



# CITY OF DAHLONEGA

## Council Work Session Agenda

November 15, 2021 4:00 PM

Gary McCullough Council Chambers, Dahlonega City Hall

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In compliance with the Americans with Disabilities Act, those requiring accommodation for Council meetings should notify the City Clerk's Office at least 24 hours prior to the meeting at 706-864-6133.

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### OPEN MEETING

#### BOARDS & COMMITTEES:

1. Cemetery Committee—September 2021  
Chris Worick, Committee Chairman
2. Main Street – September 2021  
Ariel Alexander, Marketing Coordinator

TOURISM: Sam McDuffie, Tourism Director

#### DEPARTMENT REPORTS:

3. Marshal's Report October 2021  
George Albert, City Police Chief
4. Community Development – September 2021  
Jameson Kinley, Planning and Zoning Administrator
5. Community Development – October 2021  
Jameson Kinley, Planning and Zoning Administrator
6. Finance and Administration Department – September & October 2021  
Allison Martin, Finance Director
7. Public Works—September 2021  
Mark Buchanan, PW Director/City Engineer
8. Water & Wastewater Treatment Department Report October 2021  
John Jarrard, Water/Wastewater Treatment Director

#### ITEMS FOR DISCUSSION:

9. 2022 Meeting Dates - City of Dahlonega ( Updated)  
Mary Csukas, City Clerk
10. Intergovernmental Service Agreement – Downtown Development Authority  
Allison Martin, Finance Director
11. Discussion: Golf Carts  
Doug Parks, City Attorney
12. Discussion: Reducing the size of the Dahlonega City Council  
Doug Parks, City Attorney
13. Residential Recycling  
Mark Buchanan
14. Annual Asphalt Improvements  
Vince Hunsinger, Capital Projects Manager

[15.](#) Approval to replace all three filter racks this fiscal year at the Water Plant

John Jarrard, Director of Water and Wastewater Treatment

[16.](#) Oliver Drive Storm Water

Vince Hunsinger, Capital Project Manager

[17.](#) Water Main Extension SR 9

Vince Hunsinger, Capital Project Manager

[18.](#) Contract Renewal - Jarrard Water Services

Bill Schmid, City Manager

COMMENTS – PLEASE LIMIT TO THREE MINUTES

Clerk Comments

City Manager Comments

City Attorney Comments

City Council Comments

Mayor Comments

ADJOURNMENT



## Cemetery Report City of Dahlonega Committee Report 10/7/2021

Report Title: Cemetery Committee—September 2021  
Report Highlight: Daughters of American Revolution Grave Marking Ceremony.  
Name and Title: Chris Worrick, Committee Chairman

Recently Completed:

- DAR grave marking ceremony for Mrs. Ella Ray Oakes.



On Saturday August 7<sup>th</sup>, the Col. William Candler Chapter (Gainesville) and the Trahlyta Chapter (Dahlonega) of the National Society of the Daughters of the American Revolution held a joint grave marking ceremony to honor former member Ella Ray Oakes with a permanent DAR grave marker.

Underway:

- Installation of individual stainless-steel ground-level monuments for the 280+ unmarked graves found during recent Ground Penetrating Radar survey.
- Tree and vegetation removal at various locations through Mount Hope.
- Fall class of UNG Appalachian Studies students learning about cemetery preservation.
- First Saturday of Service.



On Saturday, August 28<sup>th</sup>, five UNG students volunteered to participate in Mt. Hope cleanup as part of their First Saturday of Service project.

Near Term:

- Add an iron, all weather outdoor bench for public convenience in Mt. Hope.



Proposed location in Mt. Hope to place a iron bench for public use.

Report Title: Main Street – September 2021

Report Highlight: Maintaining Event Schedule while also developing more Main Street Projects

Name and Title: Ariel Alexander, Marketing Coordinator

Recently Completed:

- Skyler and Ariel were promoted to the positions of Downtown Coordinator and Marketing Coordinator, respectively.
- Updated the new feature to the DDA website that allows users to view available properties for rent or sale on or near the Square (added new properties and pictures of properties).
- First Weekend events were successful, with Kurt Thomas performing at the First Friday Concert, a popular Art in the Park the first Saturday, as well as the Farmer's Market and Appalachian Jam came to an end Saturday the 2nd.
- Created a social media calendar to allow for more frequent cohesive posts about downtown shops, restaurants, and lodging options. Includes campaigns such as "Local Secrets" and "Downtown Highlights" to showcase merchants.
- Developed a "Downtown Dahlongega" Welcome Packet for new businesses that will detail services provided by the department, ways to become involved, and additional resources. A copy is attached.
- Developed a pamphlet for new business owners and residents in the downtown area for quick resources and contacts. A copy is attached.

Underway:

- In the process of updating all Wayfinding sign information. Maintenance fee reminder letters were sent out to current sign holders on August 6, 2021. Several businesses have already renewed, and more reminders will be sent out in the next month. Directional arrow changes and new business signs will be put up beginning with the new fiscal year in October.
- Planning Volunteer Appreciation event for local clubs and organizations to be held in Hancock Park on October 19.
- Developing a campaign for the dahlonegadda.org website where "mini" articles will be posted highlighting activities and events corresponding with each season. These will be posted every other week.
- Renovation of the dahlonegadda.org website will begin soon. These changes will include a "leave a comment" tab, more developed "shop, dine, stay" materials, and more accessible resources for small businesses.

# **DOWNTOWN DAHLONEGA NEW BUSINESS WELCOME PACKET**



**DAHLONEGA**

*Main Street*

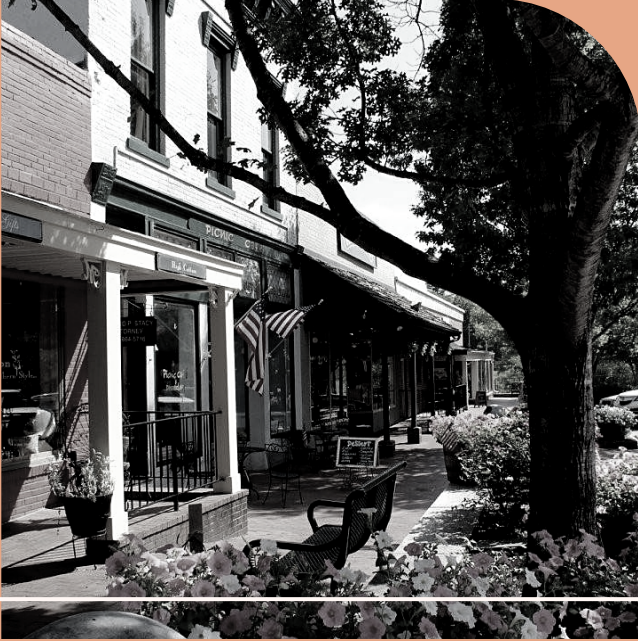
**465 RILEY RD.**

**(706) 482-2714**

**WWW.DAHLONEGAGADDA.ORG**

**@DAHLONEGAMAINSTREET**

# **DOWNTOWN DAHLONEGA WELCOMES YOU!**



**The Main Street and Downtown Development Office is located within Dahlonega City Hall, just a minute from the historic downtown square. The Main Street Program & DDA is dedicated to the revitalization of economic development in Dahlonega's downtown district. Our office is your point of contact for prospective downtown projects, grant programs, as well as promotion and marketing. Our focus is on creating opportunities for residents and visitors to engage with our businesses in a way that will keep them coming back. Our office plans many exciting community events to draw crowds to downtown, including our First Friday Concert Series, Art in the Park, and Appalachian Jam.**

**The Downtown Development Authority was established in accordance with Downtown Development Authority Law. The DDA powers include the ability to purchase and own property to rent or lease, to finance projects, to execute contracts and finance projects, and to receive tax monies. Dahlonega's DDA Board consists of seven community volunteers from varying backgrounds. This board meets every first Thursday at 8:45 a.m. and welcomes the public to join.**

# MEET OUR STAFF



**Ariel Alexander**  
**Marketing Coordinator**

Ariel Alexander has worked for the Main Street/DDA Program since January 2021. Ariel has lived in Dahlonega since 2011 and is a graduate of Lumpkin County High School. She attended the University of North Georgia to obtain her undergraduate degree in Political Science/Pre-Law Studies. Ariel's perfect day in Dahlonega would include breakfast at Picnic Cafe and enjoying the monthly Art in the Park event downtown, and wrapping up with an outdoor concert at Shenanigan's Irish Pub!

She is responsible for developing and promoting marketing activities in the downtown district to promote economic vitality. She focuses on design and promotion using social media campaigns, informational programs, and website facilitation. Bring your advertising questions to her! She is here to help with financial programs support, event planning, and small business development.



**Skyler Alexander**  
**Downtown Coordinator**

Skyler Alexander moved here in 2004 from Indiana and has loved every moment of her 17 years in Dahlonega. She graduated from LCHS in 2016 and is currently enrolled as a student at UNG. Skyler has worked at Dahlonega City Hall since November 2018 in the Community Development Department and in January 2021 transitioned to the Main Street/DDA Department.

As the Downtown Coordinator, her main responsibilities include developing, promoting, and implementing production and support for Dahlonega's organizations and to maintain relationships with downtown businesses. Skyler normally starts her weekends off with a morning tea from My Vintage Gypsy Tea's on the square, swings by Shenanigan's Irish Pub for a rubeen, and ends the night with a fun game of Friday night "On Tap Trivia" at Gold City Growler's.



# MEET OUR BOARD

Ryan Puckett

Tony Owens

Donna Logan

Amy Thraikill

A.C. Moore

Joel Cordle

Wendi Huguley

# MAJOR EVENTS

## January

First Night Dahlonega: New Year's Celebration

## May-October

First Friday Concert Series

## April

Dahlonega Arts and Wine Festival

## July

Dahlonega Independence Day Celebration

## October

Gold Rush Days Festival

## November-December

Dahlonega Old Fashioned Christmas



# BUSINESS RESOURCES

## Facade Grants

Incentive:

50% or up to \$1,500 in a five year period.

Guidelines:

- Available for exterior restorations/repairs
- Grant amount determined by available funds and number of requests under consideration
- Available for commercial property owners and business owners within the locally designated DDA area zoned B-3 and CBD
- Government buildings and national franchises not eligible
- Improvements are to remain in place and maintained
- All property taxes and licenses are current
- Applicant responsible for the project and result in restorations appropriate for the building, contributing to the success of the current business and repair the building's façade to positively contribute to the appearance and vitality of Downtown

Projects must:

- Preserve architectural integrity of the structure and if possible restore the original façade
- Match preservation guidelines outlined by the US Secretary of the Interior Standards
- Meet all local governmental rules, regulations, and laws, including the Dahlonga Historic Preservation Ordinance and Design Guidelines
- Use the gentlest methods available for exterior surface cleaning
- Consider the unique qualities of the individual building

# BUSINESS RESOURCES

## Sprinkler and Wiring System Grant

Incentive:

50% or up to \$1,500 in a five year period per location.

Guidelines:

- Zoned B-3 in the historic district. CBD properties may be considered based on the availability of funds
- Grant amount determined by available funds and the number of requests under consideration
- Commercial buildings 50 years or older
- Improvements are to remain in place and maintained.
- All property taxes and licenses are current
- Applicant responsible for the project

## Monitored Fire Alarm System Grant

Incentive:

50% or up to \$500 in a five year period per location.

Guidelines:

- Zoned B-3 in the historic district.
- Grant amount determined by available funds and number of requests under consideration
- Improvements are to remain in place and maintained
- All property taxes and licenses are current
- Applicant responsible for the project

# BUSINESS RESOURCES

## Bronze Dahlonga Stories History Plaques

Incentive:

50% of the plaque cost.

Guidelines:

- Property is within the locally designated downtown development are within the historic central business district
- Available for commercial property owners and business owners.

Government buildings and national franchises not eligible

## Downtown Dahlonga Wayfinding

- Main Street Dahlonga's wayfinding signage is a system of signs that guides people by vehicle, bicycle, or on foot to important destinations downtown.

# FAQS

## How do I sign up for the newsletter?

It's easy! Just fill out the form in the back of this packet and return it to us! Also, don't forget to join our Facebook group: Downtown Dahlonega Business & Property Owners.

## What do I do about trash and recycling?

Recycling and solid waste within the city limits are taken care of by Dahlonega Public Works. Please contact the City of Dahlonega for more information: (706) 864-6133.

## How do I get on the website directory?

Our website currently has pages for restaurants, shopping, attractions, and hotels! If you fit into one of these categories, you will be added. Be sure to fill out the form in the back of this packet and return it back into us! We will get you added!

## Does Downtown Dahlonega have social media?

Definitely! We have Facebook and Instagram. Be sure to tag us in your Instagram photos. Don't forget to let us know when you have something special going on so we can share it!



# BUSINESS CONTACT FORM

BUSINESS NAME: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

CONTACT NAME: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

HOW MANY EMPLOYEES: FT \_\_\_\_\_ PT \_\_\_\_\_

WEBSITE: \_\_\_\_\_

WHAT FORMS OF SOCIAL MEDIA DO YOU USE (CIRCLE): FACEBOOK  
INSTAGRAM TWITTER LINKEDIN OTHER

PLEASE LIST ANY OTHER EMPLOYEES E-MAIL ADDRESSES YOU WOULD  
LIKE TO RECEIVE OUR MONTHLY NEWSLETTER:

\_\_\_\_\_

ANY OTHER FACTS ABOUT YOUR BUSINESS YOU WOULD LIKE US TO  
KNOW?

\_\_\_\_\_

HOW WOULD YOU PREFER TO BE CONTACTED FOR IMPORTANT NEWS  
AND ANNOUNCEMENTS?

EMAIL

TELEPHONE

PRIVATE FACEBOOK GROUP

PLEASE SEND THIS BACK TO THE OFFICE OF DOWNTOWN  
DEVELOPMENT: AALEXANDER@DAHLONEGADDA.ORG

465 RILEY RD.

DAHLONEGA, GA 30533



# Department Report

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Report Title: Marshal's Report October 2021  
Report Highlight: Review of Deputy Marshal Applicants  
Name and Title: George Albert, City Police Chief

Recently Completed:

- I was sworn in by Judge Hammond Law
- Qualified with my duty weapon
- Completed PO (with assistance from Vince) for a second SUV
- Moved into office and acquired access codes
- Halloween event on square as well as patrol Sky Country event
- Assigned as Agency administrator by Georgia Police Officer Standards and Training (GA POST)
- Memorandum of understanding signed with Sheriff Jarrard
- Attended meetings with DDBA, DDA Main Street Board and Doug Parks.

Underway:

- Reconnect with Verkadis camera vendor and get brought up to speed on the history as well as the system capabilities
- Review inventory and equipment assigned to Marshals Office
- Review applicants for Deputy Marshal job
- Enrolled in Georgia Police Chief Executive Class beginning November 29 to December 8, 2021
- Worked on Administrative Assistant job duties with Jameson Kinley
- Working with GA POST on name change to Dahlonega Police Department
- Meeting community members, merchants, and business owners in the Downtown area.
- Meeting residents of City

Near Term:





# Department Report

Report Title: Community Development – September 2021  
Name and Title: Jameson Kinley, Planning and Zoning Administrator

Recently Completed:

New Residential Permits	2
New Commercial Permits	2
Residential Alteration Permits	2
Commercial Alteration Permits	2
Residential Building Inspections	97
Commercial Building Inspections	5
Plan Review	4
Soil Erosion Inspections	15
Sign Permits	3
Sign Removals	16
Tree Removal Permit	1
Land Disturbance Permit	3

Underway:

- Vickery Apartment Project (on Hold)
  - Awaiting Resubmittal from comments
- Grading activities begin for LCES, approved site plan, and building plan
  - Location: Pine Street
- NGU, Business Center under construction
- Wimpy Mills Townhomes, 95% completed
  - Final Site improvement underway

Activity:

Animal Complaints	2
Debris/Removal of Items	1
Excessive Trash/Junk	3
Sign Removals	16
Traffic/Vehicle assistance	2
Parking Permits Issued	1
Square Parking Warnings/Tickets	4
Tickets Issues	30

Cemetery:

Open/Close

Memorial Cemetery: 5

Mount Hope Cemetery: 1

Purchased Cemetery Lots

Memorial Cemetery: 2

Business:

Name/Owner Change: 2

New – 2

GA Farm Wines LLC – 450 Grove St N (Opening Soon)

Woody's Downtown Pharmacy – 403 E Main St (Opening Soon)

Revenue:

Business Licenses	\$560
Permits	\$42,874.60
Cemetery	\$4,500
Total	\$47,934.60



# Department Report

Report Title: Community Development – October 2021  
Name and Title: Jameson Kinley, Planning and Zoning Administrator

Recently Completed:

New Residential Permits	3
New Commercial Permits	2
Residential Alteration Permits	5
Commercial Alteration Permits	2
Residential Building Inspections	103
Commercial Building Inspections	24
Plan Review	5
Soil Erosion Inspections	31
Sign Permits	1
Sign Removals	36
Home Occupancy Inspections	2

Underway:

- Vickery Apartment Project (on Hold) **Nothing changed**
  - Awaiting Resubmittal from comments
- Grading activities begin for LCES, approved site plan, and building plan **Active**
  - Location: Pine Street
- NGU, Business Center under construction **Active**
- Wimpy Mills Townhomes, 95% completed **Active**
  - Final Site improvement underway

Activity:

Animal Complaints	3
Debris/Removal of Items	2
Excessive Trash/Junk	1
Sign Removals	36
Traffic/Vehicle assistance	1
Parking Permits Issued	2

Cemetery:

Open/Close

Memorial Cemetery:1

Mount Hope Cemetery: 1

Purchased Cemetery Lots

Memorial Cemetery:0

Business:

Name/Owner Change: 1

New: 7

- P&L LOGISTICS- 112 BEAUMONT DR
- REENS BRATZEIT AND BIERGARTEN - 77 MEMORIAL DR A
- BUSINESS BY THE BOOK - 77 MEMORIAL DR A
- ALMATER, LLC - 51 N GROVE ST C
- THE ART OF HEALING BY EDIE -51 N GROVE ST C
- DIGESTIVE CARE PHYSICIANS, LLC - 134 ANSLEY DR 503

Revenue:

Business Licenses	\$1,735
Permits	\$41,528.44
Cemetery	\$0
Total	\$43,263.44



## Department Report

Report Title: Finance and Administration Department – September & October 2021  
Report Highlight: Review of City Personnel Policies complete and draft of recommended updates submitted for first review.  
Name and Title: Allison Martin, Finance Director

### Recently Completed:

- Head House rehabilitation project out for bid.
- Staff completed an audit of stale dated checks and reissued or escheated per state law.
- Staff completed an audit of inactive UB accounts with a deposit and refunded accounts as needed or applied to balances.
- Staff completed a chart of accounts realignment projects with our software provider.
- Consolidated billing set up in system to allow for efficiency in billing account holders with multiple accounts. Currently have 5 on this program.
- City was awarded health grant to help with costs of testing and healthy workforce initiatives.
- Launched vendor ACH payment program.
- Streamlined the Landlord Agreement Process.

### Underway:

- Administration of American Rescue Plan (ARP) grant
- 2021 Insurance open enrollment scheduled.
- An internet solution that provides reliable and redundant service to all city facilities has been chosen and we are waiting on the companies to build out the service.
- Establish and setup Employee Portal on new software; implement and train employees on benefits and use.
- RTP final drawdown to be paid once site repaired.
- Historic Preservation Grant administration.

### Near Term:

- Update financial policies.
- Update purchasing policy to include a vendor preference provision.
- Update employee evaluation forms and document procedures for employee review process
- Develop and implement employee meetings to provide appropriate training and update HR forms; promote employee education related to City retirement plans.
- Review of additional finance files in long-term storage to determine what should be destroyed per the retention schedule.



## Department Report

**Report Title:** Public Works—September 2021

**Report Highlight:** COVID-related measures continue at a reduced level. Having exhausted available federal funding for these tasks, City Staff are performing these duties in house.

**Name and Title:** Mark Buchanan, PW Director/City Engineer

**Recently Completed:**

- In partnership with UNG, design has been completed on a project that would provide a sidewalk/pedestrian trail and watermain extension along Morrison Moore Drive from Alumni Drive to South Chestatee. Approval process through GDOT and EPD is complete. Bid process is ongoing.
- Enota Street upgrade design package. Design is complete; bids due soon.
- Bid process for asphalt markings throughout the city, partially funded through the GDOT LMIG Off-System Safety grant.
- Restriping of Choice Street parking lot. This is temporary striping intended only to function until the Choice Street resurfacing project to occur later this fall or next spring.



- The streets crew is currently installing the annual fall decorations throughout the city.







- Multiple small scale stormwater management projects throughout the city.



Underway:

- Construction of the Oak Grove roundabout, a cooperative project between the City, Lumpkin County and GDOT. The road closure was completed on schedule. Contractors will continue construction for several months with intermittent lane closures.





- Continued design of the Morrison Moore Pedestrian Bridge.
- Creation of a heavily revised set of Development Regulations.
- Purchase of 21 individual parking meters for Meaders Street one block north and one block south of Main Street.
- Discussions and planning in coordination with UNG and GDOT for a sidewalk along Morrison Moore Parkway from Calhoun Road to the new Public Safety building, previously Stake 'n Shake.
- Engineering design of projects at Choice Street and the Head House, Arcadia Street and Oliver Drive. The next project to bid is Oliver Drive.
- Mapping of City utilities by GMRC. This is an ongoing 2-year project.
- Working with Lumpkin County to ensure appropriate upgrades of Pine Tree Way related to elementary school construction.
- Creation of Request for Proposals for design firm for Park Street Water and Sewer upgrades.
- North Grove Sidewalk Repair/Replacement drawings ongoing.

- An old photo of West Main looking toward the courthouse. I just included this because I thought it was interesting. MB





## Department Report

Report Title: Water & Wastewater Treatment Department Report October 2021

Report Highlight: Our second order of water bottles should be ready this month (November). The labels were delivered to the bottling company on October 19<sup>th</sup>, which were ordered on August 11<sup>th</sup>. As soon as the bottles are delivered to Melwood Springs in Blue Ridge, we will have Lance Trucking deliver 6,000 gallons of our water to the warehouse and bottled with the same labels and containers as our previous order. This project was scheduled to be completed before the end of Fiscal Year 2021, but due to the current state of affairs in manufacturing of labels and plastic bottles its running a couple of months behind.

Name and Title: John Jarrard, Water/Wastewater Treatment Director

### Recently Completed

- Total Dissolved Solids Sampling on WWTP Effluent (Part of Permit Renewal)
- Replaced Rack #1 Valve and Actuator
- Owens Farm Fuse Replacement in Transformer (Georgia Power)
- Repaired CIP piping in pit
- Emergency repair of Chlorine Dioxide line in raw water pit
- Replaced faulty wiring in raw water pit (Oliver Electric)
- Replaced elements and contacts in In-line Water Heater (Sodium Hypochlorite Generator)

### Underway:

- Singer Valve #4 Rebuild Kit installation
- Long Term BOD and TDS testing on WWTP Effluent water (part of permit renewal)
- Updates to the Emergency Response Plan
- Cross-Connection Control Program and Backflow Prevention Program (joint work with other departments)
- Engineering of Rehab work for Barlow Lift Station
- Replacement of outside electrical disconnect boxes
- Fence repair at Walmart Tank
- UV Bulb Replacement on all racks at WWTP
- Design/Purchase Reservoir Boat
- Water Bottles

### Near Term:

- Filter Replacement at WTP
- First half of the Watershed Study for fiscal year 2022
- Renewal Application for National Pollutant Discharge Elimination System Permit (NPDES)
- Bids on Foot Bridge wood replacement at Dam
- Walmart Tank Altitude Valve Replacement



# Public Notice

Notice is hereby given that the Dahlongega City Council will hold the Regular Council Meeting on the first Monday of each month at 6:00 pm. pm except for January, July, and September. The month of January will be held Tuesday due to a State Holiday observance by Chief Judge Raymond E. George. The months of July and September will be held on the following Tuesday due to the holiday.

- **Tuesday, January 4, 2022**
- Monday, February 7, 2022
- Monday, March 7, 2022
- Monday, April 4, 2022
- Monday, May 2, 2022
- Monday, June 6, 2022
- **Tuesday, July 5, 2022- Fourth of July**
- Monday, August 1, 2022
- **Tuesday, September 6, 2022 – Labor Day**
- Monday, October 3, 2022
- Monday, November 7, 2022
- Monday, December 5, 2022

The City of Dahlongega **Downtown Development Authority** regular meetings are held the first Thursday of each month at 8:45 am. The meetings for the Downtown Development Authority:

- Thursday, January 6, 2022
- Thursday, February 8, 2022
- Thursday, March 3, 2022
- Thursday, April 7, 2022
- Thursday, May 5, 2022
- Thursday, June 2, 2022
- Thursday, July 7, 2022
- Thursday, August 4, 2022
- Thursday, September 1, 2022
- Thursday, October 6, 2022
- Thursday, November 3, 2022
- Thursday, December 1, 2022

The City of Dahlongega **Historic Preservation Commission** Work Session are held the second Wednesday of each month and the Regular meetings are held on the fourth Monday of each month both are held at 6:00 pm, exception dates are underlined. The meeting dates for the Historic Preservation Commission 2022 are listed below.

### Work Session

### Regular Meetings

* Wednesday, January 12th	Monday, January 24th
* Wednesday, February 8th	Monday, February 28th
* Wednesday, March 9 th	Monday, March 28th
* Wednesday, April 13 <sup>th</sup>	Monday, April 25th
* Wednesday, May 11th	Monday, May 23rd
* Wednesday, June 8th	Monday, June 27th
* Wednesday, July 13 <sup>th</sup>	Monday, July 25th
* Wednesday, August 9th	Monday, August 22nd
* Wednesday, September 14 <sup>th</sup>	Monday, September 26th
* Wednesday, October 12 <sup>th</sup>	Monday, October 24th
* Wednesday, November 9th	Monday, November 28th
* Wednesday, December 12th	Monday, December 20th

The Dahlongega City Council will hold a Work Session on the third Monday of each month at 4:00 pm. The January Work Sessions will be held on the following Tuesday due to a holiday. The Work Sessions are open meetings. However, there will be no designated time for public comment. The meetings for the Work Session:

- **Tuesday, January 18, 2022- Martin Luther King**
- Monday, February 21, 2022
- Monday, March 21, 2022
- Monday, April 18, 2022
- Monday, May 16, 2022
- Monday, June 20, 2022
- Monday, July 18, 2022
- Monday, August 15, 2022
- Monday, September 19, 2022
- Monday, October 17, 2022
- Monday, November 21, 2022
- Monday, December 19, 2022

The City of Dahlongega **Planning Commission** regular meetings are held the first Tuesday of each month at 6:00 pm. The months of January, July and September will be held on the following Wednesday due to the holiday The meetings for the Planning Commission:

- **Wednesday, January 5, 2022**
- Tuesday, February 1, 2022
- Tuesday, March 1, 2022
- Tuesday, April 5, 2022
- Tuesday, May 3, 2022
- Tuesday, June 7, 2022
- **Wednesday, July 6, 2022**
- Tuesday, August 2, 2022
- **Wednesday, September 7, 2022**
- Tuesday, October 4, 2022
- Tuesday, November 1, 2022
- Tuesday, December 6, 2022

- ❖ The Regular Council meetings are open public meetings and will have a designated time for public comments.
- ❖ The City Council may meet in Executive Sessions, closed to the public, as part of Regular and Special Called meetings for purposes of discussing certain real estate, personnel and legal matters limited by law. Final actions from Executive Sessions occur in open meetings.
- ❖ Special called meetings of the Council, the Board of Zoning Appeals, Downtown Development Authority, Planning Commission and/or Historic Preservation Commission may be called as needed and require separate advance notice.
- ❖ Cancellations of any of the above-mentioned meetings will be posted on the City of Dahlongega website [www.dahlongega.gov](http://www.dahlongega.gov), on the bulletin board outside the front door of City Hall and sent to the Dahlongega Nugget.

**INTERGOVERNMENTAL SERVICE AGREEMENT  
CITY OF DAHLONEGA DOWNTOWN DEVELOPMENT AUTHORITY**

THIS AGREEMENT is entered into as of the 16<sup>th</sup> day of November, 2021, between the Downtown Development Authority of the City of Dahlonega, hereinafter referred to as "The Authority") and the City of Dahlonega (hereinafter referred to as "the City"), collectively referred to hereinafter as "the Parties".

WHEREAS, the Authority is an instrumentality of the City of Dahlonega, and whereas the City is desirous of funding the Authority for specific purposes in order to carry out tasks beneficial to the City, for which the Authority possesses certain special powers and skill necessary to carry out those purposes and which have been identified and noted in prior actions of the City enabling the Downtown Development Authority, and

WHEREAS, the purpose of the Authority is to stimulate and sustain economic development in Downtown Dahlonega by encouraging cooperation and building leadership; by advancing a positive image of downtown and promoting it as an exciting place to live, shop, and invest; by sustaining and improving the appearance of downtown; and by strengthening and expanding the economic base of downtown. Powers granted to the Authority to accomplish its purpose include: developing and promoting downtown; making long-range plans or proposals for downtown; financing (by loan, grant, lease, borrow or otherwise) projects for the public good; executing contracts and agreements; and, purchasing, leasing and selling property.

WHEREAS, the Authority desires to pursue its work via a budgeted program approved by the City;

NOW THEREFORE, the parties agree as follows:

1. The Authority has provided a proposed budget for fiscal year 2022 beginning October 1, 2021, to the City and the City has reviewed that budget to determine whether the line items represented in the budget are consistent with the City's overall goals for the Authority.
2. The Authority's budget as presented on "Attachment A", attached hereto and incorporated herein as a part of this Agreement, has been approved at a revised amount of three-hundred twenty-two thousand, nine-hundred ninety-eight and no/100's dollars (\$322,988). The Authority's expenditures are funded largely by intergovernmental revenue from the City of Dahlonega totaling \$322,998.
3. A transfer of \$275,382 is required from the City's general fund to fund operating expenditures presented in the budget. Unrestricted Hotel/Motel tax collections of \$47,616 are budgeted to partially fund expenditures related to tourism-related events. Intergovernmental revenue from the City of Dahlonega is accomplished by twelve, monthly cash transfers of equal amount. At the conclusion of the fiscal year, any amount not required for actual expenditures is returned to the City of Dahlonega general fund unless otherwise identified as a multi-year commitment.
4. The City will provide administrative services and maintain the accounts and records for the Authority, and the Authority will follow City policies as applicable. The City currently provides as available the following staff support to the Authority: Executive Director (employee of the City on loan to the DDA), Main Street Manager (loaned employee for downtown business development, tourism/marketing, and public relations); City Manager (project management, as requested and available); Community Development Director (primary, administrative and executive support); and Finance Director (account management, financial reports, audits, and other administrative functions).

5. The Authority will provide written activity reports to the city to include a monthly financial statement and a goals and accomplishments status report consistent with the monthly report required of City department directors.

6. The City's duty to fund the Authority's work in fiscal year 2022 shall be contingent upon the Authority's timely provision of the reports, compliance with its approved budget, and completion of projects.

7. This agreement shall terminate on September 30, 2022, unless otherwise renewed or modified.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals the day and year first above written.

For the City of Dahlonaga:

For the Downtown Development Authority:

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

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

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

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



# CITY COUNCIL AGENDA REPORT

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**DATE:** November 5, 2021  
**TITLE:** Intergovernmental Service Agreement – Downtown Development Authority  
**PRESENTED BY:** Allison Martin, Finance Director

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## **AGENDA ITEM DESCRIPTION:**

An agreement is presented to continue the City's contractual relationship with the Downtown Development Authority (Authority) for fiscal year 2022 and establish the Authority's budget and funding sources.

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## **HISTORY/PAST ACTION:**

The budget for fiscal year 2022 that has been reviewed and determined to be consistent with the City's overall goals for the Authority.

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## **FINANCIAL IMPACT:**

The Authority's budget has been established at an amount of \$322,998 of which \$275,392 will be funded from the City's general fund, and \$47,616 will be funded from hotel/motel tax collections.

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## **RECOMMENDATION:**

To approve the Intergovernmental Service Agreement with the Downtown Development Authority for FY2022.

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## **SUGGESTED MOTIONS:**

I make a motion to approve the Intergovernmental Service Agreement with the Downtown Development Authority for FY2022 and fund its budget from general fund revenue (\$275,392) and hotel/motel tax collections (\$47,616).

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## **ATTACHMENTS:**

Intergovernmental Service Agreement – City of Dahlonega Downtown Development Authority

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# City Council Agenda Memo

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**DATE:** 10/5/2021  
**TITLE:** Discussion: Golf Carts  
**PRESENTED BY:** Doug Parks, City Attorney

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**AGENDA ITEM DESCRIPTION:**

The following model ordinance was developed in conjunction with our City Attorneys Section and provides Georgia's cities with some guidance regarding use of golf carts on city streets. GMA also worked with representatives from the golf cart manufacturing community to come up with this model ordinance. It also addresses proper recitals and attempts to mitigate risk to the City in the event a golf cart collides with a standard highway vehicle. The model provides GMA's best practice standard for the Council to use should it desire to begin to allow motorized carts and/or personal transportation vehicles to be operated on certain city streets. In short, this will allow nonconforming golf carts not necessarily intended for use on the public streets to be allowed on certain city streets that you may select.

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**HISTORY/PAST ACTION:**

None.

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**FINANCIAL IMPACT:**

None.

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**RECOMMENDATION:**

None at this time.

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**SUGGESTED MOTIONS:**

None at this time.

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**ATTACHMENTS:**

GMA Model Ordinance for Motorized Carts and Personal Transportation Vehicles

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**Motorized Carts and Personal Transportation Vehicles**  
*How your city can become a Golf Cart City.*

During the 2011 Legislative Session, the General Assembly passed legislation, Senate Bill 240, creating a definition for “personal transportation vehicle” in Title 40 of the Official Code of Georgia, dealing with motor vehicles. The new definition greatly overlaps with an existing definition in the same Title of the Code for “motorized cart.” As a result, there has been great confusion as to the implications of the new definition.

While the definitions for motorized cart and personal transportation vehicle in the Georgia Code greatly overlap, they are separate definitions according to the law and, thus, carry with them two very different sets of related law.

The following model ordinance attempts to clarify some of those questions raised by these two definitions and simultaneously provide Georgia’s cities with some guidance so they may become “Golf Cart” cities. GMA has worked with various city attorneys throughout the state and with representatives from the golf cart manufacturing community to come up with this model ordinance. The model should provide some options for cities if they desire to begin to allow motorized carts and/or personal transportation vehicles to be operated in certain public areas of their municipality.

In the following pages you will find a model ordinance cities may utilize as a base to develop their own ordinance. This model ordinance is provided with the understanding that the Georgia Municipal Association is not rendering legal advice or services. Language which is in bold and italicized in this model ordinance is illustrative or informative language and is not meant to be included as language in an actual ordinance. The model ordinance should provide assistance to your city attorney in enacting a motorized cart and/or personal transportation vehicle community.

Should your city have any questions or concerns, please feel free to contact Rusi Patel at [rpatel@gmanet.com](mailto:rpatel@gmanet.com).

MODEL ORDINANCE

AN ORDINANCE TO AMEND CHAPTER \_\_\_\_\_ OF THE CODE OF ORDINANCES OF THE CITY OF \_\_\_\_\_ BY THE MAYOR AND CITY COUNCIL RELATING TO TRAFFIC; TO PROVIDE FOR MOTORIZED CART USE ON CERTAIN DESIGNATED PUBLIC ROADS, RECREATION PATHS, RIGHTS-OF-WAY, AND OTHER PUBLIC PROPERTY; TO PROVIDE FOR USE OF PERSONAL TRANSPORTATION VEHICLE USE ON CERTAIN DESIGNATED PUBLIC ROADS, AND OTHER PUBLIC PROPERTY; TO PROVIDE FOR USE OF OTHER VEHICLES ON DESIGNATED PUBLIC ROADS, RECREATION PATHS, RIGHTS-OF-WAY, AND OTHER PUBLIC PROPERTY; TO DESIGNATE PUBLIC ROADS, RECREATION PATHS, RIGHTS-OF-WAY, AND OTHER PUBLIC PROPERTY TO BE USED BY SUCH MOTOR VEHICLES; TO PROVIDE FOR PLACES OF CROSSING HIGHWAYS AND PUBLIC ROADS; TO PROVIDE FOR REGISTRATION REQUIREMENTS; TO PROVIDE FOR LICENSING REQUIREMENTS; TO PROVIDE FOR RULES OF OPERATION; TO PROVIDE DEFINITIONS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

SECTION ONE

Chapter \_\_\_\_\_ of the Municipal Code of the City of \_\_\_\_\_ is amended by adding a new Article, to be numbered Article \_\_\_\_\_, which shall include the following language:

Article \_\_\_\_\_

Sec. \_\_\_\_\_. Short Title.

This Article shall be known as the “\_\_\_\_\_ Community Transportation Vehicle Ordinance.”

Sec. \_\_\_\_\_. Findings and Intent.

This ordinance is adopted to address the interest of public safety. Motorized carts, personal transportation vehicles, electric personal assistive mobility devices and other similar vehicles are not designed or manufactured to be used on public highways, streets and roads, (hereafter “public roads”) and the City of \_\_\_\_\_ in no way advocates their operation on the public roads within its jurisdiction. Adoption of this

ordinance is not to be relied upon as a determination by the City of \_\_\_\_\_ that operation of motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles on public roads is safe or advisable if done in accordance with this Article. By regulating such operation the city is merely addressing safety issues. All persons who operate or ride in motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles on public roads do so with their own judgment and at their own risk, and must be observant of, and attentive to the safety of themselves and others, including their passengers, other motorists, bicyclists, and pedestrians. Notwithstanding any law to the contrary, the City of \_\_\_\_\_ has no liability in negligence, nuisance or under any other cause of action for losses resulting from the use of motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles on roads, sidewalks, recreation paths, rights-of-way or other public property under this Article. Any person who operates motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles is responsible for procuring appropriate insurance as may be required by any State of Georgia law or this Chapter as a condition of operating motorized carts, personal transportation vehicles, electric personal assistive mobility devices, low-speed vehicles, and other similar vehicles on the roads of the City of \_\_\_\_\_.

Sec. \_\_\_\_\_. Definitions.

*(A number of the sample definitions have options in this model ordinance. GMA has tracked the actual language of the state law for a number of these definitions. Alternatively, a city may choose to simply refer to the state definition in the city code, thereby preventing any future inconsistency should a state definition change.)*

The following words and phrases when used in this Article shall have the definitions respectively ascribed to them in this Article.

*All-Terrain Vehicle* means any motorized vehicle designed for off-road use which is equipped with three or more low pressure tires and with a seat to be straddled by the operator and with handlebars for steering control. **OR** *All-Terrain Vehicle* shall have the same definition as set forth in O.C.G.A. § 40-1-1(3).

*Bicycle* means every device propelled by human power upon which any person may ride, having only two wheels which are in tandem and either of which is more than 13 inches in diameter. **OR** *Bicycle* shall have the same definition as set forth in O.C.G.A. § 40-1-1(6).

*Dealer* means a person engaged in the business of buying, selling, or exchanging vehicles who has an established place of business in this state. **OR** *Dealer* shall have the same definition as set forth in O.C.G.A. § 40-1-1(11).

*Electric personal assistive mobility device (EPAMD)* means a self-balancing, two nontandem wheeled device designed to transport only one person and having an electric propulsion system with average power of 750 watts (1 horsepower) and a maximum speed of less than 20 miles per hour on a paved level surface when powered solely by such propulsion system and ridden by an operator who weighs 170 pounds. **OR** *Electric personal assistive mobility device (EPAMD)* shall have the same definition as set forth in O.C.G.A. § 40-1-1(15.6).

*Gross Weight* means the unladen weight of the vehicle plus the weight of any load thereon.

*Low-Speed Vehicle (LSV)* means any four-wheeled electric vehicle whose top speed attainable in one mile is greater than 20 miles per hour but not greater than 25 miles per hour on a paved level surface and which is manufactured in compliance with those federal motor vehicle safety standards for low-speed vehicles set forth in 49 C.F.R. Section 571.500 and in effect on January 1, 2001. **OR** *Low-Speed Vehicle (LSV)* shall have the same definition as set forth in O.C.G.A. § 40-1-1(25.1).

*Moped* means a motor driven cycle equipped with two or three wheels, with or without foot pedals to permit muscular propulsion, and an independent power source providing a maximum of two brake horsepower. If a combustion engine is used, the maximum piston or rotor displacement shall be 3.05 cubic inches (50 cubic centimeters) regardless of the number of chambers in such power source. The power source shall be capable of propelling the vehicle, unassisted, at a speed not to exceed 30 miles per hour (48.28 kilometers per hour) on level road surface and shall be equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged. **OR** *Moped* shall have the same definition as set forth in O.C.G.A. § 40-1-1(28).

*Motorized Cart* means every motor vehicle having no less than three wheels and an unladen weight on 1,300 pounds or less and which cannot operate at more than 20 miles per hours. **OR** *Motorized Cart* shall have the same definition as set forth in O.C.G.A. § 40-1-1(32).

*Motor Vehicle* means every vehicle which is self-propelled other than an electric personal assistive mobility device (EPAMD). **OR** *Motor Vehicle* shall have the same definition as set forth in O.C.G.A. § 40-1-1(33).

*Pedestrian* means any person afoot. **OR** *Pedestrian* shall have the same definition as set forth in O.C.G.A. § 40-1-1(42).

*Personal Transportation Vehicle* means any motor vehicle with a minimum of four wheels, capable of a maximum level ground speed of less than 20 miles per hour with a maximum gross vehicle unladen or empty weight of 1,375 pounds and capable of transporting not more than eight persons. The term does not include mobility aids, including power wheelchairs and scooters, which can be used indoors and outdoors for the express purpose of enabling mobility for a person with a disability. The term also does not include any all-

terrain vehicle. **OR** *Personal Transportation Vehicle* shall have the same definition as set forth in O.C.G.A. § 40-1-1(43.1).

*Public Road* means the entire width between the boundary lines of every right-of-way or place open to the use of the public for purposes of vehicular travel within the boundaries of the City of \_\_\_\_\_, including streets and alleys.

*Sidewalk* means that portion of public property of a street between the curb lines, or the lateral lines of a railway, and the adjacent property lines, intended for use only by pedestrians.

*Recreation Path* means a right-of-way adjacent to motor vehicle travel lanes or other portion of public property of a street between the curb lines, or the later lines of a railway, and the adjacent property lines, or in any other designated public right-of-way or public property designated by signs for shared use by motorized carts, personal transportation vehicles, EPAMD vehicles, bicycles, and pedestrians. Such paths may be designated by resolution of the City Council.

*Unladen Weight* means the weight of a vehicle without load as per the manufacturer's specifications for such vehicle.

*Valid Motor Vehicle Driver's License* means any current and valid certificate issued by the state, other state of the United States of America, or international agency which permits persons to operate motor vehicles on the public roads of the state.

*Vehicle* means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks. **OR** *Vehicle* shall have the same definition as set forth in O.C.G.A. § 40-1-1(75).

Sec. \_\_\_\_\_. Nomenclature.

Any personal transportation vehicle, as defined by this Chapter, which also qualifies as a motorized cart, as defined by this Chapter, shall only be considered a motorized cart under this Chapter and be subject only to the requirements, including registration, equipment, and inspections for motorized carts under this Chapter.

Sec. \_\_\_\_\_. Motorized Cart Registration.

- (a) A fee of \$\_\_\_\_.00 (**not to exceed \$15.00 per O.C.G.A. § 40-6-331(b)**) to register each and every motorized cart for use on public roads will be charged by the City of \_\_\_\_\_ to cover the costs of implementing and maintaining this Article. It shall be the duty of every owner of a motorized cart that is operated on public roads, recreation paths, rights-of-way or other public property

in the jurisdiction of the City of \_\_\_\_\_ to register the motorized cart with the city within ten (10) business days of the date of purchase. *(Some municipalities have added language to their motorized cart ordinances which includes a term for how long the registration is good for, which ensures that the municipality has as up to date information for each motorized cart as possible.)*

- (b) Registration with the City of \_\_\_\_\_ shall include a record of the model, make, any vehicle identification number or serial number on such motorized cart, the name and address of the owner, a contact phone number, and any other such information as the city shall require, all of which shall be maintained by the \_\_\_\_\_ of the city.
- (c) Upon registration with the City of \_\_\_\_\_ each motorized cart shall be issued a license decal from the city signifying such registration. The decals must be affixed to the driver's side of the motorized cart in such a manner as to be visible at all times and shall remain permanently with such motorized cart unless the motorized cart is sold or the license is destroyed.
- (d) The failure to have a current registration license decal affixed to a motorized cart for use on a public roads, recreation paths, rights-of-way or other public property in the City of \_\_\_\_\_ shall be a violation of this Article and subject the owner of such motorized cart to the penalties set forth in Section \_\_\_\_\_.
- (e) If the motorized cart for use on public roads, recreation paths, rights-of-way or other public property is not registered with the city within ten (10) business days of purchase it shall be considered and unregistered motorized cart and subject the owner of such motorized cart to penalties set forth in Section \_\_\_\_\_. Furthermore, any motorized cart for use on public roads not registered within ten (10) business days of purchase shall be assessed a late registration fee of \$\_\_\_\_\_.00.
- (f) The decal issued by the city shall be non-transferrable from the motorized cart for which is it was obtained.
- (g) Upon transfer of the motorized cart to the ownership of another person, the registration must be transferred to the new owner within ten (10) business days of the change in ownership at a cost of \$\_\_\_\_\_.00. If the registration is not transferred within ten (10) business days it shall be considered and unregistered motorized cart and subject the owner of such motorized cart to penalties set forth in Section \_\_\_\_\_. Furthermore, any motorized cart for use on public roads not registered within ten (10) business days of purchase shall be assessed a late registration fee of \$\_\_\_\_\_.00.

- (h) Motorized cart dealers and distributors, along with other commercial establishments, may rent motorized carts to the public for use on designated public roads, recreation paths, rights-of-way or other public property. Each such establishment renting motorized carts shall be required to register each such motorized cart in accordance with this section and shall maintain a written record of each person who rents each cart. Renters shall be required to furnish positive identification, shall be provided a copy of this Article to read, and must be at least \_\_\_\_\_ years of age. The registration fee and transfer fees and regulations, along with all licensing and operation regulations shall be consistent with the provisions of this Article as pertains to motorized carts.
- (i) Only those persons \_\_\_\_\_ years of age and older may register a motorized cart. Motorized cart registration may be in one person’s name only, and the registration form must be signed by that person.
- (j) Any owner or operator registering a motorized cart with the city agrees to abide by all of the requirements of state law and this code. By registering a motorized cart with the city the owner or operator verifies that the vehicle qualifies to be classified as such under state law and this code.
- (k) The City Council may, at its discretion, and by resolution, waive registration requirements for special events of a limited duration to which out-of-city residents may bring motorized carts as participants. Such special events shall last no longer than seven calendar days.

Sec. \_\_\_\_\_. Personal Transportation Vehicle Equipment and Inspections.  
*(If a city wishes to have vehicle inspections for motorized carts they are not prohibited from such by state law. However, Article 1, Chapter 8, of Title 40 of the Official Code of Georgia Annotated dealing with “Equipment Generally” excludes “motorized carts” from those specific state equipment regulations, but does not extend a similar exclusion to “personal transportation vehicles.” Therefore, while a city may have inspections for motorized carts, such vehicles are not subject to the equipment regulations in the above cited section. )*

- (a) All personal transportation vehicles shall have a braking system sufficient for the weight and passenger capacity of the vehicle including a parking brake, a reverse warning device functional at all times when the directional control is in the reverse position, a main power switch which shall render the power circuit inoperative when the switch is in the ‘off’ position or the key or other activating device is removed, such key or other activating device only being removable in the ‘off’ position, head lamps, reflex reflectors, tail lamps, a horn, a rearview mirror, safety warning labels, and hip restraints and hand holds.



- (b) All personal transportation vehicles which do not also qualify as motorized carts shall comply with all applicable provisions of Article 1, Chapter 8, Title 40 of the Official Code of Georgia Annotated.

Sec. \_\_\_\_\_. Personal Transportation and Low-Speed Vehicle Registration.

- (a) Any personal transportation vehicle which does not also qualify as a motorized cart, low-speed vehicle, or other motor vehicle required to be registered by Georgia law shall register such motor vehicle with the State of Georgia, as required by law, before being allowed to operate within the boundaries of the City of \_\_\_\_\_.
- (b) Only registered personal transportation vehicles and low-speed vehicles may be operated on designated public property within the boundaries of the city, subject to limitations provided in this Article.

Sec. \_\_\_\_\_. Motorized Cart Operation Regulations.

- (a) Motorized carts may only be driven on designated public roads, recreation paths, rights-of-way or other public property of the city.
  - (1) The designated public roads shall include all public roads within the jurisdiction of the city which have a speed limit of twenty-five (25) (*city may choose a different speed if they so desire; it is highly recommended that a city do not go higher than 25 miles per hour*) miles per hour or less or on other public roads as the Mayor and City Council shall approve, except for (*list areas which are not meant to be used for motorized carts*) and as the Mayor and City Council shall deem inappropriate for use a designated public road for use by motorized carts.
  - (2) Designated recreation paths only includes recreation paths which are designed to accommodate motorized carts where a sign has been posted advising that motorized carts are allowed.
  - (3) Designated rights-of-way or other public property includes all public rights-of-way and public property of the city except public property excluded by this Chapter, by this subsection, or by state law, and does not include the following: (*list areas which are not meant to be used for motorized carts*).
- (b) Motorized carts shall not be operated on sidewalks at any time.
- (c) No person shall operate a motorized cart on a public road of the City of \_\_\_\_\_ unless that road is designated for motorized cart use by this Article and appropriate signs giving notice are posted along the public

road. The city shall post appropriate signs directing motorized carts and other explicitly allowed vehicles to cross only at designated crossings.

- (d) No motorized cart may cross any street, road or highway which is part of the state highway system unless such crossing is made at a crossing or intersection designated for that purpose by the Department of Transportation.  
*(Cities may consider having a provision designating specific crossings or leaving the language to simply the above required language. See O.C.G.A. § 40-6-331(d)(1))*

The designated crossings shall be at the following locations:

- (1) *Location*
- (2) *Location*
- (3) *Location*

- (e) Motorized carts may cross streets, roads and highways which are part of the City of \_\_\_\_\_ street system and used by other types of vehicles only at crossings or intersections designated for that purpose by the city.  
*(Cities may consider having a provision designating specific crossings, leave the language to simply the above required language, or allow for such crossings to be designated by resolution. See O.C.G.A. § 40-6-331(d)(2))*

The city council may designate such crossings or intersections from time to time by resolution.

**OR**

These designated crossings shall be at the following locations:

- (1) *Location*
- (2) *Location*
- (3) *Location*

- (f) Motorized carts may only be operated on public roads, recreational paths, rights-of-way or other public property which are part of the City of \_\_\_\_\_ street system during daylight hours unless the motorized cart complies with equipment regulations which may be promulgated by the Commissioner of Public Safety of the State of Georgia. *(See O.C.G.A. § 40-6-330 for law on light requirements for public roads).*

- (g) Motorized cart owners shall maintain their motorized carts in a manner which ensures that an unobstructed view from the driver's seat to the rear is maintained at all times the motorized cart is in operation on public roads.
- (h) The maximum occupancy of a motorized cart traveling on public roads, sidewalks, paths, rights-of-way or other public property shall be one person per designated seat.
- (i) All operators of motorized carts shall abide by all traffic regulations applicable to vehicular traffic when using the designated public roads, recreation paths, rights-of-way or other public property of the city. Where recreation paths exist for motorized carts they must be used in preference to parallel roads with the exclusion of privately held paths.

Sec. \_\_\_\_\_. Personal Transportation Vehicle, Low- Speed Vehicle and All-Terrain Vehicle Operation Regulations.

- (a) Personal transportation vehicles which are not also motorized carts may only be driven on designated recreation paths, rights-of-way or other public property of the city.
  - (1) Designated recreation paths only includes recreation paths which are designed to accommodate personal transportation vehicles where a sign has been posted advising that personal transportation vehicles are allowed.
  - (3) Designated rights-of-way or other public property includes all public rights-of-way and public property of the city except public property excluded by this Chapter, by this subsection, or by state law, and does not include the following: **(list areas which are not meant to be used for personal transportation vehicles)**.
- (b) Only personal transportation vehicles which also qualify as a motorized cart may be operated on the public roads within the territorial boundaries of the city. Such personal transportation vehicles must comply with all of the requirements for motorized carts under state law and this Article.
- (c) Personal transportation vehicles and low-speed vehicles shall not be operated on sidewalks at any time.
- (d) Personal transportation vehicles which do not also qualify as motorized carts may only be operated on designated recreation paths, rights-of-way within the boundaries of the city and may only cross public roads which are part of the City of \_\_\_\_\_ street system at Department of Transportation designated crossings of the state highway system.

*(Cities may consider having a provision designating specific crossings or leaving the language to simply the above language. Unlike motorized carts, EPAMDs, low speed vehicles, bicycles and mopeds, there are not specific provisions addressing the use of personal transportation vehicles on roads and highways in state law. As these other similar vehicles required enabling language for their use on roads and highways, it is recommended that personal transportation vehicles, which do not also qualify as motorized carts, are not operated on roads and highways due to the lack of such enabling language.)*

Such designated crossings shall be in the following locations:

- (1) *Location*
  - (2) *Location*
  - (3) *Location*
- (e) All operators shall abide by all traffic regulations applicable to vehicular traffic when using the designated public roads, sidewalks, paths, rights-of-way or other property accessible to the public in the city. Where paths exist for personal transportation vehicles they must be used in preference to parallel roads with the exclusion of privately held paths.
- (f) Any low-speed vehicle being operated on the highways of the state, including city roads and rights of way, shall display an amber strobe light which shall be visible under normal atmospheric conditions from a distance of 500 feet from the front and rear of such vehicle. ***(State law makes this requirement for low-speed vehicles only. It does not apply to motorized carts, personal transportation vehicles, or any other class of vehicle. See O.C.G.A. § 40-8-35.)***
- (g) No low-speed vehicle shall be permitted to operate on any public road within the territorial boundaries of the city where the posted speed limit exceeds 35 miles per hour. Except as prohibited by law, low-speed vehicles shall be permitted to cross over streets of which the posted speed limit exceeds 35 miles per hour as long as the low-speed vehicle is traveling from one street with a posted speed limit of 35 miles per hour or less to another street with a posted speed limit of 35 miles per hour or less.
- (h) No all-terrain vehicle shall be permitted to operate on any public roads, sidewalks, recreation paths, rights-of-way or other public property of the city. Violations will be prosecuted under the Code of Georgia, Title 40, Chapter 7, pertaining to “off-road vehicles”.
- (i) Personal transportation vehicles which are not also motorized carts may operate on recreational paths, rights-of-way and other public property at night only when utilizing head lamps and tail lamps.

Sec. \_\_\_\_\_. Gasoline-Powered Motorized Carts and Personal Transportation Vehicles. *(Cities may decide to prohibit gasoline-powered motorized carts and personal transportation vehicles outright.)*

- (a) Every gasoline-powered motorized cart and personal transportation vehicle shall at all times be equipped with an exhaust system in good working order and in constant operation, meeting the following specifications:
  - (1) The exhaust system shall include the piping leading from the flange of the exhaust manifold to and including the muffler and exhaust pipes or include any and all parts specified by the manufacturer.
  - (2) The exhaust system in its own shall be securely fastened, including the consideration of missing or broken brackets or hangers.
  - (3) The engine and power mechanism of every gasoline-powered motorized cart or personal transportation vehicle shall be so equipped, adjusted, and tuned, as to prevent the escape of excessive smoke or fumes.
- (b) It shall be unlawful for the owner of any gasoline-powered motorized cart or personal transportation vehicle to operate or permit the operation of such gasoline-powered motorized cart or personal transportation vehicle on which any device controlling or abating atmospheric conditions, which is placed on the gasoline-powered motorized cart or personal transportation vehicle by the manufacturer, to render the device unserviceable by removal, alteration, or other interference with its operation.
- (c) All gasoline-powered motorized carts or personal transportation vehicles shall be maintained in working order and kept in good condition and shall be subject to inspection by city officials at reasonable times and intervals.
- (d) All gasoline-powered motorized carts or personal transportation vehicles shall be maintained in such condition so that they are incapable of "backfiring", or otherwise operating so as to make loud noises; or create noise as a result of an operators equipping the gasoline-powered motorized cart or personal transportation vehicle with a certain device.

Sec. \_\_\_\_\_. Motorized Cart Operator Licensing Regulations.  
*(The state law on motorized carts allows for cities to designate by ordinance the conditions under which a person may operate motorized carts on the designated streets without a driver's license. As a result, licensing regulations are very much up to the discretion of each individual city.)*

- (a) Those persons possessing a valid motor vehicle driver's license issued by the state, other state of the United States of America, or international agency which permits such person to operate a motor vehicle on the highways of the state may operate and drive a motorized cart on designated public roads, recreation paths, rights-of-way or other permitted public property of the city.
- (b) Those persons who are \_\_\_\_\_ years of age or older but do not hold a valid motor vehicle driver's license may drive a motorized cart on the on designated public roads, recreation paths, rights-of-way or other public property of the city if they are accompanied by a person at least \_\_\_\_\_ years of age who holds a valid motor vehicle driver's license.
- (c) No person under the age of \_\_\_\_\_ years shall be permitted to operate a motorized cart on designated public roads, recreation paths, rights-of-way or other public property of the city.
- (d) Those persons who are \_\_\_\_\_ years of age and older, possessing a valid photo identification card indicating their age may drive a motorized cart on designated public roads, recreation paths, rights-of-way or other public property of the city without possessing a valid motor vehicle driver's license.

Sec. \_\_\_\_\_. Personal Transportation and Low-Speed Vehicle Operator Licensing Regulations.

Only those persons possessing a valid motor vehicle driver's license issued by the state, other state of the United States of America, or international agency which permits such person to operate a motor vehicle on the public roads of the state may operate a personal transportation vehicle which does not also qualify as a motorized cart or low-speed vehicle on the public roads within the territorial boundaries of the city.

Sec. \_\_\_\_\_. Recreation Path Users – Authorized.

***(The following list should be decided by your own city to determine the best needs of your community.)***

Authorized users of recreation paths are as follows:

- (a) Pedestrians;
- (b) Non-motorized vehicles;
- (c) Roller skates, roller blades, non-powered scooters and skateboarders (daylight only);

- (d) Registered motorized carts provided that the vehicle is operated at a speed not to exceed\_\_\_\_ miles per hour and only on designated recreation paths;
- (e) Emergency and authorized maintenance vehicles;
- (f) Bicycles;
- (g) Wheelchairs;
- (h) Registered low-speed vehicles provided that the vehicle is operated at a speed not to exceed\_\_\_\_ miles per hour and only on designated recreation paths; and
- (i) Registered personal transportation vehicles provided that the vehicle is operated at a speed not to exceed\_\_\_\_ miles per hour and only on designated recreation paths;

Sec. \_\_\_\_\_. Recreation Path Users – Prohibited.

*(The following list should be decided by your own city to determine the best needs of your community.)*

- (a) Automobiles and trucks (except authorized emergency and maintenance vehicles);
- (b) Motorcycles;
- (c) Motorized Bicycles;
- (d) Mopeds;
- (e) Horses;
- (f) Go-carts;
- (g) Un-registered motorized carts;
- (h) Un-registered personal transportation vehicles;
- (i) Motorized scooters;
- (j) Un-registered low-speed vehicles; and
- (k) All-terrain vehicles.

Sec. \_\_\_\_\_. Insurance.

- (a) The owner or operator of a motorized cart is liable for his or her own actions. Any person who operates or owns a motorized cart is responsible for procuring liability insurance and verifying coverage in terms enough to cover risk involved in using such motorized cart on designated public roads, recreation paths, rights-of-way or other public property of the city. *(O.C.G.A. § 33-34-4 requires owners of motor vehicles which are required to be registered in the state, with the state, to obtain appropriate insurance. Motorized carts are not required, per O.C.G.A. §40-2-20, to be registered in the state. As a result, insurance for motorized carts does not seem to be required by the state and is a gray area of law which cities should be cognizant.)*
- (b) The owner or operator of a personal transportation vehicle which does not also qualify as a motorized cart shall keep proof or evidence of required minimum insurance coverage in the personal transportation vehicle at all times during the operation of the motor vehicle as required by state law.
- (c) The owner or operator of a low speed vehicle shall keep proof or evidence of required minimum insurance coverage in the low speed vehicle at all times during the operation of the motor vehicle as required by state law.

Sec. \_\_\_\_\_. Hazardous Activities and Special Rules.

- (a) Blocking of public access to any public roads, sidewalks, recreation paths, rights-of-way or other public property of the city shall be prohibited, except for permitted events.
- (b) Persons using recreation paths should always give due consideration and reasonable right of way to other users of the recreation path to ensure safe passage for all parties.
- (c) A warning or announcement shall be given by persons using recreation paths when approaching slower moving parties from the rear. The warning or announcement may be verbal, but it is recommended that users operating vehicles utilize an audible warning device, such as a horn or bell.
- (d) All operators and passengers of motorized carts, low-speed vehicles, personal transportation vehicles, and other motor vehicles shall remain seated at all times during the operation of motor vehicle.

Sec. \_\_\_\_\_. Penalties.

- (a) Any person who violates the terms of this Article shall be cited to appear before the municipal court or other court of appropriate jurisdiction and, upon conviction, punished as provided in the Code of \_\_\_\_\_, Georgia.



- (b) In addition to enforcing sanctions against the operator, any violation of this Article shall be charged against the registered owner of the vehicle, and all fines and penalties shall be levied against the registered owner of the vehicle as follows:
- (1) For the first offense, a fine of not to exceed \$\_\_\_\_\_.00;
  - (2) For the second offense committed within one year of conviction for a first offense, a fine of not to exceed \$\_\_\_\_\_.00; and
  - (3) For a third offense committed within one year of conviction for a second offense for a vehicle, a fine of not to exceed \$\_\_\_\_\_.00, and if a motorized cart the registered owner's motorized cart city registration shall be revoked. The registered owner cannot thereafter register a motorized cart for use in the city for a period of two years following the third conviction. Additionally, such person shall be prohibited from operating a motorized cart or personal transportation vehicle on the public roads, recreation paths, rights-of-way, or other public property for a period of two years.
- (c) Any violation by an operator of a low-speed vehicle shall be charged against the operator according to the provisions of Title 40 of the Official Code of Georgia and this Code. Any violation by an owner of a low-speed vehicle shall be charged against the owner according to the provisions of Title 40 of the Official Code of Georgia and this Code.
- (d) Any violation by and operator of a personal transportation vehicle, EPAMD, or other motor vehicle may be charged against the operator according to this Code or according to the provisions of Title 40 of the Official Code of Georgia.

## SECTION TWO

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

## SECTION THREE

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.

## SECTION FOUR

This ordinance shall become effective immediately upon its adoption by the City Council.

SO ORDAINED, this \_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
Mayor  
City of \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk of Council



# City Council Agenda Memo

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**DATE:** 10/5/2021  
**TITLE:** Discussion: Reducing the size of the Dahlonega City Council  
**PRESENTED BY:** Doug Parks, City Attorney

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**AGENDA ITEM DESCRIPTION:**

Attached is an example of local legislation similar to what you are considering. In this example the City of Young Harris chose to go with a mayor and five council members with a transition plan to handle future elections. They also created a three member quorum. You may want to consider this as an intermediate step prior to moving toward the ultimate goal of a five member council.

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**HISTORY/PAST ACTION:**

None.

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**FINANCIAL IMPACT:**

None.

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**RECOMMENDATION:**

None at this time.

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**SUGGESTED MOTIONS:**

None at this time.

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**ATTACHMENTS:**

HB 1225

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House Bill 1225 (AS PASSED HOUSE AND SENATE)

By: Representative Gurtler of the 8<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend an Act to provide a new charter for the City of Young Harris, approved  
2 May 3, 2018 (Ga. L. 2018, p. 3713), so as to reduce the size of the city council; to modify  
3 the term of the mayor; to modify provisions related to a quorum of the city council; to  
4 provide for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 An Act to provide a new charter for the City of Young Harris, approved May 3, 2018 (Ga.  
8 L. 2018, p. 3713), is amended by revising Section 2.01 and Section 2.02 as follows:

9 "SECTION 2.01.

10 City council creation; number; election.

11 The legislative authority of the government of the City of Young Harris, except as otherwise  
12 specifically provided in this charter, shall be vested in a city council to be composed of a  
13 mayor and five councilmembers. The mayor and councilmembers shall be elected in the  
14 manner provided by Article V of this charter.

15 SECTION 2.02.

16 Terms and qualifications for office.

17 (a) The councilmembers shall serve for terms of four years and until their respective  
18 successors are elected and qualified. Except as provided in subsection (c) of this section,  
19 the mayor shall serve for a term of four years and until his or her respective successor is  
20 elected and qualified. The terms of office of mayor and councilmembers shall be staggered  
21 such that three members of the city council are elected every two years.

22 (b) No person shall be eligible to serve as mayor or councilmember unless such person:

H. B. 1225

- 1 -

- 23 (1) Has been a resident of the City of Young Harris for a period of at least one year  
 24 immediately prior to the date of the election for mayor or councilmember;  
 25 (2) Continues to reside therein during his or her period of service;  
 26 (3) Is registered and qualified to vote in municipal elections in the City of Young Harris;  
 27 and  
 28 (4) Meets the qualification standards required for members of the Georgia House of  
 29 Representatives as are now or may in the future be prescribed by the Georgia  
 30 Constitution.
- 31 (c) The mayor and those councilmembers in office on the effective date of this Act shall  
 32 serve out the terms to which they were elected and until their respective successors are  
 33 elected and qualified. Successors to the councilmembers elected in 2017 shall be elected  
 34 at the municipal general election of 2021. Successors to the mayor and councilmembers  
 35 elected in 2019 shall be elected at the municipal general election in 2023. The mayor  
 36 elected at the general municipal election of 2023 shall serve a term of two years.  
 37 Thereafter, a successor shall be elected at the municipal general election immediately  
 38 preceding the end of each person's term of office."

39 **SECTION 2.**

40 Said Act is further amended by revising subsection (a) of Section 2.15 as follows:

41 "(a) Three city council members shall constitute a quorum and shall be authorized to  
 42 transact business of the city council. Voting on the adoption of ordinances shall be taken  
 43 by voice vote and the ayes and nays shall be recorded in the journal but any member of the  
 44 city council shall have the right to request a roll-call vote. Except as otherwise provided  
 45 in this charter, the affirmative vote of a majority of the votes cast shall be required for the  
 46 adoption of any ordinance, resolution, or motion. In the event that any vote of the city  
 47 council results in a tie, then the mayor, as presiding officer, shall be entitled to cast the  
 48 tie-breaking vote."

49 **SECTION 3.**

50 Said Act is further amended by revising Section 5.02 as follows:

51 "SECTION 5.02.

52 Election of the city council and mayor.

53 (a) There shall be a municipal general election biennially on the Tuesday next following  
 54 the first Monday in November in odd-numbered years.

- 55 (b) Except as provided in subsection (d) of this Section, there shall be elected the mayor  
56 and three councilmembers at the municipal general election held in 2019 and quadrennially  
57 thereafter. The remaining city council seats shall be filled at the municipal general election  
58 held in 2021 and quadrennially thereafter, so that a continuing body is created.
- 59 (c) The mayor and councilmembers in office on the effective date of this charter shall  
60 remain in office until their successors are elected and take office as provided in this charter.
- 61 (d) The mayor elected at the municipal general election of 2023 shall serve a term of two  
62 years; thereafter, mayors shall serve terms of four years."

63

**SECTION 4.**

64 All laws and parts of laws in conflict with this Act are repealed.



# City Council Agenda Memo

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**DATE:** November 8, 2021  
**TITLE:** Residential Recycling  
**PRESENTED BY:** Mark Buchanan

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## **AGENDA ITEM DESCRIPTION:**

Discussion of residential recycling program considering recent notification of cost increase and missed service.

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## **HISTORY/PAST ACTION:**

Following conversations with Red Oak management, it's been determined that there was an error in their earlier assertion of a new proposed rate of \$15/week/customer.

- Red Oak has verbally indicated a revision in the proposed contract to \$15/month/customer for an estimated 650 customers, resulting in an annual cost of \$117,000 not including container purchases.
  - The city's current rate is \$1500/wk for all customers, or \$78,000/year. The proposed rate is a 50% increase of \$39,000/year.
  - Estimated customer costs that are currently \$4.50/month would need to be raised to roughly \$6.50-\$7.00/month. This amount will ONLY provide service to 650 customers. If recycling demand increases, the rate would most likely follow suite.
  - The city appears to have the offer of service from Red Oak for the remainder of November. However, the standard pickup of Friday, 11/6 was not completed. There was no notification to the city of this action, resulting in the scrambling of city staff volunteers to provide recycle service on the following Saturday.
  - Council previously discussed this topic in August 2020 with 3 available options:
    - Continue the service at the \$78,000/year rate with a reevaluation when rates rose.
    - Terminate recycling. Direct residents to other recycle opportunities.
    - Work with Lumpkin County to provide the service.
- 

## **FINANCIAL IMPACT:**

Unknown at this time. However, a simple transfer to the new rate structure would create an unbudgeted need for \$39,000/year in a best-case scenario.

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## **RECOMMENDATION:**

Staff's previous recommendation, based on Red Oak's erroneous proposed contract amount was as follows:

*"Given the inability to secure the services from other vendors on short notice and the City's current in-house solid waste commitments and subsequent lack of labor and equipment to perform the task, staff recommends immediate suspension of the recycling program. Customer fees will be adjusted via ordinance to remove the \$4.50/month recycle fee and containers will be collected."*

At the time of this writing, staff's recommendation has not changed. However, more developments may have occurred by Council Work Session of 11/15 and staff will provide updates.

---

**SUGGESTED MOTIONS:**

If there are no new developments, by the council meeting of 11/15, staff's suggested motion remains the same:

"...recommend immediate suspension of recycle program and future revision of current Solid Waste ordinance to remove \$4.50 per month fee to customers."

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**ATTACHMENTS:**

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# City Council Agenda Memo

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**DATE:** November 15, 2021  
**TITLE:** Annual Asphalt Improvements  
**PRESENTED BY:** Vince Hunsinger, Capital Projects Manager

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**AGENDA ITEM  
DESCRIPTION:**

Revising annual patching contract with Raines Grading and Hauling

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**HISTORY/PAST ACTION:**

Public Works Department has a current contract with Raines Grading and Hauling for asphalt patching of utility cuts. Work is in progress

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**FINANCIAL IMPACT:**

\$230.00 per ton of asphalt

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**RECOMMENDATION:**

We recommend that this contract be revised to include annual asphalt improvements in addition to asphalt patching of utility cuts.

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**SUGGESTED MOTIONS:**

We recommend that the City Council approves the amendment of our Raines Grading and Hauling contract.

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**ATTACHMENTS:**

None

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**MUTUAL AMENDMENT OF THE ANNUAL ASPHALT PATCHING AND LEVELING  
CONTRACT ON VARIOUS CITY STREETS PROJECT #2021-008 OF  
PROFESSIONAL SERVICES AGREEMENT**

This mutual amendment to the terms of the ANNUAL ASPHALT PATCHING AND LEVELING ON VARIOUS CITY STREETS PROJECT ("Extension") extends the rate of \$230.00 per ton entered into between the parties on April 1, 2021 ("Agreement"). The parties to the original Agreement and to this Extension are the City of Dahlonega, a Georgia Municipal Corporation, whose address is 465 Riley Road Dahlonega, Georgia, (hereinafter referred to as "City"), and Raines Grading, Hauling & Paving, LLC (hereinafter referred to as "Contractor") whose address is 1234 Dawsonville Hwy., Dahlonega, GA 30533.

This Extension is for the limited purpose of providing asphalt for non-utility cut related work at the agreed upon price in the original contract at areas defined by the City of Dahlonega in accordance with the original terms of the contract. Contractor shall tac and properly prepare the surface to receive an application of asphalt.

In witness whereof, the parties hereto have executed this Mutual Amendment to the Contract and acknowledge it by their signature below and it shall be effective as of the sixth day of December 2021.

THE CITY OF DAHLONEGA

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

Name: Bill Schmid

Title: City Manager

Raines Grading, Hauling & Paving, LLC.

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

Name: Daniel Raines

Title: Owner

APPROVED AS TO FORM:

REVIEWED BY:

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

Name: J. Douglas Parks

Title: City Attorney

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

Name: Sam Norton

Title: Mayor



# City Council Agenda Memo

**DATE:** November 3, 2021  
**TITLE:** Approval to replace all three filter racks this fiscal year at the Water Plant  
**PRESENTED BY:** John Jarrard, Director of Water and Wastewater Treatment

## AGENDA ITEM DESCRIPTION:

This memo is a request to replace all three (3) racks of filter modules and seven (7) bank manifolds this fiscal year due to the supply chain and replacement pricing received from the manufacturer's (Pall Corporation) proposal.

## HISTORY/PAST ACTION:

Council approved the funding to replace one (1) rack of filters (\$185,000) and seven (7) bank manifolds (\$75,000) during FY22 budget. The Five-Year Capital Plan has the replacement of the two remaining racks spread over the next two fiscal years (Budget of \$185,000 each fiscal year). With the current estimate from Pall, the city will have to increase the next two fiscal years budget to purchase the remaining filter modules.

## FINANCIAL IMPACT:

If the council approves the purchase of all three racks and bank manifolds this fiscal year, the total savings will be around \$160,000. Pall's proposal saves the City \$150,000 and the savings in chemical cost would be around \$10,000 (\$5,000 over the next two fiscal years). Not to mention there would be a slight savings in electricity and wear and tear on pumps to overcome the extra pressure that it requires to push the water through the older filters. There is sufficient funding in our operating reserves to complete this project without borrowing the money from some outside agency. If need be, there are a few projects listed in the Water/Sewer Fund that can be pushed back a year or two to help in the immediate funding.

## RECOMMENDATION:

Staff recommends that all three racks and bank manifolds be replaced during this fiscal year's budget (FY22). With the uncertainty of supplies, price increases over the next few years and the importance of having reliable equipment at the water plant, it's hard to turn this proposal down.

## SUGGESTED MOTIONS:

I make a motion to approve the purchase of all three rack manifold replacements and seven bank manifolds for a total price of \$545,091.88.

## ATTACHMENTS:

Pall Proposal for One Filter Rack Per Year and Manifold Replacement  
Pall Proposal for Three Filter Racks and Manifold Replacement **(Recommended Purchase)**

Pall Proposal No.: OPP1245829B

Date: October 4, 2021

Yahoola Creek WTP  
1929 Morrison Moore East Prkwy  
Dahlonega, Georgia 30533

Attn: John Jarrard

Re: Module Replacement – Single Rack each year

As a follow up to your discussion with Pall, we are pleased to offer a proposal for technical services. We will arrange onsite support pending receipt of your purchase order, at which time site visit details will be confirmed.

**Scope of Services**

Pall Water is pleased to propose providing labor and materials described below for replacing 80 Microfiltration Modules on one filtration rack on the Yahoola water filtration system each year for three years.

Item 1 – One Rack Replacement, 2021

- 80 Pall UNA-620A Microfiltration modules
- 2 Gal. Lubricant for module nuts
- 160 ea Module nuts
- 160 ea Module O-rings
- 80 ea XR Gaskets
- 4 ea XR Nuts
- 8 ea Clear couplings
- 80 ea Upper end caps
- 80 ea Lower end caps
- 3 each module wrenches
- 2 each torque wrenches
- 2 each clear coupling wrenches
- 8 each XR hoses
- 8 each 2" Clamp, Lower Module
- 8 each 1" Clamp, XR

Pall will provide a qualified Field Service Engineer (FSE) to supervise and assist with removing the old modules and installing the new modules. This module replacement project will require an additional crew of 3 people for 2 days in addition to the Pall FSE complete. Additional labor crew is by others.

Overall, Pall expects this work to take up to 3 days to complete, including set up and first rack CIP at the beginning and clean up at the end.

Pall will provide an updated Operating Protocol document for the Aria™ microfiltration (MF) system as part

of this work. The Operating Protocol is a document created by Pall's Process Engineers based on a review of your MF system together with incoming water quality and includes recommended settings and protocols for Flux Maintenance (FM), Enhanced Flux Maintenance (EFM) and Clean-In-Place (CIP) operations. The OP is designed to give operators the information and guidance to achieve optimal system performance results. Potential benefits from following Pall's Operating Protocols include improved cleanings, increased up time, and extended service life.

Copies of both and updated P&ID and the Operating Protocol will be provided shortly after completion of the installation work.

### Change-Out Plan and Schedule

The Pall Field Service Engineer will arrive at the site a full day before the start of the module removal process to meet with site personnel, review the site where the work will be performed, initiate and complete a CIP on the first rack to be changed, and make preparations for the module change-out process. For safety, a clean-in-place (CIP) procedure will be performed on each rack prior to commencing module removal. At the conclusion of the CIP process the rack will be shut down and drained. The CIP will require one full day per rack to complete.

Once full drainage of the cleaned rack has been verified the old modules will be removed and the new ones installed. The old modules will be set aside for disposal. The new modules will need to be drained of preservative prior to installation on the module rack. Pall will provide a Material Safety Data Sheet for the module preservative upon receipt of order. Disposal of old modules and module preservative is by others.

Once the full set of modules is installed on the rack, the rack will then be filled and rinsed in place to ensure all preservative has been removed from the modules. The FSE will then verify the operating set points, oversee the start-up of the rack, and verify proper operation.

### Item 2 – One Rack Replacement, 2022

- 80 Pall UNA-620A Microfiltration modules
- 2 Gal. Lubricant for module nuts
- 160 ea Module nuts
- 160 ea Module O-rings
- 80 ea XR Gaskets
- 4 ea XR Nuts
- 8 ea Clear couplings
- 80 ea Upper end caps
- 80 ea Lower end caps
- 3 each module wrenches
- 2 each torque wrenches
- 2 each clear coupling wrenches
- 8 each XR hoses
- 8 each 2" Clamp, Lower Module
- 8 each 1" Clamp, XR

Installation supervision as described in Item 1 – Pall FSE for 3 days on-site.

### Item 3 – One Rack Replacement, 2023

- 80 Pall UNA-620A Microfiltration modules
- 2 Gal. Lubricant for module nuts
- 160 ea Module nuts
- 160 ea Module O-rings
- 80 ea XR Gaskets
- 4 ea XR Nuts
- 8 ea Clear couplings
- 80 ea Upper end caps
- 80 ea Lower end caps
- 3 each module wrenches
- 2 each torque wrenches
- 2 each clear coupling wrenches
- 8 each XR hoses
- 8 each 2" Clamp, Lower Module
- 8 each 1" Clamp, XR

Installation supervision as described in Item 1 – Pall FSE for 3 days on-site.

#### Item 4 – Solenoid Bank Upgrade (Numatics G2 to G3 Conversion)

Pall Water will provide and configure upgraded Numatics solenoid manifolds with G3 electronics for the Microfiltration system at Dahlonega, GA. Numatics G2-series electronics have been obsoleted by their manufacturer and are no longer available.

A total of 7 manifolds will be provided:

- (3) Microfiltration Rack Manifolds
  - (1) Feed System Manifold
  - (1) CIP System Manifold
  - (1) CIP Chemical Transfer System Manifold

Once material delivery of the manifolds is confirmed, Pall will provide a Field Service Engineer (FSE) to remove the old manifolds, install, mount and connect (including a minor but necessary change to the connecting cable) the new manifolds. Minor programming changes will then be completed by a Field Service Engineer on-site, followed by verification of proper operation and a review with plant operating personnel. Pall Water will coordinate the timing of this work with the customer to minimize any potential disruptions to production. Updated electrical drawings will be provided within two weeks of installation completion.

Freight charges are not included.

Disclaimer: This proposal is based on information and conditions known at the time of quotation. Pall Water reserves the right to revise this proposal through change order(s) should conditions vary significantly from those known at the time of quotation and require additional work or materials.

PROPOSAL SUMMARY

Item 1 - One Rack Replacement, 2021	\$ 180,366.02
Item 2 - One Rack Replacement, 2022	\$ 204,650.32
Item 3 - One Rack Replacement, 2023	\$ 238,082.84
Item 4 - Solenoid Bank Upgrade (Numatics G2 to G3 Conversion)	\$ 74,014.74

**Total amount for purchase order: \$ 697,113.92**

**Note – Pricing is contingent on customer taking delivery of items 1 and 4 by December 31, 2021; item 2 by December 31, 2022, and item 3 by December 31, 2023**

**Service Reports:** If service reports are required by your site to comply with your company or state regulations, please indicate on your order that service report documents are required. Service reports detailing the visit and recommendations will then be provided.

**Materials:** This proposal covers parts and service. Travel is inclusive.

**Validity:** This proposal is valid for 30 days.

**Terms of Sale:** Pall Standard Terms and Conditions of Sale of Services.

**Terms of Service:**

- Maximum workday is 10 hours including travel time.

**Service Order acceptance and payment terms:** Pall Water requires all accounts outstanding beyond 30 days to be paid in full prior to order acceptance. Your account status will be verified at the time of order placement, and you will be notified if you have a balance due. To avoid order processing, goods shipment or service scheduling delays, please insure your account is up to date in advance of placing your order. Charges per the proposal will be billed automatically upon completion of the service, and sign-off of the service report, and become payable within 30 business days of receipt of the invoice.

**Changes:** Pall shall not implement any changes in the scope of services described in Pall's proposal unless the Customer and Pall agree to the details of the change. Any resulting price, schedule or other contractual modifications, will require a verbal change called into Pall's Customer Service Department, with a follow up written confirmation. This includes any changes necessitated by a change in applicable law.

**Order Placement: To accept the contract of work as described please send a signed copy of the attached Customer authorization to your Account Manager.**

Please feel free to call me at your convenience with any questions or comments. We look forward to providing you with the service work described above.

Sincerely,

Jay Garcia  
516.301.6332

Pall Proposal No.: OPP1245829B

Date: October 4, 2021

1

**Customer Authorization for Service**

I am an authorized representative of the customer, and I accept the Terms and Conditions of this Service Agreement on behalf of the customer. I authorize Pall Corporation to perform the work defined in this agreement, and accept the costs and charges defined in this agreement.

Company: \_\_\_\_\_

\_\_\_\_\_

Print Name	Title/Position
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\_\_\_\_\_

Signature	Date
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Purchase Order No. or Reference for Billing: \_\_\_\_\_

Circle Service Visit Frequency: Annual   Semi-Annual   Quarterly   Single   Emergency

Requested Date(s) to Schedule Service Visit(s): \_\_\_\_\_  
(unless deemed emergency service, please allow a 4-week window to accommodate scheduling by Pall.)

**Pall Proposal No.:** \_\_\_\_\_

**Effective Date and Duration:** This Agreement will be effective as of the date signed below, and will remain in effect:

- until on site service work has been completed by Pall,
- or until 30 days after receipt of notice of termination by either party.

Customer Billing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Customer Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Standard Terms and Conditions of Sale  
Non-Systems – The Americas  
Pall Water**

**1. Applicability: Entire Agreement:**

**1.1.** These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of the goods identified on Buyer's purchase order (the "**Goods**") by Seller to Buyer. By placing a purchase order, Buyer makes an offer to purchase the Goods pursuant to these Terms, including (a) a list of the Goods to be purchased; (b) the quantity of each of the Goods ordered; (c) the requested delivery date; (d) the unit Price for each of the Goods to be purchased; (e) the billing address; and (f) the delivery location (the "**Basic Purchase Order Terms**"), and on no other terms.

**1.2.** The accompanying quotation, proposal, confirmation of sale, invoice, order acknowledgment or similar document delivered by Seller to Buyer (the "**Sales Confirmation**"), the Basic Purchase Order Terms and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

**1.3.** Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

**2. Non-delivery:**

**2.1** The quantity of any installment of Goods as recorded by Seller on dispatch from Seller's Shipment Point (as defined in **Section 4**) is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.

**2.2** Seller shall not be liable for any non-delivery of Goods (even if caused by Seller's negligence) unless Buyer gives written notice to Seller of the non-delivery within 10 days of the date when the Goods would in the ordinary course of events have been received.

**2.3** Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

**3. Delivery:**

**3.1** The Goods will be delivered within a reasonable time after the receipt of Buyer's purchase order, subject to availability of finished Goods. The delivery and/or shipping schedule is the best estimate possible based on conditions existing at the time of Seller's Sales Confirmation or Seller's quotation and receipt of all specifications, as applicable, and in the case of non-standard items, any such date is subject to Seller's receipt of complete information necessary for design and manufacture. Seller shall not be liable for any delays, loss or damage in transit or for any other direct, indirect, or consequential damages due to delays, including without limitation, loss of use.

**3.2** Seller may, in its sole discretion, without liability or penalty, deliver partial shipments of Goods to Buyer and ship the Goods as they become available, in advance of the quoted delivery date. If the Goods are delivered in installments, then insofar as each shipment is subject to the same Agreement, the Agreement will be treated as a single contract and not severable.

**3.3** Seller shall make the Goods available to Buyer at Seller's factory or designated shipment point (each, "**Seller's Shipment Point**") using Seller's standard methods for packaging and shipping such Goods. Buyer shall take delivery of the Goods within 5 days of Seller's written notice that the Goods have been delivered to the Seller's Shipment Point.

**3.4** If for any reason Buyer fails to accept delivery of any of the Goods on the date fixed pursuant to

Seller's notice that the Goods have been delivered at the Seller's Shipment Point, or if Seller is unable to deliver the Goods at the Seller's Shipment Point on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) title and risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

**4. Shipping Terms:** Unless otherwise mutually agreed to in writing by the parties, delivery shall be FCA (Seller's Shipment Point) INCOTERMS 2010. At Buyer's request, Seller will, at Buyer's risk and expense,

arrange for the delivery of the Goods to Buyer's site/facility and Buyer will pay, or reimburse Seller, for all freight charges, taxes, duties, entry fees, brokers' fees, special, miscellaneous and all other ancillary charges and special packaging charges incurred.

**5. Title and Risk of Loss:** Title and risk of loss passes to Buyer upon the earlier of (i) delivery of the Goods

at the Seller's Shipment Point or (ii) deemed delivery pursuant to clause 3.4 above. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the New York Uniform Commercial Code.

**6. Inspection and Rejection of Nonconforming Goods:**

**6.1** Buyer shall inspect the Goods within 10 days of receipt (the "**Inspection Period**"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as required by Seller. Such notification shall identify each and every alleged nonconformity of the Goods and describe that portion of the shipment being rejected. Seller shall then respond with instructions as to the disposition of the Goods.

**6.2** If Buyer timely notifies Seller of any nonconforming Goods, Seller shall, in its sole discretion, (i) replace such nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the nonconforming Goods to Seller's Shipment Point. If Seller exercises its option to replace nonconforming Goods, Seller shall, after receiving Buyer's shipment of nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Seller's Shipment Point.

**6.3** Buyer acknowledges and agrees that the remedies set forth in **Section 6.2** are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under **Section 6.2**, all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

**6.4** If Seller delivers to Buyer a quantity of Goods of up to 5% more or less than the quantity set forth in the Sales Confirmation, Buyer shall not be entitled to object to or reject the Goods or any portion of them by reason of the surplus or shortfall and shall pay for such Goods the price set forth in the Sales Confirmation adjusted pro rata.

**7. Services:** Seller will provide such services as are expressly described in the Sales Confirmation (collectively, the "**Services**"), during normal business hours, unless otherwise specified in the Sales Confirmation. Services requested or required by Buyer outside of these hours or in addition to the quoted

or agreed upon services will be charged at Seller's then current schedule of rates, including overtime charges, if applicable, and will be in addition to the charges outlined in the Sales Confirmation.

**8. Purchase Price:** The price for the Goods and/or Services thereof shall be Seller's quoted price. Seller may

also at any time assess a fuel or energy surcharge (in addition to the price of the Goods) (the "**Purchase Price**"). The Purchase Price is based on the project schedule defined in this Agreement, Sales Confirmation

or applicable contract documents. Notwithstanding anything to the contrary set out herein, in the event of

any delay to Seller's delivery schedule caused by Buyer or its representatives (other than for Force Majeure or delays caused by Seller), including without limitation, a suspension of work or the project, a postponement of the delivery date or failure to timely issue of a notice of commencement or similar document, then the Purchase Price shall increase by 1% for every month or partial month of such delay and this Agreement shall be construed as if the increased Purchase Price were originally inserted herein, and Buyer shall be billed by Seller on the basis of such increased Purchase Price.

**9. Taxes:** The Purchase Price is exclusive of any applicable federal, state or local sales, use, excise or other similar taxes, including, without limitation, value added tax, goods and services tax or other similar tax imposed by any governmental authority on any amounts payable by Buyer. All such taxes will be for Buyer's account and will be paid by Buyer to Seller upon submission of Seller's invoices. Buyer agrees to make tax accruals and payments to the tax authorities as appropriate. If Buyer is exempt from any applicable sales tax or equivalent, but fails to notify Seller of such exemption or fails to furnish its Sales Tax Exemption Number to Seller in a timely manner and Seller is required to pay such tax, the amount of any such payment made by Seller will be reimbursed by Buyer to Seller upon submission of Seller's invoices.

**10. Payment:**

**10.1** Buyer shall pay all invoiced amounts due to Seller within 30 days from the date of Seller's invoice. Buyer shall make all payments hereunder by EFT, wire transfer, or check and in US dollars. Payment for foreign billing shall be in accordance with Seller's written instructions.

**10.2** Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, reasonable attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend performance of any Purchase Order, or suspend the delivery of any Goods, if Buyer fails to pay any amounts when due hereunder and such failure continues for 5 days following written notice thereof. Additionally Seller may require payment in cash, security or other adequate assurance satisfactory to Seller when, in Seller's opinion, the financial condition of Buyer or other grounds for insecurity warrant such action.

**10.3** All sales are subject to the approval of Seller's credit department. Seller and Buyer both recognize that there is a risk of banking fraud when individuals impersonating a business demand payment under new banking or mailing instructions. To avoid this risk, Buyer must verbally confirm any new bank or mailing instructions by calling Seller and speaking with Seller's accounts receivable contact before mailing or transferring any monies using the new instructions. Both parties agree that they will not institute any mailing or bank transfer instruction changes or require immediate payment under the new instructions but will instead provide a ten (10) day grace period to verify any payment instruction changes before any new or outstanding payments are due using the new instructions.

**10.4** Buyer may not withhold or setoff any amounts that may be claimed by Buyer against any amounts that are due and payable to Seller by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

**10.5** Notwithstanding anything herein to the contrary, this Agreement may be modified or terminated/cancelled, and scheduled shipments hereunder may be deferred or changed, only: (i) upon Buyer's prior written notice to Seller, and Seller's written acknowledgment of the notice; and (ii) upon terms satisfactory to Seller. Buyer shall pay to Seller all fees, charges and/or costs that Seller assesses because of any modification, termination/cancellation, deferment and/or change, including without limitation all termination/cancellation fees, restocking fees, storage fees, insurance costs, freight costs, nonrecurring engineering or production costs and recovery of cost plus reasonable profit required in the event of Buyer's termination without cause.

**11. Limited Warranty:**

**11.1** Limited Warranty for Goods. Seller warrants to Buyer that for a period of twelve months from the

date of delivery of the Goods, including deemed delivery pursuant to clause 3.4 above (the "**Warranty Period**"), that the Goods manufactured by Seller, when properly installed and maintained, and operated at ratings, specifications and design conditions specified by Seller, will materially conform to Seller's specifications for such Goods set forth in Seller's proposal, or, in the absence of such a proposal, such specifications for such Goods appearing in Seller's product catalogues and literature or in the Sales Confirmation, at the time of the order and will be free from material defects in material and workmanship (this "**Limited Warranty**"). Buyer shall notify Seller promptly in writing of any claims within the Warranty Period and provide Seller with an opportunity to inspect and test the Goods or service claimed to fail to meet this Limited Warranty. Buyer shall provide Seller with a copy of the original invoice for the product or service, and prepay all freight charges to return any Goods to Seller's factory, or other facility designated by Seller. All claims must be accompanied by full particulars, including system operating conditions, if applicable. If the defects are of such type and nature as to be covered by this Limited Warranty, Seller shall, at its option and in its sole discretion, either: (a) accept return of the defective Goods and furnish replacement Goods; (b) furnish replacement parts for the defective Goods; (c) repair the defective Goods; or (d) accept return of the defective Goods and return payments made, or issue credits for, such defective Goods. If Seller determines that any warranty claim is not, in fact, covered by this Limited Warranty, Buyer shall pay Seller its then customary charges for any additionally required service or products.

**11.2 Limited Warranty for Services.** Seller further warrants that all Services performed hereunder, if any, will

be performed in a workmanlike manner in accordance with applicable law and industry standards by qualified personnel (this "**Limited Warranty for Services**"); this Limited Warranty for Services shall survive for 30 days following Seller's completion of the Services (the "**Service Warranty Period**"). In the event of a warranty claim under this Limited Warranty for Services, Buyer shall inform Seller promptly in writing of the details of the claim within the Service Warranty Period. Seller's liability under any service warranty is limited (in Seller's sole discretion) to repeating the service that during the Service Warranty Period does not meet this Limited Warranty for Services or issuing credit for the nonconforming portions of the service. If Seller determines that any warranty claim is not, in fact, covered by the foregoing Limited Warranty for Services, Buyer shall pay Seller its then customary charges for all services performed by Seller.

**11.3 No Warranty as to Third Party Products.** Products manufactured by a third party ("**Third Party Product**") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in **Section 11.1**. For the avoidance of doubt, **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

With respect to any Third Party Product, the warranty, if any, is provided solely through the manufacturer of such Third Party Product, the terms of which vary from manufacturer to manufacturer and Seller assumes no responsibility on their behalf. For Third Party Products, specific warranty terms may be obtained from the manufacturer's warranty statement.

**11.4 Other Limits. EXCEPT FOR THE WARRANTIES SET FORTH IN SECTIONS 11.1 and 11.2, SELLER**

**MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS AND SERVICES, INCLUDING WITHOUT LIMITATION ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.** Seller does not warrant against, and in no event shall Seller be liable for, damages or defects arising out of improper or abnormal use, misuse, abuse, improper installation (other than by Seller), application, operation, maintenance or repair, alteration, accident, or for negligence in use, storage, transportation or handling or other negligence of Buyer. In no event shall Seller be liable for any Goods repaired or altered by someone other than Seller

other than pursuant to written authorization by Seller. All product warranties and performance guarantees shall only be enforceable if (a) all equipment is properly installed, inspected regularly and is in good working order, (b) all operations are consistent with Seller recommendations, (c) operating conditions at the job site have not materially changed and remain within anticipated specifications, and (d) no reasonably unforeseeable circumstances exist or arise.

**11.5 Exclusive Obligation. THIS WARRANTY IS EXCLUSIVE. THE LIMITED WARRANTY AND THE LIMITED WARRANTY FOR SERVICES ARE THE SOLE AND EXCLUSIVE OBLIGATIONS OF SELLER WITH RESPECT TO THE DEFECTIVE GOODS AND SERVICES. SELLER SHALL NOT HAVE ANY OTHER OBLIGATION WITH RESPECT TO THE GOODS, SERVICES, OR ANY PART THEREOF, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE. THE REMEDIES SET FORTH IN SECTIONS 11.1 AND 11.2 SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 11.1 AND 11.2.**

**11.6 Buyer Breach.** In no event shall Buyer be entitled to claim under the above Limited Warranties if Buyer is in breach of its obligations, including but not limited to payment, hereunder.

**12. Limitation of Liability:**

**12.1 IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, INCLUDING WITHOUT LIMITATION, REMANUFACTURING COSTS AND REWORK COSTS, DE-INSTALLATION OR REINSTALLATION COST, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY BUYER OR COULD HAVE BEEN REASONABLY FORESEEN BY BUYER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (TORT, CONTRACT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND WHATEVER THE FORUM, WHETHER ARISING OUT OF OR IN CONNECTION WITH THE MANUFACTURE, PACKAGING, DELIVERY, STORAGE, USE, MISUSE OR NON-USE OF ANY OF ITS GOODS OR SERVICES OR ANY OTHER CAUSE WHATSOEVER.**

**12.2 IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS SOLD HEREUNDER**

**12.3** The limitation of liability set forth in **Section 12.2** above shall not apply to liability resulting from Seller's gross negligence or willful misconduct.

**13 Cancellation:** Buyer may not cancel this Agreement after Sales Confirmation unless all the details are approved in writing by the parties, including Buyer's agreement to pay a stated amount of termination charges.

**14 Termination:** In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement and such failure continues for 10 days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

**15 Changes:** Seller shall not be obligated to implement any changes or variations in the scope of work described in Seller's Documentation unless Buyer and Seller agree in writing to the details of the change and any resulting price, schedule or other contractual modifications. This includes any changes or variations necessitated by a change in applicable law occurring after the effective date of this Agreement including these Terms.

**16 Intellectual Property Infringement:** Buyer has no authorization to make any representation, statement or warranty on behalf of Seller relating to any Goods sold hereunder. Buyer shall indemnify and defend, at its own expense, Seller against claims or liability for U.S. or applicable foreign patent, copyright, trademark or other intellectual property infringement and for product liability arising from the preparation

or manufacture of the Goods according to Buyer's specifications or instructions, or from Buyer's unauthorized or improper use of the Goods or part thereof, or from any changes or alterations to the Goods or part thereof made by persons other than Seller, or from the use of the Goods in combination with products not furnished by Seller or from the manufacture or sale or use of Buyer products which incorporate or integrate the Goods.

**17 Ownership of Materials:** All ideas, concepts, whether patentable or not, devices, inventions, copyrights, improvements or discoveries, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information that are: a) created, prepared, reduced to practice or disclosed by Seller; and/or b) based upon, derived from, or utilize the Confidential Information of Seller, and all related intellectual property rights, shall at all times remain Seller's property. No right, title or interest in any patents, trademarks, trade names or trade secrets, or in any pattern, drawing or design for any of the Goods or in any other Seller intellectual property right, shall pass or transfer to the Buyer and Seller shall at all times retain ownership rights therein. Notwithstanding the foregoing, Seller grants Buyer a non-exclusive, non-transferable license to use any such material to the extent necessary and solely for Buyer's use of the Goods purchased by Buyer from Seller hereunder. Buyer shall not disclose any such material to third parties without Seller's prior written consent. As a condition to Seller's delivery to Buyer of the Goods, Buyer shall not, directly or indirectly, and shall cause its employees, agents and representatives not to: (i) alter or modify the Goods, (ii) disassemble, decompile or otherwise reverse engineer or analyze the Goods, (iii) remove any product identification or proprietary rights notices, (iv) modify or create derivative works, (v) otherwise take any action contrary to Seller's rights in the technology and intellectual property relating to the Goods, (vi) assist or ask others to do any of the foregoing.

**18. Export:** As a condition to Seller's delivery to Buyer of the Goods, Buyer agrees, with respect to the exportation or resale of the Goods by Buyer, to comply with all requirements of the International Traffic in Arms Regulations ("**ITAR**") and the Export Administration Regulations ("**EAR**"), regulations issued thereunder and any subsequent amendments thereto, and all other national, including, but not limited to, European, government laws and regulations on export controls, including laws and regulations pertaining to export licenses, restrictions on export to embargoed countries and restrictions on sales to certain persons and/or entities. Buyer further agrees that the shipment and/or delivery of the Goods by Seller is contingent upon Seller obtaining all required export authorizations, licenses, and permits (collectively, "**Authorizations**") and Buyer agrees that Seller shall not be liable to Buyer for any failure or delay in the shipment or delivery of the Goods if such Authorizations are delayed, conditioned, denied or not issued by the regulatory or governmental agencies having jurisdiction over such Authorizations.

**19. Confidentiality:** If Seller discloses or grants Buyer access to any research, development, technical, economic, or other business information or "know-how" of a confidential nature, whether reduced to writing or not, Buyer will not use or disclose any such information to any other person or company at any time,

without Seller's prior written consent. In the event that Buyer and Seller have entered into a separate confidentiality agreement (the "**Confidentiality Agreement**"), the terms and conditions of the Confidentiality Agreement shall take precedence over the terms of this paragraph.

**20. No Waiver:** No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set

forth in writing and signed by Seller. Seller's failure to exercise, or to delay in exercising, any right, remedy,

power or privilege arising from this Agreement, or to insist on Buyer's strict performance of these Terms shall not operate as or be construed as a waiver by Seller.

**21. Force Majeure:** Under no circumstances shall Pall have any liability for any breach relating to nonperformance

or underperformance caused by extreme weather, natural disaster, fire, accident or other act of God; strike, lock out or other labor shortage or disturbance; lock down, boycott, embargo or tariff; terrorism or act of terrorism, war or war condition or civil disturbance or riot; failure of public or private telecommunications networks; delay of carriers or other industrial, agricultural or transportation disturbance; failure of normal sources of supply; epidemics, pandemics, contagion, disease or quarantine;

law, regulation or any act of government; or any other cause beyond Pall's reasonable control. Pall's performance shall be excused and deemed suspended during the continuation of such event or events and, for a reasonable time thereafter, delayed or adjusted accordingly.

**22. No Third-Party Beneficiaries:** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

**23. Relationship of the Parties:** The relationship between the parties is that of independent contractors.

Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**24. Validity:** If any provision of this Agreement, the Sales Confirmation or these Terms is held by any competent authority to be invalid or unenforceable in whole or in any part, such provision shall be ineffective, but only to the extent of such invalidity or unenforceability, without invalidating the remainder of such provision nor the other provisions, which shall not be affected.

**25. Governing Law:** This Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement or the transaction(s) contemplated by it, shall be governed by the laws of the State of New York, without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of New York.

The parties expressly exclude the application of the United Nations Conventions on Contracts for the International Sale of Goods, and further exclude the applications of the International Sale of Goods Contracts Convention Act, S.C. 1990-1991, C. 13, and the International Sale of Goods Act, R.S.O. 1990, C.I. 10, as amended.

**26. Submission to Jurisdiction:** Buyer and Seller hereby unconditionally and irrevocably submit to (and

waive any objection on the grounds of inconvenient forum or otherwise) the jurisdiction of the Supreme Court of the State of New York, County of Nassau or the United States District Court for the Southern District of New York, which courts shall have exclusive jurisdiction to adjudicate and determine any suit, action or proceeding regarding or relating to this Agreement and the purchase and supply of the Goods. A judgment, order or decision of those courts in respect of any such claim or dispute shall be conclusive and may be recognized and enforced by any courts of any state, country or other jurisdiction.

**27. No Jury Trial: BUYER AND SELLER HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

**28. Survival:** All payment, confidentiality and indemnity obligations, warranties, limitations of liability,

product return, and ownership of materials provisions, together with those sections the survival of which is necessary for the interpretation or enforcement of these Terms, shall continue in full force and effect for the duration stated in such provisions or the applicable statute of limitations.

**29. Amendment and Modification:** This Agreement may only be amended or modified in a writing which specifically states that it amends this Agreement and is signed by an authorized representative of each **party**.



Yahoola Creek WTP  
1929 Morrison Moore East Prkwy  
Dahlonega, Georgia 30533

Attn: John Jarrard

Re: On-Demand Service Support for Pall Filtration System at Yahoola Creek WTP  
Equipment no; WBS#: 01.00074

As a follow up to your discussion with Pall, we are pleased to offer a proposal for technical services. We will arrange onsite support pending receipt of your purchase order, at which time site visit details will be confirmed.

### **Scope of Services**

Pall Water is pleased to propose providing labor and materials described below for replacing 80 Microfiltration Modules on one filtration rack on the Yahoola water filtration system.

#### Item 1 – Full Module replacement

- 240 Pall UNA-620A Microfiltration modules
- 5 Gal. Lubricant for module nuts
- 480 ea Module nuts
- 480 ea Module O-rings
- 240 ea XR Gaskets
- 12 ea XR Nuts
- 24 ea Clear couplings
- 240 ea Upper end caps
- 240 ea Lower end caps
- 3 each module wrenches
- 2 each torque wrenches
- 2 each clear coupling wrenches
- 24 each XR hoses
- 24 each 2" Clamp, Lower Module
- 24 each 1" Clamp, XR

Pall will provide a qualified Field Service Engineer (FSE) to supervise and assist with removing the old modules and installing the new modules. This module replacement project will require an additional crew of 3 people for 5 days in addition to the Pall FSE complete. Additional labor crew is by others.

Overall, Pall expects this work to take up to 5 days to complete, including set up and first rack CIP at the beginning and clean up at the end.

Pall will provide an updated Operating Protocol document for the Aria™ microfiltration (MF) system as part

of this work. The Operating Protocol is a document created by Pall's Process Engineers based on a review of your MF system together with incoming water quality and includes recommended settings and protocols for Flux Maintenance (FM), Enhanced Flux Maintenance (EFM) and Clean-In-Place (CIP) operations. The OP is designed to give operators the information and guidance to achieve optimal system performance results. Potential benefits from following Pall's Operating Protocols include improved cleanings, increased up time, and extended service life.

Copies of both and updated P&ID and the Operating Protocol will be provided shortly after completion of the installation work.

#### Change-Out Plan and Schedule

The Pall Field Service Engineer will arrive at the site a full day before the start of the module removal process to meet with site personnel, review the site where the work will be performed, initiate and complete a CIP on the first rack to be changed, and make preparations for the module change-out process. For safety, a clean-in-place (CIP) procedure will be performed on each rack prior to commencing module removal. At the conclusion of the CIP process the rack will be shut down and drained. The CIP will require one full day per rack to complete.

Once full drainage of the cleaned rack has been verified the old modules will be removed and the new ones installed. The old modules will be set aside for disposal. The new modules will need to be drained of preservative prior to installation on the module rack. Pall will provide a Material Safety Data Sheet for the module preservative upon receipt of order. Disposal of old modules and module preservative is by others.

Once the full set of modules is installed on the rack, the rack will then be filled and rinsed in place to ensure all preservative has been removed from the modules. The FSE will then verify the operating set points, oversee the start-up of the rack, and verify proper operation.

#### Item 2 – Solenoid Bank Upgrade (Numatics G2 to G3 Conversion)

Pall Water will provide and configure upgraded Numatics solenoid manifolds with G3 electronics for the Microfiltration system at Dahlonega, GA. Numatics G2-series electronics have been obsoleted by their manufacturer and are no longer available.

A total of 7 manifolds will be provided:

##### (3) Microfiltration Rack Manifolds

(1) Feed System Manifold

(1) CIP System Manifold

(1) CIP Chemical Transfer System Manifold

Once material delivery of the manifolds is confirmed, Pall will provide a Field Service Engineer (FSE) to remove the old manifolds, install, mount and connect (including a minor but necessary change to the connecting cable) the new manifolds. Minor programming changes will then be completed by a Field Service Engineer on-site, followed by verification of proper operation and a review with plant operating personnel. Pall Water will coordinate the timing of this work with the customer to minimize any potential disruptions to production. Updated electrical drawings will be provided within two weeks of installation completion.

Freight charges are not included.

Disclaimer: This proposal is based on information and conditions known at the time of quotation. Pall Water reserves the right to revise this proposal through change order(s) should conditions vary significantly from those known at the time of quotation and require additional work or materials.

PROPOSAL SUMMARY

**Item 1 - Full Module replacement**

**Item 2 - Solenoid Bank Upgrade (Numatics G2 to G3 Conversion)**

**Total amount for purchase order: \$ 545,091.88**

**Note – Pricing is contingent on customer ordering both Item 1 and 2 at the same time with delivery and service execution by December 31, 2021.**

**Service Reports:** If service reports are required by your site to comply with your company or state regulations, please indicate on your order that service report documents are required. Service reports detailing the visit and recommendations will then be provided.

**Materials:** This proposal covers parts and service. Travel is inclusive.

**Validity:** This proposal is valid for 30 days.

**Terms of Sale:** Pall Standard Terms and Conditions of Sale of Services.

**Terms of Service:**

- Maximum workday is 10 hours including travel time.

**Service Order acceptance and payment terms:** Pall Water requires all accounts outstanding beyond 30 days to be paid in full prior to order acceptance. Your account status will be verified at the time of order placement, and you will be notified if you have a balance due. To avoid order processing, goods shipment or service scheduling delays, please insure your account is up to date in advance of placing your order. Charges per the proposal will be billed automatically upon completion of the service, and sign-off of the service report, and become payable within 30 business days of receipt of the invoice.

**Changes:** Pall shall not implement any changes in the scope of services described in Pall's proposal unless the Customer and Pall agree to the details of the change. Any resulting price, schedule or other contractual modifications, will require a verbal change called into Pall's Customer Service Department, with a follow up written confirmation. This includes any changes necessitated by a change in applicable law.

**Order Placement: To accept the contract of work as described please send a signed copy of the attached Customer authorization to your Account Manager.**

Please feel free to call me at your convenience with any questions or comments. We look forward to providing you with the service work described above.

Sincerely,

Jay Garcia  
516.301.6332

Pall Proposal No.: OPP1245829rev1  
Date: October 4, 2021

**Customer Authorization for Service**

I am an authorized representative of the customer, and I accept the Terms and Conditions of this Service Agreement on behalf of the customer. I authorize Pall Corporation to perform the work defined in this agreement, and accept the costs and charges defined in this agreement.

Company: \_\_\_\_\_

\_\_\_\_\_

Print Name	Title/Position
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\_\_\_\_\_

Signature	Date
-----------	------

Purchase Order No. or Reference for Billing: \_\_\_\_\_

Circle Service Visit Frequency: Annual   Semi-Annual   Quarterly   Single   Emergency

Requested Date(s) to Schedule Service Visit(s): \_\_\_\_\_  
(unless deemed emergency service, please allow a 4-week window to accommodate scheduling by Pall.)

Pall Proposal No.: \_\_\_\_\_

**Effective Date and Duration:** This Agreement will be effective as of the date signed below, and will remain in effect:

- until on site service work has been completed by Pall,
- or until 30 days after receipt of notice of termination by either party.

Customer Billing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Customer Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Standard Terms and Conditions of Sale  
Non-Systems – The Americas  
Pall Water**

**1. Applicability: Entire Agreement:**

**1.1.** These terms and conditions of sale (these "**Terms**") are the only terms which govern the sale of the goods identified on Buyer's purchase order (the "**Goods**") by Seller to Buyer. By placing a purchase order, Buyer makes an offer to purchase the Goods pursuant to these Terms, including (a) a list of the Goods to be purchased; (b) the quantity of each of the Goods ordered; (c) the requested delivery date; (d) the unit Price for each of the Goods to be purchased; (e) the billing address; and (f) the delivery location (the "**Basic Purchase Order Terms**"), and on no other terms.

**1.2.** The accompanying quotation, proposal, confirmation of sale, invoice, order acknowledgment or similar document delivered by Seller to Buyer (the "**Sales Confirmation**"), the Basic Purchase Order Terms and these Terms (collectively, this "**Agreement**") comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer has submitted its purchase order or such terms. Fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms.

**1.3.** Notwithstanding anything herein to the contrary, if a written contract signed by both parties is in existence covering the sale of the Goods covered hereby, the terms and conditions of said contract shall prevail to the extent they are inconsistent with these Terms.

**2. Non-delivery:**

**2.1** The quantity of any installment of Goods as recorded by Seller on dispatch from Seller's Shipment Point (as defined in **Section 4**) is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary.

**2.2** Seller shall not be liable for any non-delivery of Goods (even if caused by Seller's negligence) unless Buyer gives written notice to Seller of the non-delivery within 10 days of the date when the Goods would in the ordinary course of events have been received.

**2.3** Any liability of Seller for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or adjusting the invoice respecting such Goods to reflect the actual quantity delivered.

**3. Delivery:**

**3.1** The Goods will be delivered within a reasonable time after the receipt of Buyer's purchase order, subject to availability of finished Goods. The delivery and/or shipping schedule is the best estimate possible based on conditions existing at the time of Seller's Sales Confirmation or Seller's quotation and receipt of all specifications, as applicable, and in the case of non-standard items, any such date is subject to Seller's receipt of complete information necessary for design and manufacture. Seller shall not be liable for any delays, loss or damage in transit or for any other direct, indirect, or consequential damages due to delays, including without limitation, loss of use.

**3.2** Seller may, in its sole discretion, without liability or penalty, deliver partial shipments of Goods to Buyer and ship the Goods as they become available, in advance of the quoted delivery date. If the Goods are delivered in installments, then insofar as each shipment is subject to the same Agreement, the Agreement will be treated as a single contract and not severable.

**3.3** Seller shall make the Goods available to Buyer at Seller's factory or designated shipment point (each, "**Seller's Shipment Point**") using Seller's standard methods for packaging and shipping such Goods. Buyer shall take delivery of the Goods within 5 days of Seller's written notice that the Goods have been delivered to the Seller's Shipment Point.

**3.4** If for any reason Buyer fails to accept delivery of any of the Goods on the date fixed pursuant to

Seller's notice that the Goods have been delivered at the Seller's Shipment Point, or if Seller is unable to deliver the Goods at the Seller's Shipment Point on such date because Buyer has not provided appropriate instructions, documents, licenses or authorizations: (i) title and risk of loss to the Goods shall pass to Buyer; (ii) the Goods shall be deemed to have been delivered; and (iii) Seller, at its option, may store the Goods until Buyer picks them up, whereupon Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

**4. Shipping Terms:** Unless otherwise mutually agreed to in writing by the parties, delivery shall be FCA (Seller's Shipment Point) INCOTERMS 2010. At Buyer's request, Seller will, at Buyer's risk and expense,

arrange for the delivery of the Goods to Buyer's site/facility and Buyer will pay, or reimburse Seller, for all freight charges, taxes, duties, entry fees, brokers' fees, special, miscellaneous and all other ancillary charges and special packaging charges incurred.

**5. Title and Risk of Loss:** Title and risk of loss passes to Buyer upon the earlier of (i) delivery of the Goods

at the Seller's Shipment Point or (ii) deemed delivery pursuant to clause 3.4 above. As collateral security for the payment of the purchase price of the Goods, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Goods, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the New York Uniform Commercial Code.

**6. Inspection and Rejection of Nonconforming Goods:**

**6.1** Buyer shall inspect the Goods within 10 days of receipt (the "**Inspection Period**"). Buyer will be deemed to have accepted the Goods unless it notifies Seller in writing of any nonconforming Goods during the Inspection Period and furnishes such written evidence or other documentation as required by Seller. Such notification shall identify each and every alleged nonconformity of the Goods and describe that portion of the shipment being rejected. Seller shall then respond with instructions as to the disposition of the Goods.

**6.2** If Buyer timely notifies Seller of any nonconforming Goods, Seller shall, in its sole discretion, (i) replace such nonconforming Goods with conforming Goods, or (ii) credit or refund the Price for such nonconforming Goods, together with any reasonable shipping and handling expenses incurred by Buyer in connection therewith. Buyer shall ship, at its expense and risk of loss, the nonconforming Goods to Seller's Shipment Point. If Seller exercises its option to replace nonconforming Goods, Seller shall, after receiving Buyer's shipment of nonconforming Goods, ship to Buyer, at Buyer's expense and risk of loss, the replaced Goods to the Seller's Shipment Point.

**6.3** Buyer acknowledges and agrees that the remedies set forth in **Section 6.2** are Buyer's exclusive remedies for the delivery of Nonconforming Goods. Except as provided under **Section 6.2**, all sales of Goods to Buyer are made on a one-way basis and Buyer has no right to return Goods purchased under this Agreement to Seller.

**6.4** If Seller delivers to Buyer a quantity of Goods of up to 5% more or less than the quantity set forth in the Sales Confirmation, Buyer shall not be entitled to object to or reject the Goods or any portion of them by reason of the surplus or shortfall and shall pay for such Goods the price set forth in the Sales Confirmation adjusted pro rata.

**7. Services:** Seller will provide such services as are expressly described in the Sales Confirmation (collectively, the "**Services**"), during normal business hours, unless otherwise specified in the Sales Confirmation. Services requested or required by Buyer outside of these hours or in addition to the quoted

or agreed upon services will be charged at Seller's then current schedule of rates, including overtime charges, if applicable, and will be in addition to the charges outlined in the Sales Confirmation.

**8. Purchase Price:** The price for the Goods and/or Services thereof shall be Seller's quoted price. Seller may

also at any time assess a fuel or energy surcharge (in addition to the price of the Goods) (the "**Purchase Price**"). The Purchase Price is based on the project schedule defined in this Agreement, Sales Confirmation

or applicable contract documents. Notwithstanding anything to the contrary set out herein, in the event of

any delay to Seller's delivery schedule caused by Buyer or its representatives (other than for Force Majeure or delays caused by Seller), including without limitation, a suspension of work or the project, a postponement of the delivery date or failure to timely issue of a notice of commencement or similar document, then the Purchase Price shall increase by 1% for every month or partial month of such delay and this Agreement shall be construed as if the increased Purchase Price were originally inserted herein, and Buyer shall be billed by Seller on the basis of such increased Purchase Price.

**9. Taxes:** The Purchase Price is exclusive of any applicable federal, state or local sales, use, excise or other similar taxes, including, without limitation, value added tax, goods and services tax or other similar tax imposed by any governmental authority on any amounts payable by Buyer. All such taxes will be for Buyer's account and will be paid by Buyer to Seller upon submission of Seller's invoices. Buyer agrees to make tax accruals and payments to the tax authorities as appropriate. If Buyer is exempt from any applicable sales tax or equivalent, but fails to notify Seller of such exemption or fails to furnish its Sales Tax Exemption Number to Seller in a timely manner and Seller is required to pay such tax, the amount of any such payment made by Seller will be reimbursed by Buyer to Seller upon submission of Seller's invoices.

**10. Payment:**

**10.1** Buyer shall pay all invoiced amounts due to Seller within 30 days from the date of Seller's invoice. Buyer shall make all payments hereunder by EFT, wire transfer, or check and in US dollars. Payment for foreign billing shall be in accordance with Seller's written instructions.

**10.2** Buyer shall pay interest on all late payments at the lesser of the rate of 1.5% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Buyer shall reimburse Seller for all costs incurred in collecting any late payments, including, without limitation, reasonable attorneys' fees. In addition to all other remedies available under these Terms or at law (which Seller does not waive by the exercise of any rights hereunder), Seller shall be entitled to suspend performance of any Purchase Order, or suspend the delivery of any Goods, if Buyer fails to pay any amounts when due hereunder and such failure continues for 5 days following written notice thereof. Additionally Seller may require payment in cash, security or other adequate assurance satisfactory to Seller when, in Seller's opinion, the financial condition of Buyer or other grounds for insecurity warrant such action.

**10.3** All sales are subject to the approval of Seller's credit department. Seller and Buyer both recognize that there is a risk of banking fraud when individuals impersonating a business demand payment under new banking or mailing instructions. To avoid this risk, Buyer must verbally confirm any new bank or mailing instructions by calling Seller and speaking with Seller's accounts receivable contact before mailing or transferring any monies using the new instructions. Both parties agree that they will not institute any mailing or bank transfer instruction changes or require immediate payment under the new instructions but will instead provide a ten (10) day grace period to verify any payment instruction changes before any new or outstanding payments are due using the new instructions.

**10.4** Buyer may not withhold or setoff any amounts that may be claimed by Buyer against any amounts that are due and payable to Seller by reason of any set-off of any claim or dispute with Seller, whether relating to Seller's breach, bankruptcy or otherwise.

**10.5** Notwithstanding anything herein to the contrary, this Agreement may be modified or terminated/cancelled, and scheduled shipments hereunder may be deferred or changed, only: (i) upon Buyer's prior written notice to Seller, and Seller's written acknowledgment of the notice; and (ii) upon terms satisfactory to Seller. Buyer shall pay to Seller all fees, charges and/or costs that Seller assesses because of any modification, termination/cancellation, deferment and/or change, including without limitation all termination/cancellation fees, restocking fees, storage fees, insurance costs, freight costs, nonrecurring engineering or production costs and recovery of cost plus reasonable profit required in the event of Buyer's termination without cause.

**11. Limited Warranty:**

**11.1** Limited Warranty for Goods. Seller warrants to Buyer that for a period of twelve months from the

date of delivery of the Goods, including deemed delivery pursuant to clause 3.4 above (the "**Warranty Period**"), that the Goods manufactured by Seller, when properly installed and maintained, and operated at ratings, specifications and design conditions specified by Seller, will materially conform to Seller's specifications for such Goods set forth in Seller's proposal, or, in the absence of such a proposal, such specifications for such Goods appearing in Seller's product catalogues and literature or in the Sales Confirmation, at the time of the order and will be free from material defects in material and workmanship (this "**Limited Warranty**"). Buyer shall notify Seller promptly in writing of any claims within the Warranty Period and provide Seller with an opportunity to inspect and test the Goods or service claimed to fail to meet this Limited Warranty. Buyer shall provide Seller with a copy of the original invoice for the product or service, and prepay all freight charges to return any Goods to Seller's factory, or other facility designated by Seller. All claims must be accompanied by full particulars, including system operating conditions, if applicable. If the defects are of such type and nature as to be covered by this Limited Warranty, Seller shall, at its option and in its sole discretion, either: (a) accept return of the defective Goods and furnish replacement Goods; (b) furnish replacement parts for the defective Goods; (c) repair the defective Goods; or (d) accept return of the defective Goods and return payments made, or issue credits for, such defective Goods. If Seller determines that any warranty claim is not, in fact, covered by this Limited Warranty, Buyer shall pay Seller its then customary charges for any additionally required service or products.

**11.2 Limited Warranty for Services.** Seller further warrants that all Services performed hereunder, if any, will

be performed in a workmanlike manner in accordance with applicable law and industry standards by qualified personnel (this "**Limited Warranty for Services**"); this Limited Warranty for Services shall survive for 30 days following Seller's completion of the Services (the "**Service Warranty Period**"). In the event of a warranty claim under this Limited Warranty for Services, Buyer shall inform Seller promptly in writing of the details of the claim within the Service Warranty Period. Seller's liability under any service warranty is limited (in Seller's sole discretion) to repeating the service that during the Service Warranty Period does not meet this Limited Warranty for Services or issuing credit for the nonconforming portions of the service. If Seller determines that any warranty claim is not, in fact, covered by the foregoing Limited Warranty for Services, Buyer shall pay Seller its then customary charges for all services performed by Seller.

**11.3 No Warranty as to Third Party Products.** Products manufactured by a third party ("**Third Party Product**") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Goods. Third Party Products are not covered by the warranty in **Section 11.1**.

For the avoidance of doubt, **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY THIRD PARTY PRODUCT, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.**

With respect to any Third Party Product, the warranty, if any, is provided solely through the manufacturer of such Third Party Product, the terms of which vary from manufacturer to manufacturer and Seller assumes no responsibility on their behalf. For Third Party Products, specific warranty terms may be obtained from the manufacturer's warranty statement.

**11.4 Other Limits. EXCEPT FOR THE WARRANTIES SET FORTH IN SECTIONS 11.1 and 11.2, SELLER**

**MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS AND SERVICES, INCLUDING WITHOUT LIMITATION ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (c) WARRANTY OF TITLE; OR (d) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.** Seller does not warrant against, and in no event shall Seller be liable for, damages or defects arising out of improper or abnormal use, misuse, abuse, improper installation (other than by Seller), application, operation, maintenance or repair, alteration, accident, or for negligence in use, storage, transportation or handling or other negligence of Buyer. In no event shall Seller be liable for any Goods repaired or altered by someone other than Seller



other than pursuant to written authorization by Seller. All product warranties and performance guarantees shall only be enforceable if (a) all equipment is properly installed, inspected regularly and is in good working order, (b) all operations are consistent with Seller recommendations, (c) operating conditions at the job site have not materially changed and remain within anticipated specifications, and (d) no reasonably unforeseeable circumstances exist or arise.

**11.5 Exclusive Obligation. THIS WARRANTY IS EXCLUSIVE. THE LIMITED WARRANTY AND THE LIMITED WARRANTY FOR SERVICES ARE THE SOLE AND EXCLUSIVE OBLIGATIONS OF SELLER WITH RESPECT TO THE DEFECTIVE GOODS AND SERVICES. SELLER SHALL NOT HAVE ANY OTHER OBLIGATION WITH RESPECT TO THE GOODS, SERVICES, OR ANY PART THEREOF, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE. THE REMEDIES SET FORTH IN SECTIONS 11.1 AND 11.2 SHALL BE THE BUYER'S SOLE AND EXCLUSIVE REMEDY AND SELLER'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 11.1 AND 11.2.**

**11.6 Buyer Breach.** In no event shall Buyer be entitled to claim under the above Limited Warranties if Buyer is in breach of its obligations, including but not limited to payment, hereunder.

**12. Limitation of Liability:**

**12.1 IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, INCLUDING WITHOUT LIMITATION, REMANUFACTURING COSTS AND REWORK COSTS, DE-INSTALLATION OR REINSTALLATION COST, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY BUYER OR COULD HAVE BEEN REASONABLY FORESEEN BY BUYER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (TORT, CONTRACT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND WHATEVER THE FORUM, WHETHER ARISING OUT OF OR IN CONNECTION WITH THE MANUFACTURE, PACKAGING, DELIVERY, STORAGE, USE, MISUSE OR NON-USE OF ANY OF ITS GOODS OR SERVICES OR ANY OTHER CAUSE WHATSOEVER.**

**12.2 IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SELLER FOR THE GOODS SOLD HEREUNDER**

**12.3** The limitation of liability set forth in **Section 12.2** above shall not apply to liability resulting from Seller's gross negligence or willful misconduct.

**13 Cancellation:** Buyer may not cancel this Agreement after Sales Confirmation unless all the details are approved in writing by the parties, including Buyer's agreement to pay a stated amount of termination charges.

**14 Termination:** In addition to any remedies that may be provided under these Terms, Seller may terminate this Agreement with immediate effect upon written notice to Buyer, if Buyer: (i) fails to pay any amount when due under this Agreement and such failure continues for 10 days after Buyer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

**15 Changes:** Seller shall not be obligated to implement any changes or variations in the scope of work described in Seller's Documentation unless Buyer and Seller agree in writing to the details of the change and any resulting price, schedule or other contractual modifications. This includes any changes or variations necessitated by a change in applicable law occurring after the effective date of this Agreement including these Terms.

**16 Intellectual Property Infringement:** Buyer has no authorization to make any representation, statement or warranty on behalf of Seller relating to any Goods sold hereunder. Buyer shall indemnify and defend, at its own expense, Seller against claims or liability for U.S. or applicable foreign patent, copyright, trademark or other intellectual property infringement and for product liability arising from the preparation

or manufacture of the Goods according to Buyer's specifications or instructions, or from Buyer's unauthorized or improper use of the Goods or part thereof, or from any changes or alterations to the Goods or part thereof made by persons other than Seller, or from the use of the Goods in combination with products not furnished by Seller or from the manufacture or sale or use of Buyer products which incorporate or integrate the Goods.

**17 Ownership of Materials:** All ideas, concepts, whether patentable or not, devices, inventions, copyrights, improvements or discoveries, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information that are: a) created, prepared, reduced to practice or disclosed by Seller; and/or b) based upon, derived from, or utilize the Confidential Information of Seller, and all related intellectual property rights, shall at all times remain Seller's property. No right, title or interest in any patents, trademarks, trade names or trade secrets, or in any pattern, drawing or design for any of the Goods or in any other Seller intellectual property right, shall pass or transfer to the Buyer and Seller shall at all times retain ownership rights therein. Notwithstanding the foregoing, Seller grants Buyer a non-exclusive, non-transferable license to use any such material to the extent necessary and solely for Buyer's use of the Goods purchased by Buyer from Seller hereunder. Buyer shall not disclose any such material to third parties without Seller's prior written consent. As a condition to Seller's delivery to Buyer of the Goods, Buyer shall not, directly or indirectly, and shall cause its employees, agents and representatives not to: (i) alter or modify the Goods, (ii) disassemble, decompile or otherwise reverse engineer or analyze the Goods, (iii) remove any product identification or proprietary rights notices, (iv) modify or create derivative works, (v) otherwise take any action contrary to Seller's rights in the technology and intellectual property relating to the Goods, (vi) assist or ask others to do any of the foregoing.

**18. Export:** As a condition to Seller's delivery to Buyer of the Goods, Buyer agrees, with respect to the exportation or resale of the Goods by Buyer, to comply with all requirements of the International Traffic in Arms Regulations ("**ITAR**") and the Export Administration Regulations ("**EAR**"), regulations issued thereunder and any subsequent amendments thereto, and all other national, including, but not limited to, European, government laws and regulations on export controls, including laws and regulations pertaining to export licenses, restrictions on export to embargoed countries and restrictions on sales to certain persons and/or entities. Buyer further agrees that the shipment and/or delivery of the Goods by Seller is contingent upon Seller obtaining all required export authorizations, licenses, and permits (collectively, "**Authorizations**") and Buyer agrees that Seller shall not be liable to Buyer for any failure or delay in the shipment or delivery of the Goods if such Authorizations are delayed, conditioned, denied or not issued by the regulatory or governmental agencies having jurisdiction over such Authorizations.

**19. Confidentiality:** If Seller discloses or grants Buyer access to any research, development, technical, economic, or other business information or "know-how" of a confidential nature, whether reduced to writing or not, Buyer will not use or disclose any such information to any other person or company at any time,

without Seller's prior written consent. In the event that Buyer and Seller have entered into a separate confidentiality agreement (the "**Confidentiality Agreement**"), the terms and conditions of the Confidentiality Agreement shall take precedence over the terms of this paragraph.

**20. No Waiver:** No waiver by Seller of any of the provisions of this Agreement is effective unless explicitly set

forth in writing and signed by Seller. Seller's failure to exercise, or to delay in exercising, any right, remedy,

power or privilege arising from this Agreement, or to insist on Buyer's strict performance of these Terms shall not operate as or be construed as a waiver by Seller.

**21. Force Majeure:** Under no circumstances shall Pall have any liability for any breach relating to nonperformance

or underperformance caused by extreme weather, natural disaster, fire, accident or other act of God; strike, lock out or other labor shortage or disturbance; lock down, boycott, embargo or tariff; terrorism or act of terrorism, war or war condition or civil disturbance or riot; failure of public or private telecommunications networks; delay of carriers or other industrial, agricultural or transportation disturbance; failure of normal sources of supply; epidemics, pandemics, contagion, disease or quarantine;

law, regulation or any act of government; or any other cause beyond Pall's reasonable control. Pall's performance shall be excused and deemed suspended during the continuation of such event or events and, for a reasonable time thereafter, delayed or adjusted accordingly.

**22. No Third-Party Beneficiaries:** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

**23. Relationship of the Parties:** The relationship between the parties is that of independent contractors.

Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

**24. Validity:** If any provision of this Agreement, the Sales Confirmation or these Terms is held by any competent authority to be invalid or unenforceable in whole or in any part, such provision shall be ineffective, but only to the extent of such invalidity or unenforceability, without invalidating the remainder of such provision nor the other provisions, which shall not be affected.

**25. Governing Law:** This Agreement, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this Agreement or the transaction(s) contemplated by it, shall be governed by the laws of the State of New York, without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of New York.

The parties expressly exclude the application of the United Nations Conventions on Contracts for the International Sale of Goods, and further exclude the applications of the International Sale of Goods Contracts Convention Act, S.C. 1990-1991, C. 13, and the International Sale of Goods Act, R.S.O. 1990, C.I. 10, as amended.

**26. Submission to Jurisdiction:** Buyer and Seller hereby unconditionally and irrevocably submit to (and

waive any objection on the grounds of inconvenient forum or otherwise) the jurisdiction of the Supreme Court of the State of New York, County of Nassau or the United States District Court for the Southern District of New York, which courts shall have exclusive jurisdiction to adjudicate and determine any suit, action or proceeding regarding or relating to this Agreement and the purchase and supply of the Goods. A judgment, order or decision of those courts in respect of any such claim or dispute shall be conclusive and may be recognized and enforced by any courts of any state, country or other jurisdiction.

**27. No Jury Trial: BUYER AND SELLER HEREBY IRREVOCABLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

**28. Survival:** All payment, confidentiality and indemnity obligations, warranties, limitations of liability,

product return, and ownership of materials provisions, together with those sections the survival of which is necessary for the interpretation or enforcement of these Terms, shall continue in full force and effect for the duration stated in such provisions or the applicable statute of limitations.

**29. Amendment and Modification:** This Agreement may only be amended or modified in a writing which specifically states that it amends this Agreement and is signed by an authorized representative of each **party.**



# City Council Agenda Memo

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**DATE:** November 15, 2021  
**TITLE:** Oliver Drive Storm Water  
**PRESENTED BY:** Vince Hunsinger, Capital Project Manager

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**AGENDA ITEM DESCRIPTION:**

Storm Water Project on Oliver Drive

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**HISTORY/PAST ACTION:**

Bid Opening on 11/4/2021

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**FINANCIAL IMPACT:**

\$191,275 has been bid by GradeCo, LLC. \$85,000 of the cost of the project will be funded by State LMIG grant funds. The remainder of the cost of this project will be paid for out of the City's Storm Water Utility fund.

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**RECOMMENDATION:**

Capital Projects Team would like to recommend that we choose GradeCo, LLC as our contractor for this project.

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**SUGGESTED MOTIONS:**

The City Council approves GradeCo, LLC as the contractor for this project and that we can move forward with the repair and new construction of storm water management services for Oliver Drive.

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**ATTACHMENTS:**

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# City Council Agenda Memo

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**DATE:** November 15, 2021  
**TITLE:** Water Main Extension SR 9  
**PRESENTED BY:** Vince Hunsinger, Capital Project Manager

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**AGENDA ITEM DESCRIPTION:**

Extending the water main and installing new sidewalk along SR9

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**HISTORY/PAST ACTION:**

The budget for this item was approved in 2021. The Capital Projects Team had a bid opening 11/12/2021. Due to deadline for submission of this City Council Agenda Memo to Municode, we will be sharing the Financial Impact, Recommendation, and Suggested Motion during the 11/15/21 City Council Work Session.

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**FINANCIAL IMPACT:**

Information will be available at the Work Session.

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**RECOMMENDATION:**

Information will be available at the Work Session.

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**SUGGESTED MOTIONS:**

Information will be available at the Work Session.

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**ATTACHMENTS:**

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# City Council Agenda Memo

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**DATE:** November 9, 2021  
**TITLE:** Contract Renewal - Jarrard Water Services  
**PRESENTED BY:** Bill Schmid, City Manager

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## **AGENDA ITEM DESCRIPTION:**

Approval of contract renewal over \$50,000

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## **HISTORY/PAST ACTION:**

Jarrard Water Services (John Jarrard's company) has provided part-time consulting services to the water and wastewater departments of the City since January 1, 2020, so he can spend more time with his family. A base one-year contract was extended in 2021 for another fiscal year at the same rate (\$50,000 per year paid monthly) as the first year.

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## **FINANCIAL IMPACT:**

Already approved budgeted item – no additional impact. No additional staff was hired to replace John's full-time position.

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## **RECOMMENDATION:**

Approve the accompanying contract renewal. It includes an increase of \$1,500 from the current base of \$50,000. This is a reasonable increase but would exceed the City Manager's authority limit of \$50,000 for any single contract or expenditure. There is a bona fide need for John's continued work for the City, but the Council needs to further affirm so. His involvement is material to ongoing discussions regarding increasing water sales, pending replacement of WTP filter racks, shifts John covers for vacations and illness of staff and on-going mentoring he provides to water and wastewater plant staff.

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## **SUGGESTED MOTIONS:**

I move the contract with Jarrard Water Services be renewed for a one-year term and the revised contract be approved.

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## **ATTACHMENTS:**

JWS Contract 2021 FY22

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## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, to be effective October 1, 2021 ("Effective Date"), by and between the City of Dahlonega ("City") and Jarrard Water Services, Inc., located at 12 Jarrard Drive, Dahlonega, Georgia 30533 ("Service Provider").

WHEREAS, the City wishes to obtain the professional services of the Service Provider, and;

WHEREAS, the Service Provider has the knowledge, skill, and capability to perform such services for the City.

NOW THEREFORE, in consideration of the foregoing, the parties, intending to be legally bound, hereby agree to the following:

1. Services. The Service Provider is hereby retained by the City. The Service Provider agrees to provide the services set forth on Exhibit A attached hereto and incorporated herein by this reference (the "Services").
2. Services Requirements. Service Provider agrees to use sound and professional principles and practices in accordance with normally accepted industry standards in rendering Services hereunder, and Service Provider further agrees that performance shall reflect the best professional knowledge, skill, and judgement of Service Provider. Service Provider shall furnish competent personnel for fulfillment of its obligations. If the City deems Service Provider personnel unsatisfactory to perform Service due to a failure by such personnel to comply with the terms and conditions imposed on Service Provider as set forth herein, such personnel shall be removed immediately.
3. Payment. The City agrees to pay Service Provider monthly at **\$4,292**, for Services completed in accordance with the terms of this Agreement. Service Provider shall not incur or charge the City any other fees or expenses without the prior written authorization of the City. Performance beyond the limitations set forth in this Agreement (either financial or time) shall be at the sole risk and responsibility of the Service Provider, and the City shall not be obligated to pay for Services exceeding the funding or contract period of this Agreement.



4. Insurance. Insurance requirements are specified in Exhibit A attached hereto.
5. Licenses. License requirements are specified in exhibit A attached hereto.
6. Term. The term of this Agreement shall commence on the Effective Date and expire at the end of the City's fiscal year (September 30), unless this Agreement is otherwise extended. Service Provider may terminate this agreement by providing thirty (30) days written notice to the other party.
7. Restriction on Competing Activities. During the term of this Agreement and continuing during any renewal of this Agreement, Service Provider shall not engage in consulting and advisory services for any entities operating a water or wastewater system within twenty miles of the current City of Dahlonega water treatment plant without providing a minimum thirty days' notice to and obtaining the subsequent written consent of the City of Dahlonega. Excepted from this prohibition is the existing contract between Service Provider and the U.S. Army installation commonly known as Camp Merrill or the Ranger Camp.
8. Annual Increase. Should there be no change to the Scope of Work, Service Provider shall be entitled to an increase in the monthly rate for services provided in an amount not to exceed the percentage of funds set aside to provide compensation increases to City employees in the Fiscal Year the contract, or extension, is in force.
9. Entire Agreement. This Agreement, including the exhibit attached hereto, represents the entire agreement between the parties hereto and supersedes all prior and contemporaneous written or oral agreements and all other communications between the parties relating to these Services to be rendered hereunder. Any additional, deletions or modifications shall not be binding on either party unless accepted and approved in writing by duly authorized representatives of both parties. In the event of any contradictory provisions between this agreement and the terms of any Exhibit hereto or any purchase order or other documents issued by the City or Service Provider in connection herewith, the terms set forth in the body of this Agreement shall prevail.
10. Severability. The provisions of this Agreement shall be deemed severable, and if any portion shall be held invalid, illegal, or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties, unless to do so would clearly violate the present legal and valid intention of the parties hereto.

[EXECUTION ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Professional Services Agreement has been duly executed by the authorized representatives of the parties hereto as of the date first set forth above.

THE CITY OF DAHLONEGA

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

Name: Bill Schmid

Title: City Manager

JARRARD WATER SERVICES, INC.

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

Name: John A. Jarrard

Title: CFO, CEO & Secretary

APPROVED AS TO FORM:

REVIEWED BY:

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

Name: J. Douglas Parks

Title: City Attorney

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

Name: Sam Norton

Title: Mayor

## **EXHIBIT A SERVICES**

### **1. Scope of Services**

- Provide management services to the City as to City departments numbered 32, 35, 37 and 38, for the existing water and wastewater plant operations.
- Provide a biweekly status review of the plant operations.
- Provide project management services for new capital improvements and repairs of existing facilities.
- Provide onsite training for supervisors and operators.
- Collect historic operations data, plant drawings, and previous reports and correspondence.
- Generate Meeting Agenda documentation for City elected officials, staff and prepare government reporting documents.
- Meet with City staff to discuss and agree to the projected demands and to identify City's desire to plan for growth including additional "reserve capacity" to facilitate other unspecified further growth.
- Conduct on-site meetings to gather additional information and review how the plant is currently operated and make recommendations on how to improve efficiency with either operational changes and renovations or with new improvements.

### **2. Insurance Requirements:**

- General Liability (\$1,000,000 Minimum per accident)
- Professional Errors and Omissions (\$1,000,000 minimum per accident)
- Automotive (\$100,000 minimum)
- Worker's Compensation (\$500,000) if required. Owner of JWS not covered under Worker's Compensation.

### **3. License Requirements:**

- Georgia Class 1 Water Treatment License
- Georgia Class 1 Wastewater Treatment License
- Georgia Drivers License (Class "C" minimum requirement)