

AMENDED AND RESTATED INTERGOVERNMENTAL CONTRACT OF TO ESTABLISH THE
GEORGIA INTERLOCAL RISK MANAGEMENT AGENCY

WHEREAS, an intergovernmental contract originally was approved for use on June 10, 1987, by certain municipalities acting through a Board of Trustees of their own selection, and, in accordance with the Official Code of Georgia Annotated ("O.C.G.A.") Section 36-85-2, these municipalities formed and became members of the Georgia Interlocal Risk Management Agency ("GIRMA") by executing the intergovernmental contract, and

WHEREAS, GIRMA is an unincorporated nonprofit instrumentality wholly owned by its members, all of which are public entities, and after approval by GIRMA's Administrator, all additional members of GIRMA became members by executing the intergovernmental contract and adopting a resolution or ordinance;

WHEREAS, the form of this Amended and Restated Intergovernmental Contract has been approved in accordance with the bylaws, and all Members not expressing intent to withdraw within 30 days after the date of notice of the approval are parties to this Amended and Restated Intergovernmental Contract, and the intergovernmental contract previously executed by the Member is superseded by this Amended and Restated Intergovernmental Contract;

WHEREAS, this Amended and Restated Intergovernmental Contract
This Agreement is made and entered into this _____ day of _____, 20____, by and among between the public entities who are now or may hereafter become Members of the Georgia Interlocal Risk Management Agency (hereinafter "GIRMA") and the [Name of Prospective Member Entity] ("New Member") for the purpose of permitting New Member to participate in creating one or more group self-insurance funds for the management of liability and property damage risks of the Member public entities.

WHEREAS, Chapter 85 of Title 36 of the Official Code of Georgia Annotated authorizes Georgia public entities to form interlocal risk management agencies;

WHEREAS, New Member certain public entity's which are signatories to this contract desires to become a Member of GIRMA in accordance with the form such an interlocal risk management agency pursuant to Statute such statute and the rules and regulations of the Insurance Commissioner of the State of Georgia:

NOW, THEREFORE IN CONSIDERATION OF the mutual covenants, promises and obligations contained herein, which were given to and accepted by each public entity becoming a party to this agreement the parties agree as follows:

PARAGRAPH 1

PURPOSE AND OPERATIONS ESTABLISHMENT OF THE GEORGIA INTERLOCAL RISK MANAGEMENT AGENCY

Section 1.1. Purpose of Georgia Interlocal Risk Management Agency and Intergovernmental Contract Created. A public entity interlocal risk management agency to function as an unincorporated nonprofit instrumentality of its Member Public Entity in the manner expressed herein is created. The purpose of GIRMA and of this agreement is to jointly exercise powers common to each participating public entity; to establish and administer one or more group self-insurance funds; to establish and administer a risk management service; to prevent or lessen the incidence and severity of casualty and property losses occurring in the operation of a Member of GIRMA public entity; and to defend and protect, in accordance with this contract and related coverage descriptions, any Member of GIRMA against liability or loss as stated in such documents. The activities of GIRMA shall not constitute conduct of an insurance business.

Section 1.2. Preliminary Operations and Eligibility for Membership. When two or more public entity's shall have executed this agreement, tThe Board of Trustees described in Paragraph as designated in Article 3 of this agreement shall direct the affairs of GIRMA. The Executive Director of the Georgia Municipal Association, Inc. shall be appointed as Administrator. The Administrator may recommend to the Board of Trustees the appointment of necessary Service Companies, attorneys and agents for operation of GIRMA. In order to become a member of GIRMA, an entity must be a Any "municipality" Public Entity, as defined

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~~AMENDED AND RESTATED~~ INTERGOVERNMENTAL CONTRACT ~~OF TO ESTABLISH~~ THE
GEORGIA INTERLOCAL RISK MANAGEMENT AGENCY

in Chapter 85 of Title 36 of the Official Code of Georgia Annotated, as amended from time to time, and must be a political subdivision of a state or an entity the income of which is excluded from gross income under the Internal Revenue Code. Any entity that meets these criteria may become a member once it has taken all actions required by applicable law to join GIRMA and has been approved by GIRMA through its Administrator. shall be eligible to apply for membership in GIRMA.

**PARAGRAPH 2
DEFINITIONS**

Section 2.1. Definitions. In the interpretation of this agreement the following definitions shall apply unless the context requires otherwise:

- (1) "Administrator" shall mean the person or agency designated to supervise the administration of GIRMA and to perform such duties and exercise such powers as shall be specifically designated by the Board.
- (2) "GIRMA" shall mean the Georgia Interlocal Risk Management Agency.
- (3) "Board" shall mean the Board of Trustees of GIRMA.
- (4) "Coverage Description or Description" shall mean the written explication of General Liability, Motor Vehicle Liability, Property Damage and other claims for which Members are jointly self-insured through a Fund or Funds.
- (5) "Group Self-Insurance Fund," ~~or "Fund" or "Funds"~~ shall have the meaning as defined in Chapter 85 of Title 36 of the Official Code of Georgia Annotated, as amended.
- (6) "Member" shall mean an entity that meets the eligibility requirements set forth in Section 1.2, has been approved by GIRMA through its Administrator, and is public entity as defined in Chapter 85 of Title 36 of the Official Code of Georgia Annotated, as amended, participating in GIRMA in conformity with this contract.
- (7) "Service Company" shall mean ~~a persons~~ or ~~agencies~~ designated by the Board or Administrator to perform claim settlement services, ~~to~~ make a determination of risk factors of Members and applicants for membership, ~~to~~ institute loss prevention programs and accounting systems, ~~to~~ acquire necessary excess insurance and reinsurance proposals, or and to perform other functions in the day-to-day operation of GIRMA as directed by the Board or Administrator.

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**PARAGRAPH 3
BOARD OF TRUSTEES**

Section 3.1. ~~Initial Board Trustee~~ Qualifications. ~~The qualifications to serve as a Trustee and the terms of office for Trustees. The initial Board shall take office when this agreement shall become effective in accordance with Article 1 hereof. The initial trustees and their terms of office shall be specified in the bylaws of GIRMA.~~

Section 3.2. ~~Selection of subsequent~~ Board Members. The Board of GIRMA shall be those persons selected in accordance with the bylaws of GIRMA.

Section 3.3. Meetings. All meetings of the Board shall be held and conducted in accordance with the bylaws adopted by the Board.

Section 3.4. Liability of Trustees and, Officers ~~or Agents~~. Trustees and, officers ~~and agents~~ of GIRMA shall use ordinary care and reasonable diligence in the exercise of their powers and the performance of their duties. They shall not be liable for ~~any~~ mistakes of judgement or ~~other~~ actions or failures to act when such mistakes, actions or failures are made, taken or admitted by them in good faith and within the scope of their authority for GIRMA. Nor shall they be liable for, nor for, any action or failure to act taken or admitted by of any agent, employee or independent

AMENDED AND RESTATED INTERGOVERNMENTAL CONTRACT OF TO ESTABLISH THE
GEORGIA INTERLOCAL RISK MANAGEMENT AGENCY

contractor ~~of GIRMA selected with reasonable care~~, nor for loss incurred through investment of funds or failure to invest. No trustee ~~or officer~~ shall be liable for any action ~~or failure to act of taken or admitted by~~ any other trustee ~~or officer~~. No trustee ~~or officer~~ shall be required to give a bond or other security to guarantee ~~the~~ faithful performance of the duties hereunder except as may be required by the rules and regulations of the ~~Georgia~~ Insurance Commissioner. GIRMA shall defend and hold harmless any ~~trustee or officer, and the Board of Trustees, or agent against~~ any and all loss, cost, damage or exposure arising from their actions or failures to act when such actions or failures are made in good faith and within the scope of their authority for GIRMA. ~~for actions taken by the trustees or performed by the officers, agents or employees within the scope of their authority for GIRMA.~~ GIRMA may purchase insurance providing such coverage for trustees ~~and~~ officers ~~, agents or employees.~~

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**PARAGRAPH 4
BOARD POWERS AND DUTIES**

Section 4.1. Board Powers and Duties. The Board, in addition to other powers and duties conferred or imposed by law, is authorized in the name of GIRMA to exercise the powers enumerated in Article ~~III, Section I and in Article IV, Section 2 VII~~ of the bylaws and to do all the acts necessary or incidental in performing and accomplishing the purposes set forth in this agreement and in the bylaws of GIRMA.

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**PARAGRAPH 5
MEMBERSHIP**

Section 5.1. Membership. The ~~initial~~ membership of GIRMA ~~shall~~ consists of those eligible public entities who have executed this agreement, or its counterpart, by the duly constituted chief ~~executive or~~ administrative officers acting upon the resolution of the governing authority of the public entity and which have paid the prescribed contributions pursuant to the provisions of this agreement. ~~Initial and additional~~ Such entities may be Members ~~may be~~ admitted as Members upon approval of the Administrator in accordance with policies established by the Board, upon their execution of this agreement, or its counterpart, and by payment of prescribed contributions. Every Member agrees to the admission of additional Members in accordance with the provisions of this paragraph.

Section 5.2. Member Representatives. ~~The chief executive or administrative officer of each Member~~ Each Member shall designate in writing a ~~e a~~ representative to GIRMA and notify the Administrator of such designation by action of its governing body. The representative shall be responsible to the Member for receiving all communications related to GIRMA, implementing ~~of all~~ loss control measures and executing ~~for execution of~~ the duties imposed on the Members by this agreement and the bylaws ~~of GIRMA established hereunder.~~ All communications from the Administrator or any Service Company to the Member shall be addressed to the individual listed in the Administrator's records as the Member's designated representative. Each Member shall notify the Administrator immediately if a replacement representative is named.

Section 5.3. Withdrawal.

- (1) Each Member shall continue its membership until the completion of the second full fiscal year of GIRMA following its admission to GIRMA ~~or, in the case of the initial Members, from the date of activation of GIRMA.~~ Effective upon the conclusion of such period, ~~or effective at the end of any subsequent fiscal year,~~ a Member may withdraw on ninety (90) days advance written notice to GIRMA. A Member withdrawing shall have no right to the reserves on any claims maintained by GIRMA in the operation of a Group Self-Insurance Fund. GIRMA shall continue servicing of any covered claim of the Member after the withdrawal of the Member.
- (2) At the conclusion of a Member's second full fiscal year of membership, all membership shall be on a coverage year-to-coverage year basis. Effective at the end of any coverage ~~fiscal~~ year, GIRMA may, on ninety (90 days) advance written notice to a Member, determine not to renew a Member's membership in GIRMA or

AMENDED AND RESTATED INTERGOVERNMENTAL CONTRACT OF TO ESTABLISH THE
GEORGIA INTERLOCAL RISK MANAGEMENT AGENCY

the Member's participation in the Fund.

- (3) Any Member, failing to make payments required by Paragraph 6 of this agreement when due, shall upon proper notice be immediately suspended from membership and the Member's coverage under any Fund and benefits hereunder shall immediately cease. If the Member shall subsequently submit the delinquent payment along with such penalties or interest that may be established by the board, the Administrator may reinstitute such membership in accordance with Board policy.
- (4) Terminated Members shall remain liable for assessments for any fiscal year in which they were Members. Terminated Members shall have no rights to surplus or dividends, but the Board may return all or a portion of any terminated Member's capital contribution.

Section 5.4. Membership Review and Termination. A Member may be involuntarily terminated for causes other than non-payment of contributions as provided in the bylaws.

**PARAGRAPH 6
OBLIGATIONS OF MEMBERS**

Section 6.1. Member Obligations. Members of GIRMA agree to be obligated as follows:

- (1) To participate at all times in at least one Fund ~~which is~~ established by the Board.
- (2) To pay all contributions, assessments or other sums due to GIRMA at such times and in such amounts as shall be established by the Board or the Administrator.
- (3) To select a person to serve as a Member representative.
- (4) To allow the Board and its agents reasonable access to all facilities of the Member and all records, including but not limited to financial records, which relate to the purposes of GIRMA.
- (5) To allow attorneys appointed by GIRMA to represent the Member and its employees or officers in investigation, settlement discussions and all levels of litigation arising out of any claim made against a Member within the scope of loss protection furnished by the Fund or Funds established by GIRMA, and, with approval of the Administrator or in accordance with policies established by the Administrator, to enter into settlements of such litigation without the consent of the Member or its employees or officers.-
- (6) To assist and cooperate in the defense and settlement of claims against the Member and its employees or officers.
- (7) To furnish full cooperation to GIRMA's attorneys, claims adjusters, Service Company and any agent employee, officer or independent contractor of GIRMA relating to the purposes of GIRMA.
- (8) To follow all loss reduction and prevention procedures established by GIRMA.
- (9) To furnish to the Administrator ~~GIRMA~~ such budget operating and underwriting information as may be requested by the ~~Administrator~~ Board.
- (10) To report as promptly as possible, and in accordance with any Coverage Descriptions issued, all incidents which could result in GIRMA or any Fund established by GIRMA being required to pay claim for loss or injuries to the Member's public entity property or injuries to persons or property when such

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AMENDED AND RESTATED INTERGOVERNMENTAL CONTRACT OF TO ESTABLISH THE
GEORGIA INTERLOCAL RISK MANAGEMENT AGENCY

loss or injury is within the scope of the protection of a Fund or Funds in which the Member participates.

Section 6.2. Optional Defense of Fund Member. A Member may hire co-defense counsel, at the Member's expense, to assist in the defense of claims; provided, however, the attorney selected by GIRMA to defend the claim shall be lead counsel in all matters.

Section 6.3. Contractual Obligation. This agreement shall constitute a contract among the Members of GIRMA. The obligations and responsibilities of the Members set forth herein include the obligation to take no action inconsistent with this agreement as originally written or validly amended, which shall remain a continuing obligation and responsibility of the Member. This agreement may be executed in duplicate originals and the agreement of a public entity thereto shall be evidenced by a signed copy of a resolution adopted by its legislative body authorizing an appropriate official of the public entity to execute the agreement on behalf of the public entity. The contracting parties have created intend to create a risk management agency for group self-insurance purposes only within the scope of this agreement, GIRMA's bylaws and related Coverage Descriptions. Nothing contained herein shall be deemed to create any relationship of surety, indemnification or responsibility between an individual Member for the debts or claims against any other individual Member. In accordance with Sections 36-85-9 and 36-85-15 of the Official Code of Georgia Annotated, each Member shall be jointly and severally liable for all legal obligations of a Fund and assessments may be required to meet any financial obligation of GIRMA or of any Fund.

**PARAGRAPH 7
AMENDMENTS TO CONTRACT**

Section 7.1. Amendments. This agreement may be amended by consent of the Members. A change or modification to this agreement may be agreed to by a vote of Members under such rules and procedures as the Board shall prescribe. Such vote may be conducted at a meeting of Members or may be conducted by mail. Any change or modification agreed to by a majority of the voting Members shall become effective immediately or at such future time as the amendment shall provide. Any Member not exercising its right of withdrawal within thirty (30) days after notice of the change or amendment shall be deemed to have consented to such a change or amendment. Any Member not consenting to such change or amendment may, at its option, withdraw with 90 days written notice and shall be entitled to a refund of any non-earned premiums. contributions made on account of the current fiscal year in proportion to the time remaining in the fiscal year period.

**PARAGRAPH 8
AUDITS AND FINANCIAL REPORTS**

Section 8.1. Annual Report. The Board shall provide to the Members an annual report of the financial affairs of GIRMA and of each Fund maintained by GIRMA.

AMENDED AND RESTATED INTERGOVERNMENTAL CONTRACT OF TO ESTABLISH THE
GEORGIA INTERLOCAL RISK MANAGEMENT AGENCY

PARAGRAPH 9
OPERATION OF GROUP SELF-INSURANCE FUNDS

Section 9.1. Loss Protection. GIRMA will provide loss protection to each Member participating in a Fund as provided in the Coverage Description for the Fund.

Section 9.2. Coverage Descriptions. The Board or its designee may develop and issue such self-insurance Coverage Descriptions for Funds as it deems necessary or advisable. The limits of loss protection, scope of loss protection, amount of loss retention and Member contributions into a Fund shall be determined by the Coverage Description for the Fund. The Board may amend the Coverage Description or Descriptions from time to time as deems advisable. Such amended Coverage Descriptions shall be effective for GIRMA's subsequent coverage fiscal years.

This foregoing Intergovernmental Contract is entered into on behalf of ~~the Public Entity of~~ (Name of New Member), this day of _____, 20__, by the duly authorized officer whose signature appears below.

(Name of ~~New Member~~ Public Entity)

(Authorized Signature/title)

Witness/title

(Imprint Entity Seal)

