

Agenda
Regular Work Session of the Mayor and Council
City of Chattahoochee Hills, Georgia
May 28, 2020 / 6:00 p.m.

Note – In response to the Governor’s Executive Orders, the City will follow social distancing practices and is making the meeting available on-line. Attendees are encouraged to wear face coverings and are required to maintain at least ten feet of distance between themselves and others in attendance. At the conclusion of the meeting, the public will be asked to leave City Hall and asked not to gather in conversation with others.

Discussion Items

1. Council Meeting Agenda Review
2. Telecommunications & Right of Way Agreement with GMA
3. Citizen Wi-Fi Policy
4. Cochran Mill Park parking issues
5. Zoom meeting recordings

Mayor and Council Reports and Comments

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

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

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

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

Section 1. Services Provided to the City of Chattahoochee Hills

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

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

Section 2. Local Franchise Management

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

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

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

Section 3. State Issued Franchise Management

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

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

Section 4. Cellular and PCS Tower Site Consultation Services

Cellular and PCS and Tower Site Consultation Services shall include:

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

Section 5. State and Local Franchise Compliance Monitoring Services

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

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

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

Section 6. Rights of Way Ordinance Development

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

Section 7. Other Services

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

Section 8. Effective Date, Renewal and Termination.

- a) This Agreement shall terminate absolutely and without further obligation on the part of the City at the close of the Calendar year in which it was executed and at the close of each succeeding Calendar year for which it may be renewed as provided for herein.
- b) This Agreement shall commence as of _____, 2020. It is automatically renewed for successive one-year calendar terms thereafter, unless terminated by either GMA or the City by giving 30 days advance written notice of such termination to the other party. GMA shall be entitled to payment for services rendered to the City, including compensation due for additional services rendered to the City, including compensation due for additional services reasonably substantiated by GMA as of the effective date of termination.

- c) The total obligation of the City under this Agreement for the calendar year of execution shall initially be \$1,795.92. The total obligation of the City which will be incurred in each Calendar year renewal term shall be reflected in an annual invoice to be submitted to the City thirty (30) days prior to the due date. The invoice shall state the total amount of obligation for the upcoming year exclusive of amounts for any Other Services as the City may elect to obtain through the provisions of Section 7 of this agreement. The rendering of services by GMA or its subcontractors to the City after any renewal of this Agreement for such services shall result in additional obligations for the City.

Section 9. Hold Harmless

Each party shall bear the responsibility for liability for negligence, errors or omissions of its own officers, agents, employees or subcontractors in carrying out this agreement. To the extent permitted by law, the City holds harmless GMA for liability for the negligence of the City, its officers, agents, employees, or subcontractors arising out of this agreement. GMA holds harmless the City for the negligence of GMA, its officers, agents, employees, or subcontractors arising out of this agreement. No agency relationship created for other purposes including but not limited to workers compensation and employee benefits and neither party or their officers, agents or employees shall be deemed employees of the other party.

Section 10. Agency

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

Section 11. Amendments.

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

Section 12. Georgia Security and Immigration Compliance Act

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

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

Section 13. Law Applicable.

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

Section 14. Consulting Services

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

EXECUTED ON BEHALF OF THE CITY OF CHATTAHOOCHEE HILLS THIS _____DAY OF _____, 20____.

ATTEST:

CITY OF CHATTAHOOCHEE HILLS:

City Clerk

By: _____
Authorized Signatory, Title

APPROVED AS TO FORM:

City Attorney

GEORGIA MUNICIPAL ASSOCIATION, INC.

By: _____
Larry H. Hanson, Executive Director

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

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

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

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

RESOLVED by the Mayor and Council of the City of Chattahoochee Hills this _____ day of _____, 20____.

ATTEST:

By: _____
City Clerk

Mayor: _____
City of Chattahoochee Hills

(SEAL)

**Georgia Municipal Association
Telecommunications and Right of Way Management Program**

AGENT REPRESENTATION FORM

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

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

Name of City, Town or County

Street Address

City

Zip Code

Phone #

Fax #

Email Address

Submitted By – Print Name

Title

Signature

Date



EXHIBIT A

GEORGIA MUNICIPAL ASSOCIATION
FEDERAL WORK AUTHORIZATION PROGRAM COMPLIANCE AFFIDAVIT

By executing this affidavit, the Georgia Municipal Association, Inc. ("GMA") verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that GMA, which is engaged in the physical performance of services in Georgia, has registered with, is authorized to use and uses the federal work authorization program commonly known as E-verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. §13-10-91. Furthermore, GMA will continue to use the federal work authorization program throughout the contract period and will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. §13-10-91(b). GMA hereby attests that its federal work authorization user identification number and date of authorization are as follows:

69371
Federal Work Authorization User Identification Number

November 26, 2007
Date of Authorization

Telecommunications and Right of Way Management
Name of Project

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on JANUARY 15, 2020, in Atlanta (city), Georgia (state).

Larry H. Hanson
BY: GMA Authorized Officer or Agent

1-15-20
Date

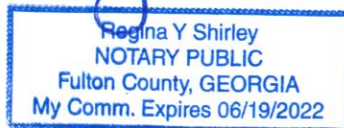
Larry H. Hanson, Executive Director
Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN

BEFORE ME ON THIS THE 15 DAY OF January, 2020

Regina Y. Shirley
Notary Public

My Commission Expires:



SEAL

City of Chattahoochee Hills

Citizen Wi-Fi Policy

NOTICE

By using the City of Chattahoochee Hills' free Wi-Fi Internet Service, you agree to be bound by the following terms and conditions which are a binding agreement between you and the City of Chattahoochee Hills ("City"). You represent that you are of legal age to agree and be bound by this agreement. If you do not agree to be bound by these terms, you should immediately discontinue the use of the Chattahoochee Hills Wi-Fi.

I. PURPOSE

To provide City of Chattahoochee Hills the ability to access the internet using the City's Wi-Fi service located at 6505 Rico Road.

The following conditions have been established which govern this access:

- (a) Citizen Wi-Fi access is limited to public common areas as designated by the city manager. City offices and restricted areas are prohibited.
- (b) Accommodations for access will be limited to not more than ten (10) persons at one time.
- (c) Accommodations are based on a first come-first served basis; however, advanced reservations can be made by contacting City Hall administrative offices at info@chatthillsga.us or 770-463-8881.
- (d) Normal accommodations are available during normal business hours Monday through Friday from 8:30 am to 5:00 pm.
- (e) Exceptional accommodations can be made during non-business hours with reservations made using info@chatthillsga.us or 770-463-8881. These reservations must be made during normal business hours.
- (f) The City does not provide any technical support or equipment to accommodate access to the internet.
- (g) All users must sign in and out using the "Citizen Wi-Fi Access" log. Signing this access log acknowledges the rules and regulations set force by this policy.
- (h) The City reserves the right to discontinue access at any time should city operations be affected by such use.
- (i) All Center for Disease Control and Prevention ("CDC") health guidelines shall be in effect for all users of the Citizen Wi-Fi.
- (j) Failure to adhere to any City Policies, including but not limited to this Wi-Fi Policy and the health guidelines in place shall result in the immediate and permanent withdrawal of access.

City of Chattahoochee Hills

Citizen Wi-Fi Policy

II PROHIBITED ACTIVITIES

A. Spamming and Invasion of Privacy

Sending of unsolicited bulk and/or commercial messages over the Internet using the service or using the Service for activities that invade another person's privacy.

B. Intellectual Property Right Violations

Engaging in any activity that infringes or misappropriates the intellectual property rights of others, including patents, copyrights, trademarks, service marks, trade secrets, or any other proprietary right of any third party, including, but not limited to, the use or distribution of "pirated" or other software products that are not appropriately licensed for use.

C. Defamatory or Abusive Language

Using the service to transmit, post, upload, or otherwise making available defamatory, harassing, abusive, or threatening material or language that encourages bodily harm, destruction of property or harasses another.

D. Forging of Headers

Forging or misrepresenting email message headers, whether in whole or in part, to mask the originator of the message.

E. Hacking

Circumventing user authentication or security of any host, network or account., effecting security breaches or disruptions of network communication, accessing illegally or without authorization computers, accounts, equipment or networks belonging to the City or any other party, or attempting to penetrate security measures of another system. This includes any activity that may be used as a precursor to an attempted system penetration, including, but not limited to, port scans, stealth scans, or other information gathering activity. Distribution of Internet Viruses, Trojan Horses, or Other Destructive Activities Distributing information regarding the creation of and sending Internet viruses, worms, Trojan Horses, pinging, flooding, mail bombing, or denial of service attacks.

F. Facilitating a Violation of this Agreement of Use

Advertising, transmitting, or otherwise making available any software product, product, or service that is designed to violate this agreement, which includes the

City of Chattahoochee Hills

Citizen Wi-Fi Policy

facilitation of the means to spam, initiation of ping, flooding, mail bombing, denial of service attacks, and piracy of software.

G. Export Control Violations

The transfer of technology, software, or other materials in violation of applicable export laws and regulations, including but not limited to the U.S. Export Administration Regulations and Executive Orders.

H. Obscene or Indecent Speech or Materials

Using the service to advertise, solicit, transmit, store, post, display, or otherwise make available obscene or indecent images or other materials. The City of Chattahoochee Hills will notify and fully cooperate with law enforcement if it becomes aware of any use of the service in any connection with any illegal activity. Certain content or web sites may be filtered or unavailable at the discretion of the City of Chattahoochee Hills.

I. Other Illegal Activities

Using the service in violation of applicable law and regulation, including, but not limited to, advertising, transmitting, or otherwise making available ponzi schemes, pyramid schemes, fraudulently charging credit cards, pirating or inappropriately distributing copy written material, or making fraudulent offers to sell or buy products, items, or services.

J. Re-Sale

The sale, transfer, or rental of the service to customers, clients or other third parties, either directly or as part of a service or product created for resale.

III. Agent to Receive Notification of Copyright Infringement Claims

The Digital Millennium Copyright Act of 1998 (the "DMCA") provides recourse for copyright owners who believe that material posted on Internet sites infringes their rights under U.S. copyright law. If you believe in good faith that items, information or other materials appearing on the service infringes your copyright, you (or your agent) may send the City of Chattahoochee Hills, designated agent, a notice requesting that the item, information or material be removed, or access to it blocked. You can contact City of Chattahoochee Hills' Designated Agent at: info@chatthillssga.us

Disclaimer

You acknowledge (i) that the service may not be uninterrupted or error-free; (ii) that viruses or other harmful applications may be available through the service; (iii) that the City of

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Citizen Wi-Fi Policy

Chattahoochee Hills does not guarantee the security of the service and that unauthorized third parties may access your computer or files or otherwise monitor your connection; (iv) that the City of Chattahoochee Hills, ability to provide the service without charge is based on the limited warranty, disclaimer and limitation of liability specified in this section and it would require a substantial charge if any of these provisions were unenforceable.

THE SERVICE AND ANY PRODUCTS OR SERVICES PROVIDED ON OR IN CONNECTION WITH THE SERVICE ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND. ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, INDEMNITIES AND GUARANTEES WITH RESPECT TO THE CONTENT OR SERVICE AND THE OPERATION, CAPACITY, SPEED, FUNCTIONALITY, QUALIFICATIONS, OR CAPABILITIES OF THE SERVICES, GOODS OR PERSONNEL RESOURCES PROVIDED HEREUNDER, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS BY THE CITY OF CHATTAHOOCHEE HILLS, OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO ANY WARRANTY OF SATISFACTORY QUALITY, MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT) ARE HEREBY OVERRIDDEN, EXCLUDED AND DISCLAIMED.

NO CONSEQUENTIAL DAMAGES

UNDER NO CIRCUMSTANCES WILL THE CITY OF Chattahoochee Hills BE LIABLE FOR CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES OR LOST PROFITS, WHETHER FORESEEABLE OR UNFORESEEABLE, BASED ON CLAIMS OF CUSTOMER, ITS APPOINTEES OR ITS OR THEIR CUSTOMERS (INCLUDING, BUT NOT LIMITED TO, UNAUTHORIZED ACCESS, DAMAGE, OR THEFT OF YOUR SYSTEM OR DATA, CLAIMS FOR LOSS OF GOODWILL, CLAIMS FOR LOSS OF DATA, USE OF OR RELIANCE ON THE SERVICE, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS, OR DAMAGE CAUSED TO EQUIPMENT OR PROGRAMS FROM ANY VIRUS OR OTHER HARMFUL APPLICATION), ARISING OUT OF BREACH OR FAILURE OF EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE.

Indemnity

You agree to indemnify and hold harmless the City of Chattahoochee Hills from any claim, liability, loss, damage, cost, or expense (including without limitation reasonable attorney's fees) arising out of or related to your use of the Service, any materials downloaded or uploaded through the Service, any actions taken by you in connection with your use of the Service, any violation of any third party's rights or an violation of law or regulation, or any breach of this agreement. This

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Section will not be construed to limit or exclude any other claims or remedies that the City of Chattahoochee Hills may assert under this Agreement or by law.