



## **PUBLIC SERVICES COMMITTEE MEETING AGENDA**

Commission Chambers

Tuesday, January 31, 2023

1:00 PM

### **PUBLIC SERVICES**

- 1.** New Location: A.N. 23-04: A request by Sharon Gittens for an on-premises consumption Liquor, Beer & Wine License to be used in connection with Jamaica Way located at 2650 Tobacco Rd. There will be Sunday Sales. District 4. Super District 9.
- 2.** New Ownership: A.N. 23-05: A request by Upendra Brahmhatt for a retail package Beer & Wine License to be used in connection with Avyan Investment, Inc located at 601 Bransford Rd. District 3 Super District 10.
- 3.** Motion to Approve the Daniel Field DBE Policy for 2023 Construction Project
- 4.** Several artists who have participated in the previous iteration of the Augusta Sculpture Trail have chosen to donate their artwork to Augusta, Georgia and make it the permanent home of their sculptures. The artwork is:
  - Tropical Dream by Roger Finch
  - Popsicles by CR Gray LLC
  - Unstoppable by Gus and Lina Ocamposilva
  - Maestro by Larry Schueckler
  - Forever Young by Larry Schueckler
- 5.** Motion to approve entering into a lease agreement for Hickman Park with the Trust of Oakland Park as lessor.
- 6.** Motion to approve entering into an updated lease agreement for Eisenhower Park with the Augusta National Golf Club as lessee.
- 7.** Motion to approve the memorandum of understanding with Aiken-Augusta Swim League (ASL) for the usage of the Augusta Aquatic Center in 2023.
- 8.** Motion to approve the Planning Commission working on Sustainability & Design Standards for potential incorporation into the Zoning Ordinance.
- 9.** Update and review of current work progress on scoring towers at Diamond Lakes. Please discuss total costs spent since this project began in 2019 and the anticipated costs to be complete. Also discuss timeline for work being complete as well as when restrooms will once again be open. Attached documentation was sent to commission on Dec. 8, 2022. **(Requested by Commissioners Brandon Garrett and Alvin Mason)**
- 10.** Motion to approve the minutes of the Public Services Committee held on January 9, 2023.



## Public Service

January 31, 2023

### Alcohol Application

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<b>Department:</b>	Planning & Development
<b>Presenter:</b>	Julietta H. Walton-Business License & Customer Service Manager
<b>Caption:</b>	New Location: A.N. 23-04: A request by Sharon Gittens for an on-premises consumption Liquor, Beer & Wine License to be used in connection with Jamaica Way located at 2650 Tobacco Rd. There will be Sunday Sales. District 4. Super District 9.
<b>Background:</b>	This is a New Location.
<b>Analysis:</b>	The applicant meets the requirements of The City of Augusta's Alcohol Ordinance.
<b>Financial Impact:</b>	The applicant will pay a fee of \$5,610.00.
<b>Alternatives:</b>	N/A
<b>Recommendation:</b>	The Planning & Development approved the application subject to additional information not contradicting the applicant's statements.  The Sheriff's Office approved the application subject to additional information not contradicting applicant's statements.
<b>Funds are available in the following accounts:</b>	N/A
<b><u>REVIEWED AND APPROVED BY:</u></b>	N/A

**Case Number:** A.N. 23-04

**Application Type:** Consumption on Premise Liquor, Beer, & Wine & Sunday Sales

**Business Name:** Jamaica Way

**Hearing Date:** January 31, 2023

**Report Prepared By:** Julietta H. Walton, Business License & Customer Service Manager

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**Applicant:** *Sharon Gittens*

**Property Owner:** Sharon Gittens

**Address of Property:** 2650 Tobacco Rd

**Tax Parcel #:** 140-0-010-06-0

**Commission District:** District: 4 Super District: 9

**Background:** New Location

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**ANALYSIS:** Location restrictions: zoning and proximity to churches, libraries, schools, and public recreation areas.

- **Zoning:** B-1 (Neighborhood Business) Zone
- **Distance Requirements:** The proposed location for consumption on premise Liquor, Beer & Wine meets the minimum distance location to churches, schools, libraries, and public recreation areas.

**ADDITIONAL CONSIDERATIONS:**

- **Reputation, character.** The applicant's reputation, character, trade and business associations or past business ventures, mental and physical capacity to conduct business.
- **Previous violations of liquor laws.** If the applicant is a previous holder of a license to sell alcoholic liquors, whether or not he has violated any laws, regulations or ordinance relating to such business.
- **Manner of conducting prior liquor business.** If the applicant is a previous holder of a license to sell alcoholic liquors, the manner in which he conducted the business thereunder especially as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.

- **Location.** The location for which the license is sought, as to traffic congestion, general character of neighborhood, and the effect such an establishment would have on the adjacent surrounding property values.
  - **The proposed location is a New Location.**
- **Number of licenses in a trading area.** The number of licenses already granted for similar business in the trading area of the place for which the license is sought.
- **Dancing.** If dancing is to be permitted upon the premise for which the license is sought and the applicant has previously permitted dancing upon the premises controlled or supervised by him, the manner in which he controlled or supervised such dancing to prevent any violation of any law, regulation, or ordinance.
- **Previous revocation of license.** If the applicant is a person, whose license issued under the police powers of any governing authority has been previously suspended or revoked or who has previously had an alcoholic beverages licenses suspended or revoked. Payment of taxes. If the applicant and business are not delinquent in the payment of any local taxes.
- **Congregation of minors.** Any circumstances, which may cause minors to congregate in the vicinity of the proposed location, even if the location meets the distance requirement under section 6-2-64 (b) herein.
- **Prior incidents.** Evidence that a substantial number of incidents requiring police intervention have occurred within a square city block of the proposed location during the twelve (12) months immediately preceding the date of application.
- **Previous Denial or Revocation.** The denial of an application or revocation of a license, occurring within the preceding twelve (12) months, which was based on the qualifications of the proposed location.

**FINANCIAL IMPACT:** The applicant will pay a fee of \$5,610.00.

**RECOMMENDATION:**

The Planning & Development approved the application subject to additional information not contradicting the applicant's statements.

The Sheriff's Office approved the application subject to additional information not contradicting applicant's statements.

**Note:** The staff report includes the information available approximately two weeks prior to the Public Services Committee meeting. It represents an evaluation of the facts presented by the applicant, research done by the staff, and consideration of the relevant factors in the Comprehensive Zoning Ordinance and the Alcohol Ordinance of Augusta, Georgia. New facts may emerge, and staff reserves the right to make an oral recommendation at the hearing based on all the information available at that time.



Augusta-Richmond County Planning & Development Department  
1803 Marvin Griffin Road  
Augusta, GA. 30906

**ALCOHOL BEVERAGE APPLICATION**

Alcohol Number \_\_\_\_\_ Year \_\_\_\_\_ Alcohol Account Number \_\_\_\_\_

1. Name of Business Jamaica Way
2. Business Address 2650 Tobacco Rd
3. City Hephzibah State Ga Zip 30815
4. Business Phone ( 706 ) 945-1855 Home Phone ( ) \_\_\_\_\_
5. Applicant Name and Address: Sharon Gittens  
5208N Tubman Rd  
Appling GA 30802
6. Applicant Social Security # \_\_\_\_\_ D.O.B. \_\_\_\_\_
7. If Application is a transfer, list previous applicant: \_\_\_\_\_

8. Business Location: Map & Parcel \_\_\_\_\_ Zoning \_\_\_\_\_
9. Location Manager(s) Sharon Gittens

10. Is Applicant an American Citizen or Alien lawfully admitted for permanent residency?  
(X) Yes ( ) No

**OWNERSHIP INFORMATION**

11. Corporation (if applicable): Date Chartered: \_\_\_\_\_
12. Mailing Address:  
Name of Business Jamaica Way  
Attention Sharon Gittens  
Address 5208N Tubman Rd  
City/State/Zip Appling GA 30802
13. Ownership Type: ( ) Corporation ( ) Partnership (X) Individual
14. Corporate Name: \_\_\_\_\_  
List name and other required information for each person having interest in this business.

Name	Position	SSNO#	Address	Interest
Sharon Gittens	Owner	5	5208N Tubman Rd	100%

15. What type of business will you operate in this location?  
(X) Restaurant - Full ( ) Lounge ( ) Convenience Store  
( ) Restaurant - Limited ( ) Package Store ( ) Hybrid  
( ) Other: \_\_\_\_\_

License Information	Liquor	Beer	Wine	Dance	Sunday Sales
Retail Package Dealer					
Consumption on Premises	X	X	X		X
Wholesale					

Total License Fee: \$ \_\_\_\_\_  
Prorated License Fee: (After July 1 ONLY) \$ \_\_\_\_\_

16. Have you ever applied for an Alcohol Beverage License before: No  
If so, give year of application and its disposition: \_\_\_\_\_
17. Are you familiar with Georgia and Augusta-Richmond County laws regarding the sale of alcoholic beverages? (X) Yes ( ) No If so, please initial SG SG

18. Attach a passport-size photograph (front view) taken within two years. Write name on back of the dealer submitting the license application.
19. Has any liquor business in which you hold, or have held, any financial interest, or are employed, or have been employed, ever been cited for any violation of the rules and regulations of Augusta-Richmond County or the State Revenue Commission relating to the sale and distribution of distilled spirits? ( ) Yes ( ) No  
If yes, give full details: \_\_\_\_\_
20. Have you ever been arrested, or held by Federal, State, or other law-enforcement authorities, for any violation of any Federal, State, County or Municipal law, regulation or ordinance: (Do not include traffic violations, with the exception of any offenses pertaining to alcohol or drugs). All other charges must be included, even if they are dismissed. (X) Yes ( ) No  
If yes, give reason charged or held, date and place where charged and its disposition.  
1988 I was with a friend who purchased drugs. I was charged for being an accomplice and was sentenced to 6 months work release and she was deported
21. List owner or owners of building and property.  
Sharon Gittens
22. List the name and other required information for each person, firm or corporation having any interest in the business.
23. If a new application, attach a surveyor's plat and state the straight line distance from the property line of school, church, library, or public recreation area to the wall of the building where alcohol beverages are sold.  
A) Church 561 yards C) School .77 miles to Morgan Rd School  
B) Library 3.2 miles D) Public Recreation 1.2 miles
24. State of Georgia, Augusta-Richmond County, I, Sharon Gittens  
Do solemnly swear, subject to the penalties of false swearing, that the statements and answers made by me as the applicant in the foregoing alcoholic beverage application are true.
25. I hereby certify that Sharon Gittens is personally known to be,  
That he/she signed his/her name to the foregoing application stating to me that he/she knew and understood all statements and answers made herein, and, under oath actually administered by me, has sworn that said statements and answers are true.  
This 08 day of Aug. 12th in the year 2022

Applicant Signature

Notary Public

JAN - 7 2024

## FOR OFFICE USE ONLY

Department Recommendation	Approve	Deny	Comments
Alcohol Inspector			
Sheriff			
Fire Inspector			

The Board of Commissioners on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_.  
(Approved, Disapproved) the foregoing application

Administrator

Date



## Public Service

January 31, 2023

### Alcohol Application

<b>Department:</b>	Planning & Development
<b>Presenter:</b>	Julietta H. Walton-Business License & Customer Service Manager
<b>Caption:</b>	New Ownership: A.N. 23-05: A request by Upendra Brahmabhatt for a retail package Beer & Wine License to be used in connection with Avyan Investment, Inc located at 601 Bransford Rd. District 3 Super District 9.
<b>Background:</b>	This is an Existing Location.
<b>Analysis:</b>	The applicant meets the requirements of The City of Augusta's Alcohol Ordinance.
<b>Financial Impact:</b>	The applicant will pay a fee of \$1,330.00
<b>Alternatives:</b>	N/A
<b>Recommendation:</b>	<p>The Planning &amp; Development approved the application subject to additional information not contradicting the applicant's statements.</p> <p>The Sheriff's Office approved the application subject to additional information not contradicting applicant's statements.</p>
<b>Funds are available in the following accounts:</b>	N/A
<b><u>REVIEWED AND APPROVED BY:</u></b>	N/A

**Case Number:** A.N. 23-05

**Application Type:** Retail Package Beer & Wine

**Business Name:** Avyan Investment, Inc

**Hearing Date:** January 31, 2023

**Report Prepared By:** Julietta H. Walton, Business License & Customer Service Manager

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**Applicant:** *Upendra Brahmbhatt*

**Property Owner:** Richmond Realty Holdings LLC

**Address of Property:** 601 Bransford Rd

**Tax Parcel #:** 025-3-123-00-0

**Commission District:** District: 3 Super District: 10

**Background:** New Ownership

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**ANALYSIS:** Location restrictions: zoning and proximity to churches, libraries, schools, and public recreation areas.

- **Zoning:** B-1 (Neighborhood Business) Zone
- **Distance Requirements:** The proposed location for retail package Beer & Wine meets the minimum distance location to churches, schools, libraries, and public recreation areas.

**ADDITIONAL CONSIDERATIONS:**

- **Reputation, character.** The applicant's reputation, character, trade and business associations or past business ventures, mental and physical capacity to conduct business.
- **Previous violations of liquor laws.** If the applicant is a previous holder of a license to sell alcoholic liquors, whether or not he has violated any laws, regulations or ordinance relating to such business.
- **Manner of conducting prior liquor business.** If the applicant is a previous holder of a license to sell alcoholic liquors, the manner in which he conducted the business thereunder especially as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.
- **Location.** The location for which the license is sought, as to traffic congestion, general character of neighborhood, and the effect such an establishment would have on the adjacent surrounding property values.

- **The proposed location is an Existing Location.**
- **Number of licenses in a trading area.** The number of licenses already granted for similar business in the trading area of the place for which the license is sought.
- **Dancing.** If dancing is to be permitted upon the premise for which the license is sought and the applicant has previously permitted dancing upon the premises controlled or supervised by him, the manner in which he controlled or supervised such dancing to prevent any violation of any law, regulation, or ordinance.
- **Previous revocation of license.** If the applicant is a person, whose license issued under the police powers of any governing authority has been previously suspended or revoked or who has previously had an alcoholic beverages licenses suspended or revoked. Payment of taxes. If the applicant and business are not delinquent in the payment of any local taxes.
- **Congregation of minors.** Any circumstances, which may cause minors to congregate in the vicinity of the proposed location, even if the location meets the distance requirement under section 6-2-64 (b) herein.
- **Prior incidents.** Evidence that a substantial number of incidents requiring police intervention have occurred within a square city block of the proposed location during the twelve (12) months immediately preceding the date of application.
- **Previous Denial or Revocation.** The denial of an application or revocation of a license, occurring within the preceding twelve (12) months, which was based on the qualifications of the proposed location.

**FINANCIAL IMPACT:** The applicant will pay a fee of \$1,330.00.

**RECOMMENDATION:**

The Planning & Development approved the application subject to additional information not contradicting the applicant's statements.

The Sheriff's Office approved the application subject to additional information not contradicting applicant's statements.

**Note:** The staff report includes the information available approximately two weeks prior to the Public Services Committee meeting. It represents an evaluation of the facts presented by the applicant, research done by the staff, and consideration of the relevant factors in the Comprehensive Zoning Ordinance and the Alcohol Ordinance of Augusta, Georgia. New facts may emerge, and staff reserves the right to make an oral recommendation at the hearing based on all the information available at that time.

Augusta-Richmond County  
1815 Marvin Griffin Road  
Augusta, GA 30906

### ALCOHOL BEVERAGE APPLICATION

Alcohol Number \_\_\_\_\_ Year \_\_\_\_\_ Alcohol Account Number \_\_\_\_\_

1. Name of Business Avyan Investment Inc
2. Business Address 601 Bransford Rd.
3. City Augusta State GA Zip 30909
4. Business Phone (\_\_\_\_) 404-483-4804 Home Phone (\_\_\_\_) \_\_\_\_\_
5. Applicant Name and Address: Upendra Brahmbhatt  
3145 Shady Woods Cir, Lawrenceville, GA, 30044
6. Applicant Social Security # \_\_\_\_\_ D.O.B. \_\_\_\_\_
7. If Application is a transfer, list previous Applicant: \_\_\_\_\_
8. Business Location: Map & Parcel \_\_\_\_\_ Zoning \_\_\_\_\_
9. Location Manager(s) Upendra Brahmbhatt
10. Is Applicant an American Citizen or Alien lawfully admitted for permanent residency?  
☒ Yes ( ) No

### OWNERSHIP INFORMATION

11. Corporation (if applicable): Date Chartered: 11/10/2022
12. Mailing Address: 601 Bransford Rd, Augusta, GA, 30909  
Name of Business Avyan Investment Inc  
Attention Upendra Brahmbhatt  
Address 601 Bransford Rd  
City/State/Zip Augusta, GA, 30909
13. Ownership Type: (x) Corporation ( ) Partnership ( ) Individual
14. Corporate Name: Avyan Investment Inc  
List name and other required information for each person having interest in this business.

Name	Position	SSNO #	Address	Interest
Upendra Brahmbhatt	Owner		3145 Shady Woods Cir, Lawrenceville, GA, 30044	100%

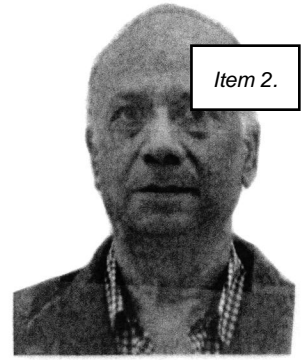
15. What type of business will you operate in this location?  
( ) Restaurant ( ) Lounge ( ) Convenience Store  
( ) Package Store (x) Other: GAS STATION AND CONVENIENCE STORE

License Information	Liquor	Beer	Wine	Dance	Sunday Sales
Retail Package Dealer		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Consumption on Premises					
Wholesale					

Total License Fee: \$ \_\_\_\_\_  
Prorated License Fee: (After July 1 ONLY) \$ \_\_\_\_\_

16. Have you ever applied for an Alcohol Beverage License before: NO  
If so, give year of application and its disposition: \_\_\_\_\_
17. Are you familiar with Georgia and Augusta-Richmond County laws regarding the sale of alcoholic beverages? ( ) Yes ☒ No If so, please initial. UB

? INITIAL UB



18. Attach a passport-size photograph (front view) taken within two years. Write name on back of the dealer submitting the license application.
19. Has any liquor business in which you hold, or have held, any financial interest, or are employed, or have been employed, ever been cited for any violation of the rules and regulations of Richmond County or the State Revenue Commission relating to the sale and distribution of distilled spirits? ( ) Yes (✓) No  
If yes, give full details: \_\_\_\_\_
20. Have you ever been arrested, or held by Federal, State, or other law-enforcement authorities, for any violation of any Federal, State, County or Municipal law, regulation or ordinance? (Do not include traffic violations, with the exception of any offenses pertaining to alcohol or drugs.) All other charges must be included, even if they are dismissed. ( ) Yes (✓) No  
If yes, give reason charged or held, date and place where charged and its disposition. \_\_\_\_\_
21. List owner or owners of building and property.  
Richmond Realty Holding LLC
22. List the name and other required information for each person, firm or corporation having any interest in the business.  
Upendra Brahmhatt -Owner
23. If a new application, attach a surveyor's plat and state the straight line distance from the property line of school, church, library, or public recreation area to the wall of the building where alcohol beverages are sold.  
A.) Church \_\_\_\_\_ C.) School \_\_\_\_\_  
B.) Library \_\_\_\_\_ D.) Public Recreation \_\_\_\_\_
24. State of Georgia, Augusta-Richmond County, I, Upendra Brahmhatt  
Do solemnly swear, subject to the penalties of false swearing, that the statements and answers made by me as the applicant in the forgoing alcoholic beverage application are true.

Applicant Signature

25. I hereby certify that UPENDRA BRAHMBHATT is personally known to be, that he/she signed his/her name to the foregoing application stating to me that he/she knew and understood all statements and answers made herein, and, under oath actually administered by me, has sworn that said statements and answers are true.  
This 29TH day of NOV, in the year 2022

Notary Public

N JIVANU  
COBB County  
My Commission Expires  
January 27, 2023

FOR OFFICE USE ONLY

Department Recommendation	Approve	Deny	Comments
Alcohol Inspector			
Sheriff			
Fire Inspector			

The Board of Commissioners on the \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_  
(Approved, Disapproved) the forgoing application.

Administrator

Date



## Public Services Committee Meeting

Meeting Date: 1/31/2023

### Daniel Field Airport DBE Policy

<b>Department:</b>	Daniel Field Airport
<b>Presenter:</b>	Becky Shealy; Airport Manager
<b>Caption:</b>	Motion to Approve the Daniel Field DBE Policy for 2023 Construction Project
<b>Background:</b>	<p>Daniel Field Airport (DNL) is currently completing design of the Runway 5/23 airfield electrical system replacement project and a Disadvantaged Business Enterprise (DBE) plan is required as part of the project bid documents. A DBE plan is established to:</p> <ul style="list-style-type: none"> <li>• ensure equal opportunity and nondiscrimination in the award and administration of USDOT assisted contracts</li> <li>• create a level playing field on which DBEs can compete fairly for USDOT assisted contracts</li> <li>• help remove barriers to the participation of DBEs in USDOT assisted contracts</li> </ul>
<b>Analysis:</b>	The established DBE participation goal is 8.48% for this project, prepared by consultant Taffy Pippin Consulting, LLC and with concurrence by Augusta Compliance Department.
<b>Financial Impact:</b>	The DBE plan was contracted and completed under the GAC's authority and paid \$3,500. GDOT is expected to reimburse 90% of the cost, or \$3,150, in the construction contract in Spring 2023. The remaining 10%, or \$350, is Daniel Field Airport local share.
<b>Alternatives:</b>	FAA requires a DBE plan for every project estimated at \$250,000 or more in federal funds in a single fiscal year. As the airfield electrical project is anticipated to cost \$943,000 in FY23, there are no alternatives to conducting this DBE plan.
<b>Recommendation:</b>	The Daniel Field General Aviation Commission (DNL GAC) recommends approval of the Daniel Field Airport DBE policy and plan for the Runway 5-23 airfield electrical system replacement projects in order to initiate procurement process for construction in early 2023.
<b>Funds are available in the following accounts:</b>	The DBE plan was contracted and completed under the GAC's authority and paid \$3,500. GDOT is expected to reimburse 90% of the cost, or \$3,150, in the construction contract in Spring 2023. The remaining 10%, or \$350, is Daniel Field Airport local share.



The Daniel Field Airport is an enterprise fund.

**REVIEWED AND**  
**APPROVED BY:**

**DBE GOAL METHODOLOGY**  
**49 CFR PART 26**  
**DANIEL FIELD AIRPORT**  
**FY 2023**

A. UPDATE OF GOALS - To make the program as useful as possible to the public, Augusta-Richmond County, Georgia, Sponsor, will update the "amount," "method," and "breakout" portions of this section of the program annually, or as required. The following sections will be submitted to the FAA every year, or as required, for approval: Amount of Overall Goal Section, Method used for Establishing Overall Goals, Process, the Race-Neutral/Race Conscious breakout, and Contract Goals.

B. AMOUNT OF GOAL - The Sponsor's overall goal for FY 2023 is 8.48% of the Federal financial assistance that we will expend in FAA-assisted contracts. We expect to let projects during this FY in the amount of \$1,166,404.00, which means that our DBE goal is set at \$98,911.00 for this Fiscal Year. This overall goal is intended for information of public users of the program, and does not imply that the FAA, as such, has approved the goal.

C. METHOD-STEP 1: In the development of the DBE goal for the Daniel Field Airport, the first step was to establish the availability of ready, willing, and able DBE businesses that were capable of participating in the type of contracts that were programmed during FY 2023. The project that is anticipated at the Daniel Field Airport includes Taxiway Lighting, C-RW Lighting, and Displaced Threshold, along with the professional efforts associated with the project. An analysis of the project indicates that funds will be expended in the following areas:

<b>DANIEL FIELD AIRPORT PROJECT ANALYSIS FY 2023</b>			
TASK	NAICS	AMOUNT	PERCENTAGE
General Contractors	236220	\$87,720	7.52%
Street & Highway	237310	\$105,500	9.05%
Electrical	238210	\$777,532	66.66%
Hauling	484220	\$68,850	5.90%
Engineering	541330	\$73,927	6.34%
Landscaping	561730	\$52,875	4.53%
TOTAL		\$1,166,404.00	100.00%

The weighting factor is the value of each work item based on cost as a fraction of the whole project.

The formula to be used to calculate the Base Figure for the DBE goal is as follows:

$$\frac{\text{Total DBE Firms in the State by County/ NAICS Code of Work to be Performed}}{\text{Total Firms in the State by County/NAICS Code of Work to be Performed}} \times 100 = \text{Base Figure}$$

It was considered reasonable that the market area be based on counties located in the state of Georgia and South Carolina with close proximity to the airport, along with counties of previous bidders. The following counties in the state of Georgia will be included in the market area: Richmond, Burke, Columbia, Glascock, Jefferson, Warren. The following counties in South Carolina will be included in the market area: Aiken, and Edgefield. A search was initiated with a series of DBE agencies within Georgia and South Carolina for an appropriate DBE Directory. It was agreed that the most comprehensive directory for DBE firms in Georgia and South Carolina was the UCP DBE Directory that was established by the Georgia Department of Transportation and the South Carolina Department of Transportation. These directories contain DBE firms that are certified in accordance with 49 CFR Part 26. The list was further refined by identifying firms that could participate in the project by their appropriate NAICSs. The resulting number will be used as the numerator in determining the Base Figure.

The next step in establishing the Base Figure was to determine our denominator. This was accomplished through the use of the Census Bureau's County Business Pattern (CBCBP) and the identification of the NAICSs that were the same as those identified from the Directory. With these figures in hand, we compute our Base Figure using the following mathematics:

$$\frac{\text{Base}}{\text{Figure}} = \frac{.0752 \left( \frac{\text{GSCNAICS236220}}{\text{NAICS236220}} \right) + .0905 \left( \frac{\text{GSCNAICS237310}}{\text{NAICS237310}} \right) + .6666 \left( \frac{\text{GSCNAICS238210}}{\text{NAICS238210}} \right) + .0590 \left( \frac{\text{GSCNAICS484220}}{\text{NAICS484220}} \right) + .0634 \left( \frac{\text{GSCNAICS541330}}{\text{NAICS541330}} \right) + .0453 \left( \frac{\text{GSCNAICS561730}}{\text{NAICS561730}} \right)}$$

GSCNAICS- Georgia/South Carolina DBE Directory NAICS  
NAICS – Census Bureau's County Business Pattern (CBCBP) Data Base

$$\frac{\text{Base}}{\text{Figure}} = \frac{.0752 \left( \frac{4}{45} \right) + .0905 \left( \frac{5}{13} \right) + .6666 \left( \frac{1}{65} \right) + .0590 \left( \frac{9}{36} \right) + .0634 \left( \frac{2}{89} \right) + .0453 \left( \frac{3}{177} \right)}$$

$$\frac{\text{Base}}{\text{Figure}} = .0067 + .0348 + .0103 + .0148 + .0014 + .0008$$

$$\frac{\text{Base}}{\text{Figure}} = 6.88\%$$

STEP 2: With the Base Figure established our next step was to more finely tailor this figure to reflect conditions which have occurred at the Daniel Field Airport. There are no recent disparity studies conducted in this area, and the Sponsor has considered the suggested options outlined in 49 CFR Part 26 and determined past performance is the information that will be used to determine if an adjustment to our Base Figure is warranted. A sampling of like type projects that have taken place in Georgia will be used to determine if an adjustment is required to the Base Figure. To this end, we investigated a series of airports with like type projects. Listed below are the projects that were included for analysis. These projects as well as Daniel Field's recent DBE

accomplishments, are of a similar nature and elements to the project that is being anticipated in the 2023-time frame at the Daniel Field Airport:

<b>PREVIOUS FAA PROJECTS LIKE TYPE PROJECTS</b>			
<b>YEAR</b>	<b>LOCATION</b>	<b>PROJECT TYPE</b>	<b>% OF DBE PARTICIPATION</b>
2019	Daniel Field	Previous Accomplishment	12.14%
2020	Daniel Field	Previous Accomplishment	10.07%*
2017	Toccoa	Runway Lighting	6.63%
*Median			

The next step was to determine if any adjustment might be needed to the Base Figure. It was felt that the Base Figure should be adjusted to cater for this variance.

A summary of this analysis yields the following:

LIKE TYPE PERCENTAGE	10.07%
BASE FIGURE	+ 6.88%
	16.95% ÷ 2 = 8.48%

Satisfied that the Median Percentage was valid, the final step in the comparison was the development of a simple average of the Base Figure and the Prior Project Participation Percentage to establish a final percentage. The result of this was 8.48%. It was felt that the Base Figure of 6.88% should be adjusted for this variance. The Average Percentage of 8.48% is established as the goal for DBE participation at the Daniel Field Airport for FY 2023.

D. PROCESS - The Sponsor submits its overall goal for FY 2023 to the FAA in November, 2022 for their consideration and approval. Before establishing the overall goal each year, the Sponsor has personally consulted with the stakeholders to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, and the effects of discrimination on opportunities for DBEs. The Sponsor's efforts are to establish a level playing field for the participation of DBEs. Following this consultation, the Sponsor has published a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the Sponsor's principal office for 30 days following the date of the notice, and informing the public that the Sponsor and FAA will accept comments on the goals for 30 days from the date of the notice. This information was published on the Sponsor's website at <https://www.augustaga.gov/2293/Compliance>, and made available to the Office of Minority Business Development at the State of Georgia and South Carolina. Normally, the Sponsor will issue this notice by June 1 of each year. The notice will include the Sponsor's addresses to which comments may be sent. The overall goal submission to the FAA will include a summary of information and comments received during this public participation process and the Sponsor's responses. We will begin using our overall goal on October 1 of each year, unless we have received other instructions from DOT (or if the goal is established on a project basis, by the time of the first solicitation for a DOT-assisted contract for the project). Public comments have been requested for the FY 2023 goal and the 30-day comment period is underway. Any comments received from the public advertisement, or the other coordination will

be evaluated, and necessary changes will be made to the goal and included in the contract documents for the project.

Consultation discussions were held with the following agencies and persons on November 9, 2022, at 10:00 am CST, with no comments received.

<b>DANIEL FIELD AIRPORT AGENCIES/PERSONS CONSULTED WITH</b>	
Agency/Organization	Discussion/Information
Becky Shealy, Co-Airport Manager Daniel Field Airport	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach
Amanda Hill, Principal MaesAwyr, LLC	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach
Olha Karikh, Project Manager MaesAwyr, LLC	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach
Rhonda Davis, GMC Office Lead and Transportation Client Manager	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach
Phyliss Johnson, Compliance Director Augusta, Georgia Compliance Department	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach
Dr. Yolanda L. Jackson, DBE / LSBOP Coordinator - Augusta/Richmond County	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach
Brian Walden, Program Manager GDOT Aviation Program	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach
Barbara Hill, Executive Assistant Daniel Field Airport	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach
Steve Gay, Airport Manager Daniel Field Airport	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach
Julia Daniels, Administrative Assistant Daniel Field Airport	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach
Taffy Pippin, Consultant Taffy Pippin Consulting, LLC	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach
Clayton Pippin, Compliance Taffy Pippin Consulting, LLC	Availabilities of DBEs, Directories, DBE Certification, Small Business & DBE outreach

E. RACE CONSCIOUS AND RACE NEUTRAL GOALS - The Sponsor will make every feasible effort to meet its goal through race-neutral means. Each time the Sponsor submits an overall goal for review by the FAA, the Sponsor will also submit a projection of the portion of the goal that is expected to be met through race-neutral means and the basis for that projection. This projection is subject to approval by the FAA, in conjunction with its review of the Sponsor's overall goal. The Sponsor will establish contract goals to meet any portion of an overall goal when the Sponsor does not project being able to meet goals using race-neutral means.

We estimate that, in meeting our overall goal of 8.48%, we will obtain 6.18% of the goal from race-conscious participation and 2.30% via race-neutral participation measures. This is an attainable goal based on the history of DBE participation in prior projects and the availability of current DBE contractors.

This breakout was established by computing the variance of the level of DBE participation vs. DBE goal on the prior projects considered in Step 2 (see page 3) of the Previous FAA Projects. The following is the data base upon which the level of variance was computed using the “Prior Projects Considered” information:

PROJECT DBE GOAL VARIANCE DANIEL FIELD AIRPORT LIKE TYPE FAA PROJECT				
YEAR	LOCATION	DBE GOAL	% OF DBE PARTICIPATION	VARIANCE
2019	Daniel Field	9.84%	12.14%	2.30%*
2020	Daniel Field	6.73%	10.07%*	3.34%
2017	Toccoa	11.04%	6.63%	-4.41%
*Median				

#### F. CONTRACT GOALS

Contract goals will be used to meet any portion of the overall goal which the Sponsor does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met though the use of race-neutral means.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

The Sponsor will express the contract goals as a percentage of the Federal share of a DOT-assisted contract.

#### G. THREE YEAR GOAL

Based on the methodologies and calculations for FY 2021-FY 2023 at the Daniel Field Airport, the following average is submitted as a three-year goal.

FY 2021	0.00%
FY 2022	0.00%
FY 2023	+ 8.48%
	8.48% Three Year Goal

References:

*Georgia/South Carolina UCP List of Certified DBE Firms September 2022*  
*2012 – U.S. Census Bureau, September, 2022*

**DBE PROGRAM  
DANIEL FIELD AIRPORT  
AUGUSTA, GEORGIA  
POLICY STATEMENT**

**Objectives /Policy Statement (§§26.1, 26.23)**

Augusta, Georgia, (Sponsor) owner of the Daniel Field Airport, has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Sponsor has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the Sponsor has signed an assurance that it will comply with 49 CFR Part 26 (hereafter referred to as “Part 26”).

It is the policy of the Sponsor to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program;
7. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs and;
8. To promote the use of DBEs in all types of federally-assisted contract and procurement activities.

Phyliss Johnson, Augusta Georgia Compliance Director, has been delegated as the DBE Liaison Officer (DBELO) and is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the Sponsor in its financial assistance agreements with the Federal Aviation Administration.

The Sponsor has disseminated this policy statement to all branches of the Sponsor’s government and posted it for public viewing. It will be distributed to DBE and non-DBE communities that perform work for the Sponsor on DOT-assisted contracts by website postings of the public notice.

Honorable Garnett Johnson  
Mayor  
Augusta, Georgia

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



**DBE PROGRAM  
DANIEL FIELD AIRPORT  
AUGUSTA, GEORGIA  
POLICY STATEMENT**

**Objectives /Policy Statement (§§26.1, 26.23)**

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1. To ensure nondiscrimination in the award and administration of DOT assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program;
7. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs and;
8. To promote the use of DBEs in all types of federally-assisted contract and procurement activities.

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The Sponsor has disseminated this policy statement to all branches of the Sponsor’s government and posted it for public viewing. It will be distributed to DBE and non-DBE communities that perform work for the Sponsor on DOT-assisted contracts by website postings of the public notice.

Honorable Garnett Johnson  
Mayor  
Augusta, Georgia

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

## **SUBPART A – GENERAL REQUIREMENTS**

### **Section 26.1 Objectives**

The objectives are found in the policy statement on the first page of this program.

### **Section 26.3 Applicability**

The Sponsor is the recipient, of Federal airport funds authorized by 49 U.S.C. 47101, *et seq.*

### **Section 26.5 Definitions**

The Sponsor will use terms in this program that have the meaning defined in Section 26.5.

### **Section 26.7 Non-discrimination Requirements**

The Sponsor will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, the Sponsor will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

### **Section 26.11 Record Keeping Requirements**

#### **Reporting to DOT: 26.11**

Sponsor will provide data about its DBE Program to the Department as directed by DOT operating administrations.

DBE participation will be reported to the FAA as follows:

Sponsor will transmit to FAA annually, by or before December 1, the information required for the “Uniform Report of DBE Awards or Commitments and Payments”, as described in Appendix B to Part 26. Sponsor will similarly report the required information about participating DBE firms. All reporting will be done through the FAA official reporting system, or another format acceptable to the FAA as instructed thereby.

#### **Bidders List: 26.11(c)**

The Sponsor will create and maintain a bidders list. The purpose of the list is to provide as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on our DOT-assisted contracts for use in helping to set our overall goals. The bidders list will include the name, address, DBE and non-DBE status, age of firm, and annual gross receipts of firms.

The Sponsor will collect this information as an attachment to the bid documents. All bidders will provide this above information pertaining to themselves and any subcontractor which they intend to employ, Attachment 3 to this Program.

#### Records Retention and Reporting:

All certification or compliance related records will be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the financial agreement, whichever is longer.

#### **Section 26.13 Federal Financial Assistance Agreement**

The Sponsor has signed the following assurances, applicable to all DOT-assisted contracts and their administration:

Assurance: 26.13(a) - Each financial assistance agreement the Sponsor signs with a DOT operating administration will include the following assurance:

“The Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The Sponsor shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The DBE program for the Sponsor as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.* ).”

Contract Assurance: 26.13b – The Sponsor will ensure that the following clause is included in each contract signed with a contractor and each subcontract the prime contractor signs with a subcontractor:

“The contractor, sub recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Sponsor deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible.”

## **SUBPART B - ADMINISTRATIVE REQUIREMENTS**

### **Section 26.21 DBE Program Updates**

The Sponsor is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. We are not eligible to receive DOT financial assistance unless DOT has approved our DBE program and we are in compliance with it and this part. We will continue to carry out our program until all funds from DOT financial assistance have been expended. We do not have to submit regular updates of our program, as long as we remain in compliance. However, we will submit significant changes in the program for approval.

### **Section 26.23 Policy Statement**

The Policy Statement is elaborated on the first page of this DBE Program.

### **Section 26.25 DBE Liaison Officer (DBELO)**

We have designated the following individual as our DBE Liaison Officer:

Phyllis Johnson, Director  
Augusta, Georgia Compliance Department  
535 Telfair Street, Suite 530  
Augusta, GA 30901  
(706) 826-1325  
p.johnson@augustaga.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the Sponsor complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Mayor concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is found in Attachment 2 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO will use her staff of two to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.

6. Analyzes the Sponsor's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the governing body on DBE matters and achievement.
9. Determine contractor compliance with good faith efforts.
10. Acts as liaison to the Uniform Certification Process.
11. Provides outreach to DBEs and community organizations to advise them of opportunities.

### **Section 26.27 DBE Financial Institutions**

It is the policy of the Sponsor to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions. Based on our search and the listings in the Federal Reserve Register of Minority Owned Banks, <http://www.fdic.gov/regulations/resources/minority/mdi.html>. Georgia has nine minority owned banks. These banks may be accessed by following the above referenced website.

The Sponsor will investigate annually any new banks established in the area in the future that are owned by minorities and women and use their services, when feasible.

The Sponsor will provide the following notification to each prime contractor who will perform on a DOT-assisted project:

"The Sponsor encourages you to make the greatest feasible use of the services offered by banks owned and controlled by minorities and women. Information on these services may be obtained from the DBELO of the Sponsor or by contacting, Georgia Bankers Association, 50 Hurt Plaza, Suite 1050, Atlanta, Georgia, 30303, (404) 522-1501."

### **Section 26.29 Prompt Payment Mechanisms**

Sponsor requires that all subcontractors performing work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

In accordance with 49 CFR §26.29, the Sponsor established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from the prime contractor's receipt of each payment from the Sponsor.

Sponsor ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Pursuant to §26.29, Sponsor has selected the following method to comply with this requirement:

- (1) Hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage

owed to the subcontractor for satisfactory completion of the accepted work within 30 days after our payment to the prime contractor.

To implement this measure, the Sponsor includes the following clause from FAA Advisory Circular 150/5370-10 in each DOT-assisted prime contract:

“The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. The Sponsor must ensure prompt and full payment of retainage from the prime Contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Sponsor. When the Sponsor has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed. From the total of the amount determined to be payable on a partial payment, not to exceed 10% of such total amount will be deducted and retained by the Sponsor until the final payment is made except as may be provided (at the Contractor's option) in the subsection 90-08 title Payment of Withhold Funds of this section. The balance [Insert balance] of the amount payable, less all previous payments, shall be certified for payment. Should the Contractor exercise his or her option, as provided in subsection of 90-08 Payment of Withheld Funds of this section, no such percent retainage shall be deducted. When at least 95% of the work has been completed the Engineer shall, at the Sponsor's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The Sponsor may retain an amount not less than twice the contract value of estimated cost, whoever is greater of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.”

### **Section 26.31 Directory**

The Sponsor is a non-certifying member of the Georgia Unified Certification Program (UCP). The UCP maintains a directory identifying all firms eligible to participate as DBEs, which contains all the elements required by §26.31.

The Directory may be found at: <http://www.dot.ga.gov/PS/Business/DBE#tab-2> or by contacting GDOT at telephone (404) 631-1990 (Main).

### **Section 26.33 Over-concentration**

The Sponsor has not identified that over-concentration exists in the types of work that DBEs perform.

### **Section 26.35 Business Development Programs**

The Sponsor has not established a business development program.

## Section 26.37 Monitoring Responsibilities

Sponsor implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and set forth these mechanisms in Sponsor's DBE program.

Sponsor actively monitors participation by maintaining a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. We will implement similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 7 lists the regulation, provisions, and contract remedies available to us in the event of non-compliance with the DBE regulation by a participant in our DBE Program.
3. We will implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (i.e., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed.
4. We will implement a monitoring and enforcement mechanism that will include written certification that we have reviewed contracting records, monitored work sites and the Commercially Useful Function (CUF) process. This will be performed by the DBELO or the Sponsor's engineer and will be accomplished by:
  - a. Review bid package documentation thoroughly, obtaining clarification if necessary.
  - b. Review monthly reports regarding employment as well as DBE participation to ensure adherence to the plan as represented in bid documents and as stipulated in this program.
  - c. Monitor progress of payments to DBE through monthly reports from prime contractors.
  - d. Monitor progress of DBEs work through on-site visits and communication with DBEs.
5. We will implement a mechanism that will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

### Monitoring Payments to DBEs and Non-DBEs

The Sponsor requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the Sponsor's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any

authorized representative of the Sponsor or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

The Sponsor proactively reviews contract payments to subcontractors including DBEs no less than once a month. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to Sponsor by the prime contractor.

The Sponsor will actively implement the enforcement actions detailed above.

### Prompt Payment Dispute Resolution

Sponsor will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29. These steps will include but are not limited to 1) Written certification that Sponsor has reviewed contracting records and monitored work sites for this purpose, 2) Upon either party's written request to the DBELO for dispute resolution, a meeting will be voluntarily set within ten days of the request. The meeting will include representatives with authority to take enforcement action, including but not limited to, prime contractor, sub- contractor, and Sponsor representative(s).

Sponsor has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage:

The Sponsor will include the following clause in each DOT-assisted prime contract:

“The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the Sponsor. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sponsor. This clause applies to both DBE and non-DBE subcontractors.

Failure to comply with the prompt payment provision of the contract may result in sanctions under the contract, as listed below.

- A. Refusal to issue proposals
- B. Damages
- C. Suspension of work on the project
- D. No additional progressive payments may be processed
- E. Suspension of prequalification”

### Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure:

If affected subcontractor's relationship with contracting prime responsible for direct payment does not exist in order to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate complaint. If filing a prompt payment complaint with the DBELO does not



produce a timely resolution, the subcontractor may contact the mayor, and then the FAA.

Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

#### Enforcement Actions for Noncompliance of Participants

Sponsor will provide appropriate means to enforce the requirements of §26.29. These means include:

The Sponsor will include the following clause in each DOT-assisted prime contract:

“The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contractor receives from the Sponsor. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sponsor. This clause applies to both DBEs and non-DBE subcontractors”

The Sponsor will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26.

1. We will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.107.
2. We will consider similar action under our own legal authorities, including responsibility determinations in future contracts. Attachment 7 lists the regulation, provisions, and contract remedies available to us in the events of non-compliance with the DBE regulation by a participant in our procurement activities.
3. We will also implement a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by the DBEs. This mechanism will provide for a running tally of actual DBE attainments (e.g., payment actually made to DBE firms), including a means of comparing these attainments to commitments. This mechanism will include a written certification that we have reviewed contracting records and monitored work sites for this purpose. This will be accomplished by requiring DBE utilization updates at each pay request and at final contract closeout. The Airport Engineer along with the DBELO will review all pay requests and DBE utilization forms, ensuring that DBE utilization is in accordance with all contract requirements.
4. In our reports of DBE participation to DOT, we will show both commitments and attainments, as required by the DOT uniform reporting form.

Sponsor will actively implement the enforcement actions detailed above.

#### Monitoring Contracts and Work Sites

Sponsor reviews contracting records and engages in active monitoring of work sites to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. Work site monitoring is performed by DBELO/ and or Engineering Consultant, contracting records are reviewed by the DBELO/ENGINEER. Sponsor will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

#### **Section 26.39 Fostering Small Business Participation**

The Sponsor has created a Small Business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The Sponsor's small business element is incorporated as Attachment 10 to this DBE Program. We will actively implement the program elements to foster small business participation; doing so is a requirement of good faith implementation of our DBE program.

## **SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING**

### **Section 26.43 Set-asides or Quotas**

The Sponsor does not use quotas in any way in the administration of this DBE program.

### **Section 26.45 Overall Goals**

The Sponsor will establish an overall DBE goal covering a three-year federal fiscal year period if we anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any one or more of the reporting fiscal years within the three-year goal period. In accordance with Section 26.45(f) the Sponsor will submit its Overall Three-year DBE Goal to FAA by August 1st as required by the established schedule below.

### **[DBE and ACDBE Reporting Requirements for Airport Grant Recipients \(faa.gov\)](https://www.faa.gov)**

The DBE goals will be established in accordance with the 2-step process as specified in 49 CFR Part 26.45. If the Sponsor does not anticipate awarding DOT/FAA funded prime contracts the cumulative total value of which exceeds \$250,000 during any of the years within the three-year reporting period, we will not develop an overall goal; however, this DBE Program will remain in effect and the Sponsor will seek to fulfill the objectives outlined in 49 CFR Part 26.1.

(c) Step 1. The first step is to determine the relative availability of DBEs in the market area, "base figure". We will use the Georgia UCP DBE Directory and the US Census Bureau Data as a method to determine our base figure. The second step is to adjust the "base figure" percentage from Step 1 so that it reflects as accurately as possible the DBE participation the Sponsor would expect in the absence of discrimination based on past participation, a disparity study and/or information about barriers to entry to past competitiveness of DBEs on Contracts.

If we use a bidders list, we will do the following: Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on our DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in our market. When using this approach, we will establish a mechanism (documented in our goal submission) to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on our DOT-assisted contracts.

Any methodology we choose will be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in our market. We understand that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of paragraph (c)(2) of

this section (above), is not an acceptable alternative means of determining the availability of DBEs.

(d) *Step 2.* Once we have calculated a base figure, we will examine all of the evidence available in our jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at our overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

26.45 (g)(1) In establishing the overall goal, the Sponsor will provide for consultation and publication. This includes consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Sponsors efforts to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the Sponsor's goal setting process, and it will occur before we are required to submit our goal methodology to the operating administration for review pursuant to paragraph (f) of this section. We will document in our goal submission the consultation process that we engaged in. Notwithstanding paragraph (f)(4) of this section, we will not implement our proposed goal until we have complied with this requirement.

In addition, the Sponsor will publish a notice announcing our proposed overall goal before submission to the operating administration on August 1st. The notice will be posted on the FAA website, and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal will be posted on the FAA web site. We will inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at our principal office and that the Sponsor and DOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. The public comment period will not extend the August 1<sup>st</sup> deadline.

Our Overall Three-Year DBE Goal submission to DOT/FAA will include a summary of information and comments received, if any, during this public participation process and our responses.

We will begin using our overall goal on October 1 of the reporting period, unless we have received other instructions from DOT.

### **Section 26.45 (e) - Project Goals**

If permitted or required by the FAA Administrator we will express our overall goals as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration. A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it

applies. The project goal should include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which our regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

#### **Section 26.45(f) - Prior Operating Administration Concurrence**

The Sponsor understands that we are not required to obtain prior operating administration concurrence with our overall goal. However, if the operating administration's review suggests that our overall goal has not been correctly calculated or that our method for calculating goals is inadequate, the operating administration may, after consulting with us, adjust our overall goal or require that we do so. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the U.S. DOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to § 26.9.

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 5 to this program.

#### **Section 26.47 Failure to Meet Overall Goals**

The Sponsor cannot be penalized, or treated by the Department as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless the Sponsor fails to administer its DBE program in good faith.

The Sponsor will maintain an approved DBE Program and overall DBE goal, if applicable as well as administer our DBE Program in good faith to be considered to be in compliance with this part.

If the Sponsor awards and commitments shown on our Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, we will do the following in order to be regarded by the Department as implementing our DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems we have identified in our analysis and to enable us to meet fully our goal for the new fiscal year;
- (3) Sponsor will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. We will retain copy of analysis and corrective actions in records for a minimum of three years, and will make it available to FAA upon request.

### **Section 26.49 (e) How Are Overall Goals Established For Transit Vehicle Manufacturers?**

As an FAA recipient we may, with FAA approval, use the procedures of this section with respect to procurements of vehicles or specialized equipment. If we choose to do so, then the manufacturers of this equipment must meet the same requirements (including goal approval by FHWA or FAA) as transit vehicle manufacturers must meet in FTA-assisted procurements. See 26.49 (a) through (d)).

- (1) Sponsor affirms that only those transit vehicle manufacturers listed on FTA's certified list of Transit Vehicle Manufacturers, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation are eligible to bid.
- (2) A TVM's failure to implement the DBE Program in the manner as prescribed in this section and throughout Part 26 will be deemed as non-compliance, which will result in removal from FTA's certified TVMs list, resulting in that manufacturer becoming ineligible to bid.
- (3) Sponsor is aware that failure to comply with the requirements set forth in Part 26, §26.49(a) may result in formal enforcement action or appropriate sanction as determined by FTA (e.g., FTA declining to participate in the vehicle procurement).
- (4) Sponsor will submit, within 30 days of making an award, the name of the successful bidder and the total dollar value of the contract in the manner prescribed in the grant agreement.

### **Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race-Conscious Participation**

Sponsor will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

Race-neutral means include, but are not limited to the following:

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.
- (2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);
- (3) Providing technical assistance and other services;
- (4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);

- (5) Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;
- (6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
- (7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
- (8) Ensuring distribution of the DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and
- (9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

The breakout of estimated race-neutral and race-conscious participation can be found in Attachment 5 to this program.

The Sponsor will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.

### **Section 26.51(d-g) Contract Goals**

If our approved projection under paragraph (c) of this section estimates that we can meet our entire overall goal for a given year through race-neutral means, we will implement our program without setting contract goals during that year, unless it becomes necessary in order to meet our overall goal.

We will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work).

We will express our contract goals as a percentage of the total amount of a DOT-assisted contract.

### **Section 26.53 Good Faith Efforts Procedures**

#### Demonstration of good faith efforts (pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

The DBELO is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as Responsive.

Sponsor will ensure that all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing to the performance of the contract by the bidder/offeror.

In all solicitations for DOT-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeror:

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (3) of this section:
  - (i) The names and addresses of DBE firms that will participate in the contract;
  - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
  - (iii) The dollar amount of the participation of each DBE firm participating;
  - (iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
  - (v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.
  - (vi) If the contract goal is not met, evidence of good faith efforts (as elaborated in Appendix A of Part 26). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and
- (3) The bidder/offeror will be required to present the information stipulated in paragraph (2) of this section:
- (4) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures.

Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (2) of this section before the final selection for the contract is made by the recipient.

#### Administrative reconsideration (26.53(d))

Within five (5) business days of being informed by the Sponsor that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official:

Takiya Douse  
Interim Administrator  
Augusta, Georgia Administrator's Office  
535 Telfair Street, Suite 910  
Augusta, GA 30901



(706) 821-2400  
[tdouse@augustaga.gov](mailto:tdouse@augustaga.gov)

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. We will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

#### Good Faith Efforts procedural requirements (post-solicitation)

The awarded contractor will be required to make available upon request a copy of all DBE subcontracts. The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials include all required contract provisions and mandate that the subcontractor and all lower tier subcontractors perform in accordance with the provisions of Part 26.

Prime contractors will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of Sponsor. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or another DBE firm.

Such written consent will be provided only if Sponsor agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) Sponsor determined that the listed DBE subcontractor is not a responsible contractor;

- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides Sponsor written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- (10) Other documented good cause that Sponsor has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Before transmitting to Sponsor a request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to Sponsor, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise Sponsor and the prime contractor of the reasons, if any, why the DBE objects to the proposed termination of its subcontract and why the prime contractor's action should not be approved. If required in a particular case as a matter of public necessity (*e.g.*, safety), a response period shorter than five days may be provided.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

Each prime contract will include a provision stating:

The contractor shall utilize the specific DBEs listed in the contractor's [*bid/solicitation*] response to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of Sponsor as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

Sponsor will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that was established for the procurement. The good faith efforts shall be documented by the contractor. If Sponsor requests documentation from the contractor under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary, at the request of the contractor. Sponsor shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

If the contractor fails or refuses to comply in the time specified, the contracting office/representative of Sponsor may issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

### **Section 26.55 Counting DBE Participation**

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55. We will not count the participation of a DBE subcontract toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

If the firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, we will not count the firm's participation toward any DBE goals, except as provided for in 26.87(j).

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, firms that exceed the business size standard in §26.65(b) will remain eligible for DBE certification and credit on FAA-funded projects as long as they do not exceed the Small Business size standard, as adjusted by the United States Administration, for NAICS code(s) in which they are certified.

## **SUBPART D – CERTIFICATION STANDARDS**

### **Section 26.61 – 26.73 Certification Process**

Sponsor is a non-certifying member of the Georgia DOT Unified Certification Program (UCP). Georgia UCP will use the certification standards of Subpart D of Part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. Certifying Georgia UCP members make all certification decisions based on the facts as a whole.

For information about the certification process or to apply for certification, firms should contact:

GEORGIA DEPARTMENT OF TRANSPORTATION  
One Georgia Center

600 W Peachtree St NW  
Atlanta, GA 30308  
(404) 631-1990

The certification application forms and documentation requirements are found in Attachment 8 to this program.

### **SUBPART E – CERTIFICATION PROCEDURES**

#### **Section 26.81 Unified Certification Programs**

The Sponsor is the member of a Unified Certification Program (UCP) administered by the Georgia DOT. The UCP will meet all of the requirements of this section.

### **SUBPART F – COMPLIANCE AND ENFORCEMENT**

#### **Section 26.101 Compliance Procedures Applicable to Sponsor**

The Sponsor understands that if it fails to comply with any requirement of this part, the Sponsor may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

#### **Section 26.109 Information, Confidentiality, Cooperation and Intimidation Or Retaliation**

We will safeguard from disclosure to third parties' information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law.

Notwithstanding any provision of Federal or state law, we will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, we will transmit this information to DOT in any certification appeal proceeding under § 26.89 of this part or to any other state to which the individual's firm has applied for certification under § 26.85 of this part.

All participants in the Department's DBE program (including, but not limited to, the Sponsor, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with the DOT and the Sponsor compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to the Sponsor a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a

contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

The Sponsor, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If we violate this prohibition, we are in noncompliance with this part.

## ATTACHMENTS

Attachment 1	Regulations: 49 CFR Part 26 website link
Attachment 2	Organizational Chart
Attachment 3	Bidder’s List Collection Form
Attachment 4	DBE Directory or link to DBE Directory
Attachment 5	Overall Goal Calculations
Attachment 6	Demonstration of Good Faith Efforts or Good Faith Effort Plan - Forms 1 & 2
Attachment 7	DBE Monitoring and Enforcement Mechanisms
Attachment 8	DBE Certification Application Form
Attachment 9	State’s UCP Agreement
Attachment 10	Small Business Element Program

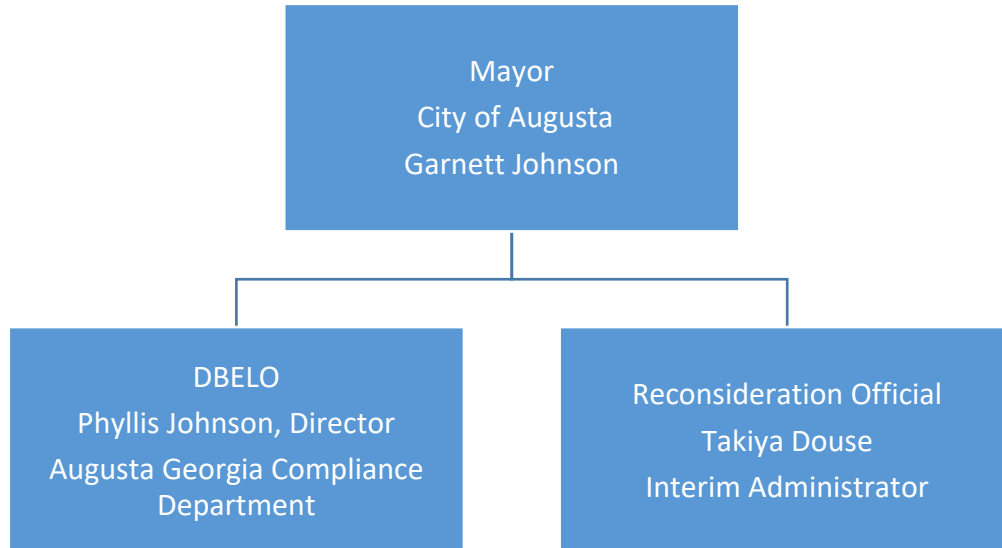
## **ATTACHMENT 1**

Regulations: 49 CFR Part 26 link to website:

[https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl)

## ATTACHMENT 2

### Organizational Chart





### ATTACHMENT 3

#### Bidder's List Collection Form

Firm Name	Firm Address/ Phone #	DBE or Non-DBE Status (verify via State's UCP Directory)	Age of Firm	Annual Gross Receipts
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

#### **ATTACHMENT 4**

The Georgia DBE web link to DBE directory is

<http://www.dot.ga.gov/PS/Business/DBE#tab-2>

## **ATTACHMENT 5**

### Section 26.45: Overall DBE Three-Year Goal Methodology

**PREVIOUSLY SUBMITTED**

## ATTACHMENT 6

### Demonstration of Good Faith Efforts - Forms 1 & 2

*Forms 1 and 2 should be provided as part of the solicitation documents.*

#### **FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

\_\_\_\_\_ The bidder/offeror is committed to a minimum of \_\_\_\_\_ % DBE utilization on this contract.

\_\_\_\_\_ The bidder/offeror (if unable to meet the DBE goal of \_\_\_\_\_ %) is committed to a minimum of \_\_\_\_\_ % DBE utilization on this contract and should submit documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: \_\_\_\_\_

State Registration No. \_\_\_\_\_

By \_\_\_\_\_  
(Signature) Title

## FORM 2: LETTER OF INTENT

Name of bidder/offeror's firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Name of DBE firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

Description of work to be performed by DBE firm:

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The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

### Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above and that the firm is DBE certified to perform the specific trades.

By \_\_\_\_\_  
(Signature)

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

\_\_\_\_\_  
(Title)

**If the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**

Submit this page for each DBE subcontractor.

## ATTACHMENT 7

### **DBE Monitoring and Enforcement Mechanisms**

The Sponsor has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

The Sponsor will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that the DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in §26.109. The Sponsor may also use Georgia Statutes, prosecution for fraud in a government contract, and refer such matters to the proper audit authority, the District Attorney, or the Attorney General of the State of Georgia for enforcement of any and all applicable laws, both civil and criminal, of the State of Georgia.

In addition, the Federal government has available several enforcement mechanisms that it may apply to firms participating in the DBE program, including, but not limited to, the following:

- (1) The use of liquidated damages for failing to utilize the DBE or replacing the DBE with another.
- (2) The inclusion as part of a current package a contractor's statement indicating commitment to the DBE program and steps they have taken to utilize them in prior contracts as well as the current contract.
- (3) The use of federal debarment (48CFR Section 9.402(b)).
- (4) Actions outlined in "Georgia State Code".
- (5) Other legal mechanisms as necessary.

## **ATTACHMENT 8**

### **DBE Certification Application Form**

Web link:

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/uniform-certification-application-english>

## ATTACHMENT 9

### State's UCP Agreement

#### STATE OF GEORGIA UNIFIED CERTIFICATION

The State of Georgia Unified Certification Program (GUCP) is established in accordance with regulations of the U. S. Department of Transportation (USDOT), 49 Code of Federal Regulations (CFR) Part 26.81. The State of Georgia Unified Certification Program Recipients receive federal financial assistance from the U. S. Department of Transportation (USDOT), and as a condition of receiving this assistance, the GDOT has signed an assurance that it will comply with 49 CFR Part 26.

The Georgia Unified Certification Program shall not discriminate on the basis of race, color, sex or national origin in the award, administration and performance of any State of Georgia assisted contract or in the administration of its Disadvantaged Business Enterprise Program. The Georgia Unified Certification Program shall take all necessary and reasonable steps to ensure nondiscrimination.

#### PROCESS UTILIZED IN DEVELOPMENT OF UCP

The Georgia Federal Transportation Aid Recipients discussed the requirements for developing a unified certification process. There were two meetings held to assist in the facilitation of the process. The first meeting was hosted by FHWA/ Southern Resource Center on March 21-22, 2001; all Southern States were invited to attend. The second meeting was held on October 24, 2001.

The meeting was hosted by the Georgia Department of Transportation for all of the Georgia Federal Aid Recipients. Each agency discussed their perceptions, minimum requirements, limitations, and the process for eventual program approval. All participants were encouraged to bring ideas, input and cooperation to the discussion.

During the development of the UCP process, there were many issues identified that had to be discussed in order to provide enough information to create the agreement while meeting the legal, and Federal requirements of individual agencies. Those issues included:

Funding of the UCP  
Cost to Agencies  
Ratification Process Certification by Specialty  
Reciprocity with Other States or Agency Industry Familiarity  
Rules & Procedures in Geography  
Compliance with CFR Challenge  
Data Tracking Goals  
Quality Assurance Sub-Recipient Partners  
Hold Harmless Clause  
Appealing Process  
Cost of Certification  
Grand-Fathering Currently Certified Firms  
De-Certification and Denial Appeal Procedures  
UCP Effect on Individual Agency DBE's

It was agreed that the single agency approach would work best for the State of Georgia. It was discussed, decided and accepted that the Georgia Department of Transportation would become the lead agency for the Unified Certification Program, with assistance from the Metropolitan Atlanta Rapid Transit Authority (MARTA).

The Georgia Department of Transportation (GDOT) and the Metropolitan Rapid Transit Agency (MARTA) recipients agreed to develop the Memorandum of Understanding (MOU) and procedures for the program. Several sub-recipients agreed to participate in the process as deemed necessary by the lead agency to begin the task of developing the State of Georgia UCP.

The cooperation and efforts between the Georgia Department of Transportation and MARTA was vital in the development of the State of Georgia UCP that all agencies could endorse. From the beginning, the Georgia Department of Transportation worked to ensure that the participants were actively involved in GUCP's common goals. All recipients were given an opportunity to review the UCP Memorandum of Understanding prior to the final draft of the UCP agreement being sent to their respective jurisdiction for signature.

The Memorandum of Understanding included required clauses for the various agencies, including a hold harmless clause.

**PARTICIPATING UCP ENTITIES:** The need for assistance and cooperation from the participating members FAA, FTA, FHWA and DOT and all sub-recipients is vital to the unified process. This assistance was needed in the development and implementation of the UCP agreement.

#### Unified Certification Program Participants

ALBANY TRANSIT  
ALMA-BACON COUNTY AIRPORT  
AMERICUS AIRPORT  
ATHENS/BEN EPPS AIRPORT  
ATHENS-CLARKE COUNTY PUBLIC  
TRANSIT SYSTEM  
ATLANTA PUB SCH OFFICE OF  
CONTRACT COMP  
ATLANTA REGIONAL COMMISSION  
AUGUSTA PUBLIC TRANSIT  
AUGUSTA REGIONAL AIRPORT (BUSH  
FIELD AIRPORT)  
BARWICK-LAFAYETTE AIRPORT  
BERRIEN COUNTY AIRPORT  
BLAIRSVILLE AIRPORT  
BRANTLEY COUNTY AIRPORT  
BROOKS COUNTY AIRPORT  
BURKE COUNTY AIRPORT  
BUTLER MUNICIPAL AIRPORT  
C.P. SAVAGE AIRPORT  
CAIRO-GRADY COUNTY AIRPORT  
CALLAWAY AIRPORT  
CALLAWAY GARDENS-HARRIS COUNTY  
AIRPORT  
CAMILLA AIRPORT  
CARTERSVILLE AIRPORT  
CHATHAM AREA TRANSIT AUTHORITY  
CHATHAM-SAVANNAH MFC  
CHEROKEE COUNTY AIRPORT  
CITY OF ATLANTA  
CLAXTON-EVANS COUNTY AIRPORT  
CLAYTON COUNTY AIRPORT - TARA  
FIELD

CLAYTON COUNTY GOVERNMENT  
COBB COUNTY GOVERNMENT  
COCHRAN MUNICIPAL AIRPORT  
COLUMBUS CONSOLIDATED  
GOVERNMENT  
COLUMBUS METROPOLITAN AIRPORT  
COOK COUNTY AIRPORT  
CORDELE FLYING SERVICE  
COVINGTON AIRPORT  
DALTON AIRPORT  
DANIEL FIELD  
DAVIS FIELD AIRPORT  
DAWSON MUNICIPAL AIRPORT  
DECATUR COUNTY INDUSTRIAL  
AIRPARK  
DEKALB COUNTY GOVERNMENT  
DEKALB PEACHTREE AIRPORT  
DONALDSONVILLE MUNICIPAL  
AIRPORT  
DOUGLAS COUNTY RIDESHARE  
DOUGLAS MUNICIPAL AIRPORT  
EARLY COUNTY AIRPORT  
ELBERT COUNTY - PATZ FIELD  
ENVIRONMENTAL PROTECTION  
AGENCY REGION VI  
FEDERAL AVIATION ADMINISTRATION  
FITZGERALD MUNICIPAL AIRPORT  
FRANKLIN COUNTY AIRPORT  
FULTON COUNTY GOVERNMENT  
GAINESVILLE MUNICIPAL AIRPORT  
GEORGIA DEPARTMENT OF  
ADMINISTRATIVE SERVICES/  
GOVERNORS SMALL BUSINESS CT.  
GEORGIA REGIONAL TRANSPORTATION  
AUTHORITY  
GILMER COUNTY AIRPORT  
GLYNCO JETPORT  
GREENE COUNTY REGIONAL AIRPORT  
GRIFFIN-SPALDING COUNTY AIRPORT  
GWINNETT COUNTY AIRPORT -  
BRUSCOE FIELD  
GWINNETT COUNTY GOVERNMENT  
HABERSHAM COUNTY AIRPORT  
HAWKINSVILLE-PULASKI COUNTY  
AIRPORT  
HAZELHURST AIRPORT



## ATTACHMENT 10

### Small Business Element

#### A. Objective (49 CFR Part 26.39)

Recognizing that the DBE Program goals should be met through a mixture of race conscious and race neutral methods and, that by definition, DBE firms are small businesses, The Sponsor seeks to implement a small business element into its current DBE policy in accordance with applicable law. The Sponsor is including this element to facilitate competition by and expand opportunities for small businesses. The Sponsor is committed to taking all reasonable steps to eliminate obstacles to small businesses that may preclude their participation in procurements as prime contractors or subcontractors. The Sponsor will meet its objectives using a combination of the following methods and strategies:

##### 1. Set asides:

Where feasible, The Sponsor will establish a percentage of the total value of all prime contract and subcontract awards to be set aside for participation by small businesses on FAA-assisted contracts. A “set-aside” is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. This requires that the Sponsor and its prime contractors/consultants set aside a portion of the value of each contract for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner’s gender, race or geographic location. The project manager and DBELO will review FAA-assisted purchases and contracts to assess the small business opportunities, giving consideration to the size and scope of each purchase or contract to establish the set aside percentage. This determination will be made based on the estimated availability of small businesses able to provide the requisite scopes of work regardless of DBE status. This set aside is in addition to the DBE contract goals which may be required pursuant to applicable law or policy. In the event that a set-aside is not established on an FAA-assisted contract, the project manager and DBELO will document why a small business set-aside is inappropriate and the factors which were considered in making that determination, including project scope and estimated availability of firms.

##### 2. Unbundling:

The Sponsor, where feasible, may “unbundle” projects or separate large contracts into smaller contracts which may be more suitable for small business participation. The Sponsor will conduct contract reviews on each FAA-assisted contract to determine whether portions of the project could be “unbundled” or bid separately. This determination will be made based on the estimated availability of small businesses able to provide specific scopes of work and will consider any economic or administrative burdens which may be associated with unbundling. Similarly, the Sponsor will encourage its prime contractors or prime consultants to unbundle contracts to facilitate participation by small businesses. The Sponsor will assist prime contractors or prime consultants in identifying portions of work which may be unbundled and performed by small businesses. The Sponsor will document the factors used to determine whether or not an FAA-assisted contract will be unbundled or bid separately.

As described above, The Sponsor where feasible, may utilize several methods to facilitate small business participation. In each FAA-assisted contract, the DBELO will document the method in which the small business element will be implemented (i.e. set-aside, unbundling and/or outreach) and the process by which those methods were considered.

## **B. Definitions**

### **1. Small Business:**

Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121). A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period.

### **2. Disadvantaged Business Enterprise:**

A for-profit small business (as defined by the Small Business Administration) —

- That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
- Whose socially and economically disadvantaged owners do not exceed the personal net worth (PNW) described in 49 CFR Part 26. The current PNW cap is \$1.32 million.
- Whose average annual gross receipts, do not exceed the size limitations standard as defined in Part 26.
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- Has been certified as a DBE by the Georgia Department of Transportation (GDOT) in accordance with 49 CFR 26.

For the purposes of the small business element of the Sponsor's DBE Program, small businesses which are also owned and controlled by socially disadvantaged individuals will be encouraged to seek DBE certification. Only DBE certified firms will be counted towards DBE race-neutral participation on FAA-assisted contracts.

## **C. Certification and Verification Procedures**

The Sponsor will accept the following certifications for participation in the small business element of The Sponsor's DBE Program with applicable stipulations:

1. GDOT DBE Certification – DBE Certification by the GDOT which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by GDOT.
2. GDOT Small Business Enterprise (SBE) – Will require submittal of three years of business tax returns and page 2 of the GDOT DBE Certification application after contract award.

3. SBA 8(a) Business Development Certification (as described in 13 CFR Parts 121 and 124)
  - will require submittal of three years of business tax returns.

Special Note: Minority and women-owned business enterprises which are awarded contracts under the small business enterprise set aside will be strongly encouraged to seek DBE certification in order to be counted towards race neutral DBE participation.

#### **D. Monitoring/Record Keeping**

As part of the reporting process, prime contractors will maintain records and documents of payments to small businesses for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the Sponsor or DOT. This reporting requirement also extends to any small business subcontractor.

#### **E. Assurances**

The Sponsor makes the following assurances:

1. The DBE Program, including its small business element is not prohibited by state law;
2. Certified DBEs that meet the size criteria established under the DBE Program are presumptively eligible to participate in the small business element of the DBE Program;
3. There are no geographic or local preferences or limitations imposed on FAA-assisted contracts and the DBE Program is open to small businesses regardless of their location;
4. There are no limits on the number of contracts awarded to firms participating in the DBE Program;
5. Reasonable effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses; and
6. Aggressive steps will be taken to encourage those minority and women owned firms participating in the small business element of the DBE Program that are eligible for DBE certification to become certified.



**ITEM COVERSHEET**  
**Public Service Committee Meeting**  
 Meeting Date: 1/31/2023

<b>Department:</b>	Parks and Recreation
<b>Presenter:</b>	Maurice McDowell
<b>Caption:</b>	<p>Several artists who have participated in the previous iteration of the Augusta Sculpture Trail have chosen to donate their artwork to Augusta, Georgia and make it the permanent home of their sculptures. The artwork is:</p> <ul style="list-style-type: none"> <li>• Tropical Dream by Roger Finch</li> <li>• Popsicles by CR Gray LLC</li> <li>• Unstoppable by Gus and Lina Ocamposilva</li> <li>• Maestro by Larry Schueckler</li> <li>• Forever Young by Larry Schueckler</li> </ul>
<b>Background:</b>	The artists have opted to donate their artwork from the 2022 Augusta Sculpture Trail to Augusta, Georgia at no cost.
<b>Analysis:</b>	Adding the artwork to Augusta's collection of public art would be a valuable addition.
<b>Financial Impact:</b>	There are no costs associated with the donations.
<b>Alternatives:</b>	<ol style="list-style-type: none"> <li>1. To move to accept the donations.</li> <li>2. To move to no action.</li> </ol>
<b>Recommendation:</b>	<ol style="list-style-type: none"> <li>1. To move to accept the donations.</li> </ol>
<b>Funds are available in the following accounts:</b>	No funding is required for the donations.
<b><u>REVIEWED AND APPROVED BY:</u></b>	N/A

**AUGUSTA, GEORGIA  
AND  
GUS OCAMPOSILVA  
AND  
LINA OCAMPOSILVA**

**SERVICE AGREEMENT AND TRANSFER OF OWNERSHIP**

THIS SERVICE AGREEMENT AND TRANSFER OF OWNERSHIP ("AGREEMENT") is made and entered into this 1 day of Sep, 2022, (the "Effective Date") between Augusta, Georgia ("Augusta"), a political subdivision of the State of Georgia, and Gus and Lina Ocamposilva ("Artists"), known collectively as the "Parties," for the transfer of ownership of pieces of publicly installed artwork (the "sculpture") from the Artists to Augusta, as well as services and maintenance of those sculpture.

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES DESCRIBED IN THIS AGREEMENT, THE ADEQUACY AND SUFFICIENCY OF WHICH EACH PARTY ACKNOWLEDGES, EACH OF THE PARTIES AGREE AS FOLLOWS:**

1. Scope. This Agreement shall involve a publically installed piece of artwork, its ownership, maintenance, and intellectual property:
  - a. "Unstoppable", by Gus and Lina Ocamposilva. (2018). In welded aluminum and enamel.
2. Ownership and Rights Related to the Sculpture.
  - a. Ownership of the sculpture shall pass to Augusta upon execution of this Agreement. The Artists hereby irrevocably assign, convey, and otherwise transfer to Augusta and its respective successors and assigns title to the sculpture.
  - b. To the extent the uses, modification, destruction or removal of the sculpture under this Agreement affects any rights the Artists or any other person may have under the provisions of federal or state law, including the 1990 Visual Artists' Rights Act under 17 U.S.C. §106A(a) and §113, the Artists hereby knowingly waive any rights provided by these laws.
  - c. Augusta may reproduce images for non-commercial, educational, government, and promotional purposes, with credit given to the original Artists of the sculpture when such sculpture is highlighted, to the extent practical. The reproduction shall be royalty-free and irrevocable and able to be used across multiple medias, including digital and electronic media and

printed media. These reproductions may be used in, but not limited to, the following manner:

- i. The display of the sculpture on Augusta's website(s), social media pages, informational brochures, and other promotional materials in print and over the internet.
- ii. Sublicensing the rights granted herein to third parties in furtherance of non-commercial, educational, government, or promotional purposes.

### 3. Responsibilities of Augusta.

- a. Augusta shall receive ownership of the sculpture. Augusta shall be solely responsible for all matters involving the ownership of the sculpture, including installation, upkeep, maintenance, insurance, and repair.
- b. Augusta shall be solely responsible and liable for any costs related to the relocation of the sculpture after the Effective Date of this Agreement.
- c. Augusta shall notify the Artists in any case of removal or relocation of any of the sculpture. Such notification shall occur at the earliest reasonable time. Augusta shall permit the Artists to submit guidance regarding removal, relocation, and re-installation. Such guidance may include, but is not limited to, proper transportation of the sculpture or preferential locations for re-installation. Augusta shall consult with the Artists during activities under this sub-paragraph.
- d. Augusta shall maintain the sculpture in a manner appropriate for their use as public art, in the sole discretion of Augusta's appropriate department. Augusta shall provide such staff time, expertise, and equipment for the maintenance, protection, and cleaning of the sculpture, as is appropriate for the sculpture in the sole discretion of Augusta. Augusta shall receive and consider the Artists' maintenance advice in any maintenance, protection, or cleaning matters involving the sculpture.
- e. Augusta shall produce, within one (1) calendar year of this Agreement, a plaque or other indicator identifying information regarding the sculpture, in accordance with the stipulations of the purchasers/donors of the artwork, and permanently affix said plaque to their respective sculpture.
- f. Augusta shall, in consultation with the Artists of the sculpture, develop a maintenance, repair, and upkeep plan.
- g. Augusta may create and operate a maintenance fund for public art upkeep. Augusta may, in their discretion, use the aforementioned fund in the maintenance of the sculpture.

### 4. Notices.

- a. Notices shall be in writing and dated to the postmarks of the notices, to the addresses as specified on the signature page.

5. Indemnification

- a. Nothing in this Agreement shall constitute a waiver of Augusta's sovereign immunity, by contract or otherwise.
- b. Augusta nor the Artists shall be liable to the other or shall make any claim for any incident, indirect, or consequential damages arising out of, or connected in any way to the this Agreement.

6. Valuations

- a. Augusta agrees that the following shall be the agreed-upon purchase price and insurance value for the sculpture:
  - i. Unstoppable.
    - 1. Purchase Price: \$28,000.00
    - 2. Insurance value: \$28,000.00.

7. Warranties by the Artists

- a. The sculpture is professionally constructed of durable materials appropriate for outdoor public display.
- b. The sculpture can be structurally secured to a concrete pad with anchor bolts or similar devices.
- c. Installation of the sculpture will not irreparably damage, destroy, or materially alter the sculpture.
- d. The sculpture was solely the result of the artistic effort of the original Artists, they are unique and original and do not infringe upon any copyright or the rights of any person, that no person has sold, assigned, transferred, licensed, granted, encumbered or utilized the sculpture or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement, and that the sculpture is free and clear of any liens from any source whatsoever.

8. Right of First Refusal.

- a. Should Augusta decide to sell or donate the sculpture, the Commission will vote to allow for the sale and/or donation of the sculpture. The Artists shall have the right of first refusal to any sale or donation of the sculpture. Such right of first refusal shall be exercised by written notice to Augusta within thirty days of written notification by Augusta. If Artists elect to exercise its right of first refusal, they shall pay all costs associated with removal and

relocation of the sculpture. If Augusta decides to donate or sell the sculpture, the donee or buyer of the sculpture will assume all of Augusta's duties toward the Artists stated herein, will be obligated to defend and indemnify Augusta with respect to such duties, and will take the sculpture subject to all of the Artists' rights as stated herein. The donee or buyer shall be given a copy of this executed Agreement at the time of the donation or sale. In the event the Artists do not exercise their right of first refusal, Augusta may proceed to sell or donate the sculpture.

9. General Terms.

- a. The laws of the State of Georgia shall govern the Agreement between Augusta and the Artists with regard to its interpretation and performance, and any other claims related to this Agreement. All claims, disputes, and other matters in question between Augusta and the Artists arising out of relating to the Agreement, or the breach thereof, shall be decided in the Superior Court of Richmond County, Georgia. Artists, by executing this Agreement, specifically consent to jurisdiction and venue in Richmond County and waive any right to contest the jurisdiction and venue in the Superior Court of Richmond County, Georgia.
- b. Neither Augusta nor the Artists shall assign, sublet, or transfer their interest in this Agreement without the written consent of the other.
- c. The Artists shall not be required to sign any document, no matter by whom requested, that would result in the Artists having to certify, guaranty, or warrant the existence of conditions that the Artists cannot ascertain.
- d. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against Augusta.
- e. Georgia Prompt Pay Act. The terms of this Agreement superseded any and all provisions of the Georgia Prompt Pay Act.
- f. The Artists acknowledge that this contract and any changes to it by amendment, modification, change order, or other similar document may have required or may require the legislative authorization of the Board of Commissioners and approval of the Mayor. Under Georgia law, the Artists are deemed to possess knowledge concerning Augusta, Georgia's ability to assume contractual obligations and the consequences of the Artists' provision of goods or services to Augusta, Georgia under an unauthorized contract, amendment, modification, change order, or other similar document, including the possibility that the Artists may be precluded from recovering payment for such unauthorized goods or services. Accordingly, the Artists agree that if it provides goods or services to Augusta, Georgia under a contract that has not received proper legislative authorization or if the Artists provide goods or services to Augusta, Georgia in excess of the any contractually authorized goods or services, as required by Augusta,



Georgia's Charter and Code, Augusta, Georgia may withhold payment for any unauthorized goods or services provided by the Artists. The Artists assume all risk of non-payment for the provision of any unauthorized goods or services to Augusta, Georgia, and waive all claims to payment or to other remedies for the provision of any unauthorized goods or services to Augusta, Georgia, however characterized, including, without limitation, all remedies at law or equity.

- g. Augusta, Georgia may unilaterally, upon written notice, demand that a temporary and immediate stopping of the work under this Agreement be done.
- h. Force Majeure. "Force Majeure Event" means any act or event that (a) prevents a party (the "Nonperforming Party") from performing its obligations or satisfying a condition to the other party's (the "Performing Party") obligations under this Agreement, (b) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (c) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. If a Force Majeure Event occurs, the Nonperforming Party is excused from the performance thereby prevented and from satisfying any conditions precedent to the other party's performance that cannot be satisfied, in each case to the extent limited or prevented by the Force Majeure Event. When the Nonperforming Party is able to resume its performance or satisfy the conditions precedent to the other party's obligations, the Nonperforming Party shall immediately resume performance under this Agreement. The relief offered by this paragraph is the exclusive remedy available to the Performing Party with respect to a Force Majeure Event. A Force Majeure Event includes, but is not limited to: epidemics, pandemics, declared national, state, and local states of emergency, hurricanes, tornadoes, floods, severe and unexpected acts of nature, or the availability of funds in the budget of Augusta.
- i. All contractors and subcontractors entering into contracts with Augusta, Georgia for the physical performance of services shall be required to execute an Affidavit verifying its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation that is contracting with Augusta, Georgia has registered with and is participating in a federal work authorization program. All contractors and subcontractors must provide their E-Verify number and must be in compliance with the electronic verification of work authorized programs operated by the United States Department of Homeland Security or any 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, in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91 and shall continue to use the federal authorization program throughout the contract term. All contractors shall further agree

that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to its contract with Augusta, Georgia the contractor will secure from such subcontractor(s) each subcontractor's E-Verify number as evidence of verification of compliance with O.C.G.A. § 13-10-91 on the subcontractor affidavit provided in Rule 300-10-01-.08 or a substantially similar form. All contractors shall further agree to maintain records of such compliance and provide a copy of each such verification to Augusta, Georgia at the time the subcontractor(s) is retained to perform such physical services.

- j. Right to Inspect. Augusta, Georgia, may at reasonable times, inspect that part of the plant, place of business, or work site of the Artists or any subcontractor of the Artists or subunit thereof that is pertinent to the performance of any contract awarded or to be awarded by Augusta, Georgia.
- k. Entire Agreement. This Agreement constitutes the final agreement between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement. The provisions of this Agreement cannot be explained, supplemented or qualified through evidence of trade usage or a prior course of dealings. In entering into this Agreement, neither party has relied upon any statement, representation, warranty or agreement of any other party except for those expressly contained in this Agreement. There are no conditions precedent to the effectiveness of this Agreement, other than any that are expressly stated in this Agreement. This Agreement may be amended only by written instrument signed both by Augusta and the Artists.
- l. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the Parties state and affirm that they are duly authorized to bind the respected entities designated below as of the day and year indicated.

**[SIGNATURES ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Artist

Augusta, Georgia

By: [Signature]

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

Name: Carlos Campos

Name: Hardie Davis, Jr.

Title: Artist

Title: Mayor

Date: 09-01-22

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

Artist

By: [Signature]

Name: Lina Ocampos/ua

Title: Artist

Date: 09-01-22

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

Lena J. Bonner, Clerk of Commission

Address for Notices:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Address for Notices:

Augusta, Georgia  
535 Telfair Street, Suite 200  
Augusta, GA 30901  
Attention: Mayor Hardie Davis, Jr.

With copies to:

Maurice McDowell, Director  
Augusta PRD  
2027 Lumpkin Rd  
Augusta GA 30906

General Counsel  
Augusta Law Department  
535 Telfair Street, Bldg 3000  
Augusta, GA 30901

**AUGUSTA, GEORGIA  
AND  
LARRY SCHUECKLER**

**SERVICE AGREEMENT AND TRANSFER OF OWNERSHIP**

THIS SERVICE AGREEMENT AND TRANSFER OF OWNERSHIP ("AGREEMENT") is made and entered into this 04 day of oct., 2022, (the "Effective Date") between Augusta, Georgia ("Augusta"), a political subdivision of the State of Georgia, and Larry Schueckler ("Artist"), known collectively as the "Parties," for the transfer of ownership of pieces of publicly installed artwork (the "sculptures") from the Artist to Augusta, as well as service and maintenance of those sculptures.

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES DESCRIBED IN THIS AGREEMENT, THE ADEQUACY AND SUFFICIENCY OF WHICH EACH PARTY ACKNOWLEDGES, EACH OF THE PARTIES AGREES AS FOLLOWS:**

1. Scope. This Agreement shall involve two publically installed pieces of artwork, their ownership, maintenance, and intellectual property:
  - a. "Maestro", by Larry Schueckler. (2014). In bronze.
  - b. "Forever Young", by Larry Schueckler. (2014). In bronze.
2. Ownership and Rights Related to the Sculptures.
  - a. Ownership of the sculptures shall pass to Augusta upon execution of this Agreement. The Artist hereby irrevocably assigns, conveys, and otherwise transfers to Augusta and its respective successors and assigns title to the sculptures.
  - b. To the extent the uses, modification, destruction or removal of the sculptures under this Agreement affects any rights the Artist or any other person may have under the provisions of federal or state law, including the 1990 Visual Artists' Rights Act under 17 U.S.C. §106A(a) and §113, the Artist hereby knowingly waives any rights provided by these laws.
  - c. Augusta may reproduce images for non-commercial, educational, government, and promotional purposes, with credit given to the original artist of the sculpture when such sculpture is highlighted, to the extent practical. The reproduction shall be royalty-free and irrevocable and able to be used across multiple medias, including digital and electronic media and printed media. These reproductions may be used in, but not limited to, the following manner:

- i. The display of the sculptures on Augusta's website(s), social media pages, informational brochures, and other promotional materials in print and over the internet.
- ii. Sublicensing the rights granted herein to third parties in furtherance of non-commercial, educational, government, or promotional purposes.

### 3. Responsibilities of Augusta.

- a. Augusta shall receive ownership of the sculptures. Augusta shall be solely responsible for all matters involving the ownership of the sculptures, including installation, upkeep, maintenance, insurance, and repair.
- b. Augusta shall be solely responsible and liable for any costs related to the relocation of the sculptures after the Effective Date of this Agreement.
- c. Augusta shall notify the Artist in any case of removal or relocation of any of the sculptures. Such notification shall occur at the earliest reasonable time. Augusta shall permit the Artist to submit guidance regarding removal, relocation, and re-installation. Such guidance may include, but is not limited to, proper transportation of the sculptures or preferential locations for re-installation. Augusta shall consult with the Artist during activities under this sub-paragraph.
- d. Augusta shall maintain the sculptures in a manner appropriate for their use as public art, in the sole discretion of Augusta's appropriate department. Augusta shall provide such staff time, expertise, and equipment for the maintenance, protection, and cleaning of the sculptures, as is appropriate for the sculptures in the sole discretion of Augusta. Augusta shall receive and consider the Artist's maintenance advice in any maintenance, protection, or cleaning matters involving the sculptures.
- e. Augusta shall produce, within one (1) calendar year of this Agreement, a plaque or other indicator identifying information regarding the sculpture, in accordance with the stipulations of the purchasers/donors of the artwork, and permanently affix said plaque to their respective sculpture.
- f. Augusta shall, in consultation with the Artist of the sculpture, develop a maintenance, repair, and upkeep plan.
- g. Augusta may create and operate a maintenance fund for public art upkeep. Augusta may, in their discretion, use the aforementioned fund in the maintenance of the sculpture.

### 4. Notices.

- a. Notices shall be in writing and dated to the postmarks of the notices, to the addresses as specified on the signature page.

## 5. Indemnification

- a. Nothing in this Agreement shall constitute a waiver of Augusta's sovereign immunity, by contract or otherwise.
- b. Augusta nor the Artist shall be liable to the other or shall make any claim for any incident, indirect, or consequential damages arising out of, or connected in any way to the this Agreement.

## 6. Valuations

- a. Augusta agrees that the following shall be the agreed-upon purchase price and insurance value for the sculptures:
  - i. Maestro.
    - 1. Purchase Price: \$35,000.00
    - 2. Insurance value (together with Forever Young): \$63,000.00.
  - ii. Forever Young.
    - 1. Purchase Price: \$14,000.00
    - 2. Insurance value (together with Maestro): \$63,000.00.

## 7. Warranties by the Artist

- a. The sculpture are professionally constructed of durable material appropriate for outdoor public display.
- b. The sculptures can be structurally secured to a concrete pad with anchor bolts or similar devices.
- c. Installation of the sculptures will not irreparably damage, destroy, or materially alter the sculptures.
- d. The sculptures as a set are solely the result of the artistic effort of the original Artist, they are unique and original in their combined form and do not infringe upon any copyright or the rights of any person, that no person has sold, assigned, transferred, licensed, granted, encumbered or utilized the sculptures or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement, and that the sculptures are free and clear of any liens from any source whatsoever.

## 8. Right of First Refusal.

- a. Should Augusta decide to sell or donate the sculptures, the Commission will vote to allow for the sale and/or donation of the sculptures. The Artist shall have the right of first refusal to any sale or donation of the sculptures. Such right of first refusal shall be exercised by written notice to Augusta within

thirty days of written notification by Augusta. If the Artist elects to exercise his right of first refusal, he shall pay all costs associated with removal and relocation of the sculpture. If Augusta decides to donate or sell the sculpture, the donee or buyer of the sculpture will assume all of Augusta's duties toward the Artist stated herein, will be obligated to defend and indemnify Augusta with respect to such duties, and will take the sculpture subject to all of the Artists' rights as stated herein. The donee or buyer shall be given a copy of this executed Agreement at the time of the donation or sale. In the event the Artist does not exercise his right of first refusal, Augusta may proceed to sell or donate the sculpture.

9. General Terms.

- a. The laws of the State of Georgia shall govern the Agreement between Augusta and the Artist with regard to its interpretation and performance, and any other claims related to this Agreement. All claims, disputes, and other matters in question between Augusta and the Artist arising out of relating to the Agreement, or the breach thereof, shall be decided in the Superior Court of Richmond County, Georgia. Artist, by executing this Agreement, specifically consents to jurisdiction and venue in Richmond County and waives any right to contest the jurisdiction and venue in the Superior Court of Richmond County, Georgia.
- b. Neither Augusta nor the Artist shall assign, sublet, or transfer their interest in this Agreement without the written consent of the other.
- c. The Artist shall not be required to sign any document, no matter by whom requested, that would result in the Artist having to certify, guaranty, or warrant the existence of conditions that the Artist cannot ascertain.
- d. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against Augusta.
- e. Georgia Prompt Pay Act. The terms of this Agreement superseded any and all provisions of the Georgia Prompt Pay Act.
- f. The Artist acknowledges that this contract and any changes to it by amendment, modification, change order, or other similar document may have required or may require the legislative authorization of the Board of Commissioners and approval of the Mayor. Under Georgia law, the Artist is deemed to possess knowledge concerning Augusta, Georgia's ability to assume contractual obligations and the consequences of the Artist's provision of goods or services to Augusta, Georgia under an unauthorized contract, amendment, modification, change order, or other similar document, including the possibility that the Artist may be precluded from recovering payment for such unauthorized goods or services. Accordingly, the Artist agrees that if it provides goods or services to Augusta, Georgia under a contract that has not received proper legislative authorization or if



the Artist provides goods or services to Augusta, Georgia in excess of the any contractually authorized goods or services, as required by Augusta, Georgia's Charter and Code, Augusta, Georgia may withhold payment for any unauthorized goods or services provided by the Artist. The Artist assumes all risk of non-payment for the provision of any unauthorized goods or services to Augusta, Georgia, and waives all claims to payment or to other remedies for the provision of any unauthorized goods or services to Augusta, Georgia, however characterized, including, without limitation, all remedies at law or equity.

- g. Augusta, Georgia may unilaterally, upon written notice, demand that a temporary and immediate stopping of the work under this Agreement be done.
- h. Force Majeure. "Force Majeure Event" means any act or event that (a) prevents a party (the "Nonperforming Party") from performing its obligations or satisfying a condition to the other party's (the "Performing Party") obligations under this Agreement, (b) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (c) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. If a Force Majeure Event occurs, the Nonperforming Party is excused from the performance thereby prevented and from satisfying any conditions precedent to the other party's performance that cannot be satisfied, in each case to the extent limited or prevented by the Force Majeure Event. When the Nonperforming Party is able to resume its performance or satisfy the conditions precedent to the other party's obligations, the Nonperforming Party shall immediately resume performance under this Agreement. The relief offered by this paragraph is the exclusive remedy available to the Performing Party with respect to a Force Majeure Event. A Force Majeure Event includes, but is not limited to: epidemics, pandemics, declared national, state, and local states of emergency, hurricanes, tornadoes, floods, severe and unexpected acts of nature, or the availability of funds in the budget of Augusta.
- i. All contractors and subcontractors entering into contracts with Augusta, Georgia for the physical performance of services shall be required to execute an Affidavit verifying its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation that is contracting with Augusta, Georgia has registered with and is participating in a federal work authorization program. All contractors and subcontractors must provide their E-Verify number and must be in compliance with the electronic verification of work authorized programs operated by the United States Department of Homeland Security or any 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, in accordance with the applicability provisions and deadlines established in

O.C.G.A. § 13-10-91 and shall continue to use the federal authorization program throughout the contract term. All contractors shall further agree that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to its contract with Augusta, Georgia the contractor will secure from such subcontractor(s) each subcontractor's E-Verify number as evidence of verification of compliance with O.C.G.A. § 13-10-91 on the subcontractor affidavit provided in Rule 300-10-01-.08 or a substantially similar form. All contractors shall further agree to maintain records of such compliance and provide a copy of each such verification to Augusta, Georgia at the time the subcontractor(s) is retained to perform such physical services.

- j. Right to Inspect. Augusta, Georgia, may at reasonable times, inspect that part of the plant, place of business, or work site of the Artist or any subcontractor of the Artist or subunit thereof that is pertinent to the performance of any contract awarded or to be awarded by Augusta, Georgia.
- k. Entire Agreement. This Agreement constitutes the final agreement between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement. The provisions of this Agreement cannot be explained, supplemented or qualified through evidence of trade usage or a prior course of dealings. In entering into this Agreement, neither party has relied upon any statement, representation, warranty or agreement of any other party except for those expressly contained in this Agreement. There are no conditions precedent to the effectiveness of this Agreement, other than any that are expressly stated in this Agreement. This Agreement may be amended only by written instrument signed both by Augusta and The Artist.
- l. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the Parties state and affirm that they are duly authorized to bind the respected entities designated below as of the day and year indicated.

**[SIGNATURES ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Artist

Augusta, Georgia

By: 

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

Name: LARRY SCHUECKLER

Name: Hardie Davis, Jr.

Title: Artist

Title: Mayor

Date: 4 OCTOBER 2022

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

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

Lena J. Bonner, Clerk of Commission

Address for Notices:

15206 POST OAK BEND  
COLLEGE STATION  
TEXAS 77845

Attention: LARRY SCHUECKLER

Address for Notices:

Augusta, Georgia  
535 Telfair Street, Suite 200  
Augusta, GA 30901  
Attention: Mayor Hardie Davis, Jr.

With copies to:

Maurice McDowell, Director  
Augusta PRD  
2027 Lumpkin Rd  
Augusta GA 30906

General Counsel  
Augusta Law Department  
535 Telfair Street, Bldg 3000  
Augusta, GA 30901



AUGUSTA, GEORGIA

AND

CR GRAY LLC

# SERVICE AGREEMENT AND TRANSFER OF OWNERSHIP

THIS SERVICE AGREEMENT AND TRANSFER OF OWNERSHIP ("AGREEMENT") is made and entered into this 17th day of Sept, 2022, (the "Effective Date") between Augusta, Georgia ("Augusta"), a political subdivision of the State of Georgia, and CR Gray LLC ("Artist"), known collectively as the "Parties," for the transfer of ownership of a piece of publicly installed artwork (the "sculpture") from the Artists to Augusta, as well as services and maintenance of those sculpture.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES DESCRIBED IN THIS AGREEMENT, THE ADEQUACY AND SUFFICIENCY OF WHICH EACH PARTY ACKNOWLEDGES, EACH OF THE PARTIES AGREE AS FOLLOWS:

1. Scope. This Agreement shall involve a publically installed piece of artwork, its ownership, maintenance, and intellectual property:
  - a. "Popsicles", by CR Gray LLC. (2017). In steel, stucco, and wood.
2. Ownership and Rights Related to the Sculpture.
  - a. Ownership of the sculpture shall pass to Augusta upon execution of this Agreement. The Artists hereby irrevocably assign, convey, and otherwise transfer to Augusta and its respective successors and assigns title to the sculpture.
  - b. To the extent the uses, modification, destruction or removal of the sculpture under this Agreement affects any rights the Artists or any other person may have under the provisions of federal or state law, including the 1990 Visual Artists' Rights Act under 17 U.S.C. §106A(a) and §113, the Artists hereby knowingly waive any rights provided by these laws.
  - c. Augusta may reproduce images for non-commercial, educational, government, and promotional purposes, with credit given to the original Artists of the sculpture when such sculpture is highlighted, to the extent practical. The reproduction shall be royalty-free and irrevocable and able to be used across multiple medias, including digital and electronic media and printed media. These reproductions may be used in, but not limited to, the following manner:

- i. The display of the sculpture on Augusta's website(s), social media pages, informational brochures, and other promotional materials in print and over the internet.
- ii. Sublicensing the rights granted herein to third parties in furtherance of non-commercial, educational, government, or promotional purposes.

### 3. Responsibilities of Augusta.

- a. Augusta shall receive ownership of the sculpture. Augusta shall be solely responsible for all matters involving the ownership of the sculpture, including installation, upkeep, maintenance, insurance, and repair.
- b. Augusta shall be solely responsible and liable for any costs related to the relocation of the sculpture after the Effective Date of this Agreement.
- c. Augusta shall notify the Artists in any case of removal or relocation of any of the sculpture. Such notification shall occur at the earliest reasonable time. Augusta shall permit the Artists to submit guidance regarding removal, relocation, and re-installation. Such guidance may include, but is not limited to, proper transportation of the sculpture or preferential locations for re-installation. Augusta shall consult with the Artists during activities under this sub-paragraph.
- d. Augusta shall maintain the sculpture in a manner appropriate for their use as public art, in the sole discretion of Augusta's appropriate department. Augusta shall provide such staff time, expertise, and equipment for the maintenance, protection, and cleaning of the sculpture, as is appropriate for the sculpture in the sole discretion of Augusta. Augusta shall receive and consider the Artists' maintenance advice in any maintenance, protection, or cleaning matters involving the sculpture.
- e. Augusta shall produce, within one (1) calendar year of this Agreement, a plaque or other indicator identifying information regarding the sculpture, in accordance with the stipulations of the purchasers/donors of the artwork, and permanently affix said plaque to their respective sculpture.
- f. Augusta shall, in consultation with the Artists of the sculpture, develop a maintenance, repair, and upkeep plan.
- g. Augusta may create and operate a maintenance fund for public art upkeep. Augusta may, in their discretion, use the aforementioned fund in the maintenance of the sculpture.

### 4. Notices.

- a. Notices shall be in writing and dated to the postmarks of the notices, to the addresses as specified on the signature page.

## 5. Indemnification

- a. Nothing in this Agreement shall constitute a waiver of Augusta's sovereign immunity, by contract or otherwise.
- b. Augusta nor the Artists shall be liable to the other or shall make any claim for any incident, indirect, or consequential damages arising out of, or connected in any way to the this Agreement.

## 6. Valuations

- a. Augusta agrees that the following shall be the agreed-upon purchase price and insurance value for the sculpture:
  - i. Popsicles.
    - 1. Purchase Price: \$18,000.00
    - 2. Insurance value: \$18,000.00.

## 7. Warranties by the Artists

- a. The sculpture is professionally constructed of durable materials appropriate for outdoor public display.
- b. The sculpture can be structurally secured to a concrete pad with anchor bolts or similar devices.
- c. Installation of the sculpture will not irreparably damage, destroy, or materially alter the sculpture.
- d. The sculpture was solely the result of the artistic effort of the original Artists, they are unique and original and do not infringe upon any copyright or the rights of any person, that no person has sold, assigned, transferred, licensed, granted, encumbered or utilized the sculpture or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement, and that the sculpture is free and clear of any liens from any source whatsoever.

## 8. Right of First Refusal.

- a. Should Augusta decide to sell or donate the sculpture, the Commission will vote to allow for the sale and/or donation of the sculpture. The Artists shall have the right of first refusal to any sale or donation of the sculpture. Such right of first refusal shall be exercised by written notice to Augusta within thirty days of written notification by Augusta. If Artists elect to exercise its right of first refusal, they shall pay all costs associated with removal and relocation of the sculpture. If Augusta decides to donate or sell the sculpture, the donee or buyer of the sculpture will assume all of Augusta's duties toward the Artists stated herein, will be obligated to defend and

indemnify Augusta with respect to such duties, and will take the sculpture subject to all of the Artists' rights as stated herein. The donee or buyer shall be given a copy of this executed Agreement at the time of the donation or sale. In the event the Artists do not exercise their right of first refusal, Augusta may proceed to sell or donate the sculpture.

#### 9. General Terms.

- a. The laws of the State of Georgia shall govern the Agreement between Augusta and the Artists with regard to its interpretation and performance, and any other claims related to this Agreement. All claims, disputes, and other matters in question between Augusta and the Artists arising out of relating to the Agreement, or the breach thereof, shall be decided in the Superior Court of Richmond County, Georgia. Artists, by executing this Agreement, specifically consent to jurisdiction and venue in Richmond County and waive any right to contest the jurisdiction and venue in the Superior Court of Richmond County, Georgia.
- b. Neither Augusta nor the Artists shall assign, sublet, or transfer their interest in this Agreement without the written consent of the other.
- c. The Artists shall not be required to sign any document, no matter by whom requested, that would result in the Artists having to certify, guaranty, or warrant the existence of conditions that the Artists cannot ascertain.
- d. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against Augusta.
- e. Georgia Prompt Pay Act. The terms of this Agreement superseded any and all provisions of the Georgia Prompt Pay Act.
- f. The Artists acknowledge that this contract and any changes to it by amendment, modification, change order, or other similar document may have required or may require the legislative authorization of the Board of Commissioners and approval of the Mayor. Under Georgia law, the Artists are deemed to possess knowledge concerning Augusta, Georgia's ability to assume contractual obligations and the consequences of the Artists' provision of goods or services to Augusta, Georgia under an unauthorized contract, amendment, modification, change order, or other similar document, including the possibility that the Artists may be precluded from recovering payment for such unauthorized goods or services. Accordingly, the Artists agree that if it provides goods or services to Augusta, Georgia under a contract that has not received proper legislative authorization or if the Artists provide goods or services to Augusta, Georgia in excess of the any contractually authorized goods or services, as required by Augusta, Georgia's Charter and Code, Augusta, Georgia may withhold payment for any unauthorized goods or services provided by the Artists. The Artists assume all risk of non-payment for the provision of any unauthorized goods



or services to Augusta, Georgia, and waive all claims to payment or to other remedies for the provision of any unauthorized goods or services to Augusta, Georgia, however characterized, including, without limitation, all remedies at law or equity.

- g. Augusta, Georgia may unilaterally, upon written notice, demand that a temporary and immediate stopping of the work under this Agreement be done.
- h. Force Majeure. "Force Majeure Event" means any act or event that (a) prevents a party (the "Nonperforming Party") from performing its obligations or satisfying a condition to the other party's (the "Performing Party") obligations under this Agreement, (b) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (c) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. If a Force Majeure Event occurs, the Nonperforming Party is excused from the performance thereby prevented and from satisfying any conditions precedent to the other party's performance that cannot be satisfied, in each case to the extent limited or prevented by the Force Majeure Event. When the Nonperforming Party is able to resume its performance or satisfy the conditions precedent to the other party's obligations, the Nonperforming Party shall immediately resume performance under this Agreement. The relief offered by this paragraph is the exclusive remedy available to the Performing Party with respect to a Force Majeure Event. A Force Majeure Event includes, but is not limited to: epidemics, pandemics, declared national, state, and local states of emergency, hurricanes, tornadoes, floods, severe and unexpected acts of nature, or the availability of funds in the budget of Augusta.
- i. All contractors and subcontractors entering into contracts with Augusta, Georgia for the physical performance of services shall be required to execute an Affidavit verifying its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation that is contracting with Augusta, Georgia has registered with and is participating in a federal work authorization program. All contractors and subcontractors must provide their E-Verify number and must be in compliance with the electronic verification of work authorized programs operated by the United States Department of Homeland Security or any 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, in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91 and shall continue to use the federal authorization program throughout the contract term. All contractors shall further agree that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to its contract with Augusta, Georgia the contractor will secure from such subcontractor(s)

each subcontractor's E-Verify number as evidence of verification of compliance with O.C.G.A. § 13-10-91 on the subcontractor affidavit provided in Rule 300-10-01-.08 or a substantially similar form. All contractors shall further agree to maintain records of such compliance and provide a copy of each such verification to Augusta, Georgia at the time the subcontractor(s) is retained to perform such physical services.

- j. Right to Inspect. Augusta, Georgia, may at reasonable times, inspect that part of the plant, place of business, or work site of the Artists or any subcontractor of the Artists or subunit thereof that is pertinent to the performance of any contract awarded or to be awarded by Augusta, Georgia.
- k. Entire Agreement. This Agreement constitutes the final agreement between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement. The provisions of this Agreement cannot be explained, supplemented or qualified through evidence of trade usage or a prior course of dealings. In entering into this Agreement, neither party has relied upon any statement, representation, warranty or agreement of any other party except for those expressly contained in this Agreement. There are no conditions precedent to the effectiveness of this Agreement, other than any that are expressly stated in this Agreement. This Agreement may be amended only by written instrument signed both by Augusta and the Artists.
- l. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the Parties state and affirm that they are duly authorized to bind the respected entities designated below as of the day and year indicated.

**[SIGNATURES ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Artist

Augusta, Georgia

By:

By:

Name:

Name: Hardie Davis, Jr.

Title: Artist

Title: Mayor

Date:

Date:

Attest:

Lena J. Bonner, Clerk of Commission

Address for Notices:

CR Gray LLC  
101st Street  
Way West FL 33040  
 Attention: Craig Gray

Address for Notices:

Augusta, Georgia  
 535 Telfair Street, Suite 200  
 Augusta, GA 30901  
 Attention: Mayor Hardie Davis, Jr.

With copies to:

Maurice McDowell, Director  
 Augusta PRD  
 2027 Lumpkin Rd  
 Augusta GA 30906

General Counsel  
 Augusta Law Department  
 535 Telfair Street, Bldg 3000  
 Augusta, GA 30901

**AUGUSTA, GEORGIA  
AND  
CAROL FINCH**

**SERVICE AGREEMENT AND TRANSFER OF OWNERSHIP**

THIS SERVICE AGREEMENT AND TRANSFER OF OWNERSHIP ("AGREEMENT") is made and entered into this 9 day of 28, 2022, (the "Effective Date") between Augusta, Georgia ("Augusta"), a political subdivision of the State of Georgia, and Carol Finch ("Donor"), known collectively as the "Parties," for the transfer of ownership of a piece of publicly installed artwork (the "sculpture") from the Donor to Augusta, as well as services and maintenance of those sculpture.

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES DESCRIBED IN THIS AGREEMENT, THE ADEQUACY AND SUFFICIENCY OF WHICH EACH PARTY ACKNOWLEDGES, EACH OF THE PARTIES AGREE AS FOLLOWS:**

1. Scope. This Agreement shall involve a publically installed piece of artwork, its ownership, maintenance, and intellectual property:
  - a. "Tropical Dream", by Roger Finch, currently owned by Carol Finch. (2017). In steel.
2. Ownership and Rights Related to the Sculpture.
  - a. Ownership of the sculpture shall pass to Augusta upon execution of this Agreement. The Donor hereby irrevocably assign, convey, and otherwise transfer to Augusta and its respective successors and assigns title to the sculpture.
  - b. Augusta may reproduce images for non-commercial, educational, government, and promotional purposes, with credit given to the original Artists of the sculpture when such sculpture is highlighted, to the extent practical. The reproduction shall be royalty-free and irrevocable and able to be used across multiple medias, including digital and electronic media and printed media. These reproductions may be used in, but not limited to, the following manner:
    - i. The display of the sculpture on Augusta's website(s), social media pages, informational brochures, and other promotional materials in print and over the internet.

- ii. Sublicensing the rights granted herein to third parties in furtherance of non-commercial, educational, government, or promotional purposes.

### 3. Responsibilities of Augusta.

- a. Augusta shall receive ownership of the sculpture. Augusta shall be solely responsible for all matters involving the ownership of the sculpture, including installation, upkeep, maintenance, insurance, and repair.
- b. Augusta shall notify the Donor in any case of removal or relocation of any of the sculpture. Such notification shall occur at the earliest reasonable time. Augusta shall permit the Donor to submit guidance regarding removal, relocation, and re-installation. Such guidance may include, but is not limited to, proper transportation of the sculpture or preferential locations for re-installation. Augusta shall consult with the Donor during activities under this sub-paragraph.
- c. Augusta shall maintain the sculpture in a manner appropriate for their use as public art, in the sole discretion of Augusta's appropriate department. Augusta shall provide such staff time, expertise, and equipment for the maintenance, protection, and cleaning of the sculpture, as is appropriate for the sculpture in the sole discretion of Augusta.
- d. Augusta shall produce, within one (1) calendar year of this Agreement, a plaque or other indicator identifying information regarding the sculpture, in accordance with the stipulations of the purchasers/donors of the artwork, and permanently affix said plaque to their respective sculpture.
- e. Augusta shall develop a maintenance, repair, and upkeep plan.
- f. Augusta may create and operate a maintenance fund for public art upkeep. Augusta may, in their discretion, use the aforementioned fund in the maintenance of the sculpture.

### 4. Notices.

- a. Notices shall be in writing and dated to the postmarks of the notices, to the addresses as specified on the signature page.

### 5. Indemnification

- a. Nothing in this Agreement shall constitute a waiver of Augusta's sovereign immunity, by contract or otherwise.
- b. Augusta nor the Donor shall be liable to the other or shall make any claim for any incident, indirect, or consequential damages arising out of, or connected in any way to the this Agreement.

## 6. Valuations

- a. Augusta agrees that the following shall be the agreed-upon appraised value and insurance value for the sculpture:
  - i. Tropical Dream, by Roger Finch
    - 1. Purchase Price: \$4,500.00
    - 2. Insurance value: \$4,500.00.

## 7. Warranties by the Donor

- a. The sculpture is professionally constructed of durable materials appropriate for outdoor public display.
- b. The sculpture can be structurally secured to an appropriate sized concrete pad with anchor bolts or similar devices.
- c. Installation of the sculpture will not irreparably damage, destroy, or materially alter the sculpture.
- d. The sculpture was solely the result of the artistic effort of the original Artists, they are unique and original and do not infringe upon any copyright or the rights of any person, that no person has sold, assigned, transferred, licensed, granted, encumbered or utilized the sculpture or any element thereof or any copyright related thereto which may affect or impair the rights granted pursuant to this Agreement, and that the sculpture is free and clear of any liens from any source whatsoever.

## 8. Right of First Refusal.

- a. Should Augusta decide to sell or donate the sculpture, the Commission will vote to allow for the sale and/or donation of the sculpture. The Donor shall have the right of first refusal to any sale or donation of the sculpture. Such right of first refusal shall be exercised by written notice to Augusta within thirty days of written notification by Augusta. If Augusta decides to donate or sell the sculpture, the donee or buyer of the sculpture will assume all of Augusta's duties toward the Donor stated herein, will be obligated to defend and indemnify Augusta with respect to such duties, and will take the sculpture subject to all of the Donor's rights as stated herein. The donee or buyer shall be given a copy of this executed Agreement at the time of the donation or sale. In the event the Donor does not exercise their right of first refusal, Augusta may proceed to sell or donate the sculpture.

## 9. General Terms.

- a. The laws of the State of Georgia shall govern the Agreement between Augusta and the Donor with regard to its interpretation and performance,

and any other claims related to this Agreement. All claims, disputes, and other matters in question between Augusta and the Donor arising out of relating to the Agreement, or the breach thereof, shall be decided in the Superior Court of Richmond County, Georgia. Donor, by executing this Agreement, specifically consent to jurisdiction and venue in Richmond County and waive any right to contest the jurisdiction and venue in the Superior Court of Richmond County, Georgia.

- b. Neither Augusta nor the Donor shall assign, sublet, or transfer their interest in this Agreement without the written consent of the other.
- c. The Donor shall not be required to sign any document, no matter by whom requested, that would result in the Donor having to certify, guaranty, or warrant the existence of conditions that the Donor cannot ascertain.
- d. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against Augusta.
- e. Georgia Prompt Pay Act. The terms of this Agreement superseded any and all provisions of the Georgia Prompt Pay Act.
- f. The Donor acknowledge that this contract and any changes to it by amendment, modification, change order, or other similar document may have required or may require the legislative authorization of the Board of Commissioners and approval of the Mayor. Under Georgia law, the Donor are deemed to possess knowledge concerning Augusta, Georgia's ability to assume contractual obligations and the consequences of the Donor's provision of goods or services to Augusta, Georgia under an unauthorized contract, amendment, modification, change order, or other similar document, including the possibility that the Donor may be precluded from recovering payment for such unauthorized goods or services. Accordingly, the Donor agree that if it provides goods or services to Augusta, Georgia under a contract that has not received proper legislative authorization or if the Donor provide goods or services to Augusta, Georgia in excess of the any contractually authorized goods or services, as required by Augusta, Georgia's Charter and Code, Augusta, Georgia may withhold payment for any unauthorized goods or services provided by the Donor. The Donor assume all risk of non-payment for the provision of any unauthorized goods or services to Augusta, Georgia, and waive all claims to payment or to other remedies for the provision of any unauthorized goods or services to Augusta, Georgia, however characterized, including, without limitation, all remedies at law or equity.
- g. Augusta, Georgia may unilaterally, upon written notice, demand that a temporary and immediate stopping of the work under this Agreement be done.

- h. Force Majeure. "Force Majeure Event" means any act or event that (a) prevents a party (the "Nonperforming Party") from performing its obligations or satisfying a condition to the other party's (the "Performing Party") obligations under this Agreement, (b) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (c) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. If a Force Majeure Event occurs, the Nonperforming Party is excused from the performance thereby prevented and from satisfying any conditions precedent to the other party's performance that cannot be satisfied, in each case to the extent limited or prevented by the Force Majeure Event. When the Nonperforming Party is able to resume its performance or satisfy the conditions precedent to the other party's obligations, the Nonperforming Party shall immediately resume performance under this Agreement. The relief offered by this paragraph is the exclusive remedy available to the Performing Party with respect to a Force Majeure Event. A Force Majeure Event includes, but is not limited to: epidemics, pandemics, declared national, state, and local states of emergency, hurricanes, tornadoes, floods, severe and unexpected acts of nature, or the availability of funds in the budget of Augusta.
- i. All contractors and subcontractors entering into contracts with Augusta, Georgia for the physical performance of services shall be required to execute an Affidavit verifying its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation that is contracting with Augusta, Georgia has registered with and is participating in a federal work authorization program. All contractors and subcontractors must provide their E-Verify number and must be in compliance with the electronic verification of work authorized programs operated by the United States Department of Homeland Security or any 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, in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91 and shall continue to use the federal authorization program throughout the contract term. All contractors shall further agree that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to its contract with Augusta, Georgia the contractor will secure from such subcontractor(s) each subcontractor's E-Verify number as evidence of verification of compliance with O.C.G.A. § 13-10-91 on the subcontractor affidavit provided in Rule 300-10-01-.08 or a substantially similar form. All contractors shall further agree to maintain records of such compliance and provide a copy of each such verification to Augusta, Georgia at the time the subcontractor(s) is retained to perform such physical services.



- j. Entire Agreement. This Agreement constitutes the final agreement between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement. The provisions of this Agreement cannot be explained, supplemented or qualified through evidence of trade usage or a prior course of dealings. In entering into this Agreement, neither party has relied upon any statement, representation, warranty or agreement of any other party except for those expressly contained in this Agreement. There are no conditions precedent to the effectiveness of this Agreement, other than any that are expressly stated in this Agreement. This Agreement may be amended only by written instrument signed both by Augusta and the Donor.
- k. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the Parties state and affirm that they are duly authorized to bind the respected entities designated below as of the day and year indicated.

**[SIGNATURES ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Artist

Augusta, Georgia

By: Carol M. Finck

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

Name: Carol M. Finck

Name: Hardie Davis, Jr.

Title: Artist

Title: Mayor

Date: 9-28-22

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

Attest: \_\_\_\_\_  
Lena J. Bonner, Clerk of Commission

Address for Notices:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Address for Notices:

Augusta, Georgia  
535 Telfair Street, Suite 200  
Augusta, GA 30901  
Attention: Mayor Hardie Davis, Jr.

With copies to:  
Maurice McDowell, Director  
Augusta PRD  
2027 Lumpkin Rd  
Augusta GA 30906

General Counsel  
Augusta Law Department  
535 Telfair Street, Bldg 3000  
Augusta, GA 30901



## Public Services Committee Meeting

Meeting Date: January 31, 2023

Motion to approve entering into a lease agreement for Hickman Park

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<b>Department:</b>	Parks & Recreation Department
<b>Presenter:</b>	Maurice McDowell
<b>Caption:</b>	Motion to approve entering into a lease agreement for Hickman Park with the Trust of Oakland Park as lessor.
<b>Background:</b>	Hickman Park was established as “a park or public square” in 1859 and was under a 99 year lease to the City since June 17, 1916. The lease since has expired and after an appointment of new trustees by the Superior Court of Richmond County, the trustees and Augusta Parks & Recreation have negotiated a new lease to continue operations at the park.
<b>Analysis:</b>	Hickman Park is a neighborhood park, located at 965 Hickman Road. Parks & Recreation replaced the playground unit in 2018 and has additional funding allocated for park improvements. The lease agreement is needed to ensure proper operation of the park.
<b>Financial Impact:</b>	The annual rent for the lease is \$1.
<b>Alternatives:</b>	<ol style="list-style-type: none"> <li>1. To approve entering into a lease agreement</li> <li>2. To move to no action</li> </ol>
<b>Recommendation:</b>	<ol style="list-style-type: none"> <li>1. To approve entering into a lease agreement</li> </ol>
<b>Funds are available in the following accounts:</b>	101-06-1323 - Hickman Park
<b><u>REVIEWED AND APPROVED BY:</u></b>	N/A

STATE OF GEORGIA	)	
	)	<b>LEASE AGREEMENT</b>
COUNTY OF RICHMOND	)	

THIS LEASE AGREEMENT, made this First day of January, 2023, by and between Thomas H. Robertson, Jr., Thomas H. Robertson, III, Bryan M. Haltermann, Wilson Perry Huggins, as Trustees of the Trust of Oakland Park, collectively as lessor ("Lessor"), and Augusta, Georgia, a political subdivision of the State of Georgia, as lessee ("Lessee" or "Augusta");

WHEREAS, On April 18, 1959, Jonathan Meigs established "a park or public square" at 965 Hickman Road, Augusta Georgia; and

WHEREAS, The intent was for 965 Hickman Road, originally referred to as "Oakland Park," to be used for the sole or exclusive purpose of a park or public square for the comfort and convenience of the neighborhood, and for the property not to be appropriated in part or whole for any other use whatsoever; and

WHEREAS, On June 17, 1916, the Board of Trustees of Oakland Park leased the property to the City Council of Augusta for the full term of ninety-nine years and subject to renewal for a like term beginning on June 17, 2015; and

WHEREAS, On the expiration the lease, the original members of the Board of Trustees of Oakland Park had since deceased and all the trustee positions of the Trust were vacant; and

WHEREAS, A petition was brought in the Superior Court of Richmond County on January 4, 2017, and by order of Judge James G. Blanchard, Jr. dated March 30, 2017, the above-named individuals were duly appointed as the new trustees of the Trust of Oakland Park; and

WHEREAS, Said order also established criteria for future trustees, and empowered the existing trustees to appoint replacement trustees; and

WHEREAS, Lessor and Lessee desire to renew their lease, and desire that Lessee continue to maintain and operate Hickman Park under the aforementioned conditions and in the spirit of the original intent for 965 Hickman Road to be used solely and exclusive as park,

W I T N E S S E T H:

1. Premises. The Lessor, for and in consideration of the rents, covenants, agreements, and stipulations hereinafter set forth, to be paid, kept and performed by the Lessee, does hereby lease unto the said Lessee, and said Lessee hereby agrees to lease and take upon the terms and conditions which hereinafter appear, the following property known as "Hickman Park" (the "Premises") located at 965 Hickman Road, Augusta, Georgia 30904, being more particularly described on Exhibit "A", attached hereto and incorporated herein by reference.

2. Term. The term of this lease shall commence on the effective date of this lease, and shall terminate absolutely and without obligation on the part of Augusta each and every December 31<sup>st</sup>, unless terminated earlier in accordance with the termination provisions of the Agreement. This Agreement automatically renews on each January 1<sup>st</sup>, unless terminated in accordance with the termination provisions of the Agreement.

3. Rent/Consideration. The rent to be paid by the Lessee to the Lessor hereunder shall be One Dollar (\$1.00) per year, payable on or before the 31st day of January of each year during the term hereof. Further consideration for this Lease Agreement shall be the fulfillment of the original intent of the creator of the Trust, and the benefits conferred upon the public thereby.

4. Use of Premises. The Premises shall be only used solely and exclusively as a publicly accessible park and no part thereof shall be used for any other purpose. It is agreed that said property and the park facilities within shall at all times be operated, used, and maintained as recreational facilities. It is the specific intent and understanding of the parties hereto that this Lease arrangement is in accordance with the Georgia Recreational Property Act, OCGA 51-3-20 et seq., as Lessor is making the land available to the public without an admission fee or other

charge for recreational purposes. Pursuant to said Act, Lessor's liability toward persons entering the property for recreational purposes is intended to be limited in accordance with the Act.

5. Name. The Premises shall be named and designated as "Hickman Park."

6. Ownership: The premises shall remain the property of the Lessor throughout the term of the lease.

7. Special Conditions: Upon entering into this Lease Agreement, Lessee shall meet the following conditions:

- (a) The Lessee shall adopt appropriate rules and regulations regarding the operation and use of said park. No vehicular traffic shall be allowed in any area of the park unless required for maintenance purposes, and in that case, only by official vehicles authorized by Lessee;
- (b) The Lessee, in the maintenance of such park, shall preserve, restore and maintain the premises, building, and facilities in good condition, in a manner similar to the other parks in the Augusta system, including, without limiting the generality of its obligation, the planting and care of shrubbery, flowers and plants, with the right of the Lessee to construct trails, walkways and other improvements such as will tend to beautify the landscape or embellish the park and make the same more useful and attractive to the lovers of outdoor recreation;
- (c) The Lessee shall cause to be prepared a site-specific master plan to guide future improvements or physical changes proposed for the park and the facilities within it. The plan shall be updated from time to time as needed. The initial plan and each update shall be subject to the approval of the Lessor, which approval shall not be unreasonably withheld.
- (d) Lessor reserves the right to hold events, including but not limited to fundraisers, at the Premises to support the purpose of the Trust of Oakland Park. Lessor

shall follow Lessee's policies, procedures, and fee schedules for reserving, scheduling, planning, producing, and holding such events, and Lessor shall follow all applicable local, state, and federal laws and regulations during said events; and

- (e) Lessor reserves the right, during the pendency of this Lease, to erect one (1) monument or plaque recognizing and commemorating Lessor's contributions to the park, and explaining the historical background of the Premises. The design of the aforementioned monument or plaque shall be agreed upon by the parties prior to installation.

8. Destruction of or Damage to Premises: If the Premises are damaged or destroyed by storm, fire, flood, lightning, earthquake, or other casualty which cannot, despite diligent, good faith efforts be repaired within One Hundred Eighty (180) days following the date on which such damage occurs, then Lessor may elect to terminate this Lease effective as of the date of such damage or destruction. Within thirty (30) days after the date of such damage, the parties shall reasonably determine how long the repair and restoration will take. After the determination has been made that the casualty cannot be repaired within the aforesaid One Hundred Eighty (180) day period, Lessor shall have a period of thirty (30) days to terminate the Lease by giving written notice to the other party. Upon such termination, any parts or all of the improvements on the Premises that are irreparably damaged shall be removed by Lessee. Nothing in this paragraph shall affect the rights of the parties to terminate this agreement pursuant to the separate and distinct rights provided by the "Termination" provision below.

9. Assignment and Subletting: Lessor has entered into this Agreement, in part, on the basis of personal reliance in the integrity and qualifications of the Lessee. The Lessee agrees it shall not delegate, assign, subcontract, sublease, transfer, pledge, convey, sell, or otherwise dispose of the whole or any part of this Agreement or its right, title, or interest therein to any person, firm, or corporation without prior written consent of Lessor.

10. Signs: Lessee shall place no sign or signs upon Premises except with prior written consent of the Lessor. Any and all signs placed on the Premises, interior or exterior, by Lessee shall be maintained in compliance with rules and regulations governing such signs. Lessee agrees upon removal of said signs to repair all damages incident to such removal.

11. Repairs, Alterations and Additions: Any and all repairs, alterations and additions made to the Premises hereby leased by the Lessee, shall be and remain a part of said Premises hereby leased by the Lessee, and shall be surrendered to the Lessor by the Lessee at the expiration of the term of this Lease. Any alterations or additions to the Premises and any repairs, which may affect the physical appearance of the Premises, shall not be made without advance written consent by the Lessor. Any and all repairs, alterations and additions to the Premises shall be performed in a good and workmanlike manner using appropriate historic or new materials and equipment and in compliance with all safety codes and regulations, and applicable historic preservation standards. In the event that any repairs, additions, alterations or improvements are made by the Lessee through a contractor, the Lessee agrees that it will closely supervise such work and see that all laborers and materialmen are promptly paid so that no lien will accrue or be filed against the Premises; and in the event that the Lessee hires laborers and/or purchases material itself for the improvement of the Premises, it will promptly pay all charges for such labor and materials when the same become due so that no liens will accrue or be filed against the Premises and no claim can be asserted against Lessor for such payment. Lessor shall have the right to call upon the Lessee for a statement or other information concerning the payment of any contractor, laborer and/or materialman who may have furnished labor or materials for the improvement on the Premises and Lessee covenants and agrees that it will immediately give full information in regard to all such to the Lessor upon demand. Lessee, however, shall have the right to remove Lessee's personal property in the nature of trade and/or business fixtures from the Premises at the expiration of this Lease. To the extent that any act under this Lease would require a Certificate of Appropriateness as issued by the Augusta, Georgia Historic Preservation



Commission, it shall be the duty of Lessee to apply for and obtain such Certificate, and otherwise follow all requirements of the ordinances of Augusta, Georgia under Title 7, Chapter 4.

12. Utilities, Maintenance, and Insurance: Upon the execution of this lease, Lessee shall be responsible for any and all utilities, maintenance costs, and insurances on the Premises through the remainder of the Lease.

13. No Estate in Land: This contract shall create the relationship of Lessor and Lessee between the parties hereto and no estate shall pass out of Lessor during the term of the lease.

14. Termination: Upon failure of the Lessee to fulfill any of its obligations contained in this Lease or fail to substantially perform in accordance with the terms of this Agreement, Lessor in its sole discretion may, in the case of a termination for breach or default, allow Lessee a period of time in which to cure the defect. The Lessor shall send the Lessee written notice of such default. The Lessee shall have thirty (90) days from receipt of such written notice to cure the default described in the notice. Should the Lessee fail to cure the default within the thirty (90) day period, the Lessor shall have the option to terminate this Lease and, upon such termination, the Lessee shall immediately surrender possession of the Premises back to the Lessor in good condition, normal wear and tear excepted. Any such termination for default shall not in any way operate to preclude the Lessor from also pursuing all available remedies against Lessee and its sureties for said breach or default. Additionally, Lessor has the right to terminate this Lease if in any instance the Premises are no longer used for a park. Except as otherwise provided in this agreement, neither party shall be entitled to recover lost profits, special, consequential or punitive damages, attorney's fees or costs from the other party to this Agreement for any reason whatsoever.

15. Holding Over: In the event that Lessee or anyone claiming under Lessee shall continue occupancy of the Leased Premises after the expiration of the term of this Lease or any renewal or extension thereof without any agreement in writing between Lessor and less with respect thereto, such occupancy shall not be deemed to extend or renew the term of the Lease,

but such occupancy shall continue as a tenancy at will, from month-to-month, upon the covenants, provisions, and conditions herein contained.

16. Exculpation and Indemnification: The Premises are being leased to Lessee "AS IS", and Lessee accepts said Premises in its present condition and acknowledges that it has inspected the same and found the Premises to be suitable for its intended use of a recreational public park. If any repairs to the improvements located on the premises covered by this Lease are required during the term of this Lease, the cost of same shall be paid by Lessee. As set forth in Section 4 hereof, it is the intent and understanding of the parties that Lessor be afforded the protections of a landowner allowing access to land for recreational purposes under the Georgia Recreational Properties Act. To the extent such protection is revoked by future law or determined not to apply, it is an express condition of this Lease Agreement that Lessor, its officers, representatives, agents, and employees, shall be free from any and all claims, debts, demands, liabilities, or causes of action of every kind or character, whether in law or in equity, by reason of any death, injury, or damage to any person or persons or damage or destruction of property or loss of use thereof, whether it be the person or property of Lessor or Lessee, their invitees, licensees, officers, representatives, agents, or employees, or any third persons, from any cause or causes whatsoever arising from any event or occurrence in or upon the Premises or any part thereof or otherwise arising from Lessee's operations and, Lessee shall indemnify and save harmless the Lessor, its officers, representatives, agents, and employees, against and from any and all such claims, demands, debts, liabilities, and causes of action including reasonable attorney's fees and costs to be incurred by Lessor in defending same.

Lessee specifically agrees that its operations shall be conducted in compliance with all federal, state and local environmental laws, rules and regulations. Lessee agrees to indemnify and hold harmless Lessor from and against all liabilities, losses, suits, claims, demands, judgments, fines, damages, costs and expenses (including all costs for investigation and defense thereof, including but not limited to court costs, expert fees and reasonable attorneys' fees) which

may be incurred by, charged to or recovered from the foregoing (i) by reason or on account of damages to or destruction of the property of Lessor, or any property of, injury to or death of any person, resulting from or arising out of Lessee's use of the premises, or (ii) arising out of the failure of Lessee to keep, observe or perform any of the agreements or conditions of this Agreement. Either party will refer to the other party promptly upon notice thereof, any claim made or suit instituted against it which, in any way, affects the other party or their insurer. If Lessee shall defend or compromise following notice from Lessor under this Agreement, then Lessor shall have the right to compromise and defend the same to the extent of its interests, with all cost to be borne by Lessee.

17. Rights Cumulative: All rights, powers and privileges conferred hereunder upon Lessor shall be cumulative but not restrictive to those given by law.

18. Service of Notice: Any notice, demand, request, approval, consent, or other communication (hereinafter referred to as "notice"), which Lessor or Lessee may be required to permit to give to each other shall be in writing and shall be mailed in an official United States Post Office, certified or registered mail, return receipt requested, with adequate postage prepaid, to the other party at the address as each party as designated in this Lease or shall have changed by proper notice in writing to the other. Such addresses are as follows:

<u>Lessee</u> :	Augusta, Georgia Office of the Mayor 535 Telfair Street, Suite 200 Augusta, GA 30901
With Copies to:	General Counsel Augusta Law Department 535 Telfair Street, Building 3000 Augusta, GA 30901  Augusta Parks and Recreation Department 2027 Lumpkin Road Augusta, GA 30906

Lessor:

Trust of Oakland Park  
c/o Wilson Huggins  
929 Hickman Road  
Augusta, Georgia 30904

If notice is not an answer or reply to a previous notice from the other party, the time of rendition of such shall be the date when the receipt is signed, refused or returned unclaimed. If the notice is an answer or reply to a previous notice from the other party, the time of rendition of such shall be the date postmarked by the United States Postal Service. In the event of a postal strike or other interference with the regular delivery of mail, notices may be served in person or by telegram in lieu of certified or registered mail, but shall be effective upon receipt.

19. Waivers of Rights: Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on the same or any subsequent occasion. Any and all rights and remedies which either party may have under this Lease or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other, and no one of them, whether exercised by said party or not, shall be deemed to be an exclusion of any other; and any two or more or all of such rights and remedies may be exercised at the same time.

20. Inspection by Lessor: Lessor, its authorized officers, employees, agents or representatives shall have the right to enter upon the premises to make inspections during regular

business hours for open access areas, when a representative of the Lessee is present in enclosed or restricted access areas, or at any time in case of emergency and/or to determine whether Lessee has complied with and its complying with the terms and conditions of this agreement; provided, however, that said inspection shall in no event unduly disrupt or interfere with the operation of the Lessee.

21. Taxes: Lessee shall pay all personal property taxes legally assessed, if any, against its equipment, furniture or other personal property located on the Premises. The parties hereto note that, as of the date of this agreement, no property is deeded taxable against Lessor.

22. No Conflict: Lessee represents and warrants that it presently has no interest, direct or indirect, and covenants and agrees that it will not, during the term of this Agreement, acquire any interest, direct or indirect that would conflict in any manner or degree with the performance of its duties and obligations hereunder. Lessee further covenants and agrees for itself, its agents, employees, directors and officers to comply fully with the provisions of the Official Code of Georgia (OCGA §§45-10-20 et. seq.) and the provisions of the AUGUSTA, GA CODE of Ethics governing conflicts of interest of persons doing business with Augusta, as such provisions now exist and may be amended hereafter. Lessee represents and warrants that such provisions are not and will not be violated by the Agreement or the Lessee's performance hereunder.

23. Prohibited Interests: No official of Augusta, Georgia who is authorized in such capacity and on behalf of Augusta, Georgia to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any contract, or any subcontract in connection with the Agreement, shall become directly or indirectly interested personally in this Agreement or in any part hereof. No officer or employee of or for Lessor who is authorized in such capacity and on behalf of Augusta, Georgia to exercise any legislative, executive, supervisory, or other similar functions in connection with this Agreement, shall become directly or indirectly interested personally in this Agreement or in any part thereof, any material supply contract, subcontract, insurance contract or any other contract pertaining to the Agreement.

24. Compliance with Applicable Laws: The Lessee's attention is directed to the fact that all applicable federal, state, and local laws, ordinances, and the rules and regulations of all authorities having jurisdiction over the work shall apply to the Agreement throughout, and they all will be deemed to be included in the Agreement the same as though herein written out in full. The Lessee shall keep itself and its employees fully informed of all laws, ordinances, and regulations in any manner affecting those engaged or employed in the work or the materials used in the work or in any way affecting the conduct of the work and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If Lessee discovers any discrepancy or inconsistency in this Agreement in relation to any such law, regulation, ordinance, order, or decree, Lessee shall promptly report the same, in writing, to Lessor. Lessee shall at all times observe and comply with all such laws, ordinances, and regulations, and shall protect and indemnify Lessor and its agents against any all damages and claims arising out of any violation of such law, ordinance, regulation, order, or decree, whether by Lessee or its employees.

25. Severability: In the event any provision of this Agreement is held to be unenforceable for any reason, the remainder of the Agreement shall be in full force and effect and enforceable in accordance with its terms.

26. Installation of Equipment: Lessee is prohibited from installing any equipment on Lessor's property without prior written approval.

27. Authority: If either party hereto is a corporation, trust, a 501(c) 3 organization, or general or limited partnership, each individual executing this Agreement on behalf of such entity represents and warrants that he, she, or it is duly authorized to execute and deliver this Agreement on its behalf. If it is a corporation, trust or partnership, Lessee shall, within thirty (30) days deliver to Lessor evidence satisfactory to Lessor of such authority.

28. Independent Contractor: Lessee shall perform this Agreement as an independent contractor and nothing herein contained shall be construed to be inconsistent with that relationship or status. Nothing in this Agreement shall in any way be construed to appoint or

constitute Lessee as the agent, employee or representative of Lessor. The manner and method of completing the work undertaken by Lessee shall be determined in its sole discretion.

29. Lessee shall not use, store, keep, release, discharge, dispose of or spill any toxic or hazardous substances, wastes or materials on the Leased Property, nor use or store any such substance that will have any residual effect beyond the lease term.

30. Abandonment by Lessee: Should Lessee breach this Lease Agreement and abandon the property prior to the natural expiration of the lease term, Lessor may continue this Lease in effect by not terminating Lessee's right to possession of the property, in which case Lessor shall be entitled to enforce all Lessor's rights and remedies under this Lease Agreement including the right to recover rent as it becomes due.

31. Open Records: The Lessor acknowledges that all records relating to this Agreement and the services to be provided under this Agreement may be a public record subject to Georgia's Open Records Act. (O.C.G.A. § 50-18-70, et seq.). Lessor shall cooperate fully in responding to such request and making all records, not exempt, available for in section and copying as provided by law. Lessee shall notify Lessor immediately of any request made under the Open Records Act and shall furnish Lessor with a copy of the request and the response to such request.

32. Governing Law: This Agreement shall be governed and interpreted by the laws of the State of Georgia.

33. Venue: All claims, disputes and other matters in question between the Lessor and the Lessee arising out of or relating to the Agreement, or the breach thereof, shall be decided in the Superior Court of Richmond County, Georgia. The Lessor, by executing this Agreement, specifically consents to venue in Richmond County and waives any right to contest the venue in the Superior Court of Richmond County, Georgia.

34. Time of Essence: Time is of the essence of this Agreement.

35. Entire Agreement: This Lease contains the entire agreement of the parties and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. No failure of either party to exercise any power given it hereunder, or to insist upon strict compliance by either party of any obligations hereunder and no custom or practice of the parties at variance with the terms hereof. This Agreement may only be amended by writing signed by both parties.

**[SIGNATURES ON FOLLOWING PAGE]**



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

AUGUSTA, GEORGIA (Lessee)

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

Name: \_\_\_\_\_

Title: Mayor

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

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

Lena J. Bonner, Clerk of Commission

TRUST OF OAKLAND PARK (Lessor)

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

Name: \_\_\_\_\_

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

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

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

Name: \_\_\_\_\_

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

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

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

Name: \_\_\_\_\_

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

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

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

Name: \_\_\_\_\_

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

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



## Public Services Committee Meeting

Meeting Date: January 31, 2023

Motion to approve entering into an updated lease agreement for Eisenhower Park

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<b>Department:</b>	Parks & Recreation Department
<b>Presenter:</b>	Maurice McDowell
<b>Caption:</b>	Motion to approve entering into an updated lease agreement for Eisenhower Park with the Augusta National Golf Club as lessee.
<b>Background:</b>	The Augusta Commission, in the regular meeting held on October 18, 2022, approved entering into a lease agreement with the Augusta National Golf Club for the lease of the Eisenhower Park parking lot during Masters Week. Since the approval, some changes have been suggested by the Augusta National Golf Club to the term of the agreement.
<b>Analysis:</b>	The term of the agreement was changed from January 1 <sup>st</sup> - December 31 <sup>st</sup> each year to June 1 <sup>st</sup> - May 31 <sup>st</sup> each year. The use of the premises was changed to ten days from 9 days.
<b>Financial Impact:</b>	There is no financial impact, the fee was not changed.
<b>Alternatives:</b>	1. To approve entering into a lease agreement 2. To move to no action
<b>Recommendation:</b>	1. To approve entering into a lease agreement
<b>Funds are available in the following accounts:</b>	N/A
<b><u>REVIEWED AND APPROVED BY:</u></b>	N/A

STATE OF GEORGIA                 )  
  )                 LEASE AGREEMENT  
RICHMOND COUNTY                 )

THIS LEASE AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between, Augusta, Georgia, a political subdivision of the state of Georgia (hereinafter referred to as "Lessor"), by and through its Parks and Recreation Department and Augusta National, Inc., a domestic profit corporation with business address of 2604 Washington Road, Augusta, GA (hereinafter referred to as "Lessee");

WITNESSETH:

1. Premises: The Lessor, for and in consideration of the rents, covenants, agreements, and stipulations hereinafter set forth, to be paid, kept and performed by the Lessee, does hereby lease unto the said Lessee, and said Lessee hereby agrees to lease and take upon the terms and conditions which hereinafter appear, the following property described as the parking facilities located at 1420 Eisenhower Drive, Augusta, Georgia 30904, more commonly referred to Eisenhower Park (the "Premises").

2. Term: The commencement of this Lease shall be the effective date, and this Lease shall terminate absolutely and without further obligations on the part of Augusta each and every May 31<sup>st</sup>, unless terminated earlier in accordance with the termination provisions of this Agreement and automatically renew on each June 1<sup>st</sup>. The Lease shall be for three (3) years, with two (2) one-year renewal options upon mutual written agreement by the parties. If the Lease is not renewed, or a renewal option not exercised, the Lease shall terminate absolutely.

3. Rental: Lessee shall pay to Lessor during the term according to the following schedule:

Year 1 (2023): Three Thousand Seven Hundred and Fifty Dollars (\$3,750.00)

Year 2 (2024): Five Thousand Dollars (\$5,000.00)

Year 3 (2025): Five Thousand Dollars (\$5,000.00)

Optional Year 1 (2026): Five Thousand Dollars (\$5,000.00)

Optional Year 2 (2027): Five Thousand Dollars (\$5,000.00)

The lease payment shall be payable at least thirty (30) days in advance of the first day of the Lease term. Lessor agrees to provide a receipt to Lessee for payment received. Lessor shall provide Lessee with a receipt evidencing such payment. The terms of this Lease supersede any and all provisions of the Georgia Prompt Pay Act.

4. Use of Premises: The Premises shall only be used for the purpose of providing parking to Lessee's event patrons, and for no other purpose without the advance written consent of Lessor. The Premises shall not be used for any illegal purpose, in any manner that creates a nuisance or trespass, or in any manner to invalidate the insurance or increase the rate of insurance on the Premises.

The use of the premises shall be limited to the first Saturday of the Month of April and shall end on the Second Monday of the Month of April, at midnight, unless sooner terminated by either Lessor or Lessee as herein provided or otherwise agreed to by written amendment to this Lease. The following dates correspond with the dates of the applicable lease year:

Year 1: April 1, 2023 through April 10, 2023.

Year 2: April 6, 2024 through April 15, 2024.

Year 3: April 5, 2025 through April 14, 2025.

Option Year 1: April 4, 2026 through April 13, 2026.

Option Year 2: April 3, 2027 through April 12, 2027.

5. Special Conditions: Upon entering into this Lease Agreement, Lessee shall meet the following conditions:

(a) All vehicles on the premises must be parked in designated parking spaces. At no point will vehicles be allowed to park on the grass, sidewalks, or any other areas or surfaces that are not designated as parking spaces; and

(b) If vehicles are parked in any areas or surfaces not designated as parking spaces, Lessee is solely responsible for the repair of any damage that occurs to said areas.

(c) Prior to the conclusion of the event, Lessee shall restore and clean the premises to a condition that is equal to or better than the condition of the premises upon the beginning of the lease term; and

(d) Should Lessee choose to operate a vehicle(s) on the premises, Lessor shall not be responsible for damage to Lessee's vehicle(s), regardless if such damage is caused by other vehicle(s) or persons(s) in the parking lot(s) or the surrounding park area; and

(e) Should Lessee choose to operate a vehicle(s) on the premises, Lessor shall not be responsible for any damage or loss to possessions or items left in Lessee's vehicle(s).

6. Ownership: The premises shall remain the property of the Lessor throughout the term of the lease.

7. Destruction of or Damage to Premises, Force Majeure: If the Premises are totally destroyed by storm, fire, flood, lightning, earthquake or other casualty, this Lease shall terminate as of the date of such destruction.

"Force Majeure Event" means any act or event that (a) prevents a party (the "Nonperforming Party") from performing its obligations or satisfying a condition to the other party's (the "Performing Party") obligations under this Agreement, (b) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (c) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. If a Force Majeure Event occurs, the Nonperforming Party is excused from the performance thereby prevented and from satisfying any conditions precedent to the other party's performance that cannot be satisfied, in each case to the extent limited or prevented by the Force Majeure Event. When the Nonperforming Party is able to resume its performance or satisfy the conditions precedent to the other party's obligations, the Nonperforming Party shall immediately resume performance under this Lease. The relief offered by this paragraph is the exclusive remedy available to the Performing Party with respect to a Force Majeure Event. A Force Majeure Event includes, but is not limited to: epidemics, pandemics, declared national, state, and local states of emergency, hurricanes, tornadoes, floods, severe and unexpected acts of nature, or the availability of funds in the budget of Augusta.

8. Assignment and Subletting: Lessee may not sublease all or any portion of the Premises or assign this Lease or any interest hereunder, without prior written consent of the Lessor. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against Augusta

9. Signs: Lessee shall place no sign or signs upon Premises except with the written consent of the Lessor. Any and all signs placed on the Premises by Lessee with the consent of the Lessor shall be maintained in compliance with rules and regulations governing such signs and the Lessee shall be responsible to Lessor for any damage caused by installation, use, or maintenance of said signs, and Lessee agrees upon removal of said signs to repair all damages incident to such removal.

10. No Estate in Land: This Lease Agreement shall create the relationship of Lessor and Lessee between the parties hereto and no estate shall pass out of Lessor during the term of the lease.

11. Termination: Lessor may terminate this Agreement in part or in whole upon thirty (30) days' written notice to the Lessee. Lessor has the right to terminate this Lease for any reason or for no reason, but may exercise the Lease termination if, for example, in any instance the Premises are no longer used by the Lessee to provide parking, are used for an illegal purpose, are used to create a nuisance or trespass, or are used so as to invalidate the insurance or increase the rate of insurance on the Premises. Lessee may terminate this agreement at any time upon thirty (30) days' written notice to Lessor; however, in doing so, Lessee shall relinquish all rights, claims or interest, present or future, in the premises. Upon Lessee's termination of this Agreement, Lessor shall immediately take possession of the Premises and Lessor shall be free to do with said Premises as it sees fit.

12. Holding Over: If Lessee remains in possession of Premises after expiration of the term hereof, with Lessor's acquiescence and without any express agreement of parties, Lessee shall be a tenant at will at the rental rate in effect at the end of this Lease; and there shall be no renewal of this Lease by operation of law.

13. Rights Cumulative: All rights, powers and privileges conferred hereunder upon Lessor shall be cumulative but not restrictive to those given by law.

14. Service of Notice: Any notice, demand, request, approval, consent, or other communication (hereinafter referred to as "notice"), which Lessor or Lessee may be required to permit to give to each other shall be in writing and shall be mailed in an official United States Post Office, certified or registered mail, return receipt requested, with adequate postage

prepaid, to the other party at the address as each party as designated in this Lease or shall have changed by proper notice in writing to the other. Such addresses are as follows:

Lessor: Augusta, Georgia  
Office of the Mayor  
Mayor Garnett L. Johnson  
535 Telfair Street, Suite 200  
Augusta, GA 30901

With copies to:

ARC Law Department  
Wayne Brown, General Counsel  
535 Telfair Street, Building 3000  
Augusta, GA 30901

Lessee: Augusta National, Inc.  
2604 Washington Road  
Augusta, Georgia 30904

If notice is not an answer or reply to a previous notice from the other party, the time of rendition of such shall be the date when the receipt is signed, refused or returned unclaimed. If the notice is an answer or reply to a previous notice from the other party, the time of rendition of such shall be the date postmarked by the United States Postal Service. In the event of a postal strike or other interference with the regular delivery of mail, notices may be served in person or by email in lieu of certified or registered mail, but shall be effective upon receipt.

15. Indemnification: Lessee specifically agrees that its operations shall be conducted in compliance with all federal, state and local laws, rules and regulations and agrees to indemnify and hold harmless Lessor, Lessor's officers, employees, and agents, harmless from and against all liabilities, losses, suits, claims, demands, judgments, fines, damages, costs and expenses (including all costs for investigation and defense thereof, including but not limited to court costs, expert fees and reasonable attorneys' fees) which may be incurred by, charged to, or recovered from the foregoing (i) by reason or on account of damages to or destruction of the property of Lessor, or any property of, injury to or death of any person, resulting from or arising



out of Lessee's use of the premises (except when such damages, destruction, injuries or death arise solely by reason of Lessor's negligence), or

(ii) arising out of the failure of Lessee to keep, observe or perform any of the agreements or conditions of this Agreement. Lessee will refer to Lessor promptly upon notice thereof, any claim made or suit instituted against it which, in any way, affects Lessor or its insurer, and either Lessee shall defend or compromise same following notice from Lessor, then Lessor shall have the right to compromise and defend the same to the extent of its interests, with all cost to be borne by Lessor. This Lease shall not be construed as waiving any of Augusta, Georgia's sovereign immunities conferred to it.

16. Waivers of Rights: No failure of Lessor to exercise any power given it hereunder or to insist upon strict compliance by Lessee with any of its obligations hereunder and no custom or practice of the Lessor at variance with the terms hereof shall constitute a waiver of Lessor's right to demand strict compliance with terms hereof.

17. Time of Essence: Time is of the essence of this Agreement.

18. Inspection by Lessor: Lessor, its authorized officers, employees, agents or representatives shall have the right to enter upon the premises to make inspections during regular business hours when a representative of the Lessee is present, or at any time in case of emergency and/or to determine whether Lessee has complied with and its complying with the terms and conditions of this agreement; provided, however, that said inspection shall in no event unduly disrupt or interfere with the operation of the Lessee.

19. Insurance: Lessee hereby agrees to maintain at all times at Lessee's expense, comprehensive general public liability insurance coverage for claims against bodily and property damage occurring in connection with the use and occupancy of the leased premises in an amount not less than one million dollars (\$1,000,000.00) on account of an occurrence, with an aggregate limit of one million dollars (\$1,000,000.00). Lessee hereby agrees to also maintain at all times at Lessee's expense, Workmen's Compensation Insurance. All policies including insurance coverage requirement to be maintained by Lessee shall be issued by an insurance carrier or carriers, licensed to do business in the State of Georgia having an "A" or better rating. Upon request, Lessee and Lessor thereof shall provide a certificate of all insurance required hereunder to the other. Augusta, Georgia shall be named as an additional insured, except for worker's compensation, and a copy of such policy or a certificate of insurance shall be filed with the Director at the time of the execution of this Agreement.

20. Open Records: The Lessee acknowledges that all records relating to this Agreement and the services to be provided under this Agreement may be a public record subject to Georgia's Open Records Act. (O.C.G.A. § 50-18-70, et seq.). Lessee shall cooperate fully in responding to such request and making all records, not exempt, available for in section and copying as provided by law. Lessee shall notify Lessor immediately of any request made under the Open Records Act and shall furnish Lessor with a copy of the request and the response to such request.

21. Governing Law: This Agreement shall be governed and interpreted by the laws of the State of Georgia.

22. Venue: All claims, disputes and other matters in question between the Lessor and the Lessee arising out of or relating to the Agreement, or the breach thereof, shall be decided in the Superior Court of Richmond County, Georgia. The Lessee, by executing this

Agreement, specifically consents to venue in Richmond County and waives any right to contest the venue in the Superior Court of Richmond County, Georgia.

23. Acknowledgement. Lessee acknowledges that this Lease and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the Board of Commissioners and approval of the Mayor. Under Georgia law, Lessee is deemed to possess knowledge concerning Augusta, Georgia's ability to assume contractual obligations and the consequences of Lessee's provision of goods or services to Augusta, Georgia under an unauthorized contract, amendment, modification, change order or other similar document, including the possibility that the Lessee may be precluded from recovering payment for such unauthorized goods or services. Accordingly, Lessee agrees that if it provides goods or services to Augusta, Georgia under a contract that has not received proper legislative authorization or if the Contractor provides goods or services to Augusta, Georgia in excess of the any contractually authorized goods or services, as required by Augusta, Georgia's Charter and Code, Augusta, Georgia may withhold payment for any unauthorized goods or services provided by Lessee. Lessee assumes all risk of non-payment for the provision of any unauthorized goods or services to Augusta, Georgia, and it waives all claims to payment or to other remedies for the provision of any unauthorized goods or services to Augusta, Georgia, however characterized, including, without limitation, all remedies at law or equity

24. Entire Agreement: This Lease contains the entire agreement of the parties and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. No failure of either party to exercise any power given it hereunder, or to insist upon strict compliance by either party of any obligations hereunder and no custom or practice of the parties at variance with the terms hereof. This Agreement may only be amended in writing signed by both parties. If any term or provision

of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.

**[SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

**LESSOR: AUGUSTA, GEORGIA**

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

**The Honorable Garnett L. Johnson**  
**Mayor**

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

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

Lena J. Bonner  
 Clerk of the Commission

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

DEPARTMENT APPROVAL:

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

Maurice McDowell  
 Director, Augusta Parks & Recreation

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

**LESSEE: Augusta National, Inc.**

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

Name: Steven P. Ethun  
 Title: Senior Director, Masters Tournament

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

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

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

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



## Public Services Committee Meeting

Meeting Date: January 31, 2023

Motion to approve the MOU with Aiken-Augusta Swim League for 2023

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<b>Department:</b>	Parks & Recreation Department
<b>Presenter:</b>	Maurice McDowell
<b>Caption:</b>	Motion to approve the memorandum of understanding with Aiken-Augusta Swim League (ASL) for the usage of the Augusta Aquatic Center in 2023.
<b>Background:</b>	Augusta and ASL entered into an agreement for the usage of the Augusta Aquatic Center in 2021. The agreement is set to expire on December 31, 2022.
<b>Analysis:</b>	The conditions of the agreement have not been changed from the current conditions.
<b>Financial Impact:</b>	The agreement provides the means to charge ASL the fees for the usage of the facility for swim practice and events.
<b>Alternatives:</b>	<ol style="list-style-type: none"> <li>1. To move to approve</li> <li>2. To move to no action</li> </ol>
<b>Recommendation:</b>	<ol style="list-style-type: none"> <li>1. To move to approve</li> </ol>
<b>Funds are available in the following accounts:</b>	N/A
<b><u>REVIEWED AND APPROVED BY:</u></b>	N/A

**MEMORANDUM OF UNDERSTANDING BETWEEN  
AIKEN-AUGUSTA SWIM LEAGUE  
AND  
AUGUSTA, GEORGIA**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between AUGUSTA, GEORGIA ("Augusta"), a political subdivision of the State of Georgia and the Aiken-Augusta Swim League ("ASL"), known collective as the "Parties," and clarifies the roles and responsibilities of the Parties regarding the use of the Augusta Aquatic Center.

**WHEREAS**, Augusta and ASL deem that it would be beneficial to both the Augusta taxpayers and local Augusta residents for ASL and Augusta to enter into a partnership and jointly provide certain programming and certain services at the Augusta Aquatic Center, 3157 Damascus Road, Augusta, GA 30909; and

**WHEREAS**, Augusta will continue and accept the responsibility to staff, develop, and implement sound programs for the best interest of this community; and

**WHEREAS**, ASL will continue to develop a professional swim program at the Augusta Aquatic Center, open and available to qualified youth participants;

**NOW, THEREFORE**, for and in consideration of the mutual promises and the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**I. GENERAL RESPONSIBILITIES OF ASL**

1. ASL shall provide sufficient staff members for the delivery of its swim program.

i. "Staff," "staff members," and/or "members of staff" is hereby defined as individuals who are certified in CPR and First Aid and are employees of ASL.

ii. All staff members shall be subject to a background check, drug and alcohol testing, and any other pre-employment or employment guidelines set by Augusta for ASL, the Augusta Aquatic Center, and/or non-specific guidelines for operators and/or program facilitators of/at facilities owned by Augusta. ASL shall communicate to staff members all restrictions, obligations, and responsibilities of ASL and ASL's staff members.

2. ASL shall provide adequate staffing levels at the Aquatic Center during youth programming.

i. "Youth programming" are activities or events that are primary designed, dedicated, or intended for persons 18 years of age or younger, or for groups of people that are likely to include persons 18 years of age or younger, such as swim lessons and/or swim practice.

ii. Adequate staffing levels during youth programming is at the sole discretion of the Director of the Parks and Recreation Department of Augusta, but at no time shall be less than one staff member per twenty persons 18 years of age or younger ("staff/youth ratio"). The Director of the Parks and Recreation Department of Augusta reserves the right to modify the staff/youth ratio at any time, for any reason or for no reason, for any particular event or programming, for a series of events or programming, or for all youth programming at the Augusta Aquatic Center and/or conducted by ASL.

iii. ASL shall not conduct youth programming with an insufficient staff/youth ratio. If at any time during a youth program the staff/youth ratio is not equal to 1/20 or greater, or not equal to what had been modified by the Director of the Parks and Recreation Department of Augusta or greater, ASL shall end the youth program immediately, taking into account the health and safety of participants, and may continue the program only when the staff/youth ratio complies with this subparagraph. For the purpose of this subparagraph, and in order to accurately determine the staff/youth ratio, lifeguards supervising the lap pool are counted towards the staff.

3. ASL shall be an organization incorporated by the State of Georgia, and at all times maintain good standing as such. ASL shall at all times be a tax-exempt organization under 501(c)(3) of the Internal Revenue Code. At the annual meeting, ASL shall provide the Director of the Parks and Recreation Department of Augusta proof of its good standing as an incorporated organization and its IRS tax filing for the previous financial year.

4. ASL shall meet with Augusta annually ("the annual meeting") to discuss operations and programs, as well as any changes, modifications, or amendments to this MOU and/or any fees that may need to be modified or implemented. The annual meeting shall be held no later than June 30 of the calendar year.

5. ASL agrees to indemnify and hold harmless Augusta and its employees and agents from and against any and all liabilities, claims, suits, demands, damages, losses and expenses, including attorneys' fees, arising out of or resulting from ASL's operation of the professional swim program or any other part of this MOU. ASL further agrees that the foregoing agreement to indemnify and hold harmless applies to any claims for damage or injury to itself and/or any individuals employed or retained by it in connection with any changes, additions, alterations, modifications and/or improvements made to the Augusta Aquatic Center, and hereby releases Augusta and its officers, employees, representatives and agents from liabilities, claims, suits, demands, damages, losses and expenses, including attorneys' fees in connection with the aforementioned.

6. ASL shall, at all times that this MOU is in effect, cause to be maintained in force and effect an insurance policy that will insure and indemnify Augusta against liability or financial loss resulting from injuries occurring to persons or property or occurring, as a



result of any negligent error, act or omission of ASL during the term of this MOU. ASL shall provide, at all times, Worker's Compensation insurance in accordance with the laws of the State of Georgia. Augusta will be named as an additional insured with respect to ASL's liabilities hereunder in insurance coverages. The policies shall be written by a responsible company(s), to be approved by Augusta, and shall be non-cancellable except on thirty (30) days' written notice to Augusta. The requirements contained herein, as well as City's review or acceptance of insurance maintained by ASL is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by ASL under this MOU:

- i. *Commercial General Liability* – Combined single limit of no less than \$1,000,000 each occurrence and \$2,000,000 aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Cross Liability.
- ii. *Additional Insured* – ASL agrees to endorse Augusta as an Additional Insured on the Commercial General Liability Insurance Policy. The Additional Insured shall read 'Augusta as its interest may appear'.
- iii. *Certificate of Insurance* – ASL agrees to provide Augusta a Certificate of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect. If ASL receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, ASL agrees to notify Augusta within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance.

7. ASL shall follow all safety guidelines set forth by Augusta. ASL shall immediately notify Augusta of any violation of law, including but not limited to trespass, burglary, theft, assault, and/or battery. ASL shall immediately notify Augusta in the event of any property damage to the Aquatic Center. ASL shall immediately notify Augusta in the event of any medical emergency, accident resulting in injury or property damage, or in the event of break-ins, property damage, emergencies, injuries, or incidents. An Augusta-issued incident report must be submitted immediately following any such incident.

8. ASL shall abide by all federal, state, and local laws.

## II. GENERAL RESPONSIBILITIES OF AUGUSTA

1. Augusta shall provide utilities for the Augusta Aquatic Center, as well as provide repairs and technical and general maintenance. Augusta shall provide for trash collection and recycling from the existing refuse and recycling bins on the premises of the Aquatic Center. Augusta shall provide janitorial supplies for the Aquatic Center.

2. Augusta shall comply with all federal, state, and local laws, including, but not limited to, ensuring that the Augusta Aquatic Center complies with the Americans with Disabilities Act (ADA).
3. Augusta shall provide guidelines, manuals, or rules concerning any obligation or responsibility of ASL under this MOU.
4. Augusta shall be responsible for managing any and all improvements to the Augusta Aquatic Center, surrounding park space, or other property owned by Augusta regardless of funding source.
5. Augusta shall provide, at all times, contacts for persons within Augusta to ASL for ASL to perform its obligations and responsibilities under this MOU.
6. Augusta shall make the Augusta Aquatic Center available to ASL during regular hours of operation. Regular hours of operation are subject to change within reasonable notice at the discretion of the Director of the Parks and Recreation Department of Augusta.
7. Augusta shall give advance notice to ASL if for any reason a temporary reduction in service is necessary and/or not avoidable. Such service reductions may occur due to facility rentals, special events, safety concerns - included but not limited to shortage of staff, and maintenance concerns that require a facility closure. If possible and known at the time, the advance notice shall be given no less than one (1) week before the service reduction, or if the issue requires immediate attention, all reasonable effort shall be made by Augusta to notify ASL as soon as possible.

### III. SPECIFIC RESPONSIBILITIES OF ASL

1. During the annual meeting, ASL shall provide the Augusta Aquatic Center with a written request for lane space and practice times. The request shall be based on the number of participants in the swim program, and shall take into consideration the public's need for swim space as well as other groups, teams and programs.
2. During the annual meeting, ASL shall provide the Augusta Aquatic Center with a list of planned swim meets with approximate dates for the following year. Any additions, deletions, or modifications to this list shall be made at least six (6) weeks before the intended date of the swim meet.
3. ASL shall pay a monthly usage fee for swim practice in the amount of \$4000 for the months of January through July and the months of September through December. There shall be no swim practice and therefore no monthly usage fee for the month of August.
  - i. ASL shall be charged monthly post-usage, and payment of such fees will be due within ten (10) days of the date of each invoice.

ii. These fees cover swim practice during regular hours of operation and the following additional items:

- One (1) Storage room, located on the second floor of the Augusta Aquatic Center,
- Four (4) Swimming pool equipment tote-masters, used to store practice items on the pool deck,
- Use of the conference room for the monthly board meeting of ASL if available.

iii. The monthly usage fee shall be prorated if the Augusta Aquatic Center is not available for more than 3 consecutive training days, or for more than 5 days in a given month, due to maintenance issues, other recreational activities preventing swim practice, or events of a similar nature. This prorated fee does not apply to Force Majeure events as defined in Section VI, Subsection 4. All prorated fees will be applied to the following month's fees as a statement credit.

4. ASL shall enter into and sign a lease agreement with Augusta for each planned swim meet no later than 8 weeks before the meet date.

i. In accordance with Augusta's facility rental policies, a non-refundable deposit payment is due on the date of the MOU, the remaining balance is due thirty (30) days prior to the event. The amount of the deposit is \$800 per full meet and \$500 for One-Day-Meets.

ii. The rental fee is \$8,000.00 per full meet (Friday-1/2 day and Saturday & Sunday-full days) and \$3,000 for One-Day-Meets.

iii. The rental fee includes all charges, fees and payments for the swim meet, and specifically covers the following items:

- Exclusive use of the Augusta Aquatic Center (lap pool, recreation pool, pool deck, meeting room, changing rooms, visitor / spectator gallery);
- Exclusive use of the concession room (when not used for concessions sales by Augusta);
- Fees for the usage of equipment such as timing systems (subject to availability);
- Fees for additional staff such as police officers and/or fire marshals; and
- Fees for Aquatic Center staff, including maintenance and cleaning staff.

5. ASL may make requests for material improvements of the Augusta Aquatic Center during the annual meeting. Any request shall be made in writing, and identify the needs, costs and potential benefit for ASL, the Augusta Aquatic Center, and/or Augusta.

6. As a member of the Augusta Aquatic Center community, ASL shall at all times follow all rules, regulations, and guidance in place. ASL, Augusta, the Augusta Aquatic Center, and the staff and members of those respective agencies shall treat each other as

partners, with respect, and with a mutual understanding of their commitment to providing the highest level of safety and service to the guests and visitors of the Augusta Aquatic Center.

#### IV. SPECIFIC RESPONSIBILITIES OF AUGUSTA

1. Augusta shall allocate swim lanes for swim practice to ASL under the principles laid out herein.

i. The Augusta Aquatic Center operates the lap pool in two modes, based on season. Between late March and early August, the lap pool will be operated as long course pool, with eight (8) 50-meter-lanes. Between early August and late March, the lap pool will be operated as short course pool, with eighteen (18) 25-meter-lanes. The exact dates shall be determined at the discretion of the Director of Parks & Recreation or a staff member authorized by the Director and are subject to change on an as-needed-basis.

ii. During the annual meeting, Augusta will receive the written request for lane space and practice times. Augusta shall make a candid and benevolent assessment of the needs laid out by ASL and shall consider the request made to the best of Augusta's ability, while also considering, balancing and providing public access to practice space, programming needs by Augusta, and other requests for lane space and practice times such as but not limited to local high schools, and other swim teams.

iii. Augusta shall notify ASL about the determination made and identify allocated swim lanes and practice times in writing.

iv. Under the terms of this MOU, ASL shall at a minimum be allocated swim lanes as follows:

- Short Course: Thirteen (13) lanes
- Long Course: Five (5) lanes

v. ASL shall be allowed the use of one (1) additional lane during both short course and long course setup, as long as that swim lane is not needed for public swim or programming by Augusta. Aquatic Center staff shall make sound and considerate judgement in determining that need.

2. During swim meets, Augusta shall provide the following services to ASL:

i. Augusta shall provide at a minimum one (1) facility maintenance staff and one (1) facility superintendent on site throughout the entirety of the swim meet. During the duration of the meet, the superintendent shall be available for all technical questions regarding the Augusta Aquatic Center. Maintenance staff shall assist with maintenance and cleaning inside and around the facility.

ii. Augusta shall provide for lifeguards, fire marshals and police officers to be present at the swim meet. The determination of required staffing levels are made at the discretion of the Director of Parks & Recreation, in conjunction with guidance through the Sheriff's Office, the Fire Department, and in observance of all applicable rules, policies, guidelines and laws.

iii. Augusta may choose to provide concession sales during certain times or all times of a swim meet at Augusta's discretion. Should Augusta choose to provide concession sales during a swim meet, ASL shall receive a statement credit of twenty-five (25) percent of the net concession sales revenue, usable towards payment for future rentals.

3. Augusta shall undertake any and all reasonable effort to maintain the Augusta Aquatic Center and to implement and maintain material improvements. In doing so, Augusta shall take into consideration the needs and requirements of the community and of the partners at the Augusta Aquatic Center, such as ASL. All improvements and maintenance are subject to availability of funding and follow Augusta's guidelines and procedural policies. No item, tool, utensil, equipment, and/or system shall be made part of the Augusta Aquatic Center without prior written approval of the Director of Parks & Recreation, or the appropriate Augusta approval authority.

## V. GENERAL TERMS

1. The law of the State of Georgia shall govern the MOU between Augusta and ASL with regard to its interpretation and performance, and any other claims related to this MOU. All claims, disputes and other matters in question between Augusta and ASL arising out of or relating to the MOU, or the breach thereof, shall be decided in the Superior Court of Richmond County, Georgia. ASL, by executing this MOU, specifically consents to jurisdiction and venue in Richmond County and waives any right to contest the jurisdiction and venue in the Superior Court of Richmond County, Georgia.

2. ASL acknowledges that this contract and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the Board of Commissioners and approval of the Mayor. Under Georgia law, ASL is deemed to possess knowledge concerning Augusta's ability to assume contractual obligations and the consequences of ASL's provision of goods or services to Augusta under an unauthorized contract, amendment, modification, change order or other similar document, including the possibility that ASL may be precluded from recovering payment for such unauthorized goods or services. Accordingly, ASL agrees that if it provides goods or services to Augusta under a contract that has not received proper legislative authorization or if ASL provides goods or services to Augusta in excess of any contractually authorized goods or services, as required by Augusta's Charter and Code, Augusta may withhold payment for any unauthorized goods or services provided by ASL. ASL assumes all risk of non-payment for the provision of any unauthorized goods or services to Augusta, and it waives all claims to payment or to

other remedies for the provision of any unauthorized goods or services to Augusta, however characterized, including, without limitation, all remedies at law or equity.

3. The terms of this MOU supersede any and all provisions of the Georgia Prompt Pay Act.

4. The term of this MOU shall terminate absolutely and without obligation on the part of Augusta each and every December 31st, unless terminated earlier in accordance with the termination provisions of the MOU. The term of this MOU shall begin on January 1, 2023 and terminate absolutely and without obligation on the part of Augusta on December 31, 2023, unless terminated earlier in accordance with the termination provisions of the MOU.

5. This MOU shall supersede any and all previously executed agreements between the parties.

6. This MOU constitutes the final agreement between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this MOU. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this MOU are expressly merged into and superseded by this MOU. The provisions of this MOU cannot be explained, supplemented or qualified through evidence of trade usage or a prior course of dealings. In entering into this MOU, neither party has relied upon any statement, representation, warranty or agreement of any other party except for those expressly contained in this MOU. There are no conditions precedent to the effectiveness of this MOU, other than any that are expressly stated in this MOU.

7. In the event that the terms and conditions of this MOU are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this MOU, nor will such non-enforcement prevent such party from enforcing each and every term of this MOU thereafter.

8. If any term or provision of this MOU is held invalid or unenforceable, the remainder of this MOU will be considered valid and enforceable to the fullest extent permitted by law.

9. This relationship is intended solely for the mutual benefit of the parties hereto, and there is no intention, express or otherwise, to create any rights or interests for any party or person other than ASL and Augusta; without limiting the generality of the foregoing, no rights are intended to be created for any student, parent or guardian of any student, spouse, next of kin, employer, prospective employer, or any other third party.

10. Neither party, or its agents or employees, is an agent, employee, or servant of the other party.

11. Except as otherwise provided in this MOU, ASL may not transfer, sell, or otherwise contract with any other person or organization its obligations or responsibilities in this MOU without prior approval of Augusta.

## VI. TERMINATION AND NOTICES

1. To the extent that it does not alter the scope of this MOU, Augusta may unilaterally order a temporary halt of the performance by ASL under this MOU upon written notice.
2. All notices, demands and requests which may be required to be given by the Lessor or the Lessee to the other shall be in writing and shall be deemed to have been properly given when postage sent prepaid by registered and certified mail (with return receipt requested) addressed as follows:

If intended for ASL:      Aiken-Augusta Swim League  
    P. O. Box 2896  
    Augusta, GA 30901

If intended for Augusta:  
    Office of the Mayor  
    Attn: Hardie Davis, Jr.  
    535 Telfair St. Suite 200  
    Augusta, GA 30901

Copy:

Augusta Parks & Recreation Department  
    Director Maurice McDowell  
    2027 Lumpkin Road  
    Augusta, GA 30906

3. The parties may terminate this MOU in part or in whole upon sixty (60) days' written notice to the other party.
4. "Force Majeure Event" means any act or event that (a) prevents a party (the "Nonperforming Party") from performing its obligations or satisfying a condition to the other party's (the "Performing Party") obligations under this MOU, (b) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (c) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. If a Force Majeure Event occurs, the Nonperforming Party is excused from the performance thereby prevented and from satisfying any conditions precedent to the other party's performance that cannot be satisfied, in each case to the extent limited or prevented by the Force Majeure Event. When the Nonperforming Party is able to resume its performance or satisfy the conditions precedent to the other party's obligations, the Nonperforming Party shall immediately resume performance under this MOU. The relief offered by this paragraph is the exclusive remedy available to the Performing Party with respect to a Force Majeure Event. A Force Majeure Event includes, but is not limited to: epidemics, pandemics, declared national, state, local

states of emergency, hurricanes, tornadoes, floods, severe and unexpected acts of nature, or the availability of funds in the budget of Augusta.

**IN WITNESS WHEREOF**, the Parties state and affirm that they are duly authorized to bind the respected entities designated below as of the day and year indicated.

**[SIGNATURES ON THE FOLLOWING PAGE]**



IN WITNESS WHEREOF, a duly authorized representative of each party has executed this MOU as of the date(s) set forth below.

Aiken-Augusta Swim League

Augusta, Georgia

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

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

Name: \_\_\_\_\_

Name: Hardie Davis, Jr.

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

Title: Mayor

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

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

ATTEST: (SEAL)

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

Name: Lena J. Bonner

Title: Clerk of the Commission

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



## Public Services Committee

Meeting Date: January 31, 2023

### Sustainability and Design Standards: Zoning Ordinance

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<b>Department:</b>	Planning & Development
<b>Presenter:</b>	Carla Delaney, Director of Planning & Development
<b>Caption:</b>	Motion to approve the Planning Commission working on Sustainability & Design Standards for potential incorporation into the Zoning Ordinance.
<b>Background:</b>	The Planning Commission is seeking permission to make recommendations regarding updates to the Zoning Ordinance with an emphasis on the sustainability and design of residential developments.
<b>Analysis:</b>	In the review and recommendation stage of applications to the Augusta Commission, concerns have been raised about the quality of the residential developments being proposed. Meetings with the entities directly related to residential development may be necessary.
<b>Financial Impact:</b>	N/A
<b>Alternatives:</b>	N/A
<b>Recommendation:</b>	Motion to approve the Planning Department and Planning Commission reviewing and recommending sustainability and design standards to the Augusta Commission.
<b>Funds are available in the following accounts:</b>	N/A
<b><u>REVIEWED AND APPROVED BY:</u></b>	N/A



## Public Services Committee

Meeting Date: January 31, 2023

Scoring Towers at Diamond Lakes

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<b>Department:</b>	N/A
<b>Presenter:</b>	N/A
<b>Caption:</b>	Update and review of current work progress on scoring towers at Diamond Lakes. Please discuss total costs spent since this project began in 2019 and the anticipated costs to be complete. Also discuss timeline for work being complete as well as when restrooms will once again be open. Attached documentation was sent to commission on Dec. 8, 2022. <b>(Requested by Commissioners Brandon Garrett and Alvin Mason)</b>
<b>Background:</b>	N/A
<b>Analysis:</b>	N/A
<b>Financial Impact:</b>	N/A
<b>Alternatives:</b>	N/A
<b>Recommendation:</b>	N/A
<b>Funds are available in the following accounts:</b>	N/A
<b><u>REVIEWED AND APPROVED BY:</u></b>	N/A

**Lena Bonner**

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**From:** Takiyah A. Douse  
**Sent:** Thursday, December 8, 2022 5:22 PM  
**To:** Lena Bonner  
**Cc:** Wayne Brown; Natascha Dailey; Ron Lampkin; Maurice D. McDowell; Charles Jackson  
**Subject:** Diamond Lakes Timeline  
**Attachments:** DL Towers Timeline with Support Exhibits.pdf

Ms. Bonner,

Please forward the below communication and attached document to the Commission.

---

Mayor Davis and Augusta Commissioners,

The attached Diamond Lakes timeline and supporting exhibits details repair/replacement activities completed at the youth and adult scoring towers. Please note, work is in progress. Ms. Bonner will provide you with hardcopies.

Should you have any questions regarding this communication, please feel free to contact me.

Thanks,

**Takiyah A. Douse | Interim Administrator**  
**Augusta – Richmond County**  
 535 Telfair Street Augusta, Ga 30901  
 (p) 706-821-2400 | (f) 706-821-2819  
[TDouse@augustaga.gov](mailto:TDouse@augustaga.gov) | [www.augustaga.gov](http://www.augustaga.gov)

*Augusta*  
 G E O R G I A

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AED:104 1





## Office of the Administrator

Takiyah A. Douse  
Interim Administrator

**MEMORANDUM**

**Date:** December 8, 2022

**To:** Commissioner Brandon Garrett  
Commissioner Alvin Mason

**Cc:** Mayor Hardie Davis Jr.  
Mayor Pro Tem Bobby Williams  
Commissioner Jordan Johnson  
Commissioner Dennis Williams  
Commissioner Catherine Smith McKnight  
Commissioner Ben Hasan  
Commissioner Sean Frantom  
Commissioner Francine Scott  
Commissioner John Clarke

**From:** Takiyah A. Douse, Interim Administrator

**Subject:** Diamond Lakes Scoring Towers Timeline

In response to your request for information concerning the repair/replacement timeline for activities initiated and completed at the Diamond Lakes Regional Park scoring towers (youth and adult) I have compiled the below data, with supporting exhibits attached.

Please note, the information contained is not comprehensive, yet detailed, to provide you with a key picture of the events as they occurred.

**November, 2012 Exhibit #1**

*Parks and Recreation (P&R) advertised bid #12-222. Scope of work included replacing ceramic tile flooring with liquid applied waterproof flooring compound. Bids received were over budget, thus no work was completed to rectify the problem.*

**June, 2018 Exhibit #2**

Initial email notice of drainage issue was communicated from Gary Hegner, Parks and Recreation (P&R) Deputy Director, to Takiyah Douse, Central Services Department Director (CSD), reporting water leaks in several areas throughout the adult tower. A CSD in-house assessment was conducted and remediation efforts were attempted.

**October, 2018**

Site visits and staff communications proved efforts made were not successful.

**November, 2018 – April, 2019 Exhibit #3**



## Office of the Administrator

Takiyah A. Douse  
Interim Administrator

### Bid Item 19-147 Advertised

- 12/21/2018 Mandatory Pre-Bid
- 01/10/2019 Bid open date
- 04/22/2019 Awarded to Contract Management Inc. (CMI) at \$518,800.00 (PO #19CSS725 final total, \$528, 402.50)

Scope of work included replacing ceramic tile flooring with a liquid applied waterproof flooring compound and drainage system repairs. Final scope was revised to remove drainage system repairs – see February, 2019.

### February, 2019 Exhibit #4

As an emergency, Universal Plumbing (PO #369032) was engaged to provide and install labor and materials to replace all roof drain floor sinks on 2<sup>nd</sup> floor of both buildings, replace surrounding concrete to grade and jetting drainage system to assure proper operation for \$54,392.00.

### March, 2019 Exhibit #5

Cranston Engineering, original engineering firm of record, was engaged for consultative professional services (\$2,280) associated with the drainage and flooring issues at the Diamond Lakes scoring towers to include site visits, drainage improvement recommendations, flooring surface improvement reviews and recommendations, and coordination with construction and owners' teams.

### June, 2019

Flooring work associated with bid #19-147 substantially completed by CMI.

### July, 2019 Exhibit #6

CSD staff was tasked with SR #151280 and completed repairing any damage in the restrooms resulting from the leaks (to include drywall, ceiling tiles, etc).

### March, 2020

COVID-19 shut down

### June, 2020

Notice of additional debris found in plumbing

### September, 2020 Exhibit #7

Universal Plumbing was procured to complete a video inspection of Diamond Lakes Towers 1 & 2 as a result of above June 2020 notification (P3995350) for the amount of \$1,120.00



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**Office of the Administrator**

Takiyah A. Douse  
Interim Administrator

**March, 2021 Exhibit #8**

- Site Visit with Scott Williams, Cranston Engineering – Senior Principle Engineer, and Michael Myles, CSD Facilities Maintenance Manager, determined the drain pipes leading from the deck to the storm sewer system were still clogged and have not been properly cleaned.
- Contacted Universal Plumbing, multiple times (March – June), to get a copy of the video inspection report associated with P3995350 from September 2020. Documentation never received.

**May, 2021 Exhibit #9**

- CMI was contracted to complete the drain cleaning needed (\$17,812) See details with Exhibit #9
- Original drainage issue deemed rectified

**July, 2021 Exhibit #10**

Dura Clean (PO #416700 \$14,175) was engaged for mold remediation in the 'red/adult scoring tower' and atomized anti-microbial fogging in the 'green/youth scoring tower'. Associated work completed.

**August, 2021 Exhibit #11**

Received email from Lida Gregg, P&R, communicating additional issues (holes drilled by Universal Plumbing and Umpire room HVAC leaks). In-house team went to assess.

**March, 2022 Exhibit #12**

Service request #271845 entered by Bobby Martin noting a leak from the ceiling in the electrical room.

**May, 2022 Exhibit #13**

Commission approved funding to contract with Horizon Construction for \$449,979 to complete attached scope of work associated with drainage.



## Exhibit 1




## Recreation, Parks and Facilities Department

Richard M. Acree, Jr.  
Facilities Manager  
Parks & Facilities

MEMORANDUM

TO: Ms. Geri Sams, Procurement Director

FROM:  Mr. Richard M. Acree, Jr.,  
Facilities Manager

DATE: January 17, 2013

SUBJECT: Bid Item 12-222 Diamond lakes Scoring Towers

Ms. Sams:

The bid packages on the referenced RFP were received in the Procurement Conference Room on December 18, 2012. We received three compliant bids, all were over the funding budgeted for the scope of work defined.

It is, therefore, our recommendation that Augusta reject all bids. The department will reconsider scope and work to identify other funds. We will let you know within 60 days if we decide to rebid the existing scope, modify and rebid or abandon the project.

Thank you for your assistance in securing this pricing. Please do not hesitate to call if you have any questions or need additional clarification.

RMA

Cc: Bill Shanahan  
Ron Houck  
Chris Scheuer  
Joanie Smith  
Lonnie Wimberly  
Phyllis Mills  
Nancy Williams

18 JAN '13 PM 3:21

## Exhibit 1

**Bid Opening**  
**Bid Item #12-222**  
**Diamond Lakes Scoring Towers Deck Repairs**  
**for Augusta, Georgia - Recreation, Parks and Facilities Department**  
**Bid Due: Tuesday, December 18, 2012 @ 3:00 p.m.**

VENDORS	Attachment B	E-Verify #	SAVE Form	Addendum 1	Original	4 Copies	Bid Bond	Bid Amount
RPI 1810 E Wythe Road Augusta, GA 30809								
CMI 1876 Killbuckworth Road Augusta, GA 30904								
Armar Construction 4211 Smithfield Creek Evans, GA 30809								
E & D Coating 2001 Mills B Lane Blvd Savannah, GA 31405	Yes	44759	Yes	Yes	Yes	No	Yes	Non Compliant
Metro Waterproofing 2835 Alcove Drive Scottsdale, GA 30079	Yes	67730	Yes	Yes	Yes	Yes	Yes	\$99,962.00
Blount's Complete Home Services 2907C Tobacco Road Hephzibah, GA 30815								
Turner Mechanical 12384 Atomic Road Beech Island, SC 29842	Yes	229799	Yes	Yes	Yes	Yes	Yes	\$145,000.00

## Exhibit 2

**From:** Lonnie Wimberly  
**To:** Takiyah A. Douse, Glenn Parker  
**Cc:** Joanie Adams; Ronald Houck; Michael Myles; Robert Martin; Gary S. Heener  
**Subject:** RE: DL Adult Tower - Water Leak  
**Date:** Friday, October 26, 2018 5:49:34 PM  
**Attachments:** Image001.png

the ceiling leaks that are happening at both the Adult and Youth Towers is a mixture of material in the drain pipes and the second floor tile grout deterioration. The material in the pipes is thought to be a combination of floor tile adhesive, grout and debris, which has hardened to the point where two plumbing companies couldn't rod out the line. There is also evident that when it rains water builds up on the second floor, then seeps and drains beneath tiles without going through the floor drain, hence ceiling leaks.

The first recommended course of action is to get the drain lines open. Next evaluate the second floor deck for a major overhaul, which more than likely will require sealing the deck and replacement of tiles.

At this time we're unable to get a plumber to confirm a date to be on site before Tuesday, October 30, they're backlogged because of the current rains.

Sincerely,

Lonnie Wimberly  
Central Services Department  
Deputy Director - Facilities  
706-821-1948, Cell: 706-836-0427  
Augusta, Georgia

■

**From:** Takiyah A. Douse  
**Sent:** Friday, October 26, 2018 3:45 PM  
**To:** Glenn Parker <GParker@augustaga.gov>  
**Cc:** Joanie Adams <JAdams@augustaga.gov>; Ronald Houck <rhouch@augustaga.gov>; Lonnie

## Exhibit 2

Wimberly <LWimberly@augustaga.gov>; Michael Myles <MMyles@augustaga.gov>; Robert Martin <RMartin@augustaga.gov>; Gary S. Hegner <GHegner@augustaga.gov>  
**Subject:** RE: DL Adult Tower - Water Leak

Glenn,

We have made several attempts to rectify this problem to no avail. I now consider this matter an emergency and would like to move forward as such. The videos seen recently and in the past are very telling of how critical this issue is.

**Do you concur?**

Lonnie, please detail your analysis of the problem and propose a solution to move forward.

TAD

**From:** Robert Martin  
**Sent:** Friday, October 26, 2018 2:32 PM  
**To:** Takiyah A. Douse <TDouse@augustaga.gov>; Gary S. Hegner <GHegner@augustaga.gov>; Glenn Parker <GParker@augustaga.gov>  
**Cc:** Joanie Adams <JAdams@augustaga.gov>; Ronald Houck <rhouck@augustaga.gov>; Lonnie Wimberly <LWimberly@augustaga.gov>; Michael Myles <MMyles@augustaga.gov>  
**Subject:** RE: DL Adult Tower - Water Leak

Darrell Bennett is going to try to get his staff to close it off.

**From:** Takiyah A. Douse  
**Sent:** Friday, October 26, 2018 2:23 PM  
**To:** Robert Martin <RMartin@augustaga.gov>; Gary S. Hegner <GHegner@augustaga.gov>; Glenn Parker <GParker@augustaga.gov>  
**Cc:** Joanie Adams <JAdams@augustaga.gov>; Ronald Houck <rhouck@augustaga.gov>; Lonnie Wimberly <LWimberly@augustaga.gov>; Michael Myles <MMyles@augustaga.gov>  
**Subject:** RE: DL Adult Tower - Water Leak

Robert,

Please close off this area until this matter can be resolved. It is considered a priority.

TAD

**From:** Robert Martin  
**Sent:** Friday, October 26, 2018 2:19 PM  
**To:** Takiyah A. Douse <TDouse@augustaga.gov>; Gary S. Hegner <GHegner@augustaga.gov>; Glenn Parker <GParker@augustaga.gov>  
**Cc:** Joanie Adams <JAdams@augustaga.gov>; Ronald Houck <rhouck@augustaga.gov>; Lonnie

## Exhibit 2

Wimberly <[LWimberly@augustaga.gov](mailto:LWimberly@augustaga.gov)>

**Subject:** RE: DL Adult Tower - Water Leak

The attached video is from this morning at the adult tower at Diamond Lake. Bobby

**From:** Takiyah A. Douse

**Sent:** Wednesday, October 24, 2018 12:06 PM

**To:** Gary S. Hegner <[GHegner@augustaga.gov](mailto:GHegner@augustaga.gov)>; Glenn Parker <[GParker@augustaga.gov](mailto:GParker@augustaga.gov)>

**Cc:** Robert Martin <[RMartin@augustaga.gov](mailto:RMartin@augustaga.gov)>; Joanie Adams <[JAdams@augustaga.gov](mailto:JAdams@augustaga.gov)>; Ronald Houck <[rhouch@augustaga.gov](mailto:rhouch@augustaga.gov)>; Lonnie Wimberly <[LWimberly@augustaga.gov](mailto:LWimberly@augustaga.gov)>

**Subject:** RE: DL Adult Tower - Water Leak

We recently had drain work done at this site, with the hopes of remedying the problem

I left a message with Lida to determine if the solution, conducted recently, was successful. Once she confirms or denies the solution, we can chart a path forward.

TAD

**From:** Gary S. Hegner

**Sent:** Tuesday, June 26, 2018 7:51 AM

**To:** Glenn Parker <[GParker@augustaga.gov](mailto:GParker@augustaga.gov)>; Takiyah A. Douse <[TDouse@augustaga.gov](mailto:TDouse@augustaga.gov)>

**Cc:** Robert Martin <[RMartin@augustaga.gov](mailto:RMartin@augustaga.gov)>; Joanie Adams <[JAdams@augustaga.gov](mailto:JAdams@augustaga.gov)>; Ronald Houck <[rhouch@augustaga.gov](mailto:rhouch@augustaga.gov)>

**Subject:** FW: DL Adult Tower - Water Leak

As part of our 2019 budget, we really need to come up with a solution to this issue. We have water coming through light fixtures, which is not safe and will cause further damage to the building and fixtures the longer we let this continue

Gary Hegner

Gary Hegner, CPRP, CPO

Deputy Director-Parks Division

Augusta Recreation and Parks Department

2027 Lumpkin Road Augusta, GA 30906

706.842.2680 office / 706.825.6622 cell

#GOaugusta

**Our Mission:**

To make Augusta a nationally recognized leader in Parks and Recreation experiences

**Our Vision:**

## Exhibit 2

"To offer exceptional customer service through a culture of continuous improvement, innovation, and sustainability"

**From:** Lida Gregg

**Sent:** Monday, June 25, 2018 10:39 PM

**To:** Robert Martin <[RMartin@augustaga.gov](mailto:RMartin@augustaga.gov)>; Gary S. Hegner <[GHegner@augustaga.gov](mailto:GHegner@augustaga.gov)>; Darrell Bennett <[dbennett@augustaga.gov](mailto:dbennett@augustaga.gov)>; Christopher P. Yount <[CYount@augustaga.gov](mailto:CYount@augustaga.gov)>; Glenn Parker <[GParker@augustaga.gov](mailto:GParker@augustaga.gov)>

**Subject:** DL Adult Tower - Water Leak

Please see the attached video and the one in the following email. This problem is a serious problem!

Everyone had to run for cover during the storm tonight. Most ended up under the cover by the concession stand which is where this water is coming down. (Adult side) And tonight's rainfall was a very low amount compared to other recent downpours.

One of my teams, full of electricians, cautioned me of the many hazards this situation presents. One, electrocution, should anyone try to remove the cover, change a bulb, or inspect, while water is in the fixture. Two, the danger of the roof collapsing at some point when it just can't hold any more water or weight. Third, the mold and mildew this is leaving behind once everything has dried up. The interior walls in both towers are probably full of enough mold and mildew to shut it down. It is all visible if someone would just come look at it.

Also, because of all the lightning, the elevator was not an option to get up or down from the third floor. When everyone started coming in and out of the second floor door, the water was above the first step and almost above the second one, well above everyone's ankles. One player, who hasn't played in years, casually blurted out that he "sees they still haven't fixed this problem".

Of course our concessionaire, Mrs. Jones, complained about the water being right outside of their entry and exit in to the stand. And there is a concern that the water might be backing up on top of the ceiling in the stand also.

And I know that nobody will like to here me say this. But, the fact that we (staff members that work consistently with the public, up close and personal) are continually embarrassed and perplexed about these issues that aren't getting fixed, has reduced so many of us to think that nobody cares. Speaking for myself, I care! But, until things start getting the treatment they should be getting, even down to the bushes, grass and weeds being properly manicured in a timely matter, I'm struggling to keep the faith on why I should.

## Exhibit 2

This second floor issue has been "pending" for years! What is it going to take to get it fixed? We have a beautiful park with so much potential. But riding through in a car, from front to back, is not enough of a visual inspection to see the real shape the park is in.

Thanks for any help you can provide!

*Lida L. Gregg*

Lida L. Gregg, CPRP  
Athletic Programs Coordinator  
Augusta Recreation & Parks Department  
P. O. Box 5605  
Augusta, GA 30916  
(706) 771-2980  
(706) 771-2983 Fax  
(706) 825-6718 Cell  
[lgregg@augustaga.gov](mailto:lgregg@augustaga.gov)

**From:** [7068361314@vzwpx.com](mailto:7068361314@vzwpx.com) <[7068361314@vzwpx.com](mailto:7068361314@vzwpx.com)>

**Sent:** Monday, June 25, 2018 9:06 PM

**To:** Lida Gregg

**Subject:** [EXTERNAL]

[lgregg@augustaga.gov](mailto:lgregg@augustaga.gov)

[NOTICE: This message originated outside of the City of Augusta's mail system – DO NOT CLICK on links, open attachments or respond to requests for information unless you are sure the content is safe.]



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## Exhibit 3

## SECTION II SCOPE OF SERVICES

### **BACKGROUND:**

The scoring towers at Diamond Lakes opened in 1999. The tile flooring on the mezzanine level and the drainage system has deteriorated over the years and is in need of replacement. Augusta, Georgia has elected to go with a coating system rather than replacing the tile. Please note, this issue is problematic at the Adult tower and Juvenile tower.

As constructed, there is a waterproof membrane over the setting bed and beneath the tile. It appears that the tile was thin-set over this membrane.

### **SCOPE OF SERVICES:**

This project includes, but is not limited to the following activities:

#### **Floor Replacement**

Application of a new liquid applied waterproof, wear surface approved by the manufacturer for deck surfaces over occupied space. Examples of approved manufacturers/products are:

- The Garland Company - Dura-Walk PS
- Hydro-Stop – Traffic Coat System
- Dex-o-Tex - Auto Dex V
- System shall include any and all slip sheets, sealers, primers, base coats, top coats, flashings and accessories required to complete the installation.
- Preparation of the existing surface to receive the coating system
- Temporary waterproofing as necessary to protect spaces below the mezzanine.
- Any leveling, adjustments, or repair to the substrate to make sure the new floor coating finish elevation marries to the existing floor drains, stair junctions and elevator thresholds, and is free from bird baths or ponding.
- Slopes shall conform to current ADA requirements
- Waterproof expansion joints shall be provided in accordance with the manufacturer's requirements to meet the specified warranty.
- The coating shall be textured to prevent slipping
- Warranty shall be a minimum of 5 years and shall be for a minimum of 5 additional years
- All comparable products suggested for use require approval by the Recreation & Parks Department and the Central Services Department

#### **Drain System**

- Repair drainage system starting from the mezzanine level to the storm drain system
- Verify why water is not draining properly from the mezzanine through the drainage pipes and make necessary repairs
- Verify the proper number and spacing of internal drains for the size of the mezzanine to the storm drain system
- Install a filter at the opening of all drain pipes to prevent unwanted material from entering the pipe



Exhibit 3

## PURCHASE ORDER

## AUGUSTA, GEORGIA

SUITE 800, PROCUREMENT DEPARTMENT  
 535 TELFAIR STREET, MUNICIPAL BUILDING 1000  
 AUGUSTA, GEORGIA 30601-2377  
 PHONE: (706) 821-8422

Page 1 of 1

PURCHASE ORDER NO.  
19CS8725ACQUISITION QUOTE NO.  
2316388

DATE 08/01/19	DEPARTMENT 81120	VENDOR PHONE 3
VENDOR 16627	E-VERIFY# 225306	EMAIL
VENDOR CONTRACT MANAGEMENT INC. (CMI) P.O. BOX 3833 AUGUSTA, GA 30914		ATTN: CO #1 BID NUMBER: 19147  CONTRACT #: 19CS8725 BUYER: NANCY
SHIP TO: CENTRAL SERVICES ADMIN 2760 PEACH ORCHARD RD. BUILDING A AUGUSTA, GA 30906		SHIP TO: AUGUSTA, GEORGIA ACCOUNTING DEPARTMENT, SUITE 800 535 TELFAIR STREET, MUNICIPAL BUILDING 1000 AUGUSTA, GA 30601-2377 (706) 821-2338  ALL INVOICES AND CORRESPONDENCE MUST BE SENT TO ABOVE ADDRESS REGARDLESS OF SHIP TO DESTINATION.

ITEM #	COUNT	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
0001	1	EACH	REPAIR DIAMOND LAKES SCORING TOWERS DECK AND DRAIN REPAIR  APPROVED BY COMMISSION 4/16/19, ITEM #19  329-05-1120/54-13120	518,800.00	518,800.00
0002	1	EACH	CO #1: ROOF STRAINS LOWERED TO ACCOMMODATE NEW FLOORING SYSTEM  329-05-1120/54-13120	9,602.50	9,602.50

Pay Inv. # 19CS8725-3  
 \$ 235,885.50

RECEIVED:

9/16/19 INITIALS

ENDORSEMENT:

Rev. By [Signature] Date 8/21/19

Rev. By [Signature] Date 8/21/19

Rev. By [Signature] Date 8/21/19

## CONDITIONS - READ CAREFULLY

- The purchaser is agent by whom full payment of Federal, State, and Municipal taxes, duties and other taxes.
- Shipping charges prepaid by vendor.
- Payment will be made on complete shipment only, unless otherwise requested.
- DELIVERY TICKET MUST ACCOMPANY GOODS.
- No cash on delivery. No cash on order.
- Payment made delivery between 8 A.M. and 4 P.M.
- All goods received with subsequent packing to inspect and return of Vendor's inspection if defective or not in compliance with our specifications.
- Indoor delivery if necessary.
- Payment not to be made until delivery.

NET TOTAL..... 528,402.50

APPROVED FOR ISSUE

[Signature]

PROCUREMENT DIRECTOR

REQUISITIONER

## Exhibit 3

Contract Management, Inc.  
1829 Killgaworth Road  
P.O. Box 3833  
Augusta, GA 30604

Invoice Date 07-01-2019 Customer ID AUGUSTA ACT Invoice ID P.O. 19CSS725-3

Draw ID 3 Work Order Ship Date

To:

Augusta, Georg (Accounting Dpt.)  
Suite 800  
535 Telfair Street  
Municipal Building 1000  
Augusta, GA 30601-2379

Job Location:

Diamond Lake Deck/Drain Repair  
Bid Item #19-147  
Augusta, GA 30601

Ship Via  
None

1	Pay Request #3 (7-1-19) **Final Invoice** for Repair Diamond Lakes Scoring Towers Deck and Drain Repair.	1.00	ea	226,283.00	226,283.00
	Original P.O. 19CSS725 - Down total				
2	Lowered all roof drains to accomodate new flooring system per specification on Towers 1 and 2. (Universal Plumbing)	2.00	ea	4,175.00	226,283.00 8,350.00
3	CM Overhead & Sub Mark-up	15	ea	6,350.00	1,252.50 9,602.50
	Subtotal				

Amount Billed \$235,885.50

Retainage Held

07-11-2019

\$235,885.50

## Exhibit 3

Contract Management, Inc.  
 1828 Killingsworth Road  
 P.O. Box 3833  
 Augusta, GA 30904

Invoice Date      Customer ID      Invoice ID  
 06-18-2019      AUGUSTAACT      P.O. 19CSS725-2

Draw ID      Work Order      Ship Date

To:

Augusta, Georg (Accounting Dpt.)  
 Suite 800  
 535 Telfair Street  
 Municipal Building 1000  
 Augusta, GA 30901-2379

Job Location:

Diamond Lake Deck/Drain Repair  
 Bid Item #19-147  
 Augusta, GA 30901

Ship Via  
 None

1	Pay Request #2 (6-18-19) for Repair Diamond Lakes Scoring Towers Deck and Drain Repair. Project is 58% complete.	1.00	is	137117.00	137,117.00
	Down total				137,117.00

Amount Billed      \$137,117.00

Retainage Held

07-17-2019

\$137,117.00

## Exhibit 3

Contract Management, Inc.  
1829 Killingsworth Road  
P.O. Box 3833  
Augusta, GA 30904

Invoice Date 05-22-2019	Customer ID AUGUSTA ACT	Invoice ID P.O. 19CSS725-1
Draw ID 1	Work Order	Ship Date

To:  
Augusta, Georg (Accounting Dpt.)  
Suite 800  
535 Telfair Street  
Municipal Building 1000  
Augusta, GA 30601-2379

Job Location:  
Diamond Lake Deck/Drain Repair  
Bid Item #19-147  
Augusta, GA 30601

Ship Via  
None

1	Pay Request #1 (5-22-19) for Repair Diamond Lakes Scoring Towers Deck and Drain Repair. Down total	518000.00	is	.30	155,400.00
					<u>155,400.00</u>

Amount Billed \$155,400.00

Retainage Held

06-01-2018

\$155,400.00

Exhibit 4

## PURCHASE ORDER

## AUGUSTA, GEORGIA

SUITE 806, PROCUREMENT DEPARTMENT  
636 TELFAIR STREET, MUNICIPAL BUILDING 1000  
AUGUSTA, GEORGIA 30601-2377  
PHONE: (706) 821-2422

Page 1 of 1

DATE 03/15/19	DEPARTMENT 061474	PURCHASE ORDER NO. P369032	
VENDOR # 549		E-VERIFY# 475934	REQUISITION/QUOTE NO. R314593
VENDOR UNIVERSAL PLUMBING CO 2415 MILLEDGEVILLE ROAD AUGUSTA, GA 30904-4982		ATTN: EMERGENCY SID NUMBER:  CONTRACT #: BUYER: DOREEN	
SHIP TO: RECREATION DEPARTMENT ADMIN. 2027 LUMPKIN ROAD AUGUSTA, GA 30906		BILL TO: AUGUSTA, GEORGIA ACCOUNTING DEPARTMENT, SUITE 806 636 TELFAIR STREET, MUNICIPAL BUILDING 1000 AUGUSTA, GA 30601-2376 (706) 821-2336  ALL INVOICES AND CORRESPONDENCE MUST BE SENT TO ABOVE ADDRESS REGARDLESS OF SHIPPING DESTINATION	

ITEM #	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
0001	1	EACH	PROVIDE & INSTALL LABOR & MATERIALS TO REPLACE ALL ROOF DRAIN FLOOR SINKS ON 2ND FLOOR OF BOTH BUILDINGS. INCLUDES REPLACING SURROUNDING CONCRETE TO GRADE & JETTING DRAINAGE SYSTEM TO ASSURE PROPER OPERATION.  272-06-1474/54-25310	54,392.00	54,392.00

## CONDITIONS - READ CAREFULLY

- The purchaser is exempt by statute from payment of Federal, State, and Municipal sales, excise and other taxes.
- Shipping charges prepaid by vendor.
- Payment will be made on complete shipments only, unless otherwise requested.
- DELIVERY TICKET MUST ACCOMPANY GOODS
- No cash orders. We will tender if available.
- Please make deliveries between 8 A.M. and 4 P.M.
- All goods received with subsequent privilege to reject and return at Vendor's expense if defective or not in compliance with our specifications.
- Indoor delivery if necessary.
- Payment Net 30 or according to contract.

NET TOTAL..... 54,392.00

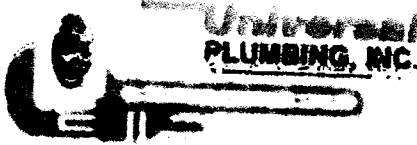
APPROVED FOR ISSUE



PROCUREMENT DIRECTOR

VENDOR COPY

## Exhibit 4



Hotel: Edgewood Hotel  
 Plant: Plantation  
 Silver Spring

706-738-4424



Universal Plumbing, INC.  
 2415 Milledgeville Rd  
 Augusta, Ga. 30904  
 Phone: 706-738-4424  
 Fax: 706-738-4471  
[www.universalplumbinginc.com](http://www.universalplumbinginc.com)

Proposal Submitted

Date

Street

City, State, and Zip Code

Job Location

Acceptance of Proposal

We hereby submit specifications and estimates for:

We propose hereby to furnish material and labor complete in accordance with above specifications, for the sum of:

Payment to be made as follows: \_\_\_\_\_ \$

Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Proposal may be withdrawn if not accepted within 30 days.

Presented by L. L. Jones

Acceptance

Title Manager

Date



# CRANSTON

## ENGINEERING

Post Office Box 2546, Augusta, Georgia 30903 - Telephone 706-722-1588

AUGUSTA, GEORGIA  
TAKIYAH DOUSE  
2780 PEACH ORCHARD ROAD  
AUGUSTA, GA 30906

Invoice number 46482Revised  
Date 04/23/2019

Project 2019-0125 DIAMOND LAKES PARK  
SCORING TOWER IMPROVEMENTS

Email: tdouse@augustaga.gov

Professional services through April 1, 2019 associated with the drainage and floor tile issues at the Diamond Lakes Park scoring towers including site visits, drainage improvement recommendations, flooring surface improvement reviews and recommendations, and coordination with construction and owner's teams.

### Labor

	Hours	Rate	Billed Amount
Senior Principal Engineer	10.25	210.00	2,152.50
Landscape Architect I	1.50	85.00	127.50
Labor subtotal	11.75		2,280.00
Invoice total			2,280.00

### Aging Summary

Invoice Number	Invoice Date	Outstanding	Current	Over 30	Over 60	Over 90	Over 120
46482Revised	04/23/2019	2,280.00	2,280.00				
Total		2,280.00	2,280.00	0.00	0.00	0.00	0.00

Please direct any question to:  
Scott Williams at 706-722-1588

*Augusta*  
G E O R G I A

Exhibit 6

# Service Request

Request ID: 151280

Description: Roof Issue

Problem Address: 4335 Windsor Spring Rd  
Hephzibah, 30815

Department/Loc: CENTRAL SERVICES

District: 30815 Zip Code

Initiated By: USER, FORMS SR

Manager: JOHNSON, ERIC

Closed By: JOHNSON, ERIC

Site ID: Sld-06108

Basin: SPIRIT CREEK

Initiated Date: 8/5/2019 8:48:05AM

Priority: 3

Supervisor: WOOLFOLK, GREGORY

Date/Time Closed: 8/2/2019 2:18:32PM

QUESTION RESPONSE

## Caller Information:

Last Name	First Name	Address	Home Phone	Cell Phone	EMAIL
JOHNSON	ERIC		706-564-8328		UNKNOWN@UNKNOWN.COM
LABOR NAME			START TIME		
HERNANDEZ, ANTHONY			7/30/2019 8:24:00AM		
WOOLFOLK, GREGORY			7/30/2019 8:24:00AM		
BOATNER, PATRICK			7/30/2019 8:24:00AM		
			40.00		
			40.00		
			16.00		



Request ID: 151280

Work Order ID:

Exhibit 6

Description: Roof Issue

Status:

CLOSED

Problem Address: 4335 Windsor Spring Rd  
Hephzibah, 30815

Department/Loc: CENTRAL SERVICES

Site ID: Sid-06106

District: 30815 Zip Code

Basin: SPIRIT CREEK

Comments:

BY: USER FORMS SR. 6/5/2019 8:48:06AM

/CSR/311 SR#: 19-00032236 - Jun 05, 2019 08 48 05 - (Repair ceiling at the Youth Tower)

Q: Customer Name A: Eric Johnson

Q: Contact Number A: 706-821-2300

Q: Location? A: Diamond Lakes Youth Tower

Q: Is there a leak? A: Yes

Q: Where is it leaking? A: Yes

Q: Can you contain it? A: Yes

Q: Preferred method of follow-up? A: No"

BY: WOOLFOLK, GREGORY, 6/7/2019 8:47:59AM

Waiting on po to start the job

BY: WOOLFOLK, GREGORY, 6/14/2019 11:54:14AM

Picked up material to start use tower at diamond Lakes still on hold building is still leaking waiting for approval to start work

BY: WOOLFOLK, GREGORY, 6/25/2019 8:43:10AM

Boys and girls bathroom ceilings are done to include the janitors closet do not install ceiling tiles per Mr. Wimby Mike and Mr. Johnson

BY: WOOLFOLK, GREGORY, 6/25/2019 3:48:31PM

Waiting on men's and women's side to do next

BY: WOOLFOLK, GREGORY, 7/8/2019 12:54:28PM

Got quote for men's and women's tower

BY: JOHNSON, ERIC, 7/12/2019 1:14:49PM

Cannot complete ceiling until flooring is completed.

BY: WOOLFOLK, GREGORY, 7/15/2019 10:06:33AM

Tower floor has been completed will pick up material for the job tomorrow will start the job when Anthony Hernandez returns

BY: WOOLFOLK, GREGORY, 7/15/2019 10:06:33AM

Pick up material 7/16 2009 or 7/17 2009

BY: JOHNSON, ERIC, 7/22/2019 11:38:03AM

Sent Quote to purchase paint 07/22/19 to Quote.com

Item 9.

12/7/2022

Request ID: 151280

Description: Roof Issue

Problem Address: 4335 Windsor Spring Rd  
Hephzibah, 30815

Department/Loc: CENTRAL SERVICES

District: 30815 Zip Code

BY: WOOLFOLK GREGORY, 7/30/2019 8:25:16AM

Ceilings have been repaired and replaced job is complete see attached photos

SR Details:

Work Order ID:

Status: CLOSED

Site ID: Sld-88108

Basin: SPIRIT CREEK

Exhibit 6

## Exhibit 7

REQUISITION QUOTE NO  
R336956PURCHASE ORDER NUMBER ABOVE  
MUST APPEAR ON ALL INVOICES,  
SHIPPING PAPERS AND PACKAGES

CONTRACT #:

BUYER: JACQU

BILL TO:

AUGUSTA, GEORGIA  
ACCOUNTING DEPARTMENT, SUITE 800  
595 TELFAIR STREET, MUNICIPAL BUILDING 1000  
AUGUSTA, GA 30661-2378  
(706) 821-2336ALL INVOICES AND CORRESPONDENCE MUST BE SENT TO  
ABOVE ADDRESS REGARDLESS OF SHIPPING DESTINATION.

QUANTITY	UNIT	PRODUCT ID	DESCRIPTION	UNIT PRICE	AMOUNT
9801			DIAMOND LAKES TOWERS 1 & 2 VIDEO INSPECTION 272-01-6210/54-25310	1,120.00	1,120.00

NET TOTAL..... 1,120.00

APPROVED FOR ISSUE

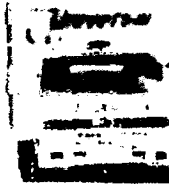
  
 PROCUREMENT DIRECTOR

REQUISITIONER

Exhibit 7  
P399350

**Quick Response  
Flat Rates  
Since 1986**

706.738.4424



Universal Plumbing, INC.

2415 Milledgeville Rd

Augusta, Ga. 30904

Phone: 706-738-4424

Fax: 706-738-4471

www.universalplumbinginc.com

Proposal Submitted <u>AUGUSTA WILLIAMS CO.</u>	Date <u>8/21/20</u>
Street <u>935 Windsor Springs Rd.</u>	
City, State, and Zip Code <u>AUGUSTA GA.</u>	Job Location <u>DIAMOND LAKE BASKIN FIELD</u>
Acceptance of Proposal	<u>TOWNS 112</u>

We hereby submit specifications and estimates for:

- (1) DRAIN CLEANING FOR TOWNS 112
- (2) TO DISASSEMBLE AND RECONNECT SECTIONS OF PIPING AND PIPING ARRANGEMENTS AS NEEDED TO EFFECTIVELY JOE & CLEAN ROOF DRAINAGE SYSTEMS
- (3) TO VIDEO INSPECT SYSTEM TO DETERMINE AREAS OF CALCIFICATION WHERE A DIFFERENT METHOD OF CLEANING MIGHT BE NECESSARY.

**NOTE: COST IS REFLECTIVE OF VIDEO INSPECTION ONLY.**

We propose hereby to furnish material and labor-complete in accordance with above specifications, for the sum of:

One thousand one hundred forty dollars \$ 1120.00

Payments to be made as follows:

Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Proposal may be withdrawn if not accepted within 30 days.

Presented by Claudia Jones

Acceptance \_\_\_\_\_

Title

Manager

Date \_\_\_\_\_

## Exhibit 8

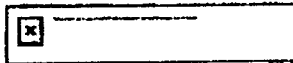
Takiyah A. Douse

**From:** Larry Jones <larryatuniversal@aol.com>  
**Sent:** Thursday, June 3, 2021 4:29 PM  
**To:** Takiyah A. Douse; claudia@universalplumbinginc.com; Darrell White; Maurice D. McDowell; Natascha Dailey; Roy W. Searles; Laquona Sanderson  
**Subject:** Re: [EXTERNAL] RE: Fwd: Diamond Lakes Camera

Takiyah, i have no words to express my regret for this outcome as I do understand that business must continue in spite of.

I will say that I had spoken with Mr. White relative to my attempts to secure a contractor with the equipment necessary for the removal of the substances that have introduced in the piping both granulated and attached to the walls of the drainage system. After many attempts and conversations we finally had an appointment at 9:30 tomorrow morning. With that being said, and because of the history of this project along with my knowledge of the different stages, I will be more than happy to share this history with the newly contracted vendor. I can meet on site as well as bring the section of piping that has been removed from the system for clarification of the source of the blockages. Our concern at this point is that of a favorable resolution, and that our company is willing to assist in any way we can to alleviate this prolonged issue.

Thanking you in advance,



Larry  
 CEO  
 706.738.4424  
 2415 Milledgeville Rd.  
 Augusta, GA 30904



-----Original Message-----

**From:** Takiyah A. Douse <TDouse@augustaga.gov>  
**To:** larryatuniversal <larryatuniversal@aol.com>; Claudia Jones <claudia@universalplumbinginc.com>; Darrell White <DWhite2@augustaga.gov>; Maurice D. McDowell <MMcDowell@augustaga.gov>; Natascha Dailey <NDailey@augustaga.gov>; Roy W. Searles <RSearles@augustaga.gov>; Laquona Sanderson <LSanderson@augustaga.gov>  
**Sent:** Thu, Jun 3, 2021 3:09 pm  
**Subject:** Re: [EXTERNAL] RE: Fwd: Diamond Lakes Camera

Mr. Jones,

Your services are no longer needed on this project.

I have left multiple messages, both email and voicemail, in an attempt to speak with you concerning this emergency matter, all to no avail. As a result, I have sourced another vendor to complete the tasks requested of Universal Plumbing.

Takiyah

## Exhibit 8

**From:** larryatuniversal <larryatuniversal@aol.com>  
**Sent:** Thursday, June 3, 2021 1:59 PM  
**To:** Claudia Jones <claudia@universalplumbinginc.com>  
**Cc:** Taklyah A. Douse <TDouse@augustaga.gov>  
**Subject:** [EXTERNAL] RE: Fwd: Diamond Lakes Camera

I have reached out to David Hopkins of Augusta Industrial and we have discussed this at length as well as the use of his high velocity jet blaster to dislodge the solidified build-up in the drain system. I am presently awaiting a response from him concerning his availability. Tomorrow Friday 5/4 is my hope for this site meeting. I have also reached out to Kelsey Henderson of AUD for support, and he has assured me that they will help resolve this matter as opportunity permits. I do know that this issue has persisted for some time and my belief is in a very near future resolution.

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

**From:** Claudia Jones <claudia@universalplumbinginc.com>  
**Date:** 6/3/21 5:31 AM (GMT-05:00)  
**To:** Larry Jones <larryatuniversal@aol.com>  
**Subject:** Fwd: Diamond Lakes Camera

----- Forwarded message -----

**From:** Taklyah A. Douse <TDouse@augustaga.gov>  
**Date:** Wed, Apr 14, 2021 at 10:51 AM  
**Subject:** RE: Diamond Lakes Camera  
**To:** [claudia@universalplumbinginc.com](mailto:claudia@universalplumbinginc.com) <[claudia@universalplumbinginc.com](mailto:claudia@universalplumbinginc.com)>  
**CC:** Laquona Sanderson <[LSanderson@augustaga.gov](mailto:LSanderson@augustaga.gov)>, Natascha Dailey <[NDailey@augustaga.gov](mailto:NDailey@augustaga.gov)>, Darrell White <[DWhite2@augustaga.gov](mailto:DWhite2@augustaga.gov)>, Roy W. Searles <[RSearles@augustaga.gov](mailto:RSearles@augustaga.gov)>

Mr. Jones,

I have not received any correspondence from you concerning the below request, sent two weeks ago. As this matter is of urgent need, a response is requested by the close of business today.

TAD

**From:** Taklyah A. Douse  
**Sent:** Tuesday, March 30, 2021 4:41 PM  
**To:** [claudia@universalplumbinginc.com](mailto:claudia@universalplumbinginc.com)  
**Cc:** Laquona Sanderson <[LSanderson@augustaga.gov](mailto:LSanderson@augustaga.gov)>; Natascha Dailey <[NDailey@augustaga.gov](mailto:NDailey@augustaga.gov)>; Darrell White <[DWhite2@augustaga.gov](mailto:DWhite2@augustaga.gov)>; Roy W. Searles <[RSearles@augustaga.gov](mailto:RSearles@augustaga.gov)>  
**Subject:** Diamond Lakes Camera

Mr. Jones,

The attached purchase order is in response to our continued drainage issues at Diamond Lakes. Please provide a copy of your findings in addition to the video inspection report via video.

## Exhibit 8

Our records indicate this service was rescheduled multiple times, and as a result, I do not have a project completion date. Please provide such.

Thanks,  
Takiyah

---

**Takiyah A. Douse | Central Services Director**  
**Augusta 311 - Facilities Maintenance - Fleet Management - Real Estate - Records Retention**  
**Augusta - Richmond County**  
2760 Peach Orchard Rd | Augusta, Georgia 30906  
(p) 706-828-7174 | (f) 706-796-5077  
[TDouse@augustaga.gov](mailto:TDouse@augustaga.gov) | [www.augustaga.gov](http://www.augustaga.gov)

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AED:104.1

Claudia  
Operations & Finance Manager  
706.738.4424  
2415 Milledgeville Rd.  
Augusta, GA 30904

Please leave us a review on [YELP](#) and [GOOGLE](#).

**[NOTICE: This message originated outside of the City of Augusta's mail system -- DO NOT CLICK on links, open attachments or respond to requests for information unless you are sure the content is safe.]**

Exhibit 9

## PURCHASE ORDER

## AUGUSTA, GEORGIA

STATE OF GEORGIA, PROCUREMENT DEPARTMENT  
 600 TILFAM STREET, MUNICIPAL BUILDING 1000  
 AUGUSTA, GEORGIA 30601-0077  
 PHONE (706) 221-0000

Page 1 of 1

PURCHASE ORDER NO.  
 2417324  
 REQUEST FOR QUOTE NO.  
 R249286


DATE 07/22/21	DEPARTMENT 16210	VENDOR'S 16627	EMAL
VENDOR CONTRACT MANAGEMENT INC. (CMI) P.O. BOX 3833 AUGUSTA, GA 30914		ATTN: EMERGENCY NO BIDDING CONTRACT # EVEN:	
SHIP TO: CENTRAL SERVICES ADMIN 2760 PEARCE ORCHARD RD. BUILDING A AUGUSTA, GA 30906		BILL TO: AUGUSTA, GEORGIA ACCOUNTING DEPARTMENT, STATE OF 600 TILFAM STREET, MUNICIPAL BUILDING 1000 AUGUSTA, GA 30601-0077 (706) 221-0000 ALL INVOICES AND CORRESPONDENCE MUST BE SENT TO APPROPRIATE PERSONNEL OF SUPPLY DEPARTMENT	

0001	1		<p>PER L. SANDERSON CHANGED OBJECT CODE TO 8413120 07/22/21 JB</p> <p>SECOND FLOOR CONCRETE AND FIRM DUCK OF DIAMOND LAKES POURING TOWERS (ADULT &amp; YOUTH) REPAIRS</p> <p>272-01-6210/54-13120</p> <p>Rev <u>Appr</u> <u>Rej</u> By <u>DEB</u> Date <u>7/26/21</u></p> <p>Rev <u>Appr</u> <u>Rej</u> By <u>    </u> Date <u>    </u></p> <p>Rev <u>Appr</u> <u>Rej</u> By <u>    </u> Date <u>    </u></p> <p>EMAIL DATE <u>7/22/21</u> INITIALS <u>gys</u></p>	17,012.52	17,012.52
------	---	--	--	-----------	-----------

## CONDITIONS - READ CAREFULLY

- The purchaser is advised by notice that proposed of Federal, State, and Municipal
- Shipping charges prepaid by vendor
- Payment will be made on complete shipments only unless otherwise requested
- Delivery VENDOR MUST ASSUREMENT ORDER.
- No back orders. We will handle if available
- Please make deliveries between 8 AM and 4 PM
- All goods received with subsequent parties to travel and return of Vendor's
- copies of delivery or mail to completion with our specifications
- Indoor delivery of necessary
- Payment that will be according to contract

REQUISITIONER

NET TOTAL.....	17,012.52
APPROVED FOR ISSUE	
 PROCUREMENT DIRECTOR	



## Exhibit 9

Contract Management, Inc.  
1829 Killingworth Road  
P.O. Box 3833  
Augusta, GA 30904

Invoice Date  
06-22-2021

Customer ID  
AUGUSTA ACT

Invoice ID  
M2021-011-1

Draw ID  
1

Work Order

Ship Date

To:

Augusta, Georg (Accounting Dpt.)  
Suite 800  
635 Telfair Street  
Municipal Building 1000  
Augusta, GA 30901-2379

Job Location:

Diamond Lakes Drains  
4335 Windsor Spring Road  
Hephzibah, GA 30815

Ship Via  
None

1	Diamond Lakes - Repair Adult Tower #1 (Time & Materials)				
2	Materials (See attachment)	1.00	LB	369.07	369.07
3	Labor (See attachment)	1.00	ls	8,508.00	8,508.00
4	Equipment (See attachment)	1.00	ls	1,000.00	1,000.00
5	Mark-up (20%)	9,904.07	ls	.20	1,980.81
	Subtotal				11,884.88
6	Diamond Lakes - Repairs Youth Tower #2				
7	Materials (See attachment)	1.00	ls	159.69	159.69
8	Labor (See attachment)	1.00	ls	3,780.00	3,780.00
9	Equipment (See attachment)	1.00	ls	1,000.00	1,000.00
10	Mark-up (20%)	4,939.69	ls	.20	987.94
	Subtotal				5,927.63
	Down total				17,812.51

Amount Billed \$17,812.51

Retainage Held

07-02-2021

\$17,812.51

## Exhibit 9

**CONTRACT MANAGEMENT, INC.**

General and Mechanical Contractors

1829 Killingsworth Road

Augusta GA 30904

PO Box 3833

Augusta GA 30914

(706) 667-9033

(706) 667-9034

[gregoryw@contractmgtinc.com](mailto:gregoryw@contractmgtinc.com)

December 8, 2022

**Subject: Diamond Lakes Scoring Towers (Adult Tower/Junior Tower Summary)**

Dear Takiyah A. Douse,

Per your request, please see the detailed explanation to include in your report concerning Diamond Lakes scoring tower drainage problems. Please note video from camera is available upon request.

**Adult Tower**

- Exterior drain basins above 1<sup>st</sup> floor were opened and cleaned out.
- Exterior drain basins above 1<sup>st</sup> floor were resealed with a 100% silicon caulk on the outside edges of basin.
- Exterior drain basins drainpipes were cleaned using pipe auger to diffuse and extract clay and sand material. Drains were allowed to flow.
- Interior of 1<sup>st</sup> floor drainpipe cleanouts were used to access further extraction of clay and sand material. Unable to extract material from Northside of Adult Tower interior cleanout – had to excavate at exterior of Adult Tower to access drainpipes.
- Pipe was hand excavated. Pipe was cut open to allow access point for pip auger. (Excavation at Adult Tower) – Drain auger was used to clean sever blockage approximately 20ft from exterior of Adult Tower using 3'x2' hand excavated access point. Drain was cleaned and flow was allowed.
- Adult Tower Women's Restroom
  - Ceiling had to be cut open to access drainpipes.
- Adult Tower Kitchen
  - 2 sanitary Y T's had to be removed and replaced for access point for pipe auger.
- Camera Inspection was used at 4 cleanout locations at each tower.
- Camera Inspection was used at exterior excavated access point at Adult Tower.
- Floor was flooded at Adult Tower and Junior Tower at drain basins to be inspected by Diamond Lakes maintenance for leaks. Upon inspection with Diamond Lakes Maintenance present, no leaks were found after completion of work.

**Junior Tower**

- Exterior drain basins above 1<sup>st</sup> floor were opened and cleaned out.
- Exterior drain basins above 1<sup>st</sup> floor were resealed with a 100% silicon caulk on the outside edges of basin.
- Exterior drain basins drainpipes were cleaned using pipe auger to diffuse and extract clay and sand material. Drains were allowed to flow.

Certified (SDB/MBE/HUBZone) and Minority Owned Firm

1

## Exhibit 9

**CONTRACT MANAGEMENT, INC.**

General and Mechanical Contractors

1829 Killingsworth Road

Augusta GA 30904

PO Box 3833

Augusta GA 30914

(706) 667-9033

(706) 667-9034

[gregoryw@contractmanagementinc.com](mailto:gregoryw@contractmanagementinc.com)

- Camera Inspection was used at 4 cleanout locations at each tower.
- Floor was flooded at Adult Tower and Junior Tower at drain basins to be inspected by Diamond Lakes maintenance for leaks. Upon inspection with Diamond Lakes Maintenance present, no leaks were found after completion of work.

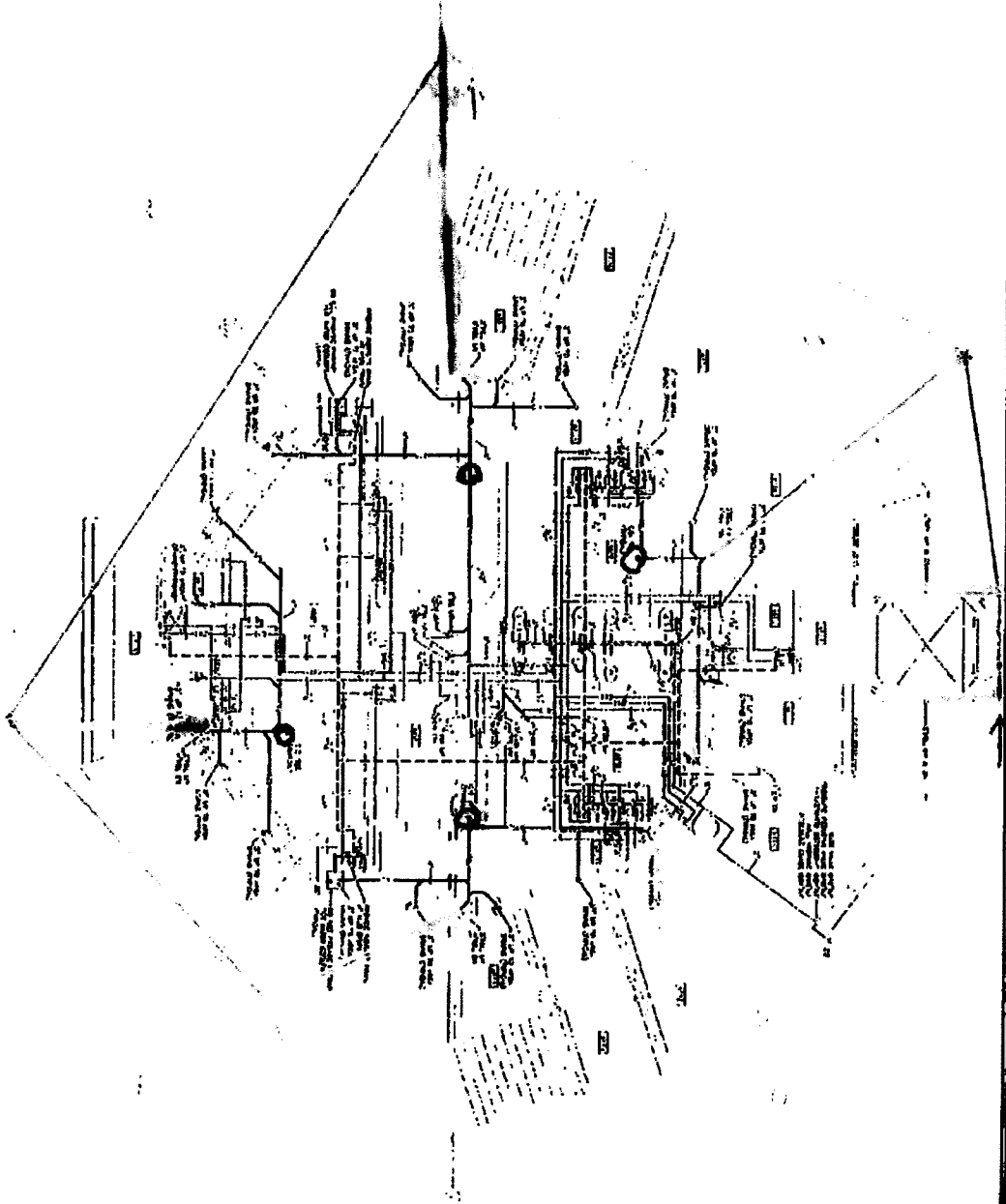
Should you require any additional information or have any questions please contact us at  
(706) 667-9033

**Respectfully,**

Sohui D. Longerbeam  
Executive Assistant | Project Controls  
Contract Management, Inc. (CMI)

Enclosure(s):  
Plumbing Plan – Above First Floor- Scoring Towers A and B  
Sample Photos of Prior Pipe Work (3 pages)

# Exhibit 9



PLAN OF SOUTH AUGUSTA RECREATION COMPLEX - SOUTH AUGUSTA, GA.



Cranston, Robertson & Whitehurst, P.C.  
415 E. 15th Street  
Augusta, Georgia 30601  
229-244-1000



South Augusta  
Recreation Complex

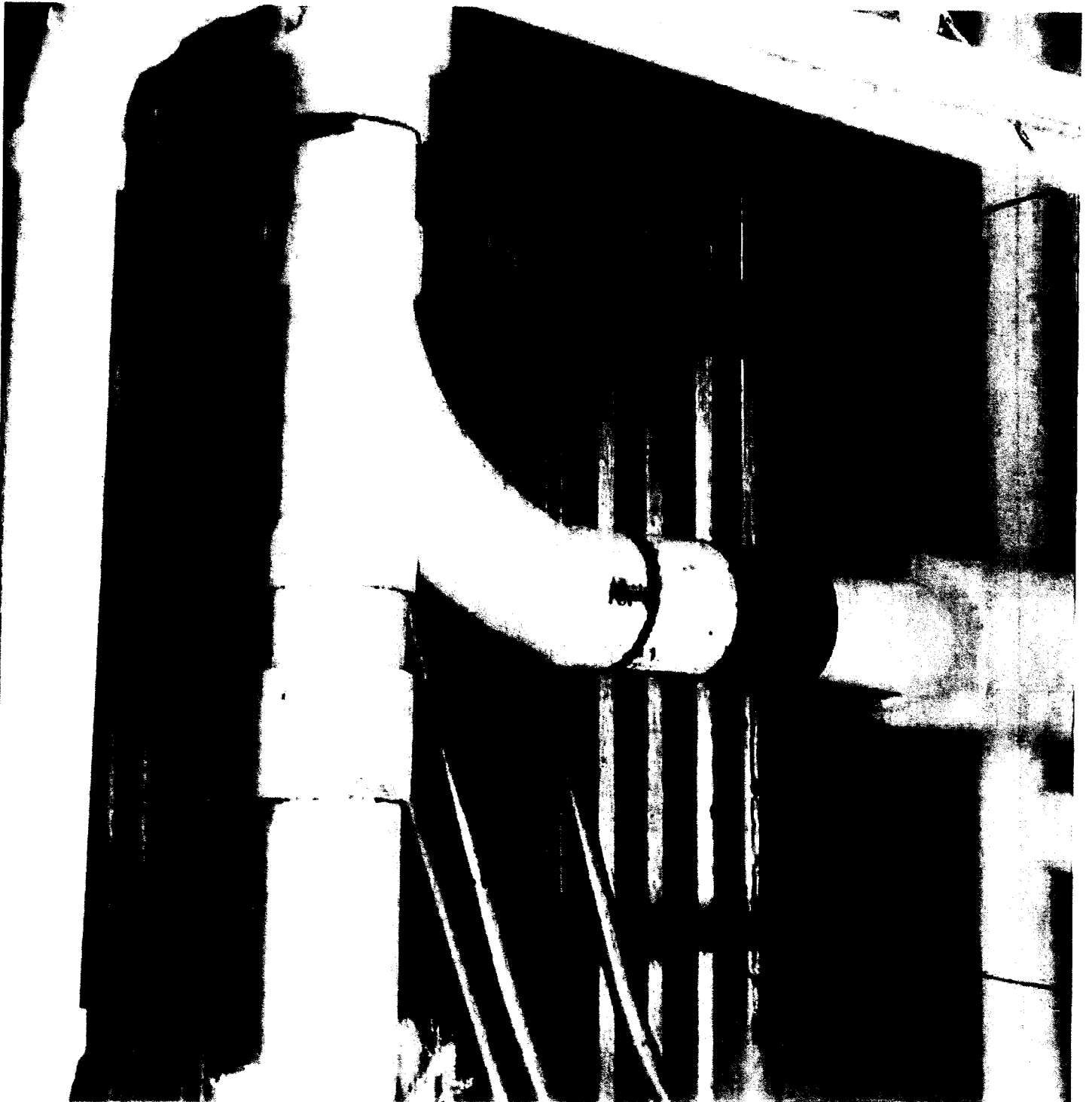
Planning Plan -  
Above First Floor  
Seeing Tower A and B

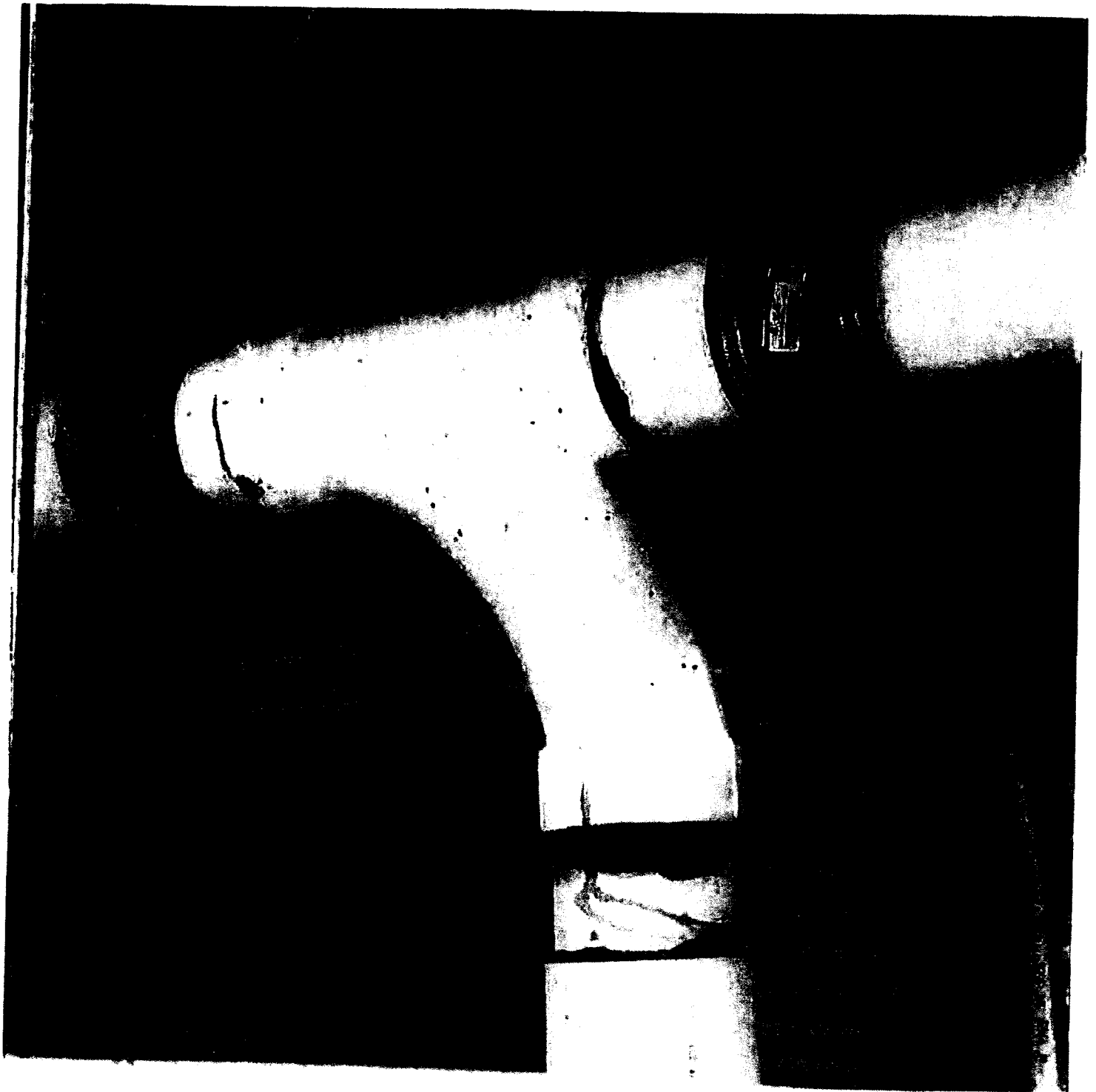
Scale

1" = 100'

P1-3

## Exhibit 9







## Exhibit 10

## PURCHASE ORDER

## AUGUSTA, GEORGIA

SUITE 800, PROCUREMENT DEPARTMENT  
 630 TELFAIR STREET, MUNICIPAL BUILDING 1800  
 AUGUSTA, GEORGIA 30601-2377  
 PHONE: (706) 821-6222

Page 1 of 1

PURCHASE ORDER NO.  
P416700REQUISITION/INVOICE NO.  
2340461

DATE 07/07/21	DEPARTMENT 016210	VENDOR PHONE (803) 275-8862
VENDOR 11338	E-VERIFY MAIL	
VENDOR DURA CLEAN OF NORTH AUG 1857 ROBIN ROAD NORTH AUGUSTA, SC 29841		ATTN: EMERGENCY BID NUMBER:  CONTRACT #: BUYER:
BUYER: CENTRAL SERVICES ADMIN 2760 PEACH ORCHARD RD. BUILDING A AUGUSTA, GA 30906		BILL TO: AUGUSTA, GEORGIA ACCOUNTING DEPARTMENT, SUITE 800 630 TELFAIR STREET, MUNICIPAL BUILDING 1800 AUGUSTA, GA 30601-2377 (706) 821-6222  ALL INVOICES AND CORRESPONDENCE MUST BE SENT TO ABOVE ADDRESS REGARDLESS OF SHIPPING DESTINATION.

ITEM	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE
0001	1	EA	RED SCORING TOWER MOLD REMEDIATION - GREEN SCORING TOWER MOLD REMEDIATION  272-01-6210/54-13120	14,175.00	14,175.00

## CONDITIONS - READ CAREFULLY

- The purchaser is covered by dealer from payment of Federal, State, and Storage taxes, license and other fees.
- Shipping charges prepaid by vendor
- Payment will be made on complete shipments only unless otherwise requested
- DELIVERY TIMES MUST ACCOMPANY GOODS.
- No back orders. We will order if available.
- Please make deliveries between 8 A.M. and 4 P.M.
- All goods received with subsequent delivery to inspect and return at Vendor's expense if defective or not in compliance with our specifications
- Deliver delivery if necessary
- Payment Net 30 or according to contract

NET TOTAL..... 14,175.00

APPROVED FOR ISSUE

*John Smith*

PROCUREMENT DIRECTOR

REQUISITIONER





May 18, 2021

Takia Douse & Roy Searles  
City of Augusta  
2760 Peach Orchard Road  
Augusta, GA 30906

**RE: Diamond Lake Regional Park Remediation Estimate**

**To Whom It May Concern:**

Thank you for allowing Duraclean to inspect Diamond Lake Regional Park in Augusta, GA. Duraclean has been solving cleaning, restoration and remediation problems since 1930 and we appreciate the trust you have placed in us.

Based upon your concerns, Duraclean recommends the following:

**Scope of Work:**

- **Red Scoring Tower**
  - **Contents**
    - **Content Manipulation, Cleaning and/or disposal**
    - **Cleaned contents to be stored in Tower on site**
  - **Affected HVAC Insulation Removal and Disposal**
  - **Affected Drywall Removal and Disposal**
  - **Hydrogen Peroxide Application to all block walls**
  - **High Pressure Cleaning/Removal of all walls**
  - **High Pressure Cleaning of all flooring**
  - **7 Dehumidifiers for 3 days each**
  - **14 Air Movers for 3 days each**
  - **Atomized Anti-Microbial fogging of all areas**
- **Green Scoring Tower**
  - **Atomized Anti-Microbial Fogging**

**Total Price \$14,175.00**

**Due Upon Completion**

- **Prices are subject to change depending upon unforeseen circumstances**

Duraclean Strives for Excellent Customer Service. If you have any questions or concerns, please call our office at (803) 279-8842.

Sincerely,  
Blake Harrell  
Operations Director

# Exhibit 10

DL Abatement Quote Comparison

DuraClean		PureClean	
Red (Adult)	Green (Youth)	Red (Adult)	Green (Youth)
Content - Clean and/or dispose *Clean content stored at Tower All HVAC Insulation Rm/Disp All Drywall Rm/Disp Hydrogen Peroxide App - Block Walls HP Cleaning/Removal - all walls HP Cleaning of all flooring 7 Dehumidifiers for 3 days 1.4 air movers for 3 days Atomized Anti-Microbial fogging of all areas	Atomized Anti-Microbial fogging	HEPA Vacuuming detailed Disinfect building Negative air fan/scrubber - 5 days 5 Dehumidifiers (24 hr) 10 air movers (24 hr) Clean floor or roof joist system in confined space Hazardous waste/mold cleaning tech (4 hr) Hepa Filter (quoted per space/sqft)	*No evidence of mold obs on upper side of ceiling or duct work on grid lvl* Clean all walls, ceiling area, floor with FL for mold CMI to supervise/assist
Both \$14,175		Only 1 building quoted \$22,300.98	
		Sub cost only w/CMI and Markup	\$12,900 \$16,458

RM/disp=remove and dispose  
 All=affected  
 HP=High Pressure

Grid lvl = Ground level  
 obs=observed

\$40,684

## Exhibit 11

**From:** Takiyah A. Douse  
**To:** Natascha Dailey; Natascha Dailey  
**Subject:** FW: DL Adult Tower - Update on Leaks  
**Date:** Wednesday, December 7, 2022 12:16:00 PM  
**Attachments:** 193617.JPG  
 193624.JPG  
 193713.JPG  
 200207.JPG

TAD

**From:** Lida Gregg <LGregg@augustaga.gov>  
**Sent:** Monday, August 23, 2021 3:02 PM  
**To:** Takiyah A. Douse <TDouse@augustaga.gov>  
**Cc:** Maurice D. McDowell <MMcDowell@augustaga.gov>; Robert Martin <RMartin@augustaga.gov>;  
 Maria Rivera-Rivera <MRivera-Rivera@augustaga.gov>; Eric Johnson <EJohnson@augustaga.gov>;  
 Eric Bing <EBing@augustaga.gov>  
**Subject:** RE: DL Adult Tower - Update on Leaks

Here are those photos attached as .jpg files. Hope this works!

Thanks,

*Lida L. Gregg, CPRP*  
**Athletic Programs Coordinator**  
**Augusta Parks & Recreation**  
**P. O. Box 5605**  
**Augusta, GA 30916**  
**(706) 826-1373 Office**  
**(706) 825-6718 Cell**

**From:** Takiyah A. Douse  
**Sent:** Monday, August 23, 2021 2:55 PM  
**To:** Lida Gregg <LGregg@augustaga.gov>  
**Cc:** Maurice D. McDowell <MMcDowell@augustaga.gov>; Robert Martin <RMartin@augustaga.gov>;  
 Maria Rivera-Rivera <MRivera-Rivera@augustaga.gov>; Eric Johnson <EJohnson@augustaga.gov>;  
 Eric Bing <EBing@augustaga.gov>  
**Subject:** FW: DL Adult Tower - Update on Leaks

Lida,

## Exhibit 11

Your information is of value, however I cannot open the heic files. Please resend.

I have copied both E. Johnson and E. Bing to assess this matter as soon as possible and detail a path forward.

TAD

**From:** Lida Gregg <LGregg@augustaga.gov>  
**Sent:** Monday, August 23, 2021 2:50 PM  
**To:** Takiyah A. Douse <TDouse@augustaga.gov>  
**Cc:** Robert Martin <RMartin@augustaga.gov>; Maurice D. McDowell <MMcDowell@augustaga.gov>  
**Subject:** DL Adult Tower - Update on Leaks

Hi Takiyah,

As per your request to keep you abreast on the leaks at the Diamond Lakes adult tower, here is some updated information.

After the recent rains, I was able to check all areas. Upon my checking, the only problem areas I see are the umpire's room (small leak straight back when you walk in there coming from the holes that Universal Plumbing drilled) and the umpire's bathroom. The floor in the umpire's bathroom was flooded when I was in there. However, since the insulation is now unwrapped, the water is actually beaded up very heavily on the HVAC tunnels. I didn't really see a leak. I just saw the constant large beads dripping from the HVAC system. That is where the water appeared to be coming from. I attached a picture that I hope you are able to see the large beads in.

The electrical room has a very small leak in the back left corner, also coming from the holes that Universal Plumbing drilled. That water dripping there is very rusty too.

And, in reference to the rust, each drain and every line that was patched has collected rust remnants and are now brown in color. See photos. I only attached a couple of photos but those stains are at every place that was patched inclusive of every drain and crack.

The good news is that the elevator room is dry as a bone and the temperature is regulated now, very cold in there. The concession area is dry as a bone. Both restrooms appear to be dry, as well as the remaining storage rooms.

Thank you for your hard work in getting this cleaned up. And thanks for your patience with me! I meant no harm. Just knew something had to be done and I was constantly seeing it get worse and worse. Again, thank you!!

Let me know if you need anything else. I'll be glad to help in any way I can.

*Lida L. Gregg, CPRP*

**Athletic Programs Coordinator**

## Exhibit 11

**Augusta Parks & Recreation****P. O. Box 5605****Augusta, GA 30916****(706) 826-1373 Office****(706) 825-6718 Cell**

This e-mail contains confidential information and is intended only for the individual named. If you are not the named addressee, you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake and delete this e-mail from your system. The City of Augusta accepts no liability for the content of this e-mail or for the consequences of any actions taken on the basis of the information provided, unless that information is subsequently confirmed in writing. Any views or opinions presented in this e-mail are solely those of the author and do not necessarily represent those of the City of Augusta. E-mail transmissions cannot be guaranteed to be secure or error-free as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. The sender therefore does not accept liability for any errors or omissions in the content of this message which arise as a result of the e-mail transmission. If verification is required, please request a hard copy version. AED:104 1



Service Request

Request ID: 271845

Description: Plumbing Issue

Problem Address: 111 Diamond Lakes Way  
Hephzibah, GA 30815

Department/Loc: CENTRAL SERVICES  
District: 30815 Zip Code

Initiated By: USER, FORMS SR

Manager: SEARLES, ROY W

Closed By: SEARLES, ROY W

QUESTION RESPONSE

Work Order ID:

Status: CLOSED

Site ID: SID-86180  
Basin: SPIRIT CREEK

Initiated Date: 3/1/2022 12:41:07PM Priority: 3

Supervisor: CUNNINGHAM, VIENCE E

Date/Time Closed: 4/12/2022 8:59:54AM

Caller Information:

Last Name First Name Address  
MARTIN ROBERT

Home Phone Cell Phone EMAIL  
7068367560 RMARTIN@AUGUSTAGA.GOV

LABOR NAME START TIME FINISH TIME HOURS

CUNNINGHAM, VIENCE E 4/11/2022 3:40:00PM 4/11/2022 3:40:00PM 1.00

**Request ID:** 271845

**Description:** Plumbing Issue

**Work Order ID:**

**Status:** CLOSED

Exhibit 12

**Problem Address:** 111 Diamond Lakes Way

Hephzibah, GA 30815

**Department/Loc:** CENTRAL SERVICES

**District:** 30815 Zip Code

**Site ID:** SID-86180

**Basin:** SPIRIT CREEK

**Comments:**

**BY: USER, FORMS SR. 3/1/2022 12:41:07PM**

Q: Caller Name?

A: Robert Martin

Q: Phone Number?

A: 7086367560

Q: Email?

A: rmartin@augustaga.gov

Q: What is the issue?

A: Other (see comments)

Q: Is there water on the floor?

A: Yes

Q: Is it leaking?

A: Yes

Q: Is it inside or out?

A: Inside

Q: Can you turn the water off?

A: No

Customer Comment: There is a leak from the ceiling in the electrical room where you turn the field lights on. Please call Wendell Gunter at 762-333-4639 or Robert Guy at 708-825-4665 for access.

**BY: USER, FORMS SR. 3/1/2022 12:43:22PM**

[CSR311 SR#: 22-00008771 - Mar 01, 2022 11 43 21]

**BY: CUNNINGHAM, VENCE. 3/3/2022 11:01:37AM**

There's a leak coming out one of the drains that was repaired by contractor

**BY: CUNNINGHAM, VENCE. 4/11/2022 3:40:57PM**

This is on the contractor

**SR Details:**

## AUGUSTA, GEORGIA

Exhibit 13

## PURCHASE ORDER

SUITE 808, PROCUREMENT DEPARTMENT  
635 TELFAIR STREET, MUNICIPAL BUILDING 1000  
AUGUSTA, GEORGIA 30901-2377  
PHONE: (706) 821-2422

Page 1 of 1

PURCHASE ORDER NO.  
P434867  
REQUISITION/QUOTE NO.  
R360954

DATE 05/19/22	DEPARTMENT 061474	VENDOR PHONE # (706) 210-8624
VENDOR # 16773	E-VERIFY #	EMAIL

VENDOR HORIZON CONSTRUCTION & ASSOC. P.O. BOX 798 EVANS, GA 30809	ATTN: EMERGENCY BID NUMBER:  CONTRACT #: BUYER:
--	---

SHIP TO: CENTRAL SERVICES ADMIN 2760 PEACH ORCHARD RD. BUILDING A AUGUSTA, GA 30906	BILL TO: AUGUSTA, GEORGIA ACCOUNTING DEPARTMENT, SUITE 808 635 TELFAIR STREET, MUNICIPAL BUILDING 1000 AUGUSTA, GA 30901-2379 (706) 821-2335  ALL INVOICES AND CORRESPONDENCE MUST BE SENT TO ABOVE ADDRESS REGARDLESS OF SHIPPING DESTINATION.
---	---

ITEM #	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
0001	1		CAP EXISTING DRAIN BASKET ON SECOND FLOOR. GRIND LEVEL AND LEVEL EXISTING DECK. RAISE DECK TO PITCH TOWARD OUTEREDGE OF DECK & CUT HOLE THROUGH EXTERIOR WALL TO ALLOW DRAINAGE INTO 4" OTHERS TYING INTO DOWN SPOUTS. DECK PITCH TOWARD DRAINS. DECK WILL BE SEAL COATED W/ADA APPROVE MONSLIP COATING. ALL SHEETROCK MISSING DUE TO DRAIN REPAIR WILL BE REPLACED & PAINTED. IRON DRAIN GRATES GROUND FACILITY WILL BE REPLACED & NEW ADA APPROVED GRATES WILL BE INSTALLED FOR DIAMOND LAKE SCORING TOWERS  272-06-1474/54-13120	449,979.88	449,979.88

## CONDITIONS - READ CAREFULLY

- The purchaser is exempt by statute from payment of Federal, State and Municipal sales, excise and other taxes
- Shipping charges prepaid by vendor
- Payment will be made on complete shipments only unless otherwise requested
- DELIVERY TICKET MUST ACCOMPANY GOODS
- No back orders - We will reorder if available
- Please make del-once between 8 AM and 4 PM
- All goods received with subsequent privilege to reject and return at Vendor's expense if defective or not in compliance with our specifications
- Vendor duty if necessary
- Payment Net 30 or according to contract

NET TOTAL..... 449,979.88

APPROVED FOR ISSUE

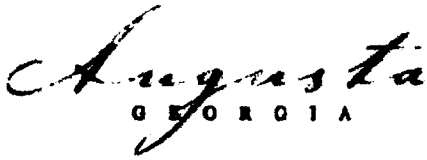


PROCUREMENT DIRECTOR

REQUISITIONER



Exhibit 13

**Central Services Department**

Ron Lampkin, Interim Director 2760 Peach Orchard Road, Augusta, GA 30906  
Marie Rivera-Rivera, Deputy Director (706) 828-7174 Phone (706) 796-5077 Fax

**MEMORANDUM**

**TO:** Geri Sams, Director, Procurement Department  
**FROM:** ~~Ron Lampkin, Interim Director, Central Services Department~~  
**DATE:** May 11, 2022  
**SUBJECT:** Emergency Memo

In accordance with §1-10-57 Emergency Procurements, I respectfully ask you to accept this communication as notification of an emergency at the Diamond Lakes Regional Park relating to storm water drains and bathroom issues.

Diamond Lakes Regional Park has encountered several facility leaks related to the existing drainage system. These leaks have affected several areas to include, restrooms, concessions, mechanical and electrical rooms, and umpire areas. In order to have these facilities operational and safe for public use, the drainage system will be redirected, and flooring pitch for proper drainage.

Central Services will proceed with the attached quote by Horizon Construction & Associates, in the amount of \$449,979.88 (not to exceed the contingency amount of \$50,000.00) for the required repairs.

If you have any questions or concerns, please contact the Central Services Department.

RL/mcrr

# PROPOSAL

**Date: May 10, 2022**

JOB	CITY	PURCHASE ORDER NUMBER	DATE P.O ISSUED
4335 Windsor Spring	Hephzibah, Georgia		

DESCRIPTION	QTY	UNIT PRICE	AMOUNT
Scope of work to be as follow cap existing drain basket on second floor. Grind level and level existing deck. Raise deck to pitch toward outer edge of deck and cut hole through exterior wall to allow drainage into 4" gutters tying into down spouts. Deck pitch toward drains, Deck will be seal coated with ADA approve nonslip coating. All sheetrock missing due to drain repair will be repaired and painted. Iron drain grates around Facility will be replaced and new ADA approved grates will be installed.	2	\$ 224,989.94	\$ 449,979.88
<b>TOTAL</b>			

Exhibit 13

AUGUSTA-RICHMOND COUNTY GEORGIA

DEPARTMENT NAME Central Services Department

PURCHASING DEPARTMENT

REQUISITION

DEPARTMENT NUMBER 272-061474-5413120

REQUISITION

REQUISITION DATE 5/11/2022H

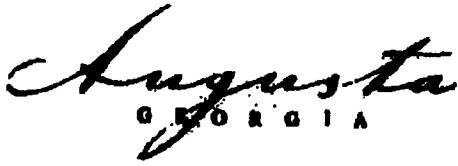
PURCHASE ORDER NUMBER

PURCHASE ORDER DATE

DEPARTMENT HEAD 

ITEM NO	DESCRIPTION	QUANTITY	NAME OF BIDDER		NAME OF BIDDER		NAME OF BIDDER	
			VENDOR	PHONE NUMBER	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
			Horizon Construction	706-719-5000				
1	Cap existing drain basket on second floor. Grind level	1				449,979.88		
2	and level existing deck. Raise deck to match toward							
3	center edge of deck and cut hole through exterior wall							
4	to allow drainage into 4" gutters w/line into down spouts.							
5	Deck pitch toward drains. Deck will be seal coated with							
6	ADA approved nonslip coating. All obstructed missing							
7	due to drain repair will be replaced and refinished. Iron							
8	drain grates around facility will be replaced and new							
9	ADA approved grates will be installed							
10								
11	Emergency for Diamond Lake Seismic Towers							
12								
13	Funding Approved at the Executive Session on							
14	May 3, 2022							
15								
16								
17								
18								
19								
20								
21								
TOTAL BID						5449,979.88		
SHIPPING CHARGES								
DELIVERY TIME FROM RECEIPT OF PURCHASE ORDER								

## Exhibit 13



## Office of the City Administrator

Takiyah A. Douse  
Interim City Administrator

May 3, 2022

Mr. Ron Lampkin  
Central Services Interim Director  
2760 Peach Orchard Road  
Augusta, GA 30906

Dear Director Lampkin:

At the executive session held Tuesday, May 3, 2022, The Augusta, Georgia Commission took action on the following:

13. Approved the use of \$500,000 of ARP funds for the repairs needed to the Diamond Lakes Scoring Towers and received as information an update on the Fleming Park Tennis Center and Parks and Recreation Centers with lighting issues.

If you have any questions, please contact me.

In Service,

A handwritten signature in black ink, appearing to read "Takiyah A. Douse".

Takiyah A. Douse  
Interim City Administrator

Ledger: GL  
Report Date: 05-10-2022  
Fund: 272 Capital Outlay

## GL Budgets and Actuals with Encumbrances

Fiscal Year: 20  
Fiscal Period: 6  
Budget Version: PF

Object	Description	Budget	Actual	Encumbrance	Balance
Org. Key:	272061474 Diamond Lake Regional Park				
Director:	MCBOWELL				
Report To:					
3412110	Site Improvements	0.00	0.00	3,724.12	-3,72
3413120	Building Renovations	500,000.00	0.00	0.00	500,00
	Revenue & Transfers In:	0.00	0.00	0.00	
	Expenditure and Transfers Out:	500,000.00	0.00	3,724.12	496,2
	Net:	-500,000.00	0.00	-3,724.12	-496,2
Grand Total (RV & TI) by Fund: 172					
		0.00	0.00	0.00	
Grand Total (XP & TO) by Fund: 172					
		500,000.00	0.00	3,724.12	496,2
	Net:	-500,000.00	0.00	-3,724.12	-496,2

Timothy E. Schroer, CPA, CGMA   
Deputy Director - Finance

Augusta Richmond County Georgia | 535 Telfair St., Suite 800 | Augusta, GA 30601  
✉ tschroer@augustaga.gov | W Office: (706) 821- 1741 | & Fax: (706) 821- 2520

From: LaQuona Sanderson <LSanderson@augustaga.gov>  
Sent: Monday, May 9, 2022 4:46 PM  
To: Timothy Schroer <TSchroer@augustaga.gov>  
Cc: Maria Rivera-Rivera <MRivera-Rivera@augustaga.gov>; Ariene New <anew@augustaga.gov>  
Subject: ARP Funds for Diamond Lakes Renovations  
Importance: High

Tim,

Please see the attached quote and approval letter for the Diamond Lakes Renovations and provide the ARP account number for processing.

Feel free to contact me with any questions or concerns regarding this request.

Thank you,

LaQuona Sanderson



## Public Services Committee

Meeting Date: January 31, 2023

### Minutes

---

<b>Department:</b>	Clerk of Commission
<b>Presenter:</b>	N/A
<b>Caption:</b>	Motion to approve the minutes of the Public Services Committee held on January 9, 2023.
<b>Background:</b>	N/A
<b>Analysis:</b>	N/A
<b>Financial Impact:</b>	N/A
<b>Alternatives:</b>	N/A
<b>Recommendation:</b>	N/A
<b>Funds are available in the following accounts:</b>	N/A
<b><u>REVIEWED AND APPROVED BY:</u></b>	N/A



## Public Service Committee Meeting Commission Chamber - 1/9/2023

**ATTENDANCE:**

Present: Hons. Garnett Johnson, Mayor; Williams, Vice Chairman; Pulliam and Guilfoyle, members.

Absent: Hon. Frantom, Chairman.

**PUBLIC SERVICES**

1. New Ownership: A.N. 23-01: A request by Prasanth Kola for a retail package Beer & Wine License to be used in connection with Vaanara Fuels, Inc. located at 4150 Windsor Spring Rd. District 6. Super District 10.

**Item  
Action:**  
Approved

**Motions**

Motion Type	Motion Text	Made By	Seconded By	Motion Result
Approve	Motion to approve. Motion Passes 3-0.	Commissioner Wayne Guilfoyle	Commissioner Bobby Williams	Passes

2. Existing Location: A.N. 23-02: A request by Andrew Crumrine for a consumption on premise Liquor License to be used in connection with Crust Augusta dba Soul City Pizza located at 1855 Central Ave. District 1. Super District 9.

**Item  
Action:**  
Approved

**Motions**

Motion Type	Motion Text	Made By	Seconded By	Motion Result
Approve	Motion to approve. Motion Passes 3-0.	Commissioner Wayne Guilfoyle	Commissioner Stacy Pulliam	Passes

3. New Ownership: A.N. 23-03: A request by Dennis E. Abrams for a consumption on premise Liquor, Beer & Wine License to be used in connection with Central Park Tavern located at 2015 Central Ave. District 1. Super District 9.

**Item  
Action:**  
Approved

**Motions**

Motion Type	Motion Text	Made By	Seconded By	Motion Result
Approve	Motion to approve. Motion Passes 3-0.	Commissioner Wayne Guilfoyle	Commissioner Stacy Pulliam	Passes

4. Motion to approve the minutes of the Public Services Committee held on November 29, 2022.

Item  
n:  
Item 10.  
Approved

**Motions**

<b>Motion Type</b>	<b>Motion Text</b>	<b>Made By</b>	<b>Seconded By</b>	<b>Motion Result</b>
Approve	Motion to approve. Motion Passes 3-0.	Commissioner Stacy Pulliam	Commissioner Wayne Guilfoyle	Passes

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