secretary

*Approved by the Board of Trustees at the meeting held June 21, 2009*

**AMENDMENT 1  
TO THE RESTATED  
GEORGIA MUNICIPAL ASSOCIATION 457(b) DEFERRED  
COMPENSATION PLAN MASTER PLAN DOCUMENT**

WHEREAS, the Board of Trustees of the Georgia Municipal Association, Inc. ("GMA") Defined Contribution and Deferred Compensation Program ("Trustees") has previously adopted the Georgia Municipal Association 457(b) Deferred Compensation Plan Master Plan Document, effective January 1, 2001; and

WHEREAS, the Georgia Municipal Association 457(b) Deferred Compensation Master Plan Document was restated effective January 1, 2002; and

WHEREAS, the Board of Trustees now wishes to amend the restated 457(b) Deferred Compensation Master Plan Document ("Master Plan"), pursuant to this Amendment 1, in order to permit Participating Employers to limit employee deferrals to the Plan for up to six (6) months after the Employer is notified that a Participant has received an unforeseeable emergency distribution;

NOW, THEREFORE, this Amendment 1 shall amend the Master Plan as follows:

**Under Section 12.5 "Unforeseeable Emergency Distributions," subsection (f) "Additional Restrictions" is hereby amended to read as follows:**

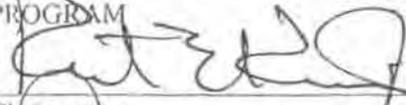
(f) Additional Restrictions. A Participating Employer may adopt a policy whereby Participants are prohibited from making any deferral under this Plan for a certain period after the Employer is notified by the Plan Administrator that the Participant has received an unforeseeable emergency distribution. The deferral prohibition period shall be determined by the Participating Employer and stated in the policy, but it shall not exceed six (6) months. The policy must be applied by the Participating Employer in a consistent manner to all Participants. A copy of the policy must be provided to the Plan Administrator.

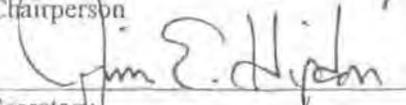
The terms of the foregoing Amendment 1 to the Master Plan are hereby adopted and agreed to. This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.

IN WITNESS WHEREOF, the Board of Trustees of the Georgia Municipal Association Defined Contribution and Deferred Compensation Program has caused to be affixed the signature of its duly authorized Representatives.

BOARD OF TRUSTEES OF THE  
GEORGIA MUNICIPAL ASSOCIATION  
DEFINED CONTRIBUTION AND DEFERRED COMPENSATION  
PROGRAM

January 23, 2006  
Date

  
Chairperson

  
Secretary

**AMENDMENT 2  
TO THE RESTATED  
GEORGIA MUNICIPAL ASSOCIATION 457(b) DEFERRED  
COMPENSATION MASTER PLAN DOCUMENT**

WHEREAS, the Board of Trustees of the Georgia Municipal Association, Inc. ("GMA") Defined Contribution and Deferred Compensation Program ("Trustees") established the Georgia Municipal Association 457(b) Deferred Compensation Master Plan Document ("Master Plan"), effective January 1, 2001;

WHEREAS, the Georgia Municipal Association 457(b) Deferred Compensation Master Plan Document was restated effective January 1, 2002; and

WHEREAS, the Trustees now wish to amend the restated 457(b) Deferred Compensation Master Plan Document, pursuant to this Amendment 2, to reflect the changes to federal law pursuant to the Pension Protection Act of 2006; Heroes Earnings Assistance and Relief Tax Act of 2008; Worker, Retiree, and Employer Recovery Act of 2008; and, the Final Regulations under Code Section 415.

NOW, THEREFORE, this Amendment 2 is hereby adopted to amend the Master Plan effective as set forth herein.

1. Effective January 1, 2009, Section 1.1 is amended to be and read as follows:

**1.1. "Account"** means the account maintained for a Participant by the Administrator which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Annual Deferrals, the earnings or loss of the Trust Fund (net of Trust Fund expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. The Account includes the following subaccounts and any other subaccounts established by the Administrator: the Employee Contribution Account, the Employer Contribution Account, and the Rollover Account.

2. Effective January 1, 2008, Section 1.19 is amended to be and read as follows:

**1.9 "Compensation"** means all cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employer's gross income for the calendar year but for a compensation reduction election under Section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election by the Participant to defer compensation under Article IV). If so elected in the Adoption Agreement, Compensation also includes

certain additional amounts if paid no later than 2 ½ months after severance from employment or the end of the calendar year that includes a Participant's severance from employment that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Participating Employer.

3. Effective January 1, 2008, Section 1.20 is amended to be and read as follows:

1.20. "**Includible Compensation**" means an Employee's Compensation within the meaning of Section 415(c)(3) of the Code required to be reported as actual wages in Box 1 of Form W-2 for a year for services to the Employer plus any compensation reduction election under Section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election to defer Compensation under Article IV) that is actually paid or includable in gross income during the calendar year. Compensation also includes certain additional amounts if paid no later than 2 ½ months after severance from employment or the end of the calendar year that includes a Participant's severance from employment that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Participating Employer. Such additional amounts include regular compensation for services during the Participant's regular working hours or compensation for services outside the Participant's regular work hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and, payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued.

An Employee who is in qualified military service (within the meaning of Internal Revenue Code Section 414(u)(1)) shall be treated as receiving compensation from the Participating Employer during such period of qualified military service equal to (i) the compensation the Employee would have received during such period if the Employee were not in qualified military service, determined based on the rate of pay the Employee would have received from the Participating Employer but for the absence during the period of qualified military service, or (ii) if the compensation the Employee would have received during such period was not reasonably certain, the Employee's average compensation from the Participating Employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

Compensation of each Participant shall not exceed the applicable limit established by Code Section 401(a)(17) as of the first day of the limitation year, as increased for the Cost of Living Adjustment (\$245,000 for 2009). The Cost of Living Adjustment in effect for a limitation year applies to compensation for the Plan Year that begins with or within such limitation year.

4. Effective January 1, 2009, Section 1.32 is amended to be and read as follows:

1.32 "Severance from Employment" means the date that the Employee dies, retires, or otherwise has a severance from employment with the Employer. A Participant shall be deemed to have severed employment with the Participating Employer for purposes of the Plan when, in accordance with the established personnel practices of the Participating Employer, the employment relationship is considered actually terminated. If a Participant has not been terminated, but the Participant has not performed services for the Participating Employer for a period of six (6) consecutive months and the Participant is not on a paid leave of absence, the Participant shall be deemed Severed from Employment for purposes of this Plan at the end of the six (6) month period.

5. Effective January 1, 2009, Section 6.3(b)(2) is amended to be and read as follows:

(2) An amount equal to (A) the aggregate limit referred to in section 457(b)(2) of the Code for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee under the Plan (determined without regard to Sections 6.2 and 6.3), minus (B) the aggregate contributions to Pre-2002 Coordination Plans for such years.

6. Effective January 1, 2007, Section 12.5(c) is amended to be and read as follows:

(c) Unforeseeable Emergency Defined. An unforeseeable emergency is defined as a severe financial hardship of the Participant or the Participant's primary beneficiary resulting from: an illness or accident of the Participant or the Participant's primary beneficiary, the Participant's or the Participant's primary beneficiary's spouse or dependent (as defined in Code Section 152 without regard to the Code Sections 152(b)(1), (b)(2), and (d)(1)(B)); loss of the Participant's or the Participant's primary beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); the need to pay for the funeral expenses of the Participant's or Participant's primary beneficiary's spouse or dependent (as defined in section 152 of the Code without regard to Code Section 152(b)(1), (b)(2), and (d)(1)(B)); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant or the Participant's primary beneficiary. For example, the imminent foreclosure of or eviction from the Participant's or Participant's primary beneficiary's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses for the Participant or the Participant's primary beneficiary, or of the Participant or the Participant's primary beneficiary's spouse or dependent (as defined in section 152 of the Code without regard to Code Sections 152(b)(1), (b)(2), and (d)(1)(B)), including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Except as otherwise specifically provided in this Section 12.5, neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency. For purposes of this Section "primary beneficiary" means an individual who is named as a beneficiary under

the Plan and has an unconditional right to all or a portion of the Participant's Account Balance upon the death of the Participant.

7. Effective January 1, 2009, Section 14.3(b)(4) is amended to be and read as follows:

(4) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection (b), other than subsection (b)(2), will apply as if the surviving spouse were the Participant.

For purposes of this subsection (b) and Section 14.5, unless subsection (b)(4) of this Section applies, distributions are considered to begin on the Participant's Required Beginning Date. If subsection (b)(4) of this Section applies, distributions are considered to begin on the date the distributions are required to begin to the surviving spouse under subsection (b)(1) of this Section. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (b)(1) of this Section), the date distributions are considered to begin is the date distributions actually commence.

8. Effective January 1, 2009, Section 14.6(b) is amended to be and read as follows:

(b) "Distribution Calendar Year" means a calendar year for which a minimum distribution is required pursuant to Section 401(a)(9) of the Code. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 14.3(b). The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

9. Effective January 1, 2009, Section 14.6(d) is amended to be and read as follows:

(d) "Participant's Account Balance" means the Account balance as of the last valuation date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year) (i) increased by the amount of any contributions or forfeitures allocated to the Participant's Account Balance in the valuation calendar year and (ii) decreased by distributions made in the valuation

calendar year. The Participant's Account Balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.

10. Effective January 1, 2009, Section 14.6(e) is hereby to be and read as follows:

(e) "Required Beginning Date" means April 1 of the calendar year following the later of (i) the calendar year in which the Participant reaches age seventy and one-half (70½), or (ii) the calendar year in which the Participant retires from a Participating Employer.

11. Effective January 1, 2007, Sections 15.2(b) and (c) are amended to be and read as follows:

(b) An "eligible retirement plan" is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a Roth IRA described in section 408A of the Code, an annuity plan described in section 403(a) of the Code, a qualified trust described in section 401(a) of the Code that accepts the distributee's eligible rollover distribution or an annuity contract described in Code Section 403(b) and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p). The definition of an Eligible Retirement Plan for a nonspouse designated beneficiary of a deceased participant means an individual retirement annuity account established for the purpose of receiving a distribution from this Plan and treated as an inherited individual retirement account or annuity (within the meaning of Code Section 408(d)(3)(C)).

(c) A "distributee" includes an employee, former employee, and, effective January 1, 2010, a nonspouse designated beneficiary (as defined in section 401(a)(9)(E) of the Code) of a deceased Participant. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

12. Effective for Plan Years beginning after December 31, 2006, a new subsection 15.3 is added to be and read as follows:

**15.3. Notice Requirements.** Not fewer than 30 nor more than 180 days before a Plan distribution, the Administrator shall provide the recipient with a

written tax explanation as required by Code Section 402(f), if applicable, including an explanation of (i) the direct transfer of benefits, if applicable; (ii) the applicability of withholding taxes; (iii) the availability of direct transfers or rollovers; (iv) the availability of the special forward income averaging of Code Section 402(d); and (v) the applicability of such provisions to an alternate payee under Code Section 402(e). Notwithstanding the preceding sentence, a distribution may begin fewer than 30 days after the notice described in the preceding sentence is given, provided that:

(1) the Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a participant distribution option), and

(2) the Participant, after receiving a notice, affirmatively elects a distribution.

13. Effective January 1, 2007, Section 24.5 is amended to be and read as follows:

**24.5. USERRA Compliance.** Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") [as codified at Chapter 43, Title 38, of the United States Code]; Code Section 414(u); and Code Section 401(a)(37), as amended from time to time.

For purposes of this section, "qualified military service" means any service in the uniformed services as defined in USERRA by any individual if such individual is entitled to reemployment rights under USERRA with respect to such service.

A Participant, whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service who timely resumes employment with the Participating Employer in accordance with USERRA, may elect to make-up deferral contributions to the Plan in accordance with Code Section 414(u) reduced by deferral contributions under Code Section 457(b), if any, actually made for the Participant during the period of such interruption or leave. Except to the extent otherwise provided under Code Section 414(u), this right applies for five (5) years following such resumption of employment (or, if shorter, for a period equal to three (3) times the period of the interruption or leave). Such contribution by the Participant may only be made during such period and while the Participant is employed by the Participating Employer.

If such Participant elects to make such make-up contributions, then the Participating Employer shall make-up the related Employer Contributions which

would have been required had such contributions actually been made during the period of qualified military service. The make-up contributions by the Participating Employer shall be made as soon as practicable after the Participant makes such make-up contributions.

If the Participant timely resumes employment in accordance with USERRA after a qualified military leave, the Participating Employer shall make any other Employer Contribution that would have been made if the Participant had remained employed during the Participant's qualified military service. Such contributions must be made no later than ninety (90) days after the date of such reemployment or when contributions are normally due for the year in which the qualified military service was performed, if later.

In determining the amount of Employer Contribution, a Participant shall be treated as receiving compensation from the Participating Employer during such period of qualified military service equal to (i) the compensation the Participant would have received during such period if the Participant were not in qualified military service, determined based on the rate of pay the Participant would have received from the Participating Employer but for the absence during the period of qualified military service, or (ii) if the compensation the Participant would have received during such period is not reasonably certain, the Participant's average compensation from the Participating Employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

Effective January 1, 2007, to the extent provided under Code Section 401(a)(37), in the case of a Participant whose employment is interrupted by qualified military service and who dies while performing qualified military service, the survivor of such Participant shall be entitled to any additional benefit (other than benefit accruals) provided under the Plan as if the Participant timely resumed employment in accordance with USERRA and then, on the next day, terminated employment on account of death.

Effective January 1, 2009, a Participant whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service and who receives a differential wage payment within the meaning of Code Section 414(u)(12)(D) from the Employer, shall be treated as a Participant who is eligible to make deferral contributions under Code Section 457(b). This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner. However, such individual shall be treated as having a severance from employment during any period the individual is performing qualified military service for purposes of electing to take a distribution from the Plan. An individual who elects to take a distribution on account of qualified military service may not make an Employee Contribution with respect to differential wage payments during the 6-month period beginning on the date of the distribution.

The terms of the foregoing Amendment 2 to the Master Plan are hereby adopted and agreed to.

IN WITNESS WHEREOF, the Board of Trustees of the Georgia Municipal Association Defined Contribution and Deferred Compensation Program has caused to be affixed the signature of its duly authorized Representative:

BOARD OF TRUSTEES OF THE  
GEORGIA MUNICIPAL ASSOCIATION  
DEFINED CONTRIBUTION AND DEFERRED  
COMPENSATION PROGRAM

Date 6/24/09

Secretary Jim E. Hipkin

*Approved by the Board of Trustees at the meeting held June 21, 2009.*



**THE GEORGIA MUNICIPAL ASSOCIATION  
457(b) DEFERRED COMPENSATION PLAN  
TRUST AGREEMENT**

**Board of Trustees  
of the  
GMA Defined Contribution  
and Deferred Compensation Program  
201 Pryor Street, S.W.  
Atlanta, Georgia 30303  
Telephone: 404-688-0472  
Facsimile: 678-686-6289**



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**TRUST AGREEMENT FOR THE  
GEORGIA MUNICIPAL ASSOCIATION  
DEFERRED COMPENSATION PLAN**

THIS TRUST AGREEMENT is made and entered into effective as of January 1, 2001, by and between the members of the Board of Trustees of the GMA Defined Contribution Plan and Deferred Compensation Program ("Trustees").

**PRELIMINARY INFORMATION**

The Georgia Municipal Association, Inc. ("GMA") has established the Georgia Municipal Association Deferred Compensation Plan ("Plan") for the exclusive benefit of Eligible Employees of Participating Employers. The authority to conduct the general investment operation and the general administration of the Plan is vested in the Trustees. The Trustees now desire to formalize the trust ("Trust") pursuant to this trust agreement ("Trust Agreement") to serve as the funding vehicle for the Plan.

GMA is the Administrator of the Plan and the Trust. The Trustees may contract with a Service Manager to perform delegated functions with respect to the Trust. If the Trustees contract with a Service Manager, the term "Administrator" herein includes the Service Manager with respect to those duties delegated to the Service Manager.

The Trustees shall maintain the plan for the exclusive benefit of the Participants. The Trustees intend to establish sound prudent practices designed to provide easy and convenient access to information and transactions for Participants, including transfers from one Investment Fund to another at the Participant's direction. The Trustees intend to establish these practices while maintaining a reasonable cost to the Participants. The Trustees intend to preserve employees' rights to choose freely among a broad range of Investment Funds and to self-direct their investments. Further, the Trustees intend to perform ongoing evaluations and reviews to ensure that the Investment Funds offered remain diversified, competitive and attractive to Participants. It is the Trustees' intent that the Trust be exempt under Sections 501(a) and 115 of the Internal Revenue Code of 1986, as amended.

**ARTICLE I - TRUST ADMINISTRATION**

**I.1 Trust Fund.** The Trustees shall receive and accept for the purposes hereof all property paid to them by or at the direction of the Participating Employers and shall hold, invest, reinvest, manage, administer and distribute property and the increments, proceeds, earnings and income thereof for the exclusive benefit of the Participants and Beneficiaries under the Plan. All assets held by the Trustees in the Trust are referred to herein as the "Trust Fund." The Trustees have authority to invest, in accordance with valid participant instructions, and manage the assets of the Trust Fund.

**1.2 Exclusive Benefit Rule.** No portion of the principal or the income of the Trust Fund shall revert to the Participating Employer, or ever be used for or diverted to any purpose other than for (i) the exclusive benefit of Participants in the Plan and persons claiming under or through them pursuant to the Plan and (ii) the payment of reasonable expenses of the Plan and this Trust. The Trustees shall administer the Trust in compliance with Code Section 503(b).

**1.3 Trustee Standard.** The Trustees and any other fiduciary shall discharge duties with respect to the Plan with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose and in accordance with a good-faith interpretation of the law governing the Plan.

**1.4 Investment Policy.** The Trustees shall adopt a statement of investment objectives and policies for the Plan. At least annually, the Trustees shall review the statement and change or reaffirm it.

**1.5 Plan.** All references in the Trust Agreement to the Plan shall mean the Georgia Municipal Association Deferred Compensation Plan. The Plan, as amended from time to time, is incorporated herein by reference, and the terms herein shall have the meanings attributed to them in the Plan.

**1.6 Property.** The word "property" used in the Trust Agreement shall be deemed to refer to any property, real or personal, or part interest therein, wherever situated, including, but without being limited to, preferred and common stocks, shares of investment companies, bonds, notes, debentures and mortgages, equipment trust certificates, investment trust certificates, interest in partnerships whether limited or general, or in any insurance contract, policy, annuity or other investment media offered by an insurance company.

**1.7 Unclaimed Benefit Payments.** If any check or share certificate in payment of a benefit hereunder, which has been mailed by regular United States first-class mail to the last address of the payee furnished to the Trustees by the Administrator, is returned unclaimed, the Trustees shall notify the Administrator and shall discontinue further payments to such payee until they receive the further instructions of the Administrator, subject to any applicable Unclaimed Property Act provisions.

**1.8 Duty to Furnish Information.** Both the Administrator and the Trustees shall furnish to each other any document, report, return, statement or other information that the other reasonably deems necessary to perform duties imposed under the Plan or the Trust Agreement or otherwise imposed by law.

## ARTICLE II - DEPOSITS AND DISBURSEMENTS FROM THE TRUST FUND

**II.1 Trust Deposits.** The Trustees shall delegate to the Administrator the responsibility for accepting deposits to the Trust.

**II.2 Trust Payments.** The Trustees shall delegate to the Administrator the responsibility for making payments from the Trust Fund. Administrator shall make payments from the Trust Fund to Participants, their Beneficiaries and such other persons as the Plan may provide. Such payments shall be made in such manner, in such amounts and for such purposes, including the payment of Plan benefits and the payment of expenses of administration of the Plan, as may be specified in the Plan. The Administrator shall ensure that any payment directed under this Section conforms to the provisions of the Plan, the Trust Agreement, and the provisions of any applicable law. Payments from the Trust shall be made by check (or the check of an agent) or deposit to the order of the payee. Payments or other distributions hereunder may be mailed to the payee at the address last furnished to the Administrator. The Trustees shall not incur any liability or other damage on account of any payment or other distribution made by the Trust in accordance with this Section.

**II.3 Allocation of Trust Expenses.** The Trustees shall pay all expenses of the Trust from the Trust Fund. All expenses of the Trust which are allocable to a particular Investment Fund or Account may be allocated and charged to such Investment Fund or Account as determined by the Trustees. All expenses of the Trust which are not allocable to a particular Investment Fund or Account shall be charged to each such Investment Fund or Account in the manner established by the Trustees.

## ARTICLE III - INVESTMENT FUNDS

The Trustees, in accordance with provisions of the Plan, may establish one (1) or more investment options within the Trust Fund, each option being hereinafter referred to as an "Investment Fund." The Trustees shall transfer to each such Investment Fund such portion of the assets of the Trust Fund as appropriate. The Trustees shall manage, acquire or dispose of the assets in an Investment Fund in accordance with valid specific investment directions given by the Participants. All income received with respect to, and all proceeds received from, the disposition of property held in an Investment Fund shall be credited to, and reinvested in, such Investment Fund. The Trustees shall establish a default investment option in the absence of valid Participant investment direction.

From time to time, the Trustees may eliminate an Investment Fund, and the proceeds thereof shall be reinvested in another Investment Fund in accordance with the directions of the Trustees.

## ARTICLE IV - INVESTMENT IN INSURANCE CONTRACTS

The Trustees may offer one (1) or more Investment Funds pursuant to one (1) or more agreements with insurance companies qualified to do business in the State of Georgia. Any asset invested pursuant to such an agreement shall be held by the insurance company. Each insurance

company so selected shall certify the value of the Trust's interest in the property held by it at least annually. The Trustees shall be entitled to rely conclusively on such valuation for all purposes under the Trust Agreement.

#### **ARTICLE V - INVESTMENT IN MUTUAL FUNDS**

The Trustees may offer one (1) or more Investment Funds pursuant to one (1) or more agreements with companies offering mutual fund products. Any asset invested pursuant to such an agreement shall be held by the Trustees. Each mutual fund so selected shall certify the value of the Trust's interest in that fund at least annually. The Trustees shall be entitled to rely conclusively on such valuation for all purposes under the Trust Agreement.

#### **ARTICLE VI - APPOINTMENT OF INVESTMENT MANAGERS**

**VI.1 Investment Managers.** The Trustees, from time to time, may appoint one (1) or more independent investment managers ("Investment Manager"), pursuant to a written investment management agreement with each, describing the powers and duties of the Investment Manager to manage a particular Investment Fund. The Investment Manager shall have the power to direct the management, acquisition or disposition of any asset held in any Investment Fund for which it is responsible hereunder.

The Trustees shall be responsible for ascertaining that, while each Investment Manager is acting in that capacity hereunder, the following requirements are satisfied:

(a) The Investment Manager is either (i) registered as an investment adviser under the Investment Advisers Act of 1940, as amended; (ii) a bank as defined in that Act; or (iii) an insurance company qualified to perform the services described herein under the laws of more than one state.

(b) The Investment Manager has acknowledged in writing to the Trustees that it is a fiduciary with respect to the Plan.

**VI.2 Investment Manager Duties.** Subject to the approval of the Trustees, each Investment Manager shall establish and carry out an investment policy and method for the Investment Fund subject to its direction and management that is consistent with the objectives of the Fund. At least annually, the Investment Manager shall review its investment policy and method with the Trustees. The Investment Manager shall make investments consistent with its investment policy, any applicable law, and the cash requirements of the Fund, as advised by the Administrator.

Each Investment Manager shall, at the request of the Trustees, certify the value of any security or other property held in any Investment Fund managed by such Investment Manager at least annually. The Trustees shall be entitled to rely conclusively upon such valuation for all purposes under the Trust Agreement.

## ARTICLE VII - POWERS AND DUTIES OF THE TRUSTEES

**VII.1 Exercise of Powers and Authority.** Except to the extent that the same has been delegated to an Investment Manager or Insurance Company with respect to an Investment Fund, the Trustees, in administering the Trust, shall have such power and authority (including discretion with respect to the exercise of that power and authority) as may be necessary, advisable, desirable or convenient to the Trustees, in their sole discretion, subject to the provisions of this Trust Agreement, including the power and authority:

- (a) To serve as trustees and fiduciaries of the Plan;
- (b) To adopt bylaws governing the Trustees' operations and procedures, with the by-laws and amendments to such by-laws being recommended and submitted to the GMA Board of Directors for approval;
- (c) To contract with municipal corporations, political subdivisions and other public entities of this State or of local government and private entities for the provision of Plan services and for the use or furnishing of services and facilities necessary, useful, or incident to providing Plan services;
- (d) To contract with public or private entities for the provision of administrative services;
- (e) To adopt plans, trust agreements, investment guidelines and other documents necessary or desirable for the Plan;
- (f) To charge fees for administrative services in addition to any fees charged by a Service Provider;
- (g) To collect and disburse all funds due or payable under the Plan;
- (h) To provide for and promulgate all rules, regulations, and forms deemed necessary or desirable in contracting with Employers and Participants, in fulfilling the Trustees' purposes of providing Plan benefits, and in maintaining proper records and accounts;
- (i) To expend funds as budgeted by the Board, subject to the approval of the GMA Board of Directors with respect to GMA funds for the purchase of fidelity and surety bonds and liability insurance for the protection and indemnification of the Trustees in the performance of their duties;
- (j) To allocate and pay the reasonable expenses of the Plan and the Trustees while in the performance of their duties as budgeted by the Board, subject to the approval of the GMA Board of Directors with respect to GMA funds;
- (k) To employ insurance companies, banks, trust companies, investment brokers, investment advisors, or others as agents for the receipt and disbursement of funds held in trust for Participants in the Plan;
- (l) To participate in a tax exempt group trust that has been determined by the Internal Revenue Service to be a pooled fund arrangement pursuant to Revenue Ruling 81-100.
- (m) To determine, consistent with the applicable laws, rules or regulations, and the claims procedure under the Plan all questions of law or fact that may arise as to investments and the rights of any person claiming rights under the Plan, including without limitation, Participants, former Participants, Beneficiaries, Employees and former Employees;
- (n) Subject to and consistent with the Code, to construe and interpret the Trust and to correct any defect, supply any omissions, or reconcile any inconsistency in the Trust;

- (o) To accept or reject a Participating Employer's adoption of or withdrawal from the Plan;
- (p) To contract for, purchase or otherwise procure insurance and investment products;
- (q) To register any Trust asset in the name of the Trust, in the name of its agent or in the name of a nominee or to hold any instrument in bearer form (but the books and records of the Plan shall at all times show that such investments are part of the Trust Fund);
- (r) To consult with and rely on the advice of legal counsel;
- (s) To make, execute, acknowledge and deliver any and all instruments necessary or appropriate to carry out the powers herein granted;
- (t) To take all actions consistent with this Trust Agreement necessary or appropriate to administer or carry out the purposes of the Trust and the Plan; provided, however, the Trustees need not take any action unless in their opinion there are sufficient Trust assets available for the expense thereof.

**VII.2 Authority of Individual Trustees.** Any action to be taken by the Trustees shall be taken only upon the authorization or vote of a majority of such individual trustees. However, the Trustees may delegate a particular function, power or authority to an individual trustee (the "Individual Trustee"). When such delegation occurs, no person dealing with the Individual Trustee shall be required to make inquiry as to the authority of the Individual Trustee to do any act hereunder. Any such person shall be entitled, conclusively, to assume that the Individual Trustee is properly authorized to do any act which he/she purports to do hereunder, and any such person shall be under no liability to any person, whomsoever, for any act done hereunder pursuant to such written direction of the Individual Trustee. When such action is so authorized by the Individual Trustee, any such person may assume conclusively that the Individual Trustee has full power and authority to receive and give receipt for any money or property becoming due and payable to the Trustees, and no such person shall be bound to inquire as to the disposition or application of any money or property paid or delivered to the Individual Trustee, or paid or delivered in accordance with such written direction of the Individual Trustee.

## **ARTICLE VIII - LIMITATIONS OF RESPONSIBILITY**

**VIII.1 Standard of Review.** In evaluating performance of the Trustees or other fiduciary, compliance by the Trustees or other fiduciary with the Trust must be determined in light of the facts and circumstances existing at the time of the Trustees or fiduciary's decision or action and not by hindsight.

**VIII.2 Limitations on Liability.** The Trustees' responsibilities and liabilities shall be subject to the following limitations:

- (a) The Trustees shall have no duties other than those expressly set forth in this Trust Agreement or the Plan and those imposed on the Trustees by applicable laws.
- (b) The Trustees shall be responsible only for money and property actually received by the Trustees, and then to the extent described in this Trust. The Trustees shall not be under

any duty to require payment of any contribution to the Trust Fund or to see that any payment made to them is computed in accordance with the provisions of the Plan.

(c) The Trustees shall not be responsible for the correctness of any determination of payments or disbursements from the Trust Fund.

(d) The Trustees shall have no liability for the acts or omissions of any predecessor or successor in office.

(e) The Trustees shall have no liability for (i) the acts or omissions of any Investment Manager or Managers; (ii) the acts or omissions of any Insurance Company; (iii) the acts or omissions of any Mutual Fund; or (iv) following directions that are given to the Trustees by the Participants or the Administrator in accordance with this Trust Agreement or the Plan.

#### **ARTICLE IX - ACCOUNTS OF THE TRUSTEES - RECORDKEEPING AND VALUATION**

The Trustees shall maintain or cause to be maintained suitable records, data and information relating to their responsibilities hereunder, in accordance with applicable Georgia law. Individual Participant Accounts shall be maintained by the Administrator pursuant to the Plan.

#### **ARTICLE X - RELIANCE ON COMMUNICATIONS**

The Trustees may rely upon a certification of the Administrator with respect to any instruction, direction, or approval of such Administrator and may continue to rely upon such certification until a subsequent certification is filed with the Trustees. The Trustees shall have no duty to make any investigation or inquiry as to any statement contained in any such writing but may accept the same as fully authorized by the Administrator.

The Trustees shall be protected further in relying upon a written certification from any Investment Manager, insurance company or mutual fund as to the person or persons authorized to give instructions or directions on behalf of such Investment Manager or insurance company and may continue to rely upon such certification until a subsequent written certification is filed with the Trustees.

#### **ARTICLE XI - RESIGNATION AND REMOVAL OF TRUSTEES**

The resignation, removal and appointment of Trustees is governed by applicable Georgia law. Upon such resignation or removal, a successor individual co-trustee shall be appointed by the GMA Board of Directors, and shall have the same powers and duties as those conferred upon the Trustees hereunder.

## ARTICLE XII - AMENDMENT

This Trust Agreement may be amended by written agreement between the Trustees at any time and in any manner permitted by applicable law.

## ARTICLE XIII - TERMINATION

This Trust Agreement and the Trust created hereby may be terminated at any time by the Trustees with respect to an Employer when the Employer's participation in the Plan is terminated. The Trust Agreement and the Trust may be terminated in its entirety when the Plan is terminated in its entirety. Notwithstanding the foregoing, the Trustees shall not be required to pay out any asset of the Trust Fund to Participants and Beneficiaries or a successor plan upon termination of the Trust until the Trustees have received written certification from the Administrator (i) that all provisions of law with respect to such termination have been complied with; and (ii) after the Trustees have made a determination of the fair market value of the assets of the Plan, that the assets of the Plan are sufficient to discharge when due all obligations of the Plan required by law. The Trustees shall rely conclusively on such written certification and shall be under no obligation to investigate or otherwise determine its propriety.

## ARTICLE XIV - MISCELLANEOUS

**XIV.1 Construction and Governing Law.** This Trust Agreement shall be construed, enforced and administered and the validity thereof determined in accordance with the Code and the laws of the State of Georgia.

Words used herein in the masculine gender shall be construed to include the feminine gender, where appropriate, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate. The headings and subheadings in this Trust Agreement are inserted for convenience of reference only and are not to be considered in the construction of any provision of the Trust Agreement.

In resolving any conflict among provisions of this Trust Agreement and in resolving any other uncertainty as to the meaning or intention of any provision of this Trust Agreement, the interpretation that (i) causes the Plan and Trust to satisfy the applicable requirements of Code Section 457(b) and the Trust to be exempt from tax under Code Sections 115 and 501(a), and (ii) causes the Plan and Trust to comply with all applicable requirements of state or federal law shall prevail over any different interpretation.

**XIV.2 Duration of Trust.** Unless sooner terminated, the Trust created under the Trust Agreement shall continue for the maximum period of time permitted by the laws of the State of Georgia.

**XIV.3 No Guarantees.** Neither the Administrator nor the Trustees guarantee the Trust Fund from loss or depreciation or the payment of any amount which may become due to any person under the Plan or the Trust Agreement.

**XIV.4 Parties Bound.** This Trust Agreement shall be binding upon the parties hereto, the Participating Employers, all Participants in the Plan and persons claiming under or through them pursuant to the Plan, and, as the case may be, the heirs, executors, administrators, successors and assigns of each of them.

**XIV.5 Necessary Parties to Disputes.** Necessary parties to any accounting, litigation or other proceedings relating to the Trust Agreement shall include only the Trustees and the Administrator. The settlement or judgment in any such case in which the Trustees are duly served or cited shall be binding upon all Participants in the Plan and their Beneficiaries and estates, and upon all persons claiming by, through or under them.

**XIV.6 Severability.** If any provisions of the Trust Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Trust Agreement shall continue to be fully effective. If any provision of the Trust Agreement is held to violate the Code or to be illegal or invalid for any other reason, that provision shall be deemed to be null and void, but the invalidation of that provision shall not otherwise affect the Plan or Trust.

**XIV.7 Supersession.** The terms of the Trust Agreement shall supersede any previous oral agreement between the parties pertaining to the Trust.

**XIV.8 Acceptance of Trust.** Each trustee hereby accepts the trust under the Trust Agreement.

**XIV.9 Counterparts.** This Trust Agreement may be executed in one (1) or more counterparts, each of which shall constitute an original.



IN WITNESS WHEREOF, the Board of Trustees has caused to be affixed the signature of its duly authorized Representative:

Board of Trustees of the GMA Defined  
Contribution and Deferred Compensation  
Program

2-8-01  
Date

James W. Benz  
Chairperson

ADMINISTRATOR

2/8/01  
Date

Signed: James A. Calvin  
Printed Name: James A. Calvin  
Title: Secretary-Treasurer



**AN ORDINANCE TO AMEND CHAPTER 18, BUSINESSES, TO PROVIDE FOR TAXATION ON FINANCIAL INSTITUTIONS; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

**WHEREAS**, the Mayor and City Council is the duly constituted governing authority for the City of Peachtree Corners; and

**WHEREAS**, regulations and policies pertaining to certain fees and taxes are outlined in the Charter of the City of Peachtree Corners, Georgia, specifically the authority to collect licensing fees and occupation taxes; and

**WHEREAS**, pursuant to Title 48, Chapter 6 of the O.C.G.A., the City of Peachtree Corners, Georgia, is authorized to levy certain taxes on financial institutions as described in the below Ordinance.

**NOW, THEREFORE**, the Mayor and Council of the City of Peachtree Corners hereby ordains that Chapter 18 of the Code of the City of Peachtree Corners, Georgia is hereby amended, by addition of Article XVII (Financial Institutions) to read as follows:

**ARTICLE XVII. FINANCIAL INSTITUTIONS**

**Sec. 18-426. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Bank* means any financial institution chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a corporate structure authorizing the issuance of capital stock.

*Depository financial institution* means a bank or a savings and loan association.

*Gross receipts* means gross receipts as defined in O.C.G.A. § 48-6-93.

*Savings and loan association* means any financial institution, other than a credit union, chartered under the laws of any state or under the laws of the United States which is authorized to receive deposits in this state and which has a mutual corporate form.

**Sec. 18-427. Tax levied; rate.**

In accordance with O.C.G.A. § 48-6-93, there is hereby levied an annual business license tax upon all depository financial institutions located within the City at a rate of 0.25 percent of the gross receipts of said depository financial institutions.

**Sec. 18-427. Minimum Business License Tax.**

The minimum annual amount of business license tax due from any depository financial institution pursuant to O.C.G.A. § 48-6-93(a) shall be \$1,000.00.

**Sec. 18-428. Filing of Return.**

Pursuant to O.C.G.A. § 48-6-93(a), each depository financial institution subject to the tax levied by this Article shall file a return of the gross receipts with the City tax collector's office on or before March 1 of the year following the year in which such gross receipts are measured. Said return shall be in the manner and the form prescribed by the Commissioner of the Department of Revenue of the State of Georgia, based on the allocation method set forth in O.C.G.A. § 48-6-93(d). The return shall provide the information necessary to determine the portion of the taxpayer's state gross receipts to be allocated to each taxing jurisdiction in which such institution has an office. The City tax collector's office shall assess and collect the tax levied pursuant to this Article based upon the information provided in said return.

**Sec. 18-429. Due Date of Taxes.**

Taxes levied pursuant to this Article shall be paid to the tax collector at the time of filing the return.

**Sec. 18-430. Administrative Provisions.**

The City Manager or designee is hereby authorized and directed to forward a copy of this Article to each depository financial institution located in the City and to the home office of each such depository financial institution that does business in the City, if located outside the City.

**Sec. 18-431. Relation of Tax to Other Business Licenses.**

The tax imposed by this Article shall be in lieu of any other business license upon depository financial institutions.

**Secs. 18-432 – 18-450. Reserved.**

**SO ORDAINED AND EFFECTIVE**, this the \_\_\_\_ of \_\_\_\_\_, 2012.

APPROVED:

\_\_\_\_\_  
Mike Mason, Mayor

ATTEST:

Approved as to Content and Form

\_\_\_\_\_  
Joan C. Jones, Acting City Clerk

\_\_\_\_\_  
William F. Riley, Jr., City Attorney

# Energy Excise Tax Timeline

*September 4, 2012:*

- *Briefing to our Chairman and Board of Commissioners*

*September 19, 2012:*

- *Staff level meeting at Gwinnett Municipal Association*

*September 25, 2012:*

- *Joint elected officials briefing to discuss tax levy*

**November 9, 2012**

- **Deadline for the County to receive the executed IGA's**

**November 27, 2012**

- **BOC approval of IGA**
- **BOC approval of ordinance to collect**

**January 1, 2013**

- **Tax effective date**



**A RESOLUTION APPROVING ENERGY EXCISE TAX  
INTERGOVERNMENTAL AGREEMENT & AUTHORIZING THE MAYOR TO  
EXECUTE IGA WITH GWINNETT COUNTY ON BEHALF OF THE CITY OF  
PEACHTREE CORNERS, GEORGIA**

**WHEREAS**, the County is authorized pursuant to Article 6 of Chapter 13 of Title 48 of O.C.G.A. (the “Energy Excise Tax Act”) to levy and collect an excise tax on the sale or use of energy (“Energy Excise Tax”) when such sale or use would have constituted a taxable event for purposes of the sales and use tax under Article 1 of Chapter 8 of Title 48 of the O.C.G.A., but for the exemption in O.C.G.A. Section 48-8-3.2; and

**WHEREAS**, pursuant to O.C.G.A. Section 48-13-113, the County and the Municipalities of the County have met together and conferred to discuss whether or not the Energy Excise Tax should be levied within the special district within Gwinnett County; and

**WHEREAS**, pursuant to O.C.G.A. Section 48-13-114, the County and the Participating Municipalities have determined that an Energy Excise Tax should be levied; and

**WHEREAS**, O.C.G.A. Section 48-13-114(a)(1) requires the County and the Participating Municipalities within the County to execute an intergovernmental agreement which provides for the distribution of proceeds in accordance with O.C.G.A. Section 48-13-114(c) prior to the adoption of an ordinance by the County levying and imposing the Energy Excise Tax.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF PEACHTREE CORNERS, GEORGIA** as follows:

**SECTION 1**

The attached intergovernmental agreement addressing the imposition, levy, collection, administration, allocation, and distribution of proceeds of the Energy Excise Tax between Gwinnett County and the City of Peachtree Corners is hereby approved by the City of Peachtree Corners.

**SECTION 2**

The Mayor of the City of Peachtree Corners is authorized to execute such intergovernmental agreement on behalf of such city council and affix the seal of the city thereto.

**SECTION 3**

All resolutions or parts of resolutions, in conflict herewith are repealed.

This 26<sup>th</sup> day of October, 2012.

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Mike Mason, Mayor

Attest:

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Joan C. Jones, Acting City Clerk

**GWINNETT COUNTY, GEORGIA  
ENERGY EXCISE TAX  
INTERGOVERNMENTAL AGREEMENT**

STATE OF GEORGIA  
GWINNETT COUNTY

**INTERGOVERNMENTAL AGREEMENT FOR THE ALLOCATION AND DISTRIBUTION  
OF PROCEEDS FROM THE ENERGY EXCISE TAX**

THIS INTERGOVERNMENTAL AGREEMENT, made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between **GWINNETT COUNTY, GEORGIA**, a political subdivision of the State of Georgia, (the “County”), and the **CITY OF \_\_\_\_\_**, the **CITY OF \_\_\_\_\_**, and the **CITY OF \_\_\_\_\_**, municipal corporations of the State of Georgia, (the “Participating Municipalities”, individually and collectively).

**WITNESSETH:**

**WHEREAS**, Article IX, Section III, Paragraph I(a) of the Constitution of Georgia (the “Intergovernmental Contracts Clause”) authorizes the County and the Participating Municipalities to contract, for a period not exceeding 50 years; and

**WHEREAS**, the County is authorized pursuant to O.C.G.A. § 48-13-110 *et seq.*, (the “Energy Excise Tax Act”) to levy and collect an excise tax on the sale, use, storage, or consumption of energy (“Energy Excise Tax”) when such sale, use,

storage, or consumption of energy would have constituted a taxable event for purposes of the sales and use tax under O.C.G.A. § 48-8-1 *et seq.*, but for the exemption in O.C.G.A. § 48-8-3.2; and

**WHEREAS**, pursuant to O.C.G.A. § 48-13-113, the County and the municipalities of the County have met together and conferred to discuss whether or not the Energy Excise Tax should be levied within the special district within Gwinnett County; and

**WHEREAS**, pursuant to O.C.G.A. § 48-13-114, the County and the Participating Municipalities have determined that an Energy Excise Tax should be levied; and

**WHEREAS**, O.C.G.A. § 48-13-114(a)(1) requires the County and the Participating Municipalities within the County execute an intergovernmental agreement which provides for the distribution of proceeds in accordance with O.C.G.A. § 48-13-114(c) prior to the adoption of an ordinance by the County levying and imposing the Energy Excise Tax.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings made in this Agreement, the benefits flowing to the parties hereto and to the citizens of each under this Agreement, and for good and valuable consideration the County and the Participating Municipalities consent and agree as follows:

**SECTION 1**  
**REPRESENTATIONS & MUTUAL COVENANTS**

(A) The County makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering into this Agreement:

(i) The County is a political subdivision duly created and organized under the Constitution of Georgia;

(ii) The governing authority of the County is duly authorized to execute, deliver, and perform this Agreement; and

(iii) This Agreement is a valid, binding, and enforceable obligation of the County.

(B) Each Participating Municipality makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:

(i) Each Participating Municipality is a municipal corporation duly created and organized under the Laws of the State of Georgia;

(ii) The governing authority of each Participating Municipality is duly authorized to execute, deliver, and perform this Agreement;

(iii) This Agreement is a valid, binding, and enforceable obligation of each Participating Municipality; and

(iv) Each Participating Municipality is located wholly or partially within the geographic boundaries of the special district created in the County.

(C) It is the intention of the County and each Participating Municipality to comply in all respects the provisions of the Energy Excise Tax Act and all provisions of this

Agreement shall be construed in light of the provisions of the Energy Excise Tax Act.

(D) The County and each Participating Municipality agree to maintain thorough and accurate records concerning the receipt of proceeds under this Agreement.

**SECTION 2**  
**CONDITIONS PRECEDENT**

(A) The obligations of the County and each Participating Municipality pursuant to this Agreement are conditioned upon the adoption of an ordinance by the County levying and imposing the Energy Excise Tax in accordance with the provisions of the Energy Excise Tax Act.

(B) This Agreement is further conditioned upon the collecting of Energy Excise Tax revenues by the County and the transferring of those revenues to the general fund of the County and the general fund of each Participating Municipality.

**SECTION 3**  
**ADMINISTRATION AND COLLECTION COSTS**

In accordance with O.C.G.A. § 48-13-114(b), the proceeds of the Energy Excise Tax shall be allocated and distributed by the governing authority of the County at the end of each calendar month, and, of such proceeds, an amount equal to 1 percent

of such proceeds collected by the county shall be paid into the general fund of the County to defray the costs of collection and administration.

#### **SECTION 4**

#### **ALLOCATION AND DISTRIBUTION OF REMAINDER PROCEEDS**

(A) In accordance with O.C.G.A. § 48-13-114 (b) and (c), the remainder of the proceeds following the subtraction of costs of collection and administration under Section 3 of this Agreement shall be allocated and distributed by the governing authority of the County pursuant to this Agreement as provided in this Section.

(B) Such remaining proceeds shall be allocated and distributed by the governing authority of the County within 30 days following the end of each calendar month to the general fund of the County and to the general fund of each Participating Municipality in accordance with the applicable provisions of O.C.G.A. § 48-13-114 (c)(1) or (2) as follows:

(1) If two local sales and use taxes are in effect in the special district, an amount equal to one-half of the proceeds shall be distributed to the County general fund and the general fund of each Participating Municipality located in the County according to the same proportionate share as specified under the distribution provisions of the first local sales and use tax and an amount equal to one-half of the proceeds of the excise tax shall be distributed to the County general fund and the general fund of each Participating Municipality located in such County according to the same proportionate share as specified under the distribution provisions of the second local sales and use tax; or

(2) If only one such local sales and use tax is in effect in the special district, then the proceeds of the excise tax shall be distributed to the County general fund and the general fund of each Participating Municipality located in the County according to the same proportionate share as specified under the distribution provisions of the local sales and use tax.

(C) Such remaining proceeds shall not be subject to any use or expenditure requirements provided for under the provisions of law of the local sales and use taxes which are now subject to exemption under O.C.G.A. § 48-8-3.2 and are authorized to be expended in the same manner as would have otherwise been required under such local sales and use tax provisions of law or to be expended for any lawful purpose.

**SECTION 5**  
**COUNTY ORDINANCE ADOPTION**

In accordance with O.C.G.A. § 48-13-114 (a)(1), following the execution of this Agreement by the County and each Participating Municipality, the County agrees to adopt timely an ordinance levying the Energy Excise Tax pursuant to O.C.G.A. § 48-13-110 *et seq.*

**SECTION 6**  
**ENTIRE AGREEMENT**

This Agreement, including any attachments or exhibits, constitutes all of the understandings and agreements between the County and the Participating Municipalities with respect to all matters relating to the imposition, levy, collection, administration, allocation, and distribution of proceeds of the Energy Excise Tax. Furthermore, this Agreement supersedes all prior agreements, negotiations, and communications of whatever type, whether written or oral, between the parties hereto with respect to such matters.

**SECTION 7**  
**AMENDMENT OR MODIFICATION OF AGREEMENT**

This Agreement shall not be amended or modified except by agreement in writing executed by the governing authorities of the County and the Participating Municipalities.

**SECTION 8**  
**GOVERNING LAW**

This Agreement shall be deemed to have been made and shall be construed and enforced in accordance with the Constitution and laws of the State of Georgia.

**SECTION 9**  
**SEVERABILITY**

Should any phrase, clause, sentence, or paragraph of this Agreement be held invalid or unconstitutional, the remainder of the Agreement shall remain in full force and effect as if such invalid or unconstitutional provision were not contained in the Agreement unless the elimination of such provision detrimentally reduces the consideration that any party is to receive under this Agreement or materially affects the operation of this Agreement.

**SECTION 10**  
**COMPLIANCE WITH LAW**

The County and each Participating Municipality shall comply with all applicable local, state, and federal statutes, ordinances, rules, and regulations.

**SECTION 11**  
**NO CONSENT TO BREACH**

No consent or waiver, express or implied, by any party to this Agreement, to any breach of any covenant, condition, or duty of another party shall be construed as a consent to or waiver of any future breach of the same.

**SECTION 12**  
**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.

**SECTION 13**  
**EFFECTIVE DATE OF ENERGY EXCISE TAX**

The County and each Participating Municipality agree that the Energy Excise Tax shall become effective date on January 1, 2013.

**SECTION 14**  
**MEDIATION**

The County and each Participating Municipality agree to submit any controversy arising under this Agreement to mediation for a resolution. The parties to the mediation shall mutually select a neutral party to serve as mediator. Costs of mediation shall be shared equally among the parties to the mediation.

**IN WITNESS WHEREOF**, the County and the Participating Municipalities, acting by and through their duly authorized agents, have caused this Agreement to be executed in multiple counterparts under seals on the date indicated herein.

**GWINNETT COUNTY, GEORGIA**

BY: \_\_\_\_\_

Charlotte J. Nash, Chairman, Gwinnett County Board of Commissioners

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF AUBURN, GEORGIA**

BY: \_\_\_\_\_

Linda Blechinger, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF BERKELEY LAKE, GEORGIA**

BY: \_\_\_\_\_

Lois Salter, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF BRASELTON, , GEORGIA**

BY: \_\_\_\_\_

Bill Orr, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF BUFORD, GEORGIA**

BY: \_\_\_\_\_

Phillip Beard, Commission Chairman

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF DACULA, GEORGIA**

BY: \_\_\_\_\_

Jimmy Wilbanks, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF DULUTH, GEORGIA**

BY: \_\_\_\_\_

Nancy Harris, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF GRAYSON, GEORGIA**

BY: \_\_\_\_\_

Jim Hinkle, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF LAWRENCEVILLE, GEORGIA**

BY: \_\_\_\_\_

Judy Jordan Johnson, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF LILBURN, GEORGIA**

BY: \_\_\_\_\_

Johnny Crist, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF LOGANVILLE, GEORGIA**

BY: \_\_\_\_\_

Ray Nunley, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF NORCROSS, GEORGIA**

BY: \_\_\_\_\_

Bucky Johnson, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF PEACHTREE CORNERS, GEORGIA**

BY: \_\_\_\_\_

Mike Mason, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF REST HAVEN, GEORGIA**

BY: \_\_\_\_\_

Kenneth Waycaster, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF SNELLVILLE, GEORGIA**

BY: \_\_\_\_\_

Kelly Kautz, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF SUGAR HILL, GEORGIA**

BY: \_\_\_\_\_

Gary Pirkle, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk

**CITY OF SUWANEE, GEORGIA**

BY: \_\_\_\_\_

Jimmy Burnette, Mayor

(SEAL)

ATTEST: \_\_\_\_\_

Clerk



**A RESOLUTION TO DESIGNATE A LIAISON TO THE GWINNETT VILLAGE  
COMMUNITY IMPROVEMENT DISTRICT BOARD FOR THE CITY OF PEACHTREE CORNERS,  
GEORGIA AND FOR OTHER PURPOSES**

**WHEREAS,** the Mayor and Council of the City of Peachtree Corners approved the Cooperation Agreement between Gwinnett County, the City of Norcross and the Gwinnett Village Community Improvement District Board on October 16, 2012; and

**WHEREAS,** the Gwinnett Village Community Improvement District is within the boundaries of the City of Peachtree Corners, Georgia and the Mayor and Council wish to appoint a staff liaison to this board; and

**WHEREAS,** the Mayor of the City of Johns Creek is authorized with confirmation from the City Council to appoint \_\_\_\_\_ to the Gwinnett Village Community Improvement District Board for the City of Peachtree Corners.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the City of Peachtree Corners while in session on October 30, 2012 that \_\_\_\_\_ is hereby appointed to the Gwinnett Village Community Improvement District Board

Approved:

\_\_\_\_\_  
Mike Mason, Mayor

Attest:

\_\_\_\_\_  
Joan C. Jones, Acting City Clerk

(seal)

# RESOLUTION

To authorize membership in the Georgia Municipal Association Workers' Compensation Self-Insurance Fund; to authorize and direct the Mayor of the City of \_\_\_\_\_ to execute the necessary documents to enroll the City in said Fund; to subscribe to the intrastate agreement and bylaws of said Fund and for other purposes.

**BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF**

\_\_\_\_\_

Section 1. Pursuant to Title 34, Chapter 9, Article 5 of the Official Code of Georgia Annotate, the City of \_\_\_\_\_, hereby agrees to become and member of the Georgia Municipal Association Workers' Compensation Self-Insurance Fund established pursuant to said code chapter.

Section 2. The City of \_\_\_\_\_ hereby agrees to subscribe to and abide by the intrastate agreement, bylaws, rules, and regulations of the Fund and rules and regulations of the Insurance Commissioner of the State of Georgia related to such Fund.

Section 3. The Mayor and the City of \_\_\_\_\_ is hereby authorized to execute the application and any other documents necessary to enroll the City of \_\_\_\_\_ as a member in said Fund.

Section 4. The effective date of the resolution shall be \_\_\_\_\_, \_\_\_\_\_.

**RESOLVED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

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Accepted on behalf of the GMA Workers' Compensation Self-Insurance Fund this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CHAIRMAN

ATTEST:

\_\_\_\_\_  
SECRETARY-Board of Trustees

## EXTENSION OF WORKERS' COMPENSATION BENEFITS

To Elected Officials, Volunteer Firemen & Volunteer Policemen

Workers' Compensation benefits do not extend to individuals doing volunteer work for cities nor are volunteer firemen or elected officials covered by Workers' Compensation. However, provided the City Council passes a resolution, Workers' Compensation benefits may be extended to volunteer firemen, certified volunteer policemen and elected officials.

If it is the desire of your city to provide Workers' Compensation coverage for volunteer firemen, certified volunteer policemen and elected officials, then your city must pass a resolution (see sample attached) and return it to us along with the other documents before coverage may be extended to the volunteer firemen, certified volunteer policemen and elected officials.

Please return to us a copy of your resolution or indicate on the accompanying page that your city declined to extend Workers' Compensation coverage to volunteer firemen, certified volunteer policemen or elected city officials.

Please keep in mind that this is important, as there is no coverage for these individuals until a resolution is received by the GMA Workers' Compensation Self-Insurance Fund.

**S A M P L E**

**A RESOLUTION ENTITLED:**

**A RESOLUTION AUTHROIZING VOLUNTEER FIREMEN, CERTIFIED  
VOLUNTEER POLICEMEN AND ELECTED OFFICIALS OF THE CITY OF  
\_\_\_\_\_ TO BE COVERED UNDER WORKERS'  
COMPENSATION:**

\*\*\*\*\*

BE IT RESOLVED by the City Council of \_\_\_\_\_, Georgia, and it is hereby resolved by the authority of the same:

SECTION I: Volunteer Firemen, Certified Volunteer Policemen and Elected Officials shall be covered under the GMA Workers Compensation Self-Insurance Fund while performing their duties on behalf of the city.

SECTION II: All Resolutions or parts of Resolution in conflict herewith are repealed.

CITY OF \_\_\_\_\_

\_\_\_\_\_, Mayor

DATED: \_\_\_\_\_

**WORKERS' COMPENSATION BENEFITS**

**FOR**

**VOLUNTEER FIREMENT, VOLUNTEER CERTIFIED POLICEMEN &  
ELECTED OFFICIALS**

**THROUGH THE GMA WORKERS' COMPENSATION SELF-INSURANCE FUND**

PLEASE CIRCLE YES TO THOSE STATEMENTS YOU WISH TO IMPLEMENT:

Our city wishes to provide workers' compensation benefits for:

- Yes            All Elected Officials
- Yes            Volunteer Firemen
- Yes            Volunteer Law Enforcement Officers Who Have Passed The Georgia  
State Requirements For Police Training
- Yes            We Are Including A Copy Of The Resolution Indicating What The City  
Council Wishes To Do

Please forward this notice along with copy of resolution to:

George R. Van Leuven, Jr.  
Manager of Risk Management Services  
Georgia Municipal Association  
201 Pryor St.  
Atlanta, GA 30303

Signed by: \_\_\_\_\_

Title: \_\_\_\_\_

City: \_\_\_\_\_

Date: \_\_\_\_\_

**A F F I D A V I T**

COUNTY OF \_\_\_\_\_

STATE OF \_\_\_\_\_

I, \_\_\_\_\_, the undersigned, being the \_\_\_\_\_  
of the \_\_\_\_\_ swear (or affirm) that to the best of my  
knowledge and belief, the statements contained in the application, including the accompanying  
documents, are true and complete.

Sworn before me this \_\_\_\_\_  
day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
(Signature of Authorized Official)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Georgia Municipal Association  
Workers' Compensation Self-Insurance Fund

2013 -Annual Premium Quote

Peachtree Corners

Code	No	Payroll Classification	Rate	Payroll	Manual
8742	2	City Administrator	0.41	\$267,500	\$1,097
8810	8	Clerical	0.38	\$118,000	\$448

10 Total Estimated Payroll				\$385,500	
Total Manual Premium					\$1,545
Experience Modification			1.00		
Standard Premium					\$1,545
Misc. Modification			1.40		
Premium Adjustment					\$0
<b>Earned Premium</b>					<b>\$2,163</b>
Premium Due					\$2,163

**THE GEORGIA MUNICIPAL ASSOCIATION  
457(b) DEFERRED COMPENSATION PLAN**

**RESOLUTION AND  
ADOPTION AGREEMENT**

**CITY OF PEACHTREE CORNERS  
[Participating Employer]**

**Administered by:  
Georgia Municipal Association  
201 Pryor Street, SW  
Atlanta, Georgia 30303  
Telephone: 404-688-0472  
Facsimile: 404-577-6663**

## RESOLUTION

WHEREAS, the City of Peachtree Corners, Georgia, (hereinafter referred to as the "Participating Employer") has determined that in the interest of attracting and retaining qualified employees, it wishes to offer a deferred compensation plan;

WHEREAS, the Participating Employer has also determined that it wishes to encourage employees' saving for retirement by offering salary reduction contributions;

WHEREAS, the Participating Employer has reviewed the Georgia Municipal Association ("GMA") Deferred Compensation Plan ("Plan");

WHEREAS, the Participating Employer wishes to participate in the Plan to provide certain benefits to its employees, reduce overall administrative costs, and afford attractive investment opportunities;

WHEREAS, the Participating Employer is an Employer as defined in the Plan;

WHEREAS, the Participating Employer has executed an Adoption Agreement for the Plan; and

WHEREAS, the Mayor and Council of the City of Peachtree Corners ("Governing Authority") is authorized by law to adopt this resolution approving the Adoption Agreement on behalf of the Participating Employer;

Therefore, the Governing Authority of the Participating Employer hereby resolves:

Section 1. The Participating Employer adopts the Plan and the Trust Agreement ("Trust") for the Plan for its Employees.

Section 2. The Participating Employer acknowledges that the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Plan ("Trustees") are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Participating Employer.

Section 3. The Participating Employer hereby adopts the terms of the Adoption Agreement, which is attached hereto and made a part of this resolution. The Adoption Agreement sets forth the Employees to be covered by the Plan, the benefits to be provided by the Participating Employer under the Plan, and any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plan. The Participating Employer reserves the right to amend its elections under the Adoption Agreement, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Trustees of the Plan.

Section 4.

- (a) The Participating Employer shall abide by the terms of the Plan and the Trust, including amendments to the Plan and the Trust made by the Trustees of the Plan, all investment, administrative, and other service agreements of the Plan and the Trust, and all applicable provisions of the Internal Revenue Code and other applicable law.
- (b) The Participating Employer accepts the administrative services to be provided by GMA and any services provided by a Service Manager as delegated by the Trustees. The Participating Employer acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participants' accounts.

Section 5.

- (a) The Participating Employer may terminate its participation in the Plan, if it takes the following actions:
  - (i) A resolution must be adopted terminating its participation in the Plan.
  - (ii) The resolution must specify when the participation will end.

The Trustees shall determine whether the resolution complies with the Plan, and all applicable federal and state laws, shall determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distributions under the Plan of existing accounts to Participants will be made in accordance with the Plan.

- (b) The Participating Employer acknowledges that the Plan contains provisions for involuntary Plan termination.

Section 6. The Participating Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the Participating Employer to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

Section 7. This resolution and the Adoption Agreement shall be submitted to the Trustees for their approval. The Trustees shall determine whether the resolution complies with the Plan, and, if it does, shall provide appropriate forms to the Participating Employer to implement participation in the Plan. The Trustees may refuse to approve an Adoption Agreement by an Employer that does not have state statutory authority to participate in the Plan. The Governing Authority hereby acknowledges that it is responsible to assure that this resolution and the Adoption Agreement are adopted and executed in accordance with the requirements of applicable law.

Adopted by the Governing Authority on \_\_\_\_\_, \_\_\_\_\_, in accordance with applicable law.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

Attest: \_\_\_\_\_

Date: \_\_\_\_\_

**[Governing Authority should assure that applicable law is followed in the adoption and execution of this resolution.]**

**[Please note: The GMA 457(b) Deferred Compensation Plan cannot accept rollovers from 401(a) plans, 401(k) plans, 403 plans, or traditional IRA's. If an Employer wishes to accept employee rollover contributions from 401(a) plans, 401(k) plans, 403 plans, and traditional IRAs, the Employer may adopt the GMA 401(a) Defined Contribution Plan to receive these rollovers. The Employer can execute a short form GMA 401(a) Plan Resolution and Adoption Agreement solely for purpose of receiving such rollovers. Please contact GMA if the Employer is interested in setting up such a 401(a) Plan.]**

# GMA 457(b) DEFERRED COMPENSATION PLAN ADOPTION AGREEMENT

## ADMINISTRATOR

Georgia Municipal Association  
201 Pryor Street, SW  
Atlanta, Georgia 30303  
Telephone: 404-688-0472  
Facsimile: 404-577-6663

## PARTICIPATING EMPLOYER

Name: City of Peachtree Corners

## GOVERNING AUTHORITY

Name: Mayor and Council of the City of Peachtree Corners  
Address: 147 Technology Pkwy, N.W., Peachtree Corners, GA 30092  
Phone: 678-591-1030  
Facsimile: \_\_\_\_\_  
E-mail: julian.jackson3@gmail.com  
Person Authorized to receive Official Notices from the Plan or GMA: City Manager

## TYPE OF ADOPTION

This Adoption Agreement is for the following purpose (**check one**):

- This is a new 457(b) deferred compensation plan adopted by the Participating Employer for its Employees. This plan does not replace or restate an existing deferred compensation plan.
- This is an amendment and restatement of another 457(b) deferred compensation plan of the Participating Employer.
- This is an amendment of the GMA 457(b) Adoption Agreement previously adopted by the Participating Employer (**please specify type below**):

- This is an amendment to change one or more of the Adopting Employer's contribution design elections in the Adoption Agreement.
- This is an amendment to add a new Department or a new class of Eligible Employees.
- This is an amendment to discontinue participation in the Plan by one or more Departments or classes of Employees.
- Other (please specify): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**DISCLOSURE OF OTHER 457(b) PLAN(S)**

The Participating Employer  does or  does not have an existing deferred compensation plan(s). If the Participating Employer does have one or more deferred compensation plans, the Governing Authority must provide the plan name and the name of the provider below, and such other relevant information requested by the Administrator.

Plan Name(s) \_\_\_\_\_  
 \_\_\_\_\_

Plan Provider(s) \_\_\_\_\_  
 \_\_\_\_\_

**VERY IMPORTANT:** All eligible plans of a Participating Employer are considered to be a single plan for purposes of compliance with Code Section 457(b). Thus, if a Participating Employer has more than one eligible plan (or additional investment options under a 457(b) arrangement with more than one vendor), the Participating Employer is responsible for ensuring that all of its arrangements, treated as a single plan, comply with the 457(b) requirements, including, but not limited to, the requirements listed below. The Participating Employer must carefully review the Master Plan provisions listed below to fulfill its responsibility for monitoring coordination of multiple plans.

- Compliance with the limit on Annual Deferrals to an eligible plan (including the basic limit (Section 6.1), the age 50 catch-up (Section 6.2), and the special 457 catch-up limit (Section 6.3)) (carefully review Article VI of the Master Plan for these rules).
- Compliance with the requirements for special 457 catch-up deferrals limits, including the requirement that a Participant have only one Normal Retirement Age (with respect to the special 457 catch-up limit) under all eligible plans offered by an Employer (carefully review Sections 1.24 and 6.3 of the Master Plan for these rules). (In essence, this means that once a Participant has selected a Normal Retirement Age under any eligible plan offered by an employer, he or

she may not select a different one, and the selection will remain that Participant's Normal Retirement Age under all eligible plans offered by the Employer).

- Compliance with the requirement to distribute excess deferrals (an excess deferral means the amount of deferrals for a calendar year that is more than the basic limit, the age 50 catch-up limit, and the special 457 catch-up limit) (carefully review Section 6.7 of the Master Plan for these rules). (This means that the Participating Employer will have to tell the [ADMINISTRATOR] if excess deferrals need to be distributed from this Plan.)
- If the Participating Employer has directed a plan-to-plan transfer, then the Participating Employer is responsible for compliance with the plan-to-plan transfer provisions (carefully review Article XVIII of the Master Plan for these rules).

### PLAN YEAR

Plan Year means the Employer's fiscal year, which begins on the following date: July 1 (insert month and day, e.g., July 1).

### ELIGIBLE EMPLOYEES

Only Employees (including independent contractors specifically designated by the Employer below) as defined in the Plan may be covered by the Adoption Agreement. Subject to other conditions in the Plan, this Adoption Agreement, and Addendum (if applicable), the following Employees are eligible to participate in the Plan:

All Employees (includes elected or appointed members of the Governing Authority)

All Employees with the exception of the following (**must specify**): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

The following Independent Contractors may participate in the Plan (**must specify**): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Employers must assure that proper procedures are in place for independent contractors to participate in and make deferrals under the Plan.

The Employer shall provide the Trustees with the name, address, Social Security Number, and date of birth for each Eligible Employee.

**THE GEORGIA MUNICIPAL ASSOCIATION**

**401(a) DEFINED CONTRIBUTION PLAN**

**Amended and Restated  
As of January 1, 2006**

**RESOLUTION AND  
ADOPTION AGREEMENT**

**CITY OF PEACHTREE CORNERS**

**Administered by:  
Georgia Municipal Association  
201 Pryor Street, SW  
Atlanta, Georgia 30303  
Telephone: 404-688-0472  
Facsimile: 678-686-6289**

## RESOLUTION

WHEREAS, the City of Peachtree Corners, Georgia, (hereinafter referred to as the "Participating Employer") has determined that in the interest of attracting and retaining qualified employees, it wishes to offer a defined contribution plan, funded by employer contributions;

WHEREAS, the Participating Employer has also determined that it wishes to encourage employees' saving for retirement by offering  matching and/or  non-matching contributions;

WHEREAS, the Participating Employer has reviewed the Georgia Municipal Association ("GMA") Defined Contribution Plan, as amended and restated effective as of January 1, 2006 ("Plan");

WHEREAS, the Participating Employer wishes to  participate or  continue participating in the Plan to provide certain benefits to its employees, reduce overall administrative costs, and afford attractive investment opportunities;

WHEREAS, the Participating Employer is an Employer as defined in the Plan;

WHEREAS, the Participating Employer has executed an Adoption Agreement (and, if applicable, an Addendum) for the Plan; and

WHEREAS, the Mayor and Council of the City of Peachtree Corners ("Governing Authority") is authorized by law to adopt this resolution approving the Adoption Agreement (and, if applicable, Addendum) on behalf of the Participating Employer;

Therefore, the Governing Authority of the Participating Employer hereby resolves:

Section 1. The Participating Employer adopts the Plan and the Trust Agreement ("Trust") for the Plan for its Employees.

Section 2. The Participating Employer acknowledges that the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Plan ("Trustees") are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Participating Employer.

### Section 3.

(a) The Participating Employer hereby adopts the terms of the Adoption Agreement and any Addendum, which is attached hereto and made a part of this resolution. The Adoption Agreement (and, if applicable, the Addendum) sets forth the Employees to be covered by the Plan, the benefits to be provided by the Participating Employer under the Plan, and any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plan. The Participating Employer reserves the right to amend its elections under the Adoption Agreement and any Addendum, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Trustees of the Plan.

(b) The Participating Employer acknowledges that it may not be able to rely on the volume submitter letter if it makes certain elections under the Adoption Agreement or the Addendum.

Section 4. The Participating Employer hereby authorizes Ice Miller LLP, Legal Counsel, the volume submitter practitioner who sponsors the Plan on behalf of GMA, to amend the Plan on its behalf as provided under Revenue Procedure 2005-16 and Announcement 2005-37. The Participating Employer understands that the implementing amendment reads as follows:

With the approval of the Trustees, the Practitioner shall amend the Plan on behalf of all Participating Employers, including those Participating Employers who have adopted the Plan prior to this restatement of the Plan, for changes in the Code, the regulations thereunder, revenue rulings, other statements published by Internal Revenue Service, including model, sample, or other required good faith amendments (but only if their adoption will not cause such Plan to be individually designed), and for corrections of prior approved plans. These amendments shall be applied to all Participating Employers.

Notwithstanding the foregoing paragraph, the Practitioner shall no longer have the authority to amend the Plan on behalf of any Participating Employer as of either:

- the date the Internal Revenue Service requires the Participating Employer to file Form 5300 as an individually designed plan as a result of an amendment by the Participating Employer to incorporate a type of Plan not allowable in a volume submitter plan as described in Revenue Procedure 2005-16; or
- as of the date of the Plan is otherwise considered an individually designed plan due to the nature and extent of the amendments.

If the Participating Employer is required to obtain a determination letter for any reason in order to maintain reliance on the advisory letter, the Practitioner's authority to amend the Plan on behalf of the Participating Employer is conditioned on the Plan receiving a favorable determination letter. In any event, any amendment made by the Practitioner is subject to the approval of the Trustees.

GMA will maintain or have maintained on behalf of the Practitioner, a record of the Participating Employers, and GMA on behalf of the Practitioner will make reasonable and diligent efforts to ensure that Participating Employers have actually received and are aware of all Plan amendments and that such Participating Employers adopt new documents when necessary. The provisions of this Section shall supersede other provisions of the Plan to the extent those other provisions are inconsistent.

The Participating Employer further understands that, if it does not give its authorization hereunder or, in the alternative, adopt another pre-approved plan, its Plan will become an individually designed plan and will not be able to rely on the volume submitter advisory letter.

#### Section 5.

(a) The Participating Employer shall abide by the terms of the Plan and the Trust, including amendments to the Plan made under Section 4 and to the Trust made by the Trustees of the Plan, all investment, administrative, and other service agreements of the Plan and the Trust, and all applicable provisions of the Internal Revenue Code and other applicable law.

(b) The Participating Employer accepts the administrative services to be provided by GMA and any services provided by a Service Manager as delegated by the Trustees. The Participating Employer acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participants' Accounts.

#### Section 6.

(a) The Participating Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements, if it takes the following actions:

- (i) A resolution must be adopted terminating its participation in the Plan.
- (ii) The resolution must specify when the participation will end.

The Trustees shall determine whether the resolution complies with the Plan, and all applicable federal and state laws, shall determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distributions under the Plan of existing accounts to Participants will be made in accordance with the Plan.

(b) The Participating Employer acknowledges that the Plan contains provisions for involuntary Plan termination.

Section 7. The Participating Employer acknowledges that all assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan. All amounts of compensation deferred pursuant to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plan, shall be transferred to the Trustees to be held, managed, invested and distributed as part of the Trust Fund in accordance with the provisions of the Plan. All contributions to the Plan must be transferred by the Participating Employer to the Trust Fund. All benefits under the Plan shall be distributed solely from the Trust Fund pursuant to the Plan.

Section 8. This resolution and the Adoption Agreement (and any Addendum) shall be submitted to the Trustees for their approval. The Trustees shall determine whether the resolution complies with the Plan, and, if it does, shall provide appropriate forms to the Participating Employer to implement participation in the Plan. The Trustees may refuse to approve an Adoption Agreement (and any Addendum) by an Employer that does not have state statutory authority to participate in the Plan. The Governing Authority hereby acknowledges that it is responsible to assure that this resolution and the Adoption Agreement (and any Addendum) are adopted and executed in accordance with the requirements of applicable law.

Adopted by the Governing Authority on \_\_\_\_\_, 2012, in accordance with applicable law.

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

Attest: \_\_\_\_\_

Date: \_\_\_\_\_

**[Governing Authority should assure that applicable law is followed in the adoption and execution of this resolution.]**

# GMA 401(a) DEFINED CONTRIBUTION PLAN ADOPTION AGREEMENT

## ADMINISTRATOR

Georgia Municipal Association  
201 Pryor Street, SW  
Atlanta, Georgia 30303  
Telephone: 404-688-0472  
Facsimile: 404-577-6663

## PARTICIPATING EMPLOYER

Name: City of Peachtree Corners

## GOVERNING AUTHORITY

Name: Mayor and Council of the City of Peachtree Corners  
Address: 147 Technology Pkwy, N.W., Peachtree Corners, GA 30092  
Phone: 678-591-1030  
Facsimile: \_\_\_\_\_  
E-mail: julian.jackson3@gmail.com  
Person Authorized to receive Official Notices from the Plan or GMA:  
City Manager

## DISCLOSURE OF OTHER 401(a) PLAN(S)

This Participating Employer  does or  does not have an existing defined contribution plan(s). If the Participating Employer does have one or more defined contribution plans, the Governing Authority must provide the plan name, name of the provider, and such other information requested by the Administrator.

## TYPE OF ADOPTION AND EFFECTIVE DATE

**NOTE:** This Adoption Agreement, with the accompanying Master Plan Document, is designed to comply with Internal Revenue Code Section 401(a), as applicable to a governmental qualified defined contribution plan, and is part of the GMA Defined Contribution and Deferred Compensation Program. Plan provisions designed to comply with certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) are effective for Plan Years beginning on and after January 1, 2002. Plan provisions designed to comply with certain provisions of additional changes in federal law and guidance from the Internal Revenue Service under Internal Revenue Service Notice 2004-84 (the 2004 Cumulative List) are effective as of the applicable effective dates set forth in the Adoption Agreement and Master Plan Document. By adopting this Adoption Agreement, with its accompanying Master Plan Document, the Participating Employer is adopting a plan document intended to comply with Internal Revenue Code Section 401(a), as updated by EGTRRA and the 2004 Cumulative List with the applicable effective dates.

This Adoption Agreement is for the following purpose (**check one**):

- This is a new defined contribution plan adopted by the Participating Employer for its Employees effective July 1, 2012, (**insert effective date of this Adoption Agreement not earlier than January 1, 2006**), with respect to Contributions as approved by the Board of Trustees below.
- Check this box if any non-conforming provisions will be included in Plan provisions. An Addendum must be requested from GMA to be completed as part of the Adoption Agreement.
- This is an amendment and restatement of the current GMA 401(a) Defined Contribution Plan or other defined contribution plan of the Participating Employer, the effective date of which shall be \_\_\_\_\_, \_\_\_\_\_ (**insert effective date of this Adoption Agreement not earlier than January 1, 2006**). This Adoption Agreement is intended to replace and serve as an amendment and restatement of the Employer's preexisting plan, which became effective on \_\_\_\_\_, \_\_\_\_\_ (**insert original effective date of preexisting plan**).
  - Check this box if (i) any preexisting plan provisions will be preserved from a superseded non-GMA plan or (ii) any non-conforming provisions will be included in Plan provisions. An Addendum must be requested from GMA to be completed as part of the Adoption Agreement.
- This is an amendment to be effective as of \_\_\_\_\_, \_\_\_\_\_, of the current GMA 401(a) Defined Contribution Plan previously adopted by the Participating Employer, which was originally effective \_\_\_\_\_, \_\_\_\_\_, as follows (**please specify type below**):

- This is an amendment to change one or more of the Participating Employer's contribution design elections in the Adoption Agreement.
- This is an amendment to add a new Department or a new class of Eligible Employees.
- This is an amendment to discontinue participation in the Plan by one or more Departments or classes of Employees.
- Other **(must specify elective provisions in this Adoption Agreement)**:  


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- Check this box if any non-conforming provisions will be included in Plan provisions. An Addendum must be requested from GMA to be completed as part of the Adoption Agreement.

### PLAN YEAR

Plan Year means the Participating Employer's Fiscal Year. For purposes of the limitations under Code Section 415(c) set forth in Article V of the Master Plan Document, the limitation year means the calendar year.

The Employer's Fiscal Year starts on: July 1 (insert month and day e.g., July 1).

### COVERED DEPARTMENTS

A Participating Employer may cover all of its departments in the Plan or only those listed (check one):

- All Departments
- All Departments eligible to participate under the Employer's GMEBS defined benefit plan. Note: This box may only be checked if the Participating Employer's defined benefit plan is administered by GMEBS.
- Covered Departments **(must specify)**:  


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### ELIGIBLE EMPLOYEES

Only Employees as defined in the Plan may be covered by the Adoption Agreement. Independent contractors may not participate in the Plan. Subject to other conditions in the Plan

and this Adoption Agreement, the following Employees of the Covered Departments are eligible to participate in the Plan, provided that they satisfy any additional eligibility requirements specified under "Other Eligibility Requirements" below (**check one**):

- All
- All with the following exclusions:
  - Municipal Legal Officer
  - Elected or appointed officials
  - Other (**must specify**):  
\_\_\_\_\_
- Only employees in any 457(b) plan of the Employer. Note: This box must be checked if the sole purpose of this Plan is to provide Employer contributions to match Employee contributions to a 457(b) Plan.
- Only employees in the GMEBS defined benefit plan. Note: This box may only be checked if the Participating Employer's defined benefit plan is administered by GMEBS.
- Other (**must specify; Eligible Employees shall not include non-governmental employees, independent contractors, or any other ineligible individuals**):  
\_\_\_\_\_

The Employer shall provide the Trustees with the name, address, Social Security Number, and date of birth for each Eligible Employee, as defined by the Adoption Agreement.

### OTHER ELIGIBILITY REQUIREMENTS

**Minimum Hours Per Week** – A Participating Employer may prescribe a minimum number of hours that an Employee must be scheduled and normally work in order to be an Eligible Employee under the Plan. The Employer hereby elects the following (elect either "No Minimum Hours Required" or "Minimum Hours Required" below. If you elect to have a minimum hour requirement you must specify the number of hours required in the space provided below).

- No Minimum Number of Hours Required**
- Minimum Hours Required Per Week (regularly scheduled):**
  - 40 (must not exceed 40 hours/week)**
  - Same Minimum Hours Required as provided in GMEBS defined benefit plan. Number of Hours: \_\_\_\_\_. Note: This box may only be checked if the Participating Employer's defined benefit plan is administered by GMEBS.
- Other Minimum Hour Requirement (must specify):** \_\_\_\_\_

If any Eligible Employee ceases to meet the Minimum Hour Requirement (if any), he or she becomes ineligible for additional contributions until he or she once again meets the requirement. It is the Participating Employer's responsibility to monitor this requirement and to report to the Administrator a change in employee eligibility.

**Waiting Period** -- A Participating Employer may establish a waiting period before an Eligible Employee may become a Participant in the Plan. The Employer hereby elects the following (elect "no waiting period" or one of the waiting period options below):

- No waiting period.** An Eligible Employee may become a Participant immediately upon meeting the eligibility conditions of the Plan.
- A waiting period described under one of the following options (check one):**

- Minimum Period of Service (please complete items below):**

The waiting period for participation in the Plan shall be \_\_\_\_\_ (not to exceed 12 months) of service, calculated from the commencement of the Eligible Employee's employment with the Employer.

Eligible Employees who are employed on the date the Plan is adopted  
 will be  will not be given credit for prior service as an Employee for purposes of satisfying the waiting period.

Different periods of service  will be  will not be added together to determine whether the waiting period has been satisfied.

- Minimum Period of Contributions to 457(b) Plan (please complete items below):**

The waiting period for participation in the Plan shall be \_\_\_\_\_ (not to exceed 12 months) of the Eligible Employee's making contributions to the Employer's 457(b) plan(s).

Eligible Employees who are employed on the date the Plan is adopted  
 will be  will not be given credit for prior contributions made to the 457(b) Plan for purposes of satisfying the waiting period.

After initially meeting the waiting period, any interruption of employee contributions to the 457(b) plan(s)  will  will not require the employee to meet another waiting period to qualify for matching contributions.

Different periods of service in which deferrals are made as an Eligible Employee  will  will not be added together to determine if the waiting period has been satisfied.

## EMPLOYER CONTRIBUTIONS

A Participating Employer may make Matching Contributions **and/or** Non-Matching Contributions as specified below. Matching Contributions and Non-Matching Contributions that are tied to Payroll Periods (as defined in this Adoption Agreement) must be remitted to the Administrator no later than 15 business days after the Payroll Period. Annual Contributions must be remitted to the Administrator no later than 15 days after the end of the Plan Year. A Participating Employer may establish one or more classes of employees for contribution purposes in this Adoption Agreement.

The Participating Employer hereby elects to make contributions as follows (**check matching, non-matching, or both as applicable**):

**Matching Contributions**

Employer Contributions shall be made to match all or a portion of a Participant's contribution to an eligible 457(b) deferred compensation plan, including the GMA Deferred Compensation Plan. The Employer must identify the class or classes of Participants for whom contributions will be made and the contribution formula:

**Class A Matching Contributions** will be made on the following basis for **Class A** Participants:

**Class A** Participants are (**check one**):

- All Eligible Employees  
 Other (**must specify; any individuals specified must be Eligible Employees**): \_\_\_\_\_

The Employer elects the following matching contribution formula for Class A Participants (**check and complete "Percentage Match," "Flat Dollar Match," or "Other Formula" below**):

- Percentage Match**: For each Payroll Period in which the Participant contributed to a 457(b) Plan of the Employer, the Employer will contribute **100%** (**insert percentage**) of the dollar amount contributed to the 457(b) Plan. (For example, if an Employer elects a 50% match, then for every \$10 the Participant contributes to the 457(b) Plan, the Employer will contribute \$5 to this Plan).

**Cap on Percentage Match** - The Employer may wish to establish a cap on its matching contributions, so that the percentage (%) match amount indicated above cannot exceed a certain amount per Payroll Period. The Employer hereby elects the following cap on its percentage matching contribution (**check and fill in \$ or % of compensation limit to apply below, or check "no cap" below**):

- Flat Dollar Cap:** In no event will Matching Contributions made on behalf of a Participant exceed a flat dollar amount equal to (**complete as applicable**):

\$ \_\_\_\_\_ per weekly Payroll Period  
\$ \_\_\_\_\_ per bi-weekly Payroll Period  
\$ \_\_\_\_\_ per semi-monthly Payroll Period  
\$ \_\_\_\_\_ per monthly Payroll Period

[Note: If the Employer has more than one Payroll Period, you should indicate dollar cap that will apply with respect to each Payroll Period e.g., \$100 per weekly Payroll Period, and \$200 per bi-weekly Payroll Period].

- Cap Equal to Percentage of Total Compensation:** In no event will Matching Contributions made on behalf of a Participant exceed 5% of the Participant's §457(e)(5) includable compensation (gross income from the Employer) per Payroll Period.

- No Cap**

- Flat Dollar Match:** For each Payroll Period in which the Participant contributed at least \$ \_\_\_\_\_ (**may be \$1 to \$25**) to a 457(b) Plan of the Employer, the Participating Employer will contribute a flat dollar amount as shown below (**complete as applicable**):

\$ \_\_\_\_\_ per weekly Payroll Period  
\$ \_\_\_\_\_ per bi-weekly Payroll Period  
\$ \_\_\_\_\_ per semi-monthly Payroll Period  
\$ \_\_\_\_\_ per monthly Payroll Period

- Other Formula for Calculating Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):**

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[Do not complete following section on Class B Matching Contributions if all Eligible Employees are included in Class A above].

Class B Matching Contributions will be made on the following basis for Class B Participants:

Class B Participants are (must specify; all individuals specified must be Eligible Employees):  
\_\_\_\_\_

The Employer elects the following matching contribution formula for Class B Participants (check and complete "Percentage Match," "Flat Dollar Match," or "Other Formula" below):

- Percentage Match:** For each Payroll Period in which the Participant contributed to a 457(b) Plan of the Employer, the Employer will contribute \_\_\_\_\_% (insert percentage) of the dollar amount contributed to the 457(b) Plan. (For example, if an Employer elects a 50% match, then for every \$10 the Participant contributes to the 457(b) Plan, the Employer will contribute \$5 to this Plan).

**Cap on Percentage Match** - The Employer may wish to establish a cap on its matching contributions, so that the percentage (%) match amount indicated above cannot exceed a certain amount per Payroll Period. The Employer hereby elects the following cap on its percentage matching contribution (check and fill in \$ or % of compensation limit to apply below, or check "no cap" below):

- Flat Dollar Cap:** In no event will Matching Contributions made on behalf of a Participant exceed a flat dollar amount equal to (complete as applicable):

\$ \_\_\_\_\_ per weekly Payroll Period  
\$ \_\_\_\_\_ per bi-weekly Payroll Period  
\$ \_\_\_\_\_ per semi-monthly Payroll Period  
\$ \_\_\_\_\_ per monthly Payroll Period

[Note: If the Employer has more than one Payroll Period, you should indicate dollar cap that will apply with respect to each Payroll Period e.g., \$100 per weekly Payroll Period, and \$200 per bi-weekly Payroll Period].

- Cap Equal to Percentage of Total Compensation:** In no event will Matching Contributions made on behalf of a Participant exceed \_\_\_\_\_% of the Participant's §457(e)(5) includable compensation (gross income from the Employer) per Payroll Period.

- No Cap**

- Flat Dollar Match:** For each Payroll Period in which the Participant contributed at least \$ \_\_\_\_\_ (may be \$1 to \$25) to a 457(b) Plan of the Employer, the Participating Employer will contribute a flat dollar amount as shown below (complete as applicable):

\$ \_\_\_\_\_ per weekly Payroll Period  
\$ \_\_\_\_\_ per bi-weekly Payroll Period  
\$ \_\_\_\_\_ per semi-monthly Payroll Period  
\$ \_\_\_\_\_ per monthly Payroll Period

- Other Formula for Calculating Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):**

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[Skip to "Payroll Period" below if Employer is not going to make Non-Matching Contributions]

**Non-Matching Contributions**

The Employer hereby elects to make contributions to the Plan without regard to a Participant's contribution to a 457(b) plan(s). The Employer must identify the class or classes of Participants for whom these contributions will be made and the contribution formula:

**Non-Matching Contributions** shall be made on the following basis for Class C Participants:

**Class C** Participants are (check one):

- All Eligible Employees  
 Other (must specify; any individuals specified must be Eligible Employees): \_\_\_\_\_

The Employer elects the following contribution formula for Class C Participants (check one):

- Year-End Contributions: A one-time Plan Year-end contribution of \$ \_\_\_\_\_ or \_\_\_\_\_ % of Compensation per Participant.

- 12% of Compensation per Participant for each Payroll Period.
- A flat dollar amount per Payroll Period as shown below (**complete as applicable**):

\$ \_\_\_\_\_ per weekly Payroll Period  
 \$ \_\_\_\_\_ per bi-weekly Payroll Period  
 \$ \_\_\_\_\_ per semi-monthly Payroll Period  
 \$ \_\_\_\_\_ per monthly Payroll Period

- Other Formula for Calculating Non-Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**[Do not complete the following section on Class D Non-Matching Contributions if all Eligible Employees are included in Class C above].**

Non-Matching Contributions shall be made on the following basis for Class D Participants:

Class D Participants are (**must specify; all individuals specified must be Eligible Employees**): \_\_\_\_\_.

The Employer elects the following contribution formula for Class D Participants (**check one**):

- Year-End Contributions: A one-time Plan Year-end contribution of \$ \_\_\_\_\_ or \_\_\_\_\_ % of Compensation per Participant.
- \_\_\_\_\_ % of Compensation per Participant for each Payroll Period.
- A flat dollar amount per Pay Period as shown below (**complete as applicable**):

\$ \_\_\_\_\_ per weekly Payroll Period  
 \$ \_\_\_\_\_ per bi-weekly Payroll Period  
 \$ \_\_\_\_\_ per semi-monthly Payroll Period  
 \$ \_\_\_\_\_ per monthly Payroll Period

- Other Formula for Calculating Non-Matching Contributions (must specify formula that complies with definitely determinable requirements of Treasury Regulations Section 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):

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For purposes of computing non-matching contributions, "Compensation" is defined in the Plan, subject to the limits imposed by Georgia Code Section 47-1-13(b) and Internal Revenue Code Section 401(a)(17), as adjusted for cost-of-living increases under Internal Revenue Code Section 401(a)(17)(B).

### PAYROLL PERIOD

The payroll period of the Participating Employer is:

- Weekly
- Bi-Weekly
- Semi-Monthly
- Monthly

### VESTING FOR EMPLOYER MATCHING CONTRIBUTIONS (Complete if Employer is Making Matching Contributions)

A Participating Employer may establish a vesting schedule for Employer Matching Contributions. This means that if the Participant leaves the Participating Employer's employment prior to completing a specified period of service (not to exceed 5 years), the Participant forfeits all or part of the Employer's Matching Contributions. However, upon Death or Disability or the termination of the Plan, the Participant is 100% vested in the Participant's Employer Matching Contributions, notwithstanding any vesting schedule. If a vesting schedule is established, it is the Employer's responsibility to calculate the Eligible Employee's service and report it to the Administrator. Unless otherwise specified below, for purposes of vesting, service means the number of years and complete months of service of a Participant as an Eligible Employee of the Employer and the Participant's service begins with the first day of employment as an Eligible Employee. The Employer hereby elects the following (check one):

- Immediate Vesting.** No vesting schedule. Employer Matching Contributions are 100% vested from the time credited to the Participant's Account (if this option is elected, do not complete the rest of this section).

- Cliff Vesting.** Employer Matching Contributions are 100% vested after a Participant has been employed as an Eligible Employee for \_\_\_\_\_ years (**not to exceed 5 years**) (the "Vesting Period"). Matching contributions remain 0% vested until the Participant satisfies the full Vesting Period.
- Graduated Vesting Schedule.** Employer Matching Contributions are vested on the following graduated scale (**insert vesting % for each completed year of service as an Eligible Employee. Note: Maximum waiting period for 100% vesting may not exceed 5 years**):

<u>Completed Years of Service as Eligible Employee</u>	<u>Vested %</u>
1 year	_____ %
2 years	_____ %
3 years	_____ %
4 years	_____ %
5 years	_____ 100 %

**Complete the following items if Employer has elected Cliff Vesting or Graduated Vesting:**

In determining the Participant's total years of service for vesting purposes, Eligible Employees who are employed on the date the Plan is adopted by the Employer (**check one**):  will be  will not be given credit for prior service as an Eligible Employee.

In determining the Participant's total years of service for vesting purposes, different periods of employment as an Eligible Employee (**check one**):  will be added together  will not be added together  will be added together if the Participant is reemployed with the Employer before completing a period of separation of \_\_\_\_\_ years (not to exceed 5 years).

**VESTING FOR EMPLOYER NON-MATCHING CONTRIBUTIONS**  
(Complete if Employer is making Non-Matching Contributions)

A Participating Employer may establish a vesting schedule for Employer Non-Matching Contributions. This means that if the Participant leaves the Participating Employer's employment prior to completing a specified period of service (not to exceed 5 years), the Participant forfeits all or part of the Employer's Non-Matching Contributions. However, upon Death or Disability or the termination of the Plan, the Participant is 100% vested in the Participant's Employer Non-Matching Contributions, notwithstanding any vesting schedule. If a vesting schedule is established, it is the Employer's responsibility to calculate the Eligible Employee's service and report it to the Administrator. Unless otherwise specified below, in calculating the Vesting Period, service means the number of years and complete months of service of a Participant as an Eligible Employee of the Employer, and the Participant's service

begins with the first day of employment as an Eligible Employee. The Employer hereby elects the following (**check one**):

- Immediate Vesting.** No vesting schedule. Employer Non-Matching Contributions are 100% vested from the time credited to the Participant's Account (**if this option is elected, do not complete the rest of this section**).
- Cliff Vesting.** Employer Non-Matching Contributions are 100% vested after a Participant has been employed as an Eligible Employee for \_\_\_\_\_ years (**not to exceed 5 years**) (the "Vesting Period"). Non-Matching Contributions remain 0% vested until the Participant satisfies the full Vesting Period.
- Graduated Vesting Schedule.** Employer Non-Matching Contributions are vested on the following graduated scale (**insert vesting % for each completed year of service as an Eligible Employee. Note: Maximum waiting period for 100% vesting may not exceed 5 years**):

<u>Completed Years of Service as Eligible Employee</u>	<u>Vested %</u>
1 year	_____ %
2 years	_____ %
3 years	_____ %
4 years	_____ %
5 years	_____ 100 %

**Complete the following items if the Employer has elected Cliff Vesting or Graduated Vesting:**

In determining the Participant's total years of service for vesting purposes, Eligible Employees who are employed on the date the Plan is adopted by the Employer (**check one**):  will be  will not be given credit for prior service as an Eligible Employee.

In determining the Participant's total years of service for vesting purposes, different periods of employment as an Eligible Employee (**check one**):  will be added together  will not be added together  will be added together if the Participant is reemployed with the Employer before completing a period of separation of \_\_\_\_\_ years (not to exceed 5 years).

## **TREATMENT OF FORFEITURES**

If a Participant separates from service, the Participant's non-vested Employer Matching Contributions and/or non-vested Employer Non-Matching Contributions shall be forfeited as of the date of the Participant's Separation from Service. Amounts forfeited during a Plan Year shall be held unallocated until they are used to reduce or otherwise supplement Employer Contributions as of the earliest possible date such contributions are required to be made to the Plan.

## **MODIFICATION OF THE TERMS OF THE ADOPTION AGREEMENT**

If a Participating Employer desires to amend any of its elections contained in this Adoption Agreement (or any Addendum), the Governing Authority by official action must adopt an amendment of the Adoption Agreement (or any Addendum) or a new Adoption Agreement (or Addendum) must be adopted and forwarded to the Trustees for approval. The amendment of the new Adoption Agreement (or Addendum) is not effective until approved by the Trustees and other procedures required by the Plan have been implemented.

The Administrator will inform the Participating Employer of any amendments made by the Trustees to the Plan.

## **TERMINATION OF THE ADOPTION AGREEMENT**

This Adoption Agreement (and any Addendum) may be terminated only in accordance with the Plan.

The Administrator will inform the Participating Employer of the discontinuance or abandonment of the Plan by the Trustees.

## **EXECUTION BY EMPLOYER**

This Adoption Agreement (and any Addendum) may only be used in conjunction with The Georgia Municipal Association 401(a) Defined Contribution Plan Master Plan Document approved by the Internal Revenue Service under an advisory letter M580185a dated March 31, 2008.

The failure to properly complete this Adoption Agreement (or any Addendum), or to operate and maintain the Plan and Trust in accordance with the terms of the completed Adoption Agreement (and any Addendum), Master Plan Document and Trust, may result in disqualification of the Plan under the Code. Inquiries regarding the adoption of the Plan, the meaning of Plan provisions, or the effect of the IRS advisory letter should be directed to the Administrator. The Administrator is the Georgia Municipal Association, with its primary business offices located at: 201 Pryor Street, SW, Atlanta, Georgia 30303. The business telephone number is: (404) 688-0472. The primary person to contact is: Angela Nixon, RMEBS Legal Counsel.

The foregoing Adoption Agreement is hereby adopted and approved on the \_\_\_\_ day of \_\_\_\_\_, 2012, by the Mayor and Council of the City of Peachtree Corners, Georgia.

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

### TRUSTEES APPROVAL

The Adoption Agreement is approved by the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Plan.

**[Complete the following if the purpose of this Adoption Agreement is to establish a new defined contribution plan or to restate a preexisting defined contribution plan of the Participating Employer (other than a GMA 401(a) Defined Contribution Plan).]**

Contributions shall first be remitted as follows:

- within 15 business days after the Payroll Period ending \_\_\_\_\_.
- On the following prospective date (**specify a specific date**): \_\_\_\_\_.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Title: Secretary/Treasurer

on behalf of the Board of Trustees

918466.11

**AMENDMENT 1  
TO  
THE GEORGIA MUNICIPAL ASSOCIATION  
401(a) DEFINED CONTRIBUTION PLAN  
ADOPTION AGREEMENT**

This is an Amendment to the Adoption Agreement for the City of Peachtree Corners ("Participating Employer") under the GMA 401(a) Defined Contribution Plan ("GMA Plan"), which became effective July 1, 2012. This Amendment modifies the Adoption Agreement as follows (complete as applicable):

**COMPENSATION**

**Compensation Paid After Severance From Employment** -- A Participating Employer may elect to include certain post-severance payments in Compensation for purposes of computing contributions under the Plan, but only if these amounts are paid no later than 2½ months after severance from employment or, if later, the end of the calendar year that includes a Participant's severance from employment, and only if it is a payment that, absent a severance from employment, would have been paid to the Participant while the Participant continued in employment with the Participating Employer. The Participating Employer makes the following election with respect to including post-severance payments in Compensation (Note: if the following is not completed, no post-severance payments will be included in Compensation by default):

- No post-severance payments will be included in Compensation for purposes of computing contributions under the Plan (if this box is checked, skip to "Execution by Employer" below).
- For purposes of calculating contributions under the Plan, the following post-severance payments will be included in Compensation, as long as: 1) they are paid no later than 2 ½ months after severance from employment or, if later, the end of the calendar year that includes the Participant's severance from employment; and 2) absent a severance from employment, they would have been paid to the Participant while the Participant continued in employment with the Participating Employer (check all that apply):
  - regular compensation paid after severance from employment for services rendered prior to severance during the Participant's regular working hours
  - compensation paid after severance from employment for services rendered prior to severance outside the Participant's regular work hours (such as overtime or shift differential), commissions, bonuses, or other similar payments

post-severance payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### EXECUTION BY EMPLOYER

The terms of the foregoing Amendment to the Adoption Agreement are hereby adopted and approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the Mayor and Council of the City of Peachtree Corners. This Amendment will be effective July 1, 2012.

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: Mayor

Date of Signature: \_\_\_\_\_

### TRUSTEES' APPROVAL

The terms of the foregoing Amendment are approved by the Board of Trustees of the GMA Defined Contribution and Deferred Compensation Program.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Title: Secretary/Treasurer  
on behalf of the Board of Trustees



**SECTION 5. EMPLOYER REPRESENTATIVE** – Please list by title or position the person designated by the Employer to represent the Employer in all communications with GMEBS and the Program Administrator concerning the GMEBS Life & Health Program: **Acting City Clerk**

**SECTION 6. EMPLOYER ADOPTION** - The Employer acknowledges that this Employer Declaration and Application will not become effective unless and until it is approved by the GMEBS Life & Health Program Administrator, and that upon such approval this Employer Declaration and Application will replace and supersede any prior Employer Declaration and Application concerning health and dental coverage for employees that is on file with the GMEBS Life & Health Program Administrator. The Employer further acknowledges that GMEBS' approval of this Employer Declaration and Application is contingent upon the Employer having adopted the GMEBS Life and Health Program Participation Agreement.

Approved by the Mayor and Council of the City of Peachtree Corners, Georgia this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Attest:

Employer Name:

City of Peachtree Corners

\_\_\_\_\_  
Signature of City Clerk

\_\_\_\_\_  
Signature of Mayor

\_\_\_\_\_  
Print Name of City Clerk

\_\_\_\_\_  
Print Name of Mayor

(SEAL)

**Please do not write below this line (for GMEBS USE ONLY)**

-----  
The terms of the foregoing Employer Declaration and Application are approved by the GMEBS Life & Health Program Administrator this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Subject to the applicable terms of the GMEBS Life and Health Program Participation Agreement and the Plan(s), the effective date of the coverages (or any change in coverage) as reflected in this Employer Declaration and Application will be the date shown under "Declaration Effective Date" on the first page of this form.

GMEBS LIFE & HEALTH PROGRAM ADMINISTRATOR

By: \_\_\_\_\_



# CITY OF PEACHTREE CORNERS REQUEST FOR PROPOSAL

Issue Date: <b>10/31/12</b>	RFP Number: <b>2012-004</b>	RFP Title: <b>Peachtree Corners 2033 Comprehensive Plan</b>
RFP Due Date and Time: <b>11/19/12</b> <b>11 AM, Local Time</b>		City Contact: Diana Wheeler diana.wheeler@cityofpeachtreecornersga.com

### INSTRUCTIONS TO RESPONDENTS

<p>Return Proposal to:</p> <p style="text-align: center;"><b>City of Peachtree Corners City Hall 147 Technology Parkway Peachtree Corners, GA 30092</b></p>	<p>Mark Face of Envelope/Package:</p> <p><b>Respondent's Name and Address</b> RFP 2012-004 Development Services RFP Due Date &amp; Time: <b>11/19/12</b> <b>11 AM</b></p> <hr/> <p>Special Instructions: <b>Submit 15 copies of all documents</b></p>
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### RESPONDENTS MUST COMPLETE THE FOLLOWING

<b>Respondent Name/Address:</b>	<b>Authorized Respondent Signatory:</b> (Please print name and sign in ink)
<b>Respondent Phone Number(s):</b>	<b>Respondent FAX Number:</b>
<b>Respondent Federal I.D. Number:</b>	<b>Respondent E-mail Address and website address (if available):</b>
<b>Primary Contact Person Name:</b>	<b>Primary Contact Person E-mail Address:</b>

**RESPONDENTS MUST RETURN THIS COVER SHEET WITH RFP RESPONSE**

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## 1. SCHEDULE OF EVENTS

<u>EVENT</u>	<u>DATE</u>
RFP Issue Date.....	10/31/12
Deadline for Receipt of E-Mail Questions from Respondents.....	11/09/12
Deadline for Posting of Written Answers to City Website .....	11/12/12
RFP Response Due Date.....	11/19/12
Intended Date for Contract Award.....	12/18/12
Intended Date for Contract Signing.....	01/04/12
Intended Date for Notice to Proceed.....	01/05/12
Intended Date to Adopt Comprehensive Plan.....	10/01/13

## 2. PURPOSE OF RFP

The City of Peachtree Corners (“City”) is seeking qualified proposals for the creation of its first Comprehensive Plan, a document that is intended to fulfill the following objectives: 1) guide the City’s development over the next 20 year; 2) comply with the rules established by the Georgia Department of Community Affairs in Chapter 110-12-1; and 3) Meet requirements necessary to achieve Qualified Local Government status.

### **3. BACKGROUND**

The City was created July 1, 2012 as a limited services government. As per the requirements set forth in the City's Charter, only Planning and Zoning, Code Enforcement, and Solid Waste Collection will be provided directly by the City. The remaining municipal services will be provided through inter-governmental agreements. While the services the City provides are limited, its long range vision is intended to be comprehensive and encompass all the components that influence quality of life in the City as outlined in Section 4, below.

### **4. SCOPE OF PROJECT**

The State of Georgia Department of Community Affairs requires the City of Peachtree Corners to develop a Comprehensive Plan that meets the specific requirements outlined in Chapter 110-12-1(as amended, effective 1/1/13). At a minimum, the new 2033 Comprehensive Plan will have to include three components: 1) Community Goals; 2) Needs and Opportunities assessment; and 3) Community Work Program. In addition to these three plan components, the following plan elements shall also be included:

1. Land Use
  - a. Inventory of existing uses by location and land use type
  - b. Identification of vacant , developed and under-developed land
  - c. Establishment of future land uses including category descriptions and map
  - d. Relationship of land use categories to zoning categories
  - e. Identification, description, goals and objectives for character areas
  - f. General land use goals and objectives
  
2. Housing
  - a. Housing stock inventory: type, age, and condition
  - b. Percent of owner occupied vs. tenant occupied housing
  - c. Special needs housing including assisted living facilities and group homes.
  - d. Single-family home values: median, historical, existing, and future projections
  - e. Median Rent
  - f. Foreclosures and vacancy rates for single-family and multi-family housing
  - g. Assessment of housing supply and projection of future housing needs
  - h. General housing goals and objectives
  
3. Economic Development
  - a. Economic base inventory
  - b. Employment by sector
  - c. Major employers
  - d. Labor force analysis
  - e. Development trends
  - f. Programs, resources, and tools
  - g. General Economic Development goals and objectives

4. Transportation
  - a. Inventory of existing facilities including roads, bridges, truck routes, public transportation, pedestrian and bike facilities
  - b. Roadway Network: jurisdiction, functional classification, number of lanes, LOS
  - c. Current and anticipated improvement projects
  - d. Opportunities for transportation and land use connections
  - e. General Transportation goals and objectives
  
5. Population
  - a. Existing and forecast populations
  - b. Household size
  - c. Household forecasts and trends
  - d. Age distribution
  - e. Racial/ethnic composition
  - f. Educational attainment
  - g. Income
  - h. General Population goals and objectives
  
6. Community Facilities and Resources
  - a. Inventory of public safety facilities
  - b. Inventory of recreation and open space facilities
  - c. Inventory of natural features
  - d. Inventory of educational and cultural resources
  - e. Water supply, sewerage system, solid waste management, public health facilities
  - f. Assessment of current and projected facility needs
  - g. General Community Facilities and Resources goals and objectives

## 5. PROJECT RESPONSIBILITIES

The City would like to procure the services of a qualified consultant to oversee the anticipated nine month process to produce a 2033 Comprehensive Plan that meets DCA's stipulated requirements, identifies existing conditions, forecasts projections, identifies needs, and establishes a vision to guide the City's growth. The City's desire is to incorporate public participation and facilitate a process that is both inclusive and transparent.

It is anticipated that the consultant's work will include the following responsibilities:

- Preparation of the three plan components and the six plan elements outlined above.
- All required data collection and analysis
- Preliminary and final identification of character areas
- Preliminary and final identification of issues, needs, opportunities, and goals

- Facilitation of public meetings and participatory exercises (charrettes, visioning sessions, etc.) to help stakeholders and citizens set a vision for the city. (estimated 4 meetings)
- Facilitation of meetings with/ presentations to elected officials, appointed officials, and steering committee members (estimated 6 meetings)
- Establishment of all base-line demographic information and development of an accurate inventory of community facilities, vacant and developed land, housing by type, infrastructure, and other city resources including, but not limited to, the specific items listed with elements #1- #6 outlined in Sec. 4 of this document.
- Review of existing zoning, land use regulations, and other ordinances in order to recommend changes to make them consistent with the new comprehensive plan.
- Preparation of digital and hard copy maps (5 copies of each map document in each format)
- Preparation of the 2033 Comprehensive Plan document in digital and hard copy formats ( 20 copies of plan document in each format)

## 6. QUALIFICATIONS AND EVALUATION FACTORS

The City will evaluate firms based on their capability and proposed approach to providing services identified in the Scope of Project, along with past performance, comparable experience, cost and other factors as follows:

Team Organization	10%
Understanding of Project/ Project Approach	20%
Familiarity with DCA and ARC Procedures and Regulations	20%
Previous Comparable Experience	20%
<u>Cost</u>	<u>30%</u>
Total	100%

## 7. DURATION OF SERVICE

The intended duration of this service agreement is estimated to be from the signing of the contract through the end of 2013 or to project completion, whichever occurs first.

## 8. KEY REQUIREMENTS

### A. Proposal Deadline.

**All proposals must be received by 11:00AM Monday, November 19, 2012 to be considered.** There will be no exceptions made. Fifteen (15) identical hard copies must be submitted to the City of Peachtree Corners and delivered to: City of Peachtree Corners, City Hall, 147 Technology Parkway, Peachtree Corners, Georgia, 30092. **Please call 706-525-9740 if you wish to submit your proposal in advance of Monday, November 19th in order to make arrangements to have someone available to receive your proposal.**

### B. Public Information Notification.

The City considers all materials, information, communications and correspondence in any form from the respondents to this RFP to be non-propriety and non-confidential and, therefore, subject to public disclosure under Georgia Law.

### C. Format of Proposal should be organized in the manner stipulated below:

- 1) RFP mandatory Cover Sheet
- 2) Report Cover (optional)
- 3) Table of Contents
- 4) Tabbed Dividers -Each proposal should have tabbed dividers separating each of the following seven sections and matching the following headings:

**Section #1: *Firm Information.*** (1 page maximum) Firm name, address, telephone/fax numbers, and e-mail addresses, Firm web address if available; Primary contact person; Size of firm; Years the firm has been in business; Names of principals in firm; Organizational description. (1 page)

**Section #2: *Letter of Interest.*** (2 pages maximum) provide a letter stating the firm's interest in being considered for this RFP. The letter should include a summary of:

- The firm's background in working with City or County government and/or private sector businesses in the area of Comprehensive Planning and the nature of services rendered;
- The firm's level of expertise as it relates to the development of Comprehensive Plans.
- The experience of the proposed personnel assigned to this engagement;
- Experience with DCA personnel and procedures;
- Letter signed by a partner or principal of the firm.

**Section #3: *Proposed Approach*** (no page limit)

- Identify the method by which the work will be performed; the strategy to involve the public and the timeline to meet the City's desired goal.

Section #4: *Comparable Experience* (no page limit);

- Identify similar projects undertaken previously.

Section #5: *References* (3 pages maximum)

- Provide at least 3 references of recent and relevant (past five years) clients.

Section #6: *Qualifications of Personnel* (7 pages maximum)

- Provide resumes of personnel to be involved in the assignments. Resume must clearly state professional credentials and previous experience in the areas that services are being offered.

Section #7: *Costs*

- Provide the costs associated with each element, phase, and /or work product from project initiation through completion.

## 9. QUESTIONS AND RESPONSES

- Questions, requests for clarification or interpretation of any section within this RFP must be addressed by e-mail to [diana.wheeler@cityofpeachtreecornersga.com](mailto:diana.wheeler@cityofpeachtreecornersga.com) on or before **11/09/12**. Each inquiry must provide clear reference to the section, page, and item in question. Questions received after the deadline may not be considered.

The City will provide by **11/12/12**, a response to all questions received by the above noted deadline. The City's response will be by e-mail posting on the City's website. (<http://cityofpeachtreecornersga.com>).

- Any addenda to this RFP will also be posted on the City's website.

## 10. SELECTION PROCESS

- The City will evaluate the proposals received through the Selection Panel, following the application deadline. The City expects to shortlist firms that demonstrate that they have the capability and experience to successfully provide services. The City may arrange to interview firms before making a final selection. The City may require additional information after the review of the initial information received.
- Following the identification of the most responsive proposal, the Selection Panel will make its recommendation to the City Council of the firm to be awarded the contract along with the recommendation for an alternate firm, should the City be unable to finalize a contract with the first firm.

## 11. ADDITIONAL INFORMATION / SUPPLEMENTARY PROVISIONS

- A. Only Respondents' names shall be disclosed prior to contract award. No other information will be disclosed nor shall the proposals be considered open record until after council award. All information received in response to this RFP, including copyrighted material, is deemed public information and will be made available for public viewing after the council award.
- B. Responding to this RFP constitutes understanding and agreement to methods of evaluation and selection.
- C. The City reserves the right to reject any and all proposals or to award a contract to the respondent it deems would be best able to satisfy the requirements and qualifications set forth above. The criteria used in the selection process will be at the sole discretion of the City.
- D. The City Council will make the final decision of whether to award a contract or to reject any and all proposals.
- E. The Project shall be coordinated through the Community Development Department.
- F. The terms contained in this RFP shall be incorporated into the final contract.
- G. The successful Respondent shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Respondent, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission. Proof of insurance must be received at the time of contract.
- H. The successful Respondent is required to supply the City with proof of compliance with the Workers' Compensation Act while performing work for the City. Neither the Respondent nor its employees are employees of the City. Proof of compliance must be received within acceptable time limits established during the contract negotiation process.
- I. The successful Respondent is required to comply with the Security and Immigration Act, as follows:

*Work Eligibility Verification Requirement:*

(1) Pursuant to O.C.G.A. 13-10-91, every public employer, every contractor of a public employer, and every subcontractor of a public employer's contractor must register and participate in a federal work authorization program, as follows:

(a) On or after July 1, 2007, every public employer shall register and participate in a federal work authorization program to verify the work eligibility information of all new employees.

(b) No public employer shall enter into a contract for the physical performance of services within the State of Georgia unless the contractor registers and participates in a federal work authorization program to verify the work eligibility information of all new employees.

(c) No contractor or subcontractor who enters into a contract with a public employer shall enter into such a contract or subcontract in connection with the physical performance of services within the State of Georgia unless such contractor or subcontractor registers and participates in a federal work authorization program to verify the work eligibility information of all new employees.

(2) In accordance with O.C.G.A. 13-10-91, the requirements of paragraphs (b) and (c) of paragraph (1) shall apply to public employers, their contractors and subcontractors, as follows:

(a) On or after July 1, 2007, to public employers, contractors, or subcontractors of 500 or more employees;

(b) On or after July 1, 2008, to public employers, contractors or subcontractors of 100 or more employees; and

(c) On or after July 1, 2009, to all other public employers, their contractors, or subcontractors.

(3) As of the date of enactment of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "Employment Eligibility Verification (EEV)/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA). Public employers, contractors and subcontractors subject to O.C.G.A. 13-10-91 shall comply with O.C.G.A. 13-10-91 and this rule by utilizing the EEV/Basic Pilot Program. The EEV/Basic Pilot Program can be accessed from the USDHS U.S. Citizenship and Immigration Services Internet website at <https://www.vis-dhs.com/EmployerRegistration>. Information and instructions regarding EEV/Basic Pilot Program Registration, Corporate Administrator Registration, and Designated Agent Registration can be found at that website address.

(4) All rules, regulations, policies, procedures and other requirements of the EEV/Basic Pilot Program or any other federal work authorization program defined in Rule 300-10-1-.01 and permitted to be used to satisfy the requirements of O.C.G.A. 13-10-91 and these rules, shall be considered additional requirements of this rule.

(5) In accordance with O.C.G.A. 13-10-91, public employers, contractors and subcontractors may utilize any other federal work authorization program operated by the United States Department of Homeland Security or any other equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control act of 1986 (IRCA), P.L. 99-603, as such work authorization programs become available.

(6) A copy of these Chapter 300-10-1 rules, including any forms prescribed or available to administer and effectuate these rules, shall be published on the Georgia Department of Labor's website.

I. Contractor and Subcontractor Evidence of Compliance:

(1) Pursuant to O.C.G.A. 13-10-91, public employers who enter into a contract for the physical performance of services within the State of Georgia shall include in such contract all of the following provisions:

(a) A provision stating that compliance with the requirements of O.C.G.A. 13-10-91 and Rule 300-10-1-.02 are conditions of the contract;

(b) A provision listing the three statutory employee-number categories of "500 or more employees," "100 or more employees," and fewer than 100 employees," as identified in O.C.G.A. 13-10-91, with a space provided for the contractor to check, initial or otherwise affirmatively indicate the employee-number category applicable to the contractor (*See attached forms*)

(c) Provisions stating that: (1) the contractor's compliance with the requirements of O.C.G.A. 13-10-91 and Rule 300-10-1-.02 shall be attested by the execution of the contractor affidavit as shown in Rule 300-10-1-.07 which document shall become part of the covered contract; and (2) the contractor's agreement that, in the event the contractor employs or contracts with any subcontractor(s) in connection with the covered contract, the contractor will secure from the subcontractor(s) such subcontractor(s) indication of employee-number category applicable to the subcontractor (See attached forms)

(2) Pursuant to O.C.G.A. 13-10-91, public employers shall include in all covered contracts a provision stating the contractor's agreement that, in the event the contractor employs or contracts with any subcontractor(s) in connection with the covered contract, the contractor 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 and maintain records of such attestation for inspection by the City at any time. Such subcontractor affidavit shall become a part of the contractor/subcontractor agreement and is available from the Georgia Department of Labor.

(3) All portions of contracts pertaining to compliance with O.C.G.A. 13-10-91 and these rules, and any affidavit related hereto, shall be open for public inspection in this State at reasonable times during normal business hours.

#### J. Compliance with Laws.

The successful Respondent must, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the Respondent subjects subcontractors to the same provision. The Respondent agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

Print/Type Company Name Here \_\_\_\_\_

(Sign and return with proposal)

**COMPLIANCE WITH GEORGIA SECURITY AND IMMIGRATION ACT  
DECLARATION OF EMPLOYEE-NUMBER CATEGORIES**

Please indicate the employee/number category applicable to your organization by checking one (1) of the following boxes:

- 500+ employees
- 100 to 499 employees
- 1 to 99 employees

Organization Name: \_\_\_\_\_

I certify that the above information is true and correct.

Signed: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**STATE OF GEORGIA  
CITY OF PEACHTREE CORNERS,  
GEORGIA SECURITY AND IMMIGRATION  
CONTRACTOR AFFIDAVIT AND AGREEMENT**

Certification Regarding Georgia Department of Labor Compliance. Contractor certifies that it is in compliance with O.C.G.A. Section 13-10-91 and Chapter 300-10-1 of the Rules of the Georgia Department of Labor, and that it has registered and currently participates in the federal work authorization program\* to verify information of all new employees as of July 1, 2007 if Contractor employs 500 or more employees, or July 1, 2008 if Contractor employs 100 or more employees, or July 1, 2009 if Contractor employs fewer than 100 employees or July 1, 2009, with respect to all public employers, contractors or subcontractors. Further, as part of any subcontracting agreement, the Contractor certifies that any subcontractor entering into this contract for the physical performance of services within this state is in compliance with O.C.G.A. Section 13-10-91 and Chapter 300-10-1 of the Rules of the Georgia Department of Labor and has registered and currently participates in the federal work authorization program to verify information of all new employees as of July 1, 2007 if the subcontractor employs 500 or more employees, or July 1, 2008 if the subcontractor employs 100 or more employees, or July 1, 2009 if the subcontractor employs fewer than 100 employees or July 1, 2009, with respect to all public employers, contractors or subcontractors.

The Contractor may be suspended, terminated, or debarred if it is determined that the Contractor has made false certification or that the Contractor has violated such certification by failure to carry out this requirement.

\_\_\_\_\_  
EEV/Basic Pilot Program\* User Identification Number

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Title of Authorized Officer or Agent of Contractor

\_\_\_\_\_  
Printed Name of Authorized Officer or Agent

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Date

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

Notary Public: \_\_\_\_\_

County: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

**NOTE:**

**\* As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA)**



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QUOTE NO.	ACCOUNT NO.	DATE
DBDH987	0385729	10/19/2012

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 PO BOX 725

**SHIP TO:**  
 MONROE UTILITY NETWORK  
 Attention To: DAVID LITTLE  
 PO BOX 725

Accounts Payable  
 MONROE, GA 30655-0725

MONROE, GA 30655-0725  
 Contact: DAVID LITTLE

Customer Phone #770.267.3429

Customer P.O. # DBDH987 QUOTE.

ACCOUNT MANAGER		SHIPPING METHOD	TERMS	EXEMPTION CERTIFICATE
ROB SULLIVAN 866.245.8105		UPS Ground (2-3 Day)	Net 30 Days-Govt State/Local	GOVT-EXEMPT
QTY	ITEM NO.	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1	2780866	BARRACUDA PHONE SYSTEM 370 W/1YR Mfg#: BPH370B1 Contract: MARKET	9,100.00	9,100.00
1	2577485	BARRACUDA PHONE SYS 370 W/1YR UPDATE Mfg#: BPH370B1 Contract: SYNEX GSA SCHEDULE (SLED) GS-35F-0143R	8,072.73	8,072.73
		SUBTOTAL		17,172.73
		FREIGHT		0.00
		TAX		0.00
				US Currency
<b>TOTAL</b>				<b>17,172.73</b>

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	Product Name		Product Availability	Unit Price	Qty	Subtotal
	CudaTel Communication Server 370 w/T1	Edit	Ships Tomorrow	\$6,174.05	<input type="text" value="1"/>	\$6,174.05
	CudaTel Communication Server 370 w/T1-Energize Updates, 1 year	Edit	Emailed Tomorrow	\$1,661.55	<input type="text" value="1"/>	\$1,661.55
	CudaTel 370 w/T1 Communication Server -Instant Replacement, 1 year	Edit	Emailed Tomorrow	\$1,376.55	<input type="text" value="1"/>	\$1,376.55

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Subtotal \$9,212.15  
**Grand Total \$9,212.15**

0 Items



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- Cloud Managed



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ITEM DESCRIPTION	QTY	EACH	TOTAL
CudaTel 370b (1-port PRI/T1 card) [+] View list of options I selected	1	\$9,211.00	\$9,211.00
FREE \$325 VISA GIFT CARD *ships separate	1	\$0.00	\$0.00

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