

## RESOLUTION # 2016-09

### A RESOLUTION OF THE MAYOR AND COUNCIL OF SMYRNA, GEORGIA TO AUTHORIZE THE EXECUTION OF A FIRST AMENDMENT TO 1998A MASTER LEASE AND OPTION AGREEMENT

WHEREAS, Smyrna, Georgia (the “City”) is a legally created, valid and existing municipal corporation of the State of Georgia, created and existing under the Constitution and laws of the State of Georgia; and

WHEREAS, the City is a participant in the (GMA) 1998 Georgia Local Government Equipment Loan Program (the “Loan Program”); and

WHEREAS, in connection with the Loan Program, the City entered into a 1998A Master Lease and Option Agreement Georgia, dated as of June 1, 1998 (the “Lease”), between the City and Georgia Municipal Association (“GMA”), under the terms of which GMA leases to the City various items of Equipment (as defined in the Original Lease) of the types described in Exhibit F of the Original Lease and the City agrees to make certain rental payments to GMA; and

WHEREAS, it is proposed that the City enter into a First Amendment to 1998A Master Lease and Option Agreement (the “First Amendment”), between GMA and the City, the form of which is attached hereto as Exhibit A, to amend Exhibit F of the Original Lease to increase the percentage amount of software that may be acquired and leased pursuant to the Original Lease.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of Smyrna, Georgia, as follows:

Section 1. The execution, delivery and performance of the First Amendment are hereby authorized. The Mayor of the City (the “Mayor”) is hereby authorized to execute and deliver the First Amendment on behalf of the City, which First Amendment shall be in substantially the form attached hereto as Exhibit A with such minor changes, insertions or omissions as may be approved by the Mayor, and the execution of the First Amendment by the Mayor as hereby authorized shall be conclusive evidence of any such approval.

Section 2. From and after the execution and delivery of the First Amendment herein authorized, the Mayor and such other proper officers, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents and certificates as may be necessary to carry out and comply with the provisions of the First Amendment herein authorized and are further authorized to take any and all further actions and to execute and deliver any and all further documents and certificates as may be necessary or desirable in connection with the execution, delivery and performance of the First Amendment herein authorized. Without limiting the foregoing, if the Mayor is not available to execute the First Amendment herein authorized, the Mayor Pro Tem shall execute such document on the Mayor’s behalf.

Section 3. All acts and doings of the officers, agents and employees of the City which are in conformity with the purposes and intents of this resolution and in furtherance of the

execution, delivery and performance of the First Amendment shall be, and the same hereby are, in all respects, approved and confirmed.

Section 4. No stipulation, obligation or agreement herein contained or contained in the First Amendment shall be deemed to be a stipulation, obligation or agreement of the Mayor or the Clerk of the City in their individual capacity, and neither the Mayor nor the Clerk of the City shall be personally liable under the First Amendment or be subject to personal liability or accountability by reason of the issuance thereof.

Section 5. This resolution shall take effect immediately upon its adoption. All resolutions or parts thereof in conflict with this resolution are hereby repealed.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2016.

SMYRNA, GEORGIA

(SEAL)

BY: \_\_\_\_\_  
Mayor

ATTEST:

BY: \_\_\_\_\_  
Clerk

Resolution # 2016-09

EXHIBIT A

FIRST AMENDMENT TO 1998A MASTER LEASE AND OPTION AGREEMENT

**FIRST AMENDMENT TO 1998A MASTER LEASE AND OPTION AGREEMENT**

This FIRST AMENDMENT TO 1998A MASTER LEASE AND OPTION AGREEMENT (this “First Amendment”) is entered into as of the 1<sup>st</sup> day of \_\_\_\_\_, 2016, between the GEORGIA MUNICIPAL ASSOCIATION, INC., a nonprofit corporation organized and existing under the laws of the State of Georgia (the “Lessor”), and Smyrna, Georgia, a municipal corporation of the State of Georgia (the “Lessee”).

WHEREAS, the Lessor and the Lessee have previously entered into a 1998A Master Lease and Option Agreement, dated as of June 1, 1998 (the “Original Lease”), pursuant to which the Lessor leases to the Lessee various items of Equipment (as defined in the Original Lease) of the types described in Exhibit F of the Original Lease and the Lessee agrees to make certain rental payments to the Lessor; and

WHEREAS, the Lessor and the Lessee propose to enter into this First Amendment to amend Exhibit F of the Original Lease to increase the percentage amount of software that may be acquired and leased pursuant to the Original Lease; and

WHEREAS, Section 15.04 of the Original Lease provides that the Lessor and the Lessee may amend or supplement Exhibit F of the Original Lease from time to time with the Insurer’s (as defined in the Original Lease) written consent, but without the consent of Lessor’s assignee.

NOW THEREFORE, in consideration of the premises and the undertakings set forth in this First Amendment, the parties hereto agree as follows:

1.

Exhibit F of the Original Lease is hereby amended by deleting row “e” in its entirety and replacing it with the following:

“e-1. Telecommunications systems, 911 systems, voice or voice-data systems, computer systems and weather warning systems and devices (including (i) operating software and (ii) applications of software acquired in connection with the upgrading or installation which does not represent more than 10% of the total cost of such upgrading or installation) when such equipment constitutes a system-wide or department-wide upgrading or new installation, and when a feasibility study supports the installation of such system. 5 years

“e-2. Telecommunications systems, 911 systems, voice or voice-data systems, computer systems and weather warning systems and devices (including (i) operating software and (ii) applications of software acquired in connection with the upgrading or installation which does not represent more 3 years”

than 50% of the total cost of such upgrading or installation) when such equipment constitutes a system-wide or department-wide upgrading or new installation, and when a feasibility study supports the installation of such system.

2.

Except as herein specifically modified and amended, all of the terms, conditions and provisions of the Original Lease shall remain unchanged and in full force and effect.

3.

Should any phrase, clause, sentence or paragraph herein contained be held invalid or unconstitutional, it shall in no way affect the remaining provisions of this First Amendment, which said provisions shall remain in full force and effect.

4.

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

5.

This First Amendment shall be construed and enforced in accordance with the laws of the State of Georgia.

**LESSEE:**

SMYRNA, GEORGIA

(SEAL)

By: \_\_\_\_\_  
Title:

Attest:

By: \_\_\_\_\_  
Title: