MUNICIPAL SERVICES AGREEMENT
Between
CHEROKEE COUNTY AND CITY OF WALESKA

WHEREAS, City of Waleska (hereafter referred to as "the City") is desirous of procuring certain services from Cherokee County (hereafter referred to as "the County") and

WHEREAS, the County is willing to perform such services on the terms and conditions hereinafter set forth; and

WHEREAS, both parties hereto are authorized to enter into this Municipal Services Agreement ("the Agreement"); and

NOW, THEREFORE, it is agreed as follows:

Section 1: SCOPE OF SERVICES

1.1. Building and Construction Code Administration. The County agrees, through its Community Development Agency (the "CDA"), to perform within the city limits of Waleska all functions performed by the CDA, as necessary in the sole discretion of the County. The County may do additional work related to inspection of buildings and structures, when requested to do so in writing by the City. At a minimum, the services provided shall be to administer, inspect for compliance, and enforce the codes identified herein as adopted by the Waleska Mayor and City Council and as amended during the term of this Agreement, if such amendments are provided in writing to the County.

1.2. Code Enforcement Services. The County agrees, through its code enforcement services in the County Marshal's Office, to perform within the city limits of Waleska all functions performed by the Marshal's Office, as necessary in the sole discretion of the County. The County may do additional work related to inspection of code violations when requested to do so, in writing, by the City. At a minimum, the services provided shall be to administer, inspect for compliance, and enforce codes as adopted by the Waleska Mayor and City Council and as amended during the term of this Agreement, if such amendments are provided in writing to the County, including but not necessarily limited to:

(a) Property Maintenance Ordinance
  (i) In addition to any other compensation obligations herein, the City will reimburse the County, within 90 days of invoice and demand therefor by the County, all of the legal expenses, including attorneys' fees, associated with enforcement of the City's Property Maintenance Ordinance.

(b) Alcohol Ordinance
  (i) Notwithstanding any provision of this Agreement to the contrary, the City will administer all portions of the City's Alcohol Ordinance, including retaining the application fees related to the same.
  (ii) The County's obligation with regard to the City's Alcohol Ordinance shall be limited to running fingerprint/background checks required under the Ordinance and enforcement of the ordinance.
  (iii) In addition to any other compensation obligations herein, the City will reimburse the County, within 90 days of invoice and demand therefor by the County, all of the expenses

associated with prosecution of criminal violations of the Alcohol Ordinance, including attorneys' fees.

1.3. Land Use Regulation Services. The County agrees, through its Planning and Zoning Department, Development Service Center, and Public Works Agency, to perform within the city limits of Waleska all functions performed by said agencies, as necessary in the sole discretion of the County. The County may do additional work related to the administration of land use regulations when requested to do so, in writing, by the City. At a minimum, the services provided shall be to administer, inspect for compliance, and enforce the following ordinances and regulations upon adoption by the Waleska Mayor and City Council and as amended during the term of this Agreement, if such amendments are provided in writing to the County:

(a) Zoning ordinance.
(b) Land subdivision and land development regulations.
(c) Flood hazard prevention regulations.
(d) Storm Water Management and enforcement.
(e) Soil erosion and sedimentation control ordinance.

In addition to any other compensation obligations herein, the City will reimburse the County, within 90 days of invoice and demand therefor by the County, all of the legal expenses, including attorneys' fees, associated with enforcement of the above-listed ordinances.

1.4. Fire Protection Services. The County agrees, through its Fire & Emergency Services Agency – Life Safety Division (County Fire Marshal), to perform within the city limits of Waleska all functions performed by said division, as necessary in the sole discretion of the County. A separate automatic aid agreement will be necessary for the County to provide other fire and At a minimum, the services provided shall be to administer, inspect for compliance, and enforce the following ordinances and regulations upon adoption by the Waleska Mayor and City Council and as amended during the term of this Agreement, if such amendments are provided in writing to the County:

(a) Fire Protective Codes

In addition to any other compensation obligations herein, the City will reimburse the County, within 90 days of invoice and demand therefor by the County, all of the legal expenses, including attorneys' fees, associated with enforcement of the Fire Protective Codes that exceed any fines and fees collected as a result of the prosecution of criminal violations of the Fire Protective Codes.

1.5. Municipal Court Services. In accordance with O.C.G.A. § 15-10-150, et seq., the County agrees to furnish municipal court services to the City through the officers, employees, and facilities of the Cherokee County Magistrate Court. The County may do additional work related to municipal court services when requested to do so, in writing, by the City. This Section 1.5 of the Agreement shall not be effective unless and until the chief magistrate has expressed his approval of this Agreement by his signature hereunder. This Section 1.5 of the Agreement shall not extend beyond the term of the currently sitting chief magistrate, but shall be subject to termination thirty (30) days notice by any newly elected chief magistrate upon taking office, notwithstanding Section 9 that otherwise provides for termination of the entire Agreement by either the City or the County.

Section 2: DESCRIPTION OF SPECIFIC SERVICES

In connection with the above-outlined scope of services, the County shall perform the following specific services.

(a) Administrative application processing. Consult with applicants, as necessary in the sole discretion of the County; receive applications; review applications for completeness and compliance with regulations; collect fees for applications; notify applicants of disposition.

(b) Discretionary applications. Forward applications involving discretionary approval by a board, commission, or agency (e.g., governing body, planning commission, board of appeals, building board of appeals, etc.) to said boards, commissions, or agencies with jurisdiction, as appropriate with findings, comments and/or recommendation to boards, commissions, or agencies; attend meetings of said boards, commissions, or agencies with jurisdiction to present findings, comments and/or recommendations; notify applicants of disposition.

(c) File maintenance. Keep and maintain official files for all applications processed under the terms of this Agreement. Process open records requests associated with any such files, for which the County will be entitled to retain all costs collected with respect to compliance for such requests, and the City will reimburse the County within 90 days of invoice and demand therefor by the County, all of the legal expenses, including attorneys' fees, associated with enforcement of the above-listed services. This includes the updating of any maps, such as a Waleska Zoning Map, upon the specific written request of the City.

(d) Field work. Inspect buildings, properties, and sites as necessary in the sole discretion of the County in connection with services.

(e) Enforcement. Prepare evidence necessary in the prosecution under codes and ordinances. Attend court or other enforcement proceedings and administer or assist with proceedings; notify violators of disposition.

(f) Other. Other services necessarily required in connection with the performance of these tasks as determined in the sole discretion of the County.

Section 3: AUTHORIZATIONS

(a) The County shall have all the powers and duties of the Planning & Zoning Director, Building Official, and Code Enforcement Officers of the City as provided in adopted codes and regulations.

(b) The County shall be authorized to collect application and permit fees as established by the Waleska Mayor and City Council as adopted by Resolution, which fees shall be no less than the established fees set by Cherokee County. The County shall be authorized to collect and retain any fines levied by a court of law as a result of enforcement activities in connection with the services provided. Any such fees or fines collected by the County shall be deposited in accounts of the County.

Section 4: OBLIGATIONS OF THE CITY

The City agrees to provide the following to the County.

(a) All maps, ordinances and codes to be administered and enforced, including incidental application forms, maps, administrative guides, and so forth.

(b) Allow the County to use County Development Services Center (DSC) staff, equipment, facilities and processes in the course of fulfilling its obligations under this Agreement.

(c) The City agrees to reimburse the County in the amount of $12,000 annually, paid in equal monthly installments of $1,000, due on the 15th each month.

(d) In addition to the $12,000 annual payment, the County shall be entitled to collect and retain any and all fees, fines, interest earned, revenues and any other funds collected by the County in the administration and enforcement of the services provided for herein, with the sole exception of the application fees related to the City's Alcohol Ordinance as stated in Section 1.2 (b)(i).

Section 5: OBLIGATIONS OF THE COUNTY

In addition to the services described elsewhere in this Agreement, the County agrees to account for revenues and expenditures using generally accepted accounting principles, and to submit copies of said accounting records for review by an independent auditor at the City's request and expense.

Section 6: INDEPENDENT STATUS

Under no circumstances shall the County, its appointed and elected officials, representatives, employees, associates, subcontractors, successors or assigns (collectively referred to as the "County Parties") be deemed employees, agents, partners, successors, assigns, or legal representatives of the City, except as specifically required herein.

Section 7: RENEGOTIATIONS

If any action is taken or request made by the City that materially increases the cost to the County of providing the services required under this Agreement, the City and the County agree to negotiate in good faith the amount of additional compensation that will be paid by the City as a result of said increase in cost.

Section 8: EFFECTIVE DATE

This Agreement shall become effective on _____, 2020 and shall continue in full force and effect until _____, 2021. Unless terminated as provided for herein, this Agreement shall be automatically renewed from year to year for successive one-year periods thereafter for up to four (4) additional one-year periods.

Section 9: TERMINATION

This Agreement may be terminated at the end of any term thereof by the County or the City by giving a written notification of such intention to terminate to the other party at least forty-five (45) days before the expiration of the initial period or any succeeding one-year period. Should either the City or the County be in default hereunder, the non-defaulting party shall give written notice of such default; and should such default not be corrected within thirty (30) days after the mailing of notice thereof, this Agreement may be terminated by the non-defaulting party by giving written notice thereof. A newly elected chief magistrate shall have a right of termination of Section 1.5 relating solely to municipal court services as provided in Section 1.5.

Section 10: INSURANCE

(1) Requirements:

The City shall have and maintain in full force and effect for the duration of this Agreement, insurance insuring the County and the County Parties against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the services contemplated under this Agreement by the County and the County Parties. All policies shall be subject to approval by the County Attorney to form and content. These requirements are subject to amendment or waiver if so approved in writing by the County Manager.

(2) Minimum Limits of Insurance:

The City shall maintain the following insurance policies with limits no less than:

(a) Comprehensive General Liability of $1,000,000 (one million dollars) combined single limit per occurrence for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting there from.

(b) Comprehensive Automobile Liability (owned, non-owned, hired) of $1,000,000 (one million dollars) combined single limit per occurrence for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting there from.

(3) Deductibles and Self-Insured Retentions:

Any deductibles or self-insured retentions must be declared to and approved by the County in writing.

(4) Other Insurance Provisions:

The policy is to contain, or be endorsed to contain, the following provisions:

(a) General Liability and Automobile Liability Coverage.

(i) The County and County Parties are to be covered as insureds as respects liability arising out of activities performed by the County and County Parties on behalf of the City and/or on premises owned, leased, or used by the City. The coverage shall contain no special limitations on the scope of protection afforded to the County or County Parties.

(ii) The City's insurance coverage shall be primary noncontributing insurance as respects to any other insurance or self-insurance available to the County or County Parties. Any insurance or self-insurance maintained by the County or County Parties shall be in excess of the City's insurance and shall not contribute with it.

(iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County and County Parties.

(iv) Coverage shall state that the City's insurance shall apply separately to each

insured against whom claim is made or suit is brought.

(v) Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion.

(vi) The insurer shall agree to waive all rights of subrogation against the County and County Parties for losses arising from work performed by the City for the County.

(b) All Coverages.

(i) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the County.

(ii) Policies shall have concurrent starting and ending dates.

(5) Acceptability of Insurers:

Insurance is to be placed with insurers with an A.M. Bests' rating of no less than A:VII.

(6) Verification of Coverage:

The City shall furnish the County with certificates of insurance and endorsements to the policies evidencing coverage required by this Agreement prior to the start of work. The certificate of insurance and endorsements shall be on a form utilized by the City's insurer in its normal course of business and shall be received and approved by the County prior to execution of this Agreement by the County. The County reserves the right to require complete, certified copies of all required insurance policies at any time. The City shall provide proof that any expiring coverage has been renewed or replaced at least two (2) weeks prior to the expiration of the coverage.

(7) Subcontractors:

The City shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming the parties as additional insureds.

(8) Claims-Made Policies:

The City shall extend any claims-made insurance policy for at least six (6) years after termination or final payment under the Agreement, whichever is later.

(9) County and County Parties as Additional Insured and Loss Payee:

The County and County Parties shall be named as an additional insured and loss payee on all policies required by this Agreement, except the County need not be named as an additional insured and loss payee on any Professional Liability policy or Workers' Compensation policy.

Section 11: GENERAL PROVISIONS

(a) This Agreement and the rights and obligations of the parties hereto shall be governed, construed and interpreted according to the laws of this state.

(b) This Agreement expresses the entire understanding of the parties and all agreements between the parties hereto with respect to the matters set forth herein.

(c) All agreements, covenants, certifications, representations, and warranties of the parties hereunder in connection with this transaction contemplated hereby shall survive the execution and delivery hereof regardless of any investigation and other action taken by the other person relying thereon.

(d) 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.

(e) This Agreement may be amended, supplemented or otherwise modified solely by a document in writing, duly executed and delivered by the City and the County. No waiver, release or similar modification of this Agreement shall be established by conduct, custom or course of dealings, but solely by a document in writing duly executed and delivered by a duly authorized official of the City and/or the County.

(f) Except as otherwise specifically provided herein, any notices, demands, approvals, consents, requests, or other communication hereunder shall be in writing and shall be deemed given when the writing is delivered in person, or one (1) business day after being sent by a reputable overnight registered delivery service, charges prepaid, or three (3) business days after being mailed if mailed by certified mail/return receipt requested and postage prepaid to the City and/or the County at the addresses shown below and at such other addresses as may be furnished by the City and the County in writing from time to time.

Mayor, City of Waleska
889 Fincher Road
Waleska, Georgia 30183

City Manager, City of Waleska
889 Fincher Road
Waleska, Georgia 30183

Chairman, Cherokee County Board of Commissioners
1130 Bluffs Parkway
Canton, Georgia 30114

County Manager, Cherokee County
1130 Bluffs Parkway
Canton, Georgia 30114

(g) This Agreement is made and entered into by the authority prescribed by the Georgia Constitution, Article IX, Section III, Paragraph I.

(h) The rights, privileges and obligations under this Agreement shall not be assigned or transferred by either Party.

(i) Each of the individuals who executes this Agreement agrees and represents that he or she is authorized to execute this Agreement on behalf of the respective party. Accordingly, each

party both waives and releases any right to contest the enforceability of this Agreement based upon the execution and/or approval thereof.

(j) This Agreement shall be exclusively for the benefit of the parties and shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action, or other right.

(k) The brief capitalized and/or underlined headings or titles preceding each paragraph are for purposes of identification, convenience and ease of reference, and shall be disregarded in the construction of this Agreement.

(l) No failure of either party hereto to exercise any right or power granted under this Agreement, or to insist upon strict compliance by the other party with this Agreement, and no custom or practice of either party at variance with the terms and conditions of this Agreement, shall constitute a waiver of a party's right to demand exact and strict compliance by the other parties hereto with the terms and conditions of this Agreement.

(m) Should any provision of this Agreement require judicial interpretation, it is agreed and stipulated by and between the parties that the court interpreting or construing the same shall not apply a presumption that the terms, conditions and provisions hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against the party who prepared the same.

(n) The obligations of this paragraph (n) shall be binding on the parties only to the extent allowed by law, if at all, and to the extent covered by the City's insurance. The City covenants and agrees to take and assume all responsibility for the services rendered in connection with this Agreement. The City shall bear all losses and damages directly or indirectly resulting to it on account of the performance or character of the services rendered pursuant to this Agreement. The City shall defend, indemnify and hold harmless the County, its officers, boards, commissions, elected and appointed officials, employees, servants, volunteers and agents (hereinafter referred to as "County Parties") from and against any and all claims, injuries, suits, actions, judgments, damages, losses, costs, expenses and liability of any kind whatsoever, including but not limited to, attorney's fees and costs of defense, (hereinafter "Liabilities") arising out of the services rendered in connection with this Agreement, regardless of whether or not the negligent act is caused in part by a party indemnified hereunder. This obligation to indemnify, defend, and hold harmless the County and County Parties shall survive expiration or termination of this Agreement, provided that the claims are based upon or arise out of actions that occurred during the performance of this Agreement.

[signatures on next page]

IN WITNESS HEREOF, the parties hereto have set their hands and seals.

CHEROKEE COUNTY

_____
Harry B. Johnston, Chairman

Date: _____

ATTEST:

_____
Christy Black, County Clerk

Date: _____

CITY OF WALESKA

_____
Mary Helen Lamb, Mayor

Date: _____

ATTEST:

_____
Robyn Smith, City Clerk

Date: _____

Approved:

_____
Hon. James Drane, Chief Magistrate
Cherokee County Magistrate Court

Date: _____