



**MAYOR AND COUNCIL MEETING
MONDAY, FEBRUARY 06, 2023
6:00 PM
MACK GASTON COMMUNITY CENTER
218 N. FREDRICK STREET**

AGENDA

WORK SESSION - 4PM - MACK GASTON COMMUNITY CENTER:

1. Review and Discussion of Draft Updated City Charter

REGULAR MEETING - 6PM - MACK GASTON COMMUNITY CENTER:

Call to Order

Pledge of Allegiance

Approval of Agenda

Public Commentary: *(Please Complete Public Commentary Contact Card Prior to Speaking)*

Special Recognitions:

1. Kathryn Sellers for Service to the Historic Preservation Commission 1988-2023

Minutes:

2. Mayor and Council Minutes of January 17, 2023

New Business:

3. Resolution 23-01 Donation of Real Property from Aladdin Manufacturing Corporation
4. Resolution 23-03 Adoption of the Whitfield County Hazard Mitigation Plan
5. General Construction Agreement with ASA Fire Protection for Fire Alarm Replacement at Dalton City Hall
6. Cummins Generator Maintenance Agreement for Dalton City Hall
7. Agreement between Dalton Police Department and the Conasauga Judicial Circuit District Attorney's Office for Forensic Interviewer Services

- [8.](#) 2023 Georgia Law Enforcement Certification Program Agreement
- [9.](#) Service Agreement with Flock Group Inc. for the purchase and installation of four mounted cameras and one mobile camera
- [10.](#) Bill of Sale/Transfer Agreement to Purchase Stream Credits from the Conasauga River Mitigation Bank for the Mill Creek Riverwalk
- [11.](#) Gametime Civitan Park Playground Replacement
- [12.](#) Contract with Dalton Convention Center for Municipal Court

Supplemental Business

Announcements

Adjournment

A BILL TO BE ENTITLED
AN ACT

To provide a new charter for the City of Dalton in Whitfield County, Georgia; to provide for incorporation, boundaries, and powers of the city; to provide for a governing authority of such city and the powers, duties, authority, election, terms, method of filling vacancies, compensation, qualifications, prohibitions, and removal from office relative to members of such governing authority; to provide for inquiries and investigations; to provide for organization and procedures; to provide for ordinances and codes; to provide for administrative responsibilities; to provide for boards, commissions, and authorities; to provide for a city administrator, a city attorney, a city clerk, and other personnel; to provide for rules and regulations; to provide for a municipal court and the judge or judges thereof; to provide for practices and procedures; to provide for taxation and fees; to provide for franchises, service charges, and assessments; to provide for bonded and other indebtedness; to provide for accounting and budgeting; to provide for the sale of property; to provide for penalties; to provide for an independent school system; to provide for public utilities; to provide for definitions and construction; to provide for other matters relative to the foregoing; to provide for severability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

ARTICLE I

INCORPORATION AND POWERS

SECTION 1.10.

Name.

The city of Dalton in Whitfield County, Georgia, and the inhabitants thereof, are reincorporated by the enactment of this charter and are hereby constituted and declared a body politic and corporate under the name and style City of Dalton, Georgia and by that name shall have perpetual succession.

SECTION 1.11.

Corporate boundaries.

(a) The boundaries of the city shall be those existing on the effective date of the adoption of this charter with such alterations as may be made from time to time in the manner provided by law. The boundaries of the city at all times shall be shown on a map, a written description or any combination thereof, to be retained permanently in the office of the city clerk and to be designated, as the case may be: "Official Map (or Description) of the corporate limits of Dalton, Georgia." Photographic, typed, or other copies of such map or description certified by the city clerk shall be admitted as evidence in all courts and shall have the same force and effect as with the original map or description.

(b) The mayor and council may provide for the redrawing of any such map by ordinance to reflect lawful changes in the corporate boundaries. A redrawn map shall supersede for all purposes

the entire map or maps which it is designated to replace.

SECTION 1.12.

Powers and construction.

(a) The city shall have all powers possible for a city to have under the present or future Constitution and laws of this state as fully and completely as though they were specifically enumerated in this charter. The city shall have all the powers of self-government not otherwise prohibited by this charter or by general law.

(b) The powers of the city shall be construed liberally in favor of the city. The specific mention or failure to mention particular powers shall not be construed as limiting in any way the powers of the city. These powers shall include, but not be limited to, the following:

(1) *Animal regulations.* To regulate and license or to prohibit the keeping or running at-large of animals and fowl, and to provide for the impoundment of same if in violation of any ordinance or lawful order; to provide for the disposition by sale, gift, or humane destruction of animals and fowl when not redeemed as provided by ordinance; and to provide punishment for violation of ordinances enacted hereunder;

(2) *Appropriations and expenditures.* To make appropriations for the support of the government of the city; to authorize the expenditure of money for any purposes authorized by this charter and for any purpose for which a municipality is authorized by the laws of the State of Georgia; and to provide for the payment of expenses of the city;

(3) *Building regulation.* To regulate and to license the erection and construction of buildings and all other structures; to adopt building, housing, plumbing, electrical, gas, fire, property maintenance, and heating and air conditioning codes; and to regulate all housing, and building trades to the extent permitted by general law;

(4) *Business regulation and taxation.* To levy and to provide for the collection of regulatory fees and taxes on privileges, occupations, trades and professions as authorized by Title 48 of the Official Code of Georgia Annotated, or other such applicable laws as are or may hereafter be enacted; to permit and regulate the same; to provide for the manner and method of payment of such regulatory fees and taxes; and to revoke such permits after due process for failure to pay any city taxes or fees;

(5) *Condemnation.* To condemn property, inside or outside the corporate limits of the city, for present or future use and for any corporate purpose deemed necessary by the mayor and council, utilizing procedures enumerated in Title 22 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted;

(6) *Contracts.* To enter into contracts and agreements with other governmental entities and with private persons and entities;

(7) *Emergencies.* To establish procedures for determining and proclaiming that an emergency situation exists within or without the city, and to make and carry out all reasonable provisions deemed necessary to deal with or meet such an emergency for the

protection, safety, health or well-being of the citizens of the city;

(8) *Environmental protection.* To protect and preserve the natural resources, environment and vital areas of the city, the region, and the state through the preservation and improvement of air quality, the restoration and maintenance of water resources, the control of erosion and sedimentation, the management of stormwater and establishment of a stormwater utility, the management of solid and hazardous waste, and other necessary actions for the protection of the environment;

(9) *Ethics.* To adopt ethics ordinances and regulations governing the conduct of municipal elected officials, appointed officials, and employees, establishing procedures for ethics complaints and setting forth penalties for violations of such rules and procedures;

(10) *Fire regulations.* To fix and establish fire limits and from time to time to extend, enlarge, or restrict the same; to prescribe fire safety regulations not inconsistent with general law, relating to both fire prevention and detection and to firefighting; and to prescribe penalties and punishment for violations thereof;

(11) *Garbage fees.* To levy, fix, assess, and collect a garbage, refuse, and trash collection and disposal, and other sanitary service charge, tax, or fee for such services as may be necessary in the operation of the city from all individuals, firms, and corporations residing in or doing business therein benefiting from such services; to enforce the payment of such charges, taxes or fees; and to provide for the manner and method of collecting such service charges;

(12) *General health, safety, and welfare.* To define, regulate, and prohibit any act, practice, conduct, or use of property which is detrimental to health, sanitation, cleanliness, welfare, and safety of the inhabitants of the city, and to provide for the enforcement of such standards;

(13) *Gifts.* To accept or refuse gifts, donations, bequests, or grants from any source for any purpose related to powers and duties of the city and the general welfare of its citizens, on such terms and conditions as the donor or grantor may impose;

(14) *Health and sanitation.* To prescribe standards of health and sanitation and to provide for the enforcement of such standards;

(15) *Jail sentences.* To provide that persons given jail sentences in the city's municipal court may work out such sentences in any public works or on the streets, roads, drains, and other public property in the city, to provide for commitment of such persons to any jail, to provide for the use of pretrial diversion and any alternative sentencing allowed by law, or to provide for commitment of such persons to any county work camp or county jail by agreement with the appropriate county officials;

(16) *Motor vehicles.* To regulate the operation of motor vehicles and exercise control over all traffic, including parking upon or across the streets, roads, alleys, and walkways of the city;

(17) *Municipal agencies and delegation of power.* To create, alter, or abolish

departments, boards, offices, commissions, and agencies of the city, and to confer upon such agencies the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;

(18) *Municipal debts.* To appropriate and borrow money for the payment of debts of the city and to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized by this charter or the laws of the State of Georgia;

(19) *Municipal property ownership.* To acquire, dispose of, lease, and hold in trust or otherwise any real, personal, or mixed property, in fee simple or lesser interest, inside or outside the corporate limits of the city or the State of Georgia;

(20) *Municipal property protection.* To provide for the preservation and protection of property and equipment of the city and the administration and use of same by the public; and to prescribe penalties and punishment for violations thereof;

(21) *Municipal utilities.* Except as otherwise set forth in this charter, to acquire, lease, construct, operate, maintain, sell, and dispose of public utilities, including but not limited to a system of waterworks, sewers and drains, sewage disposal, stormwater management, gas works, electric light plants, cable television and other telecommunications, transportation facilities, public airports, and any other public utility; to fix the taxes, charges, rates, fares, fees, assessments, regulations, and penalties; and to provide for the withdrawal of service for refusal or failure to pay the same;

(22) *Nuisance.* To define a nuisance and provide for its abatement whether on public or private property;

(23) *Penalties.* To provide penalties for violation of any ordinances adopted pursuant to the authority of this charter and the laws of the State of Georgia;

(24) *Planning and zoning.* To provide comprehensive city planning for development by zoning; and to provide subdivision regulation and the like as the mayor and council deems necessary and reasonable to insure a safe, healthy, and aesthetically pleasing community;

(25) *Police and fire protection.* To exercise the power of arrest through duly appointed police officers, and to establish, operate, or contract for a police and a fire-fighting agency;

(26) *Public hazards: removal.* To provide for the destruction and removal of any building or other structure which is or may become dangerous or detrimental to the public;

(27) *Public improvements.* To provide for the acquisition, construction, building, operation, and maintenance of public ways, parks and playgrounds, recreational facilities, cemeteries, public buildings, libraries, public housing, parking facilities, or charitable, cultural, educational, recreational, conservation, sport, detentional, penal, and medical institutions, agencies, and facilities; and to provide any other public improvements, inside or outside the corporate limits of the city and to regulate the use of public improvements; and for such purposes, property may be acquired by condemnation under Title 22 and Title 32 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted;

- (28) *Public peace.* To provide for the prevention and punishment of loitering, disorderly conduct, public drunkenness, riots, and public disturbances;
- (29) *Public transportation.* To organize and operate such public transportation systems as are deemed beneficial;
- (30) *Regulation of roadside areas.* To prohibit or regulate and control the erection, removal, connection, and maintenance of signs, billboards, trees, shrubs, fences, buildings, driveways, curb cuts, and any and all other structures or obstructions upon or adjacent to the rights of way of streets and roads or within view thereof, within or abutting the corporate limits of the city; and to prescribe penalties and punishment for violation of such ordinances;
- (31) *Retirement.* To provide and maintain a retirement plan for officers and employees of the city;
- (32) *Roadways.* To lay out, open, extend, widen, narrow, establish or change the grade of, abandon or close, construct, pave, curb, gutter, adorn with shade trees, or otherwise improve, maintain, repair, clean, prevent erosion of, and light the roads, alleys, and walkways within the corporate limits of the city; to grant franchises and rights of way throughout the streets and roads and over the bridges and viaducts for the use of public utilities; and to require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands and to impose penalties for failure to do so;
- (33) *Sale of alcoholic beverages.* The mayor and council shall have the power by ordinance to regulate, license and tax the wholesale and retail sale of alcoholic beverages within the city in a manner consistent with state law; and shall have the power to establish and impose by ordinance fines, license suspensions and license revocations for violations of alcoholic beverage ordinances;
- (34) *Sewer fees.* To levy a fee, charge, or sewer tax as necessary to assure the acquiring, constructing, equipping, operating, maintaining, and extending of a sewage disposal plant and sewerage system, and to levy on those to whom sewers and sewerage systems are made available a sewer service fee, charge, or sewer tax for the availability or use of the sewers; to provide for the manner and method of collecting such service charges and for enforcing payment of the same; and to charge, impose, and collect a sewer connection fee or fees to those connected with the system;
- (35) *Solid waste disposal.* To provide for the collection and disposal of garbage, rubbish, and refuse and to regulate the collection and disposal of garbage, rubbish, and refuse by others; and to provide for the separate collection of glass, tin, aluminum, cardboard, paper, and other recyclable materials and to provide for the sale of such items;
- (36) *Special Areas of Public Regulation.* To regulate or prohibit junk dealers, the manufacture and sale of intoxicating liquors; to regulate the transportation, storage and use of combustible, explosive and inflammable materials, the use of lighting and heating equipment, and any other business or situation which may be dangerous to persons or property; to regulate and control the conduct of peddlers and itinerant traders, theatrical performances, exhibitions, and shows of any kind, by taxation or otherwise; to license and

tax professional fortunetelling, palmistry, and massage parlors; and to restrict adult bookstores and other adult entertainment establishments to certain areas;

(37) *Special assessments.* To levy and provide for the collection of special assessments to cover the costs for any public improvements;

(38) *Taxes: ad valorem.* To levy and provide for the assessment, valuation, revaluation, and collection of taxes on all property subject to taxation; and to provide homestead exemption from such taxes.

(39) *Taxes: other.* To levy and collect such other taxes as may be allowed now or in the future by law;

(40) *Urban redevelopment.* To organize and operate an urban redevelopment program;

(41) *Vehicles for hire.* To regulate and license vehicles operated for hire in the city; to limit the number of such vehicles; to require the operators thereof to be licensed; to require public liability insurance on such vehicles in the amounts to be prescribed by ordinance; and to regulate the parking of such vehicles; and

(42) *Other powers.* To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants; to exercise all implied powers necessary or desirable to carry into execution all powers granted in this charter as fully and completely as if such powers were fully stated herein; and to exercise all powers now or in the future authorized to be exercised by other municipal governments under other laws of the State of Georgia; and any listing of particular powers in this charter shall not be held to be exclusive of others or restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to municipalities under the Constitution or applicable laws of the State of Georgia.

SECTION 1.13.

Exercise of powers.

All powers, functions, rights, privileges, and immunities of the city, its officers, agencies, or employees shall be carried into execution as provided by this charter. If this charter makes no provision, such shall be carried into execution as provided by ordinance, resolution, or as provided by pertinent laws of the State of Georgia.

ARTICLE II

GOVERNMENT STRUCTURE

SECTION 2.10.

Mayor and council; number; wards; election.

The legislative authority of the government of the city, except as otherwise specifically provided

in this charter, shall be vested in a governing body to be composed of a mayor and four councilmembers who shall be known as the Mayor and Council of the City of Dalton, Georgia. The governing body established shall in all respects be a successor to and continuation of the governing authority under prior law. The mayor and councilmembers shall be elected in the manner provided by general law and this charter. For the purpose of electing councilmembers, the city shall consist of four wards. The boundaries of the four wards shall be those existing on the effective date of the adoption of this charter with such alterations as may be made from time to time in the manner provided by law. The boundaries of each ward at all times shall be shown on a map, a written description, or any combination thereof, to be retained in the office of the city clerk and to be designated, as the case may be: "Official Map (or Description) of the Election Wards of the City of Dalton, Georgia." Photographic, typed, or other copies of such map or description certified by the city clerk shall be admitted as evidence in all courts and shall have the same force and effect as with the original map or description. Each candidate for the position of councilmember must reside in the ward he or she seeks to represent, but such wards shall be residency wards only and not voting wards. All elections for mayor and councilmembers shall be at-large by the voters of the entire city.

SECTION 2.11.

Terms and qualifications for office for mayor and councilmembers.

The mayor and councilmembers shall serve for terms of four years and until their respective successors are elected and qualified. No person shall be eligible to serve as mayor or councilmember unless that person shall have been a resident of the area comprising the corporate limits of the city for a continuous period of at least twelve (12) months immediately prior to the date of the election for mayor or councilmember, shall continue to reside therein during that person's period of service, and shall continue to be registered and qualified to vote in municipal elections of the city. In addition to the above requirements, no person shall be eligible to serve as a councilmember representing a ward unless that person: (i) has been a resident of the ward such person seeks to represent for a continuous period of at least six (6) months immediately prior to the date such person is qualified by the City to run for councilmember; and (ii) continues to reside in such ward during that person's period of service. In the event that a councilmember no longer resides in the ward he or she was elected to represent, such councilmember shall immediately resign from the council. The terms of councilmembers shall be staggered as in effect on the date of this charter.

SECTION 2.12.

Vacancy; filling of vacancies

(a) The office of mayor or councilmember shall become vacant upon the incumbent's death, resignation, forfeiture of office, removal from office in any manner authorized by this charter, or occurrence of any event specified by the Constitution of the State of Georgia, Title 45 of the Official Code of Georgia Annotated, or such other applicable laws as are or may hereafter be enacted.

(b) A vacancy in the office of mayor or councilmember shall be filled for the remainder of the unexpired term, if any, by appointment by the mayor and council or those members remaining if less than 12 months remains in the unexpired term. If such vacancy occurs 12 months or more

prior to the expiration of the term of that office, it shall be filled for the remainder of the unexpired term by a special election, as provided for in Section 5.13 of this charter and in accordance with Titles 21 and 45 of the Official Code of Georgia Annotated, or other such laws as are or may hereafter be enacted.

(c) This provision shall also apply to a temporary vacancy created by the suspension from office of the mayor or any councilmember.

SECTION 2.13.

Compensation and expenses.

The mayor and councilmembers shall receive compensation and expenses for their services as provided by ordinance. The compensation in effect as of the date of enactment of this charter shall continue until modified as provided herein.

SECTION 2.14.

Conflicts of Interest; Holding Other Offices.

(a) Elected and appointed officers of the city are trustees and servants of the residents of the city and shall act in a fiduciary capacity for the benefit of such residents.

(b) *Conflict of Interest.* No elected official, appointed officer, or employee of the city or any agency or political entity to which this charter applies shall knowingly:

(1) Engage in any business or transaction, or have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of that person's official duties or which would tend to impair the independence of the official's judgment or action in the performance of those official duties;

(2) Engage in or accept private employment, or render services for private interests when such employment or service is incompatible with the proper discharge of that person's official duties or would tend to impair the independence of the official's judgment or action in the performance of those official duties;

(3) Disclose confidential information, including information obtained at meetings which are closed pursuant to Title 50, chapter 14 of the Official Code of Georgia Annotated, concerning the property, government, or affairs of the governmental body by which the official is engaged without proper legal authorization; or use such information to advance the financial or other private interest of the official or others;

(4) Accept any valuable gift, whether in the form of service, loan, thing, or promise, from any person, firm or corporation which to the official's knowledge is interested, directly or indirectly, in any manner whatsoever, in business dealings with the governmental body by which the official is engaged; provided, however, that an elected official who is a candidate for public office may accept campaign contributions and services in connection with any such campaign;

(5) Represent other private interests in any action or proceeding against this city or any portion of its government; or

(6) Vote or otherwise participate in the negotiation or in the making of any contract with any business or entity in which the official has a financial interest.

(c) *Disclosure.* Any elected official, appointed officer, or employee who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within any department of the city shall disclose such interest to the city council. The mayor or any councilmember who has a financial interest in any matter pending before the city council shall disclose such interest and such disclosure shall be entered on the records of the city council, and that official shall disqualify himself or herself from participating in any decision or vote relating thereto. Any elected official, appointed officer, or employee of any agency or political entity to which this charter applies who shall have any financial interest, directly or indirectly, in any contract or matter pending before or within such entity shall disclose such interest to the governing body of such agency or entity.

(d) *Use of Public Property.* No elected official, appointed officer, or employee of the city or any agency or entity to which this charter applies shall use property owned by such governmental entity for personal benefit or profit but shall use such property only in their capacity as an officer or employee of the city.

(e) *Contracts Voidable and Rescindable.* Any violation of this section which occurs with the knowledge, express or implied, of a party to a contract or sale shall render said contract or sale voidable at the option of the city council.

(f) *Ineligibility of Elected Official.* Except where authorized by law, neither the mayor nor any councilmember shall hold any other elective or appointive office in the city or otherwise be employed by said government or any agency thereof during the term for which that official was elected.

(g) *Political Activities of Certain Officers and Employees.* No appointive officer of the city shall continue in such employment upon qualifying as a candidate for nomination or election to any public office. No employee of the city shall continue in such employment upon qualifying for or election to any public office in this city or any other public office which is inconsistent, incompatible or in conflict with the duties of the city employee. Such determination shall be made by the mayor and council either immediately upon election or at any time such conflict may arise.

(h) *Penalties for Violation.*

(1) Any city officer or employee who knowingly conceals such financial interest or knowingly violates any of the requirements of this section shall be guilty of malfeasance in office or position and shall be deemed to have forfeited that person's office or position.

(2) Any officer or employee of the city who shall forfeit an office or position as

described in paragraph (1) above, shall be ineligible for appointment or election to or employment in a position in the city government for a period of three years thereafter.

SECTION 2.15.

Inquiries and investigations.

Following the adoption of an authorizing resolution, the mayor and council may make inquiries and investigations into the affairs of the city and the conduct of any department, office, or agency thereof, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the mayor and council shall be punished as provided by ordinance.

SECTION 2.16.

General Power and Authority of the Mayor and Council.

(a) Except as otherwise provided by law or this charter, the mayor and council shall be vested with all the powers of government of this city.

(b) In addition to all other powers conferred upon it by law, the mayor and council shall have the authority to adopt and provide for the execution of such ordinances, resolutions, rules, and regulations, not inconsistent with this charter and the Constitution and the laws of the State of Georgia, which it shall deem necessary, expedient, or helpful for the peace, good order, protection of life and property, health, welfare, sanitation, comfort, convenience, prosperity, or well-being of the inhabitants of the City of Dalton and may enforce such ordinances by imposing penalties for violation thereof.

(c) In addition to all other powers conferred upon it by law, the mayor and council shall have the power and authority to appoint, remove, demote, and discharge the head of any department of the city at any time in the mayor and council's discretion, except as otherwise provided by this charter, ordinance, or by law.

SECTION 2.17.

Eminent Domain.

The mayor and council is hereby empowered to acquire, construct, operate and maintain public ways, parks, public grounds, cemeteries, markets, market houses, public buildings, libraries, sewers, drains, sewage treatment, stormwater, infrastructure, waterworks, electrical systems, gas systems, airports, hospitals, and charitable, educational, recreational, sport, curative, corrective, detentional, penal and medical institutions, agencies and facilities, and any other public improvements inside or outside the city, and to regulate the use thereof, and for such purposes, property may be condemned under procedures established under general law applicable now or as provided in the future.

SECTION 2.18.

Organizational meetings.

The mayor and council shall hold an organizational meeting on the first regularly scheduled meeting in January following the November election in which a councilmember seat or the mayoral position is on the ballot. The meeting shall be called to order by the mayor or the city clerk and the oath of office shall be administered to the newly elected members by a judicial officer authorized to administer oaths and shall, to the extent that it comports with federal and state law, be as follows:

“I do solemnly (swear)(affirm) that I will faithfully perform the duties of (title of office) of this city and that I will support and defend the charter thereof as well as the constitution and laws of the State of Georgia and of the United States of America. I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof. I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I by the laws of the State of Georgia am prohibited from holding. I am otherwise qualified to hold said office according to the Constitution and laws of Georgia. I have been a resident of my district and the City of Dalton for the time required by the Constitution and laws of this state and by the municipal charter. I will perform the duties of my office in the best interest of the City of Dalton to the best of my ability without fear, favor, affection, reward, or expectation thereof.”

SECTION 2.19.

Regular and special meetings.

- (a) The mayor and council shall hold regular meetings at such times and places as shall be prescribed by ordinance. All meetings shall be held in accordance with Code Section 50-14-1 of the Official Code of Georgia Annotated.
- (b) Special meetings of the mayor and council may be held on call of the mayor or two councilmembers. Notice of such special meetings shall be served on all other members personally, by telephone personally, or by electronic transmission, at least 24 hours in advance of the meeting. Such notice shall not be required if the mayor and all councilmembers are present when the special meeting is called. Such notice of any special meeting may be waived by a councilmember and the mayor in writing before or after such a meeting, and attendance at the meeting shall also constitute a waiver of notice on any business transacted in such councilmember's or mayor's presence. Only the business stated in the call may be transacted at the special meeting.
- (c) All meetings of the mayor and council shall be public to the extent required by law, and notice to the public of special meetings shall be made as fully as is reasonably possible as provided by Code Section 50-14-1 of the Official Code of Georgia Annotated or other such applicable laws as are or may hereafter be enacted.

SECTION 2.20.

Rules of procedure.

- (a) The mayor and council shall adopt its rules of procedure and order of business consistent with the provisions of this charter and shall provide for keeping minutes of its proceedings, which

shall be a public record.

(b) Except for the finance committee, which is comprised of the mayor and all councilmembers, all committees composed entirely of members of the mayor and council shall be appointed by the mayor and shall serve at the pleasure of the mayor.

SECTION 2.21.

Quorum: voting.

(a) Except as otherwise provided herein, three (3) councilmembers shall constitute a quorum and shall be authorized to transact the business of the mayor and council. In the event only two (2) councilmembers are eligible to vote on a matter due to the absence, abstention, or recusal of two (2) councilmembers, then the mayor and two (2) councilmembers shall constitute a quorum and shall be authorized to transact the business of the mayor and council. The mayor pro tempore acting in the absence of the mayor shall be counted as a councilmember for the purposes of determining a quorum and voting. Except as otherwise provided in this charter, the affirmative vote of three (3) councilmembers shall be required for the adoption of any ordinance, resolution, or motion. In the event the quorum is comprised of the mayor and two (2) councilmembers, then the affirmative vote of the mayor and two (2) councilmembers shall be required for the adoption of any ordinance, resolution, or motion. In the case of a tie vote among the four (4) councilmembers, the vote of two (2) councilmembers and the mayor shall be required for the adoption of any ordinance, resolution, or motion. Voting on the adoption of ordinances, resolutions, or motions shall be by voice vote and the vote shall be recorded in the minutes of the proceedings, but any member of the mayor and council shall have the right to request a roll-call vote and such vote shall be recorded in the minutes of the proceedings. An abstention or recusal shall not be counted as a vote for or against and will not defeat a quorum.

(b) No member of the city council shall abstain from voting on any matter properly brought before the council for official action except when such councilmember has a conflict of interest which is disclosed in writing prior to or orally at the meeting and made a part of the minutes. Any member of the city council present and eligible to vote on a matter and refusing to do so for any reason other than a properly disclosed and recorded conflict of interest shall be deemed to have acquiesced or concurred with the members of the majority who did vote on the question involved.

SECTION 2.22.

Ordinance form; procedures.

(a) Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain a subject which is not expressed in its title. The enacting clause shall be “BE IT ORDAINED by the Mayor and Council of the City of Dalton and by authority of the same, IT IS HEREBY ORDAINED” and every ordinance shall so begin.

(b) An ordinance may be introduced by any councilmember or the mayor and be read at a regular or special meeting of the mayor and council. Ordinances shall be considered and adopted or rejected by the mayor and council in accordance with the rules which it shall establish; provided, however, that an ordinance shall not be adopted the same day it is introduced, except for emergency

ordinances provided for in Section 2.24 of this charter. Upon introduction of any ordinance, the clerk shall as soon as possible distribute a copy to the mayor and to each councilmember and shall file a reasonable number of copies in the office of the clerk and at such other public places as the city council may designate.

SECTION 2.23.

Action requiring an ordinance.

Acts of the mayor and council which have the force and effect of law shall be enacted by ordinance.

SECTION 2.24.

Emergencies.

(a) To meet a public emergency affecting life, health, property, or public peace, the mayor and council may convene on the call of the mayor or two councilmembers and promptly adopt an emergency ordinance, but such ordinance may not levy taxes; grant, renew, or extend a franchise; or authorize the borrowing of money except for loans to be repaid within 30 days. An emergency ordinance shall be introduced in the form prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms. An emergency ordinance may be adopted, with or without amendment, or rejected at the meeting at which it is introduced. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance shall automatically stand repealed 30 days following the date upon which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

(b) Such meetings shall be open to the public to the extent required by law, and notice to the public of emergency meetings shall be made as fully as is reasonably possible in accordance with Code Section 50-14-1 of the Official Code of Georgia Annotated or such other applicable laws as are or may hereafter be enacted.

SECTION 2.25.

Codes of technical regulations.

(a) The mayor and council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such adopting ordinance shall be as prescribed for ordinances generally except that: (1) the requirements of Section 2.22(b) for distribution and filing of copies of the ordinance shall be construed to include copies of any code of technical regulations, as well as the adopting ordinance; and (2) a copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the clerk pursuant to Section 2.26.

(b) Copies of any adopted code of technical regulations shall be made available by the city clerk or building inspector for inspection by the public.

SECTION 2.26.

Signing; authenticating; recording; codification; printing.

- (a) The city clerk shall authenticate all ordinances adopted by the mayor and council by his or her signature and record in full in a properly indexed book kept for that purpose.
- (b) The mayor and council shall provide for the preparation of a general codification of all the ordinances of the city having the force and effect of law. The general codification shall be adopted by the mayor and council by ordinance and shall be published, together with all amendments thereto and such codes of technical regulations and other rules and regulations as the mayor and council may specify. This codification shall be known and cited officially as "The Code of the City of Dalton, Georgia." Copies of the code shall be furnished to all officers, departments, and agencies of the city, and made available for purchase by the public at a reasonable price as fixed by the mayor and council.
- (c) The mayor and council shall cause each ordinance and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances and charter amendments shall be made available for purchase by the public at reasonable prices to be fixed by the mayor and council. Following publication of the first code under this charter and at all times thereafter, the ordinances and charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for incorporation therein. The mayor and council shall make such further arrangements as deemed desirable with reproduction and distribution of any current changes in or additions to codes of technical regulations and other rules and regulations included in the code.

SECTION 2.27.

City Administrator; Appointment; Qualifications; Compensation.

The mayor and council shall appoint a city administrator for an indefinite term and shall fix the city administrator's compensation. The city administrator shall be appointed solely on the basis of executive and administrative qualifications.

SECTION 2.28.

Removal of City Administrator.

The city administrator is employed at will and may be summarily removed from office at any time by the mayor and council at a meeting held in accordance with this charter. In this matter the mayor shall be entitled to cast a vote without regard to a tie vote among the councilmembers.

SECTION 2.29.

Powers and Duties of the City Administrator.

The city administrator shall be the chief executive and administrative officer of the city. The city administrator shall be responsible to the city council for the administration of all city affairs placed

in the city administrator's charge by or under this charter. As the chief executive and administrative officer, the city administrator shall:

- (1) Supervise the administration of all departments, offices, and agencies of the city, except as otherwise provided by this charter or by law.
- (2) To act as budget officer for the City of Dalton pursuant to the powers set forth in O.C.G.A. § 36-81-1 et seq. To further set the budgetary calendar to meet the requirements of law and prescribe the form for presentation of any budgetary request to the City of Dalton. Budget requests shall be initially filed with the city administrator. The city administrator shall annually, or more often as may be required by the mayor and council, prepare and propose a balanced budget for the City of Dalton.
- (3) Care and be responsible for all buildings and all real and personal property of the city.
- (4) In the event there is not an acting department head, appoint, suspend, or remove all city employees in such department, except as otherwise provided by law or this charter.
- (5) Advise the mayor and council on the hiring or termination of department heads over whom the city administrator has management and supervision responsibility.
- (6) Attend meetings of the mayor and council and its committees and assist all of the standing or special committees of the city and make available to them such information as may be needed.
- (7) Advise and assist the mayor and councilmembers in the performance of their duties.
- (8) Review and advise the mayor and council regarding the activities of the various departments, bureaus, boards, commissions, authorities, of the city under the direct authority of the mayor and council.
- (9) Serve ex-officio as a nonvoting member of all boards, commissions, authorities, or agencies of the city under the direct authority of the mayor and council, except for those boards, commissions, authorities, or agencies created under local act or for which authority is provided by general statute of the General Assembly of Georgia.
- (10) Perform all other duties as may be lawfully delegated to him or her by the mayor and council.

SECTION 2.30.

Mayor and Council Interference with Administration.

Except as otherwise provided in this charter and except for the purpose of inquiries and

investigations under Section 2.15, the mayor and council or its members shall provide orders or direction to city officers and employees who are subject to the direction and supervision of the city administrator through the city administrator, and neither the mayor and council nor its members shall give orders to any such officer or employee, either publicly or privately.

SECTION 2.31.

Powers and Duties of Mayor.

The mayor shall:

- (a) preside at all meetings of the city council;
- (b) present first draft of agenda at all meetings of the city council;
- (c) be the head of the city for the purpose of service of process and for ceremonial purposes, and be the official spokesperson for the city and the chief advocate of policy;
- (d) be the deciding vote on matters before the city council in the event of a tied vote of the councilmembers;
- (e) have power to administer oaths and to take affidavits; and
- (f) sign as a matter of course on behalf of the city all written and approved contracts, ordinances and other instruments executed by the city which by law are required to be in writing.

SECTION 2.32.

Selection of mayor pro tempore.

By a majority vote of the mayor and council, a councilmember shall be elected to serve as mayor pro tempore who shall serve at the pleasure of the mayor and council for same term as the mayor. The mayor pro tempore shall continue to vote and otherwise participate as a councilmember.

SECTION 2.33.

Mayor pro tempore.

During the absence or physical or mental disability of the mayor for any cause, the mayor pro tempore, or in the mayor pro tempore's absence or disability for any reason, any one of the councilmembers chosen by a majority vote of councilmembers, shall be clothed with all the rights and privileges of the mayor and shall perform the duties of the office of the mayor so long as such absence or disability shall continue. Any such absence or disability shall be declared by majority vote of all councilmembers. The mayor pro tempore or selected councilmember shall sign all contracts and ordinances in which the mayor has a disqualifying financial interest as provided in Section 2.14 of this charter.

ARTICLE III

ADMINISTRATIVE AFFAIRS

SECTION 3.10.

Chief Financial Officer

- (a) The office of chief financial officer is created and established for the city with the powers, duties, method of appointment, qualifications, term of office, and compensation as hereinafter provided.
- (b) The mayor and council by a majority vote shall appoint a chief financial officer for an indefinite term by motion recorded in the minutes of the proceedings of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.
- (c) The compensation of the chief financial officer shall be fixed by the city administrator.
- (d) The chief financial officer shall be the director of the department of finance and shall report to the city administrator.
- (e) The chief financial officer shall perform such financial duties as may be assigned by the city administrator or as may be required by law.
- (f) The chief financial officer may be suspended and or removed by a majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.

SECTION 3.11.

City clerk.

- (a) The mayor and council shall appoint a city clerk for an indefinite term by motion recorded in the minutes of the proceedings of the mayor and council who shall not be an elected officer or the head of any other department of the city. The city clerk shall report to the city administrator. The city clerk may be suspended and or removed by a majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.
- (b) The city clerk shall be the custodian of the official city seal and city records; attend all meetings of the mayor and council and keep accurate minutes of all its proceedings; maintain all oaths taken by officers and employees of the city; supervise and keep a record of all elections; maintain a record of all appointments to office; be the custodian of all city contracts, deeds to city real estate and leases of city property; authenticate and certify city documents; and undertake such additional tasks as may be assigned by the city administrator from time to time.
- (c) The compensation of the city clerk shall be fixed by the city administrator.

SECTION 3.12

City auditor.

(a) The mayor and council shall appoint a city auditor for an indefinite term who shall be a certified public accountant or a certified public accountant firm. The city auditor shall be responsible for providing an annual independent audit of all city accounts, funds, and financial transactions in accordance with generally accepted auditing principles.

(b) The city auditor is not a public official of the city and does not take an oath of office. The city auditor shall at all times be an independent contractor.

(c) The city auditor shall be removed at any time upon majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.

SECTION 3.13.

City attorney.

The mayor and council shall appoint a city attorney who has been recommended by the city administrator for an indefinite term who shall be a member in good standing of the State Bar of Georgia and shall have practiced law for at least five years at the time of his or her appointment, together with such assistant city attorneys as may be authorized, and shall provide for the payment of such attorney or attorneys for services rendered to the city. The city attorney may be removed by the majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers. The city attorney shall be responsible for providing for the representation and defense of the city in all litigation in which the city is a party; may be the prosecuting attorney in the municipal court; shall attend the meetings of the mayor and council and its commissions and authorities; shall advise the mayor, councilmembers and other officers and employees of the city concerning legal aspects of the city's affairs; and shall perform such other duties as may be required by virtue of the position as city attorney. The city attorney shall review all contracts of the city but shall not have the power to bind the city.

SECTION 3.14

Administrative and service departments.

(a) Except as otherwise provided in this charter, the mayor and council, by ordinance or resolution, shall prescribe the functions or duties of, and establish, abolish, alter, consolidate, or leave vacant, all nonelective offices, positions of employment, departments, and agencies of the city as necessary for the proper administration of the affairs and government of the city.

(b) Except as otherwise provided by this charter or by law, the directors of departments and other appointed officers of the city shall be appointed solely on the basis of their respective administrative and professional qualifications.

(c) All appointive officers and directors of departments shall receive such compensation as prescribed by the city administrator.

(d) There shall be a director of each department or agency who shall be its principal officer. Each director shall, subject to the direction and supervision of the city administrator, be responsible for the administration and direction of the affairs and operations of that director's department or

agency.

- (e) The director of each department or agency may be removed by the majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.

SECTION 3.15.

Boards, commissions, and authorities.

(a) *General Authority.*

(1) The mayor and council shall create by ordinance such boards, commissions, and authorities to fulfill any investigative, advisory, quasi-judicial, or quasi-legislative function as the mayor and council deems necessary and shall by ordinance establish the composition, period of existence, duties, and powers thereof.

(2) All members of boards, commissions, and authorities of the city shall be appointed by the mayor and council for such terms of office and in such manner as shall be provided by ordinance, except where other appointing authority, terms of office, or manner of appointment is prescribed by this charter or by law. Except as otherwise prescribed by this charter or by law, members of boards, commissions, and authorities of the city shall serve at will and may be removed by the majority vote of the mayor and council. In this matter the mayor may cast a vote without regard to a tie vote among the councilmembers.

(3) The mayor and council, by ordinance, may provide for the compensation and reimbursement for actual and necessary expenses of the members of any board, commission, or authority.

(4) Except as otherwise provided by charter or by law, no member of any board, commission, or authority shall hold any elective office in the city.

(5) Any vacancy on a board, commission, or authority of the city shall be filled for the unexpired term in the manner prescribed herein for original appointment, except as otherwise provided by this charter or by law.

(6) No member of a board, commission, or authority shall assume office until that person has taken an oath obligating himself or herself to faithfully and impartially perform the duties of that member's office, such oath to be prescribed by ordinance or resolution.

(7) Except as otherwise provided by this charter or by law, each board, commission, or authority of the city shall elect one of its members as chair and one member as vice chair, and may elect as its secretary one of its own members or may appoint as secretary an employee of the city. Each board, commission, or authority of the city government may establish such bylaws, rules, and regulations, not inconsistent with this charter, ordinances of the city, or law, as it deems appropriate and necessary for the fulfillment of its duties or the conduct of its affairs. Copies of such bylaws, rules, and regulations shall be filed with

the city clerk.

(8) All meetings of boards, commissions and authorities shall be public to the extent required by law, and notice to the public of special meetings shall be made as fully as is reasonably possible as provided by Code Section 50-14-1 of the O.C.G.A. or other such applicable laws as are or may hereafter be enacted.

SECTION 3.16.

Personnel policies.

(a) All employees of the city shall serve at will and may be terminated at any time unless otherwise provided by this charter, ordinance, or by law.

(b) Subject to subsection (a) of this Section 3.16, the rights, status, salaries, wages, rank, and conditions of employment of all employees of the city shall be and remain as they existed at the time this charter becomes effective and shall so remain until and unless changed or terminated under some provision of this charter or by ordinance or resolution of the mayor and council.

(c) No appointed officer and no employee of the city shall continue in such employment upon qualifying as a candidate for nomination or election to any public office.

SECTION 3.17.

Public Works Committee.

The City of Dalton shall have a public works committee comprised of the city administrator and two (2) members of the mayor and council appointed by the mayor and serving at the pleasure of the mayor. The public works committee shall provide direction to, and have oversight of, infrastructure projects and the public works department of the City of Dalton.

ARTICLE IV

JUDICIAL BRANCH

SECTION 4.10.

Creation; name.

There shall be a court to be known as the Municipal Court of the City of Dalton, Georgia.

SECTION 4.11.

Chief judge; associate judge; prosecuting attorney.

(a) The municipal court shall be presided over by a chief judge and such part-time, full-time, or stand-by judges as shall be provided by ordinance.

(b) No person shall be qualified or eligible to serve as a judge on the municipal court unless that person shall have attained the age of 21 years, shall be a member in good standing of the State Bar of Georgia, and shall possess all qualifications required by law. All judges shall be appointed

by the mayor and council.

- (c) Compensation of the judges shall be fixed by the mayor and council.
- (d) Judges shall serve at will and may be removed from office at any time by the mayor and council unless otherwise provided by ordinance.
- (e) Before assuming office, each judge shall take the oath provided in Section 2.18 of this charter. The oath shall be entered upon the minutes of the proceedings of the mayor and council.
- (f) The mayor and council may employ a qualified attorney to prosecute violations of city ordinances and other offenses over which the municipal court has jurisdiction upon such terms as the mayor and council may determine.
- (g) The municipal court shall have a court administrator appointed by the mayor and council.

SECTION 4.12.

Convening.

The municipal court shall be convened at regular intervals as determined by the court administrator.

SECTION 4.13.

Jurisdiction; powers.

- (a) The municipal court shall try and punish violations of this charter, all city ordinances, and such other violations as provided by law.
- (b) The municipal court shall have authority to punish those in its presence for contempt, provided that such punishment shall not exceed \$200.00 or ten days in jail.
- (c) The municipal court may fix punishment for offenses within its jurisdiction not exceeding a fine of \$1,000.00 or imprisonment for 180 days, or both such fine and imprisonment, or may fix punishment by fine, imprisonment, or alternative sentencing, as now or hereafter provided by law.
- (d) The city administrator shall have authority to establish a schedule of fees to defray the cost of operation and shall be entitled to reimbursement of the cost of meals, transportation, and caretaking of prisoners bound over to superior courts for violations of state law.
- (e) The municipal court shall have authority to establish bail and recognizances to ensure the presence of those charged with violations before said court and shall have discretionary authority to accept cash or personal or real property as surety for the appearance of persons charged with violations. Whenever any person shall give bail for that person's appearance and shall fail to appear at the time fixed for trial, the bond shall be forfeited, and the judge presiding at such time shall issue an execution thereon by serving the defendant and the defendant's sureties with a rule

nisi at least two days before a hearing on the rule nisi. In the event that cash or property is accepted in lieu of bond for security for the appearance of a defendant at trial and such defendant fails to appear at the time and place fixed for trial, the cash so deposited shall be on order of the judge declared forfeited to the city or the property so deposited shall have a lien against it for the value forfeited which lien shall be enforceable in the same manner and to the same extent as a lien for city property taxes.

(f) The municipal court shall have the same authority as superior courts to compel the production of evidence in the possession of any party; to enforce obedience to its orders, judgments, and sentences; and to administer such oaths as are necessary.

(g) The municipal court may compel the presence of all parties necessary to a proper disposal of each case by the issuance of summonses, subpoenas, and warrants which may be served as executed by any officer as authorized by this charter or by law.

(h) Each judge of the municipal court shall be authorized to issue warrants for the arrest of persons charged with offenses against any ordinance of the city, and each judge of the municipal court shall have the same authority as a magistrate of the state to issue warrants for offenses against state laws committed within the city.

SECTION 4.14.

Appeal.

Any person aggrieved by a decision of the municipal court shall have the right to appeal as provided by law.

SECTION 4.15.

Rules for court.

With the approval of the mayor and council, the court administrator shall have full power and authority to make reasonable rules and regulations necessary and proper to secure the efficient and successful administration of the municipal court; provided, however, that the mayor and council may adopt in part or in total the rules and regulations applicable to municipal courts. The rules and regulations made or adopted shall be filed with the city clerk, shall be available for public inspection, and, upon request, a copy shall be furnished to all defendants in municipal court proceedings at least 48 hours prior to said proceedings.

ARTICLE V

ELECTIONS AND REMOVAL

SECTION 5.10.

Applicability of general law.

All primaries and elections shall be held and conducted in accordance with the Georgia Election Code (Title 21, Chapter 2 of the Official Code of Georgia Annotated) as now or hereafter amended.

SECTION 5.11.

Nonpartisan elections.

Political parties shall not conduct primaries for city offices and all names of candidates for city offices shall be listed without party designations.

SECTION 5.12.

Election by majority vote.

The candidates for mayor and councilmember who receive a majority of the votes cast in the applicable election shall be elected to a term of office. In the event no candidate receives a majority of the votes cast in said election, a run-off election shall be held between the two candidates receiving the highest number of votes. Such run-off shall be held at the time specified by state election law, unless such run-off date is postponed by court order.

SECTION 5.13.

Special elections.

The mayor and council shall have the power to call for a special election as provided by this charter or the laws of the State of Georgia. Any special election shall be held and conducted in accordance with the "Georgia Election Code," Chapter 2 of Title 21 of the Official Code of Georgia Annotated, as now or hereafter amended.

SECTION 5.14.

Other provisions.

Except as otherwise provided by this charter, the mayor and council shall, by ordinance, prescribe such rules and regulations it deems appropriate to fulfill any options and duties under the Georgia Election Code.

SECTION 5.15.

Removal of officers.

(a) The mayor or a councilmember may be removed from office for any one or more of the causes provided in Title 45 of the Official Code of Georgia Annotated or such other applicable laws as are or may hereafter be enacted.

(b) Removal of an officer pursuant to subsection (a) of this section shall be accomplished by one of the following methods:

(1) A decision of an impartial panel following a hearing on action taken by the city council. In the event an elected officer is sought to be removed by the action of the city council, such officer shall be entitled to a written notice specifying the ground or grounds for removal and to a public hearing which shall be held not less than ten (10) days after the service of such written notice. The city council shall provide by ordinance for the manner

in which such hearings shall be held. Any elected officer sought to be removed from office as herein provided shall have the right of appeal from the decision of the city council to the Superior Court of Whitfield County. Such appeal shall be governed by the same rules as govern appeals to the superior court from the probate court.

(2) An order of the Superior Court of Whitfield County following a hearing on a complaint seeking such removal brought by any resident of the city of Dalton.

SECTION 5.16.

Registration; conduct of elections

The mayor and council is authorized and empowered to designate and contract with the Whitfield County Registrar and Board of Elections to receive voter registration of city electors, qualify candidates, and to conduct city elections.

ARTICLE VI

FINANCE

SECTION 6.10.

Property tax.

The mayor and council may assess, levy, and collect an ad valorem tax on all real and personal property within the corporate limits of the city that is subject to such taxation by the state and county. This tax is for the purpose of raising revenues to defray the costs of operating the city government, of providing governmental services, for the repayment of principal and interest on general obligations, and for any other public purpose as determined by the mayor and council in its discretion.

SECTION 6.11.

Millage rate; due dates; payment methods.

The mayor and council, by ordinance, shall establish a millage rate for the city property tax, a due date, and the time period within which these taxes must be paid. The mayor and council, by ordinance, may provide for the payment of these taxes by installments or in one lump sum, as well as authorize the voluntary payment of taxes prior to the time when due. The mayor and council may contract with the Whitfield County Tax Commissioner to collect taxes.

SECTION 6.12.

Occupation and business taxes.

The mayor and council by ordinance shall have the power to levy such occupation or business taxes as are not denied by law. The mayor and council may classify businesses, occupations, or professions for the purpose of such taxation in any way which may be lawful and may compel the payment of such taxes as provided in Section 6.18 of this charter.

SECTION 6.13.

Administration fees; regulatory fees; permits.

The mayor and council by ordinance shall have the power to require businesses or practitioners doing business within the city to obtain a permit for such activity from the city and pay a reasonable administration fee or regulatory fee for such permit as provided by general law. Such fees shall reflect the total cost to the city of regulating the activity, and, if unpaid, shall be collected as provided in Section 6.18 of this charter.

SECTION 6.14.

Franchises

(a) The mayor and council shall have the power to grant franchises for the use of the city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations. The mayor and council shall determine the duration, terms, whether the same shall be exclusive or nonexclusive, and the consideration for such franchises; provided, however, no franchise shall be granted for a period in excess of 35 years and no franchise shall be granted unless the city receives just and adequate compensation therefor. The mayor and council shall provide for the registration of all franchises with the city clerk in a registration book kept by the city clerk. The mayor and council may provide by ordinance for the registration within a reasonable time of all franchises previously granted.

(b) If no franchise agreement is in effect, the mayor and council has the authority to impose a tax on gross receipts for the use of the city's streets and alleys for the purposes of railroads, street railways, telephone companies, electric companies, electric membership corporations, cable television and other telecommunications companies, gas companies, transportation companies, and other similar organizations.

SECTION 6.15.

Service charges.

The mayor and council by ordinance shall have the power to assess and collect fees, charges, and tolls for sewers, stormwater, solid waste collection, sanitary and health services, or any other services provided or made available within and without the corporate limits of the city for the total cost to the city of providing or making available such services. If unpaid, such charges shall be collected as provided in Section 6.18 of this charter.

SECTION 6.16.

Special assessments.

The mayor and council by ordinance shall have the power to assess and collect the cost of constructing, reconstructing, widening, or improving any public way, street, sidewalk, curbing, gutters, sewers, or other utility mains and appurtenances from the abutting property owners under such terms and conditions as are reasonable. If unpaid, such charges shall be collected as provided

in Section 6.18 of this charter.

SECTION 6.17.

Construction; other taxes and fees.

The city shall be empowered to levy any other tax or fee allowed now or hereafter by law, and the specific mention of any right, power, or authority in this article shall not be construed as limiting in any way the general powers of the city to govern its local affairs.

SECTION 6.18.

Collection of delinquent taxes and fees.

The mayor and council, by ordinance, may provide generally for the collection of delinquent taxes, fees, or other revenue due the city under Sections 6.10 through 6.17 of this charter by whatever reasonable means as are not precluded by law. This shall include providing for the dates when the taxes or fees are due; late penalties or interest; issuance and execution of fi.fas.; creation and priority of liens; making delinquent taxes and fees personal debts of the persons required to pay the taxes or fees imposed; revoking city permits or licenses for failure to pay any city taxes or fees; and providing for the assignment or transfer of tax executions.

SECTION 6.19.

General obligation bonds.

The mayor and council shall have the power to issue bonds for the purpose of raising revenue to carry out any project, program, or venture authorized under this charter or the laws of the state. Such bonding authority shall be exercised in accordance with the laws governing bond issuance by municipalities in effect at the time said issue is undertaken.

SECTION 6.20.

Revenue bonds.

Revenue bonds may be issued by the mayor and council as state law now or hereafter provides. Such bonds are to be paid out of any revenue produced by the project, program, or venture for which they were issued.

SECTION 6.21.

Short-term loans.

The city may obtain short-term loans and must repay such loans not later than December 31 of each year, unless otherwise provided by law.

SECTION 6.22.

Lease-purchase contracts.

The city may enter into multiyear lease, purchase, or lease-purchase contracts for the acquisition of goods, materials, real and personal property, services, and supplies provided the contract

terminates without further obligation on the part of the city at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which it may be renewed. Contracts must be executed in accordance with the requirements of Code Section 36-60-13 of the Official Code of Georgia Annotated, or other such applicable laws as are or may hereafter be enacted.

SECTION 6.23.

Fiscal year.

The mayor and council shall set the fiscal year by ordinance. This fiscal year shall constitute the budget year and the year for financial accounting and reporting of each and every office, department, agency, and activity of the city government unless otherwise provided by state or federal law.

SECTION 6.24.

Preparation of budgets.

(a) The mayor and council shall provide a resolution on the procedures and requirements for the preparation and execution of an annual operating budget and a capital budget, including requirements as to the scope, content, and form of such budgets and plans.

(b) Budgets shall be prepared for the General Fund, Debt Service Fund, Capital Projects Fund, Special Revenue Fund(s) and any other fund deemed as necessary by the mayor and council or mandated by state law.

SECTION 6.25.

Submission of Operating Budget to Mayor and Council.

On or before a date fixed by the city council but not later than 30 days prior to the beginning of each fiscal year, the city administrator shall submit to the mayor and council a proposed operating budget for the ensuing fiscal year. The budget shall be accompanied by a message from the city administrator containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year, a general summary of the budget, and such other pertinent comments and information. The operating budget and the capital budget hereinafter provided for, the budget message, and all supporting documents shall be filed in the office of the city clerk and shall be open to public inspection.

SECTION 6.26.

Action by mayor and council on budget.

(a) The mayor and council may amend the operating budget and the capital budget proposed by the city administrator, except that the budget as finally amended and adopted must provide for all expenditures required by state law or by other provisions of this charter and for all debt service requirements for the ensuing fiscal year and the total appropriations from any fund shall not exceed the estimated fund balance, reserves, and revenues.

(b) The mayor and council by voice vote shall adopt the final operating budget and the capital budget for the ensuing fiscal year not later than the first regularly scheduled meeting of each year. If the mayor and council fails to adopt the budget by this date, the amounts appropriated for operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items prorated accordingly until such time as the mayor and council adopts a budget for the ensuing fiscal year. Adoption of the budgets shall take the form of an appropriations ordinance setting out the estimated revenues in detail by sources and making appropriations according to fund and by organizational unit, purpose, or activity as set out in the budget preparation resolution adopted pursuant to Section 6.24 of this charter.

(c) The amount set out in the adopted operating budget and the capital budget for each city department shall constitute the annual appropriation for such, and no expenditure shall be made or encumbrance created in excess of the otherwise unencumbered balance of the appropriations or allotment thereof to which it is chargeable.

SECTION 6.27.

Tax levies.

The mayor and council shall levy by ordinance such taxes as are necessary and authorized by the laws of the State of Georgia. The taxes and tax rates set by such ordinance shall be such that reasonable estimates of revenues from such levy shall at least be sufficient, together with other anticipated revenues, fund balances, and applicable reserves, to equal the total amount appropriated for each of the several funds set forth in the annual operating budget for defraying the expenses of the general government of the city.

SECTION 6.28.

Changes in appropriations.

The mayor and council by ordinance may make changes in the appropriations contained in the current operating budget at any regular meeting or special or emergency meeting called for such purpose, but any additional appropriations may be made only from an existing unexpended surplus.

SECTION 6.29.

Capital Budget.

(a) On or before the date fixed by the mayor and council, the city administrator shall submit to the mayor and council a proposed capital improvements plan with a recommended capital budget containing the means of financing the improvements proposed for the ensuing fiscal year. The mayor and council shall have power to accept, with or without amendments, or reject the proposed plan and proposed budget. The mayor and council shall not authorize an expenditure for the construction of any building, structure, work or improvement, unless the appropriations for such project are included in the capital budget, except to meet a public emergency as provided in Section 2.24.

(b) The mayor and council shall adopt by ordinance the final capital budget for the ensuing

fiscal year. The city administrator may submit amendments to the capital budget to the Mayor and Council at any time during the fiscal year, accompanied by recommendations. Any such amendments to the capital budget shall become effective only upon adoption by ordinance.

SECTION 6.30.

Unexpended appropriations and capital budgets.

All unexpended appropriations and capital budgets shall lapse at the fiscal year-end without any action of the mayor and council.

SECTION 6.31.

Independent audit.

There shall be an annual independent audit of all city accounts, funds, and financial transactions by the city auditor. The audit shall be conducted according to generally accepted auditing principles. Any audit of any funds by the state or federal governments may be accepted as satisfying the requirements of this charter. Copies of annual audit reports shall be available at printing costs to the public.

SECTION 6.32.

Contracting procedures.

No contract with the city shall be binding on the city unless:

- (a) It is in writing;
- (b) It is drawn by or submitted to and reviewed by the city attorney;
- (c) It is made or authorized by the mayor and council and such approval is entered in the mayor and council minutes of the proceedings pursuant to Section 2.20 of this charter; and
- (d) It is signed by the mayor or a department head specifically authorized by the mayor and council by ordinance or resolution.

SECTION 6.33.

Purchasing.

The mayor and council shall by resolution prescribe procedures for a system of purchasing for the city.

SECTION 6.34.

Sale and lease of city property.

- (a) Except as otherwise provided in this charter, the mayor and council may sell and convey

or lease any real or personal property owned or held by the city for governmental or other purposes as now or hereafter provided by law.

(b) The mayor and council may quitclaim any rights it may have in property not needed for public purposes upon report by the city administrator and adoption of a resolution, both finding that the property is not needed for public or other purposes and that the interest of the city has no readily ascertainable monetary value.

(c) Whenever in opening, extending or widening any street, avenue, alley or public place of the city, a small parcel or tract of land is cut-off or separated by such work from a larger tract or boundary of land owned by the city, the mayor and council may authorize the city administrator to sell and convey said cut-off or separated parcel or tract of land to an abutting or adjoining property owner or owners where such sale and conveyance facilitates the enjoyment of the highest and best use of the abutting owner's property. Included in the sales contract shall be a provision for the rights-of-way of said street, avenue, alley or public place. Each abutting property owner shall be notified of the availability of the property and given the opportunity to purchase said property under such terms and conditions as set out by ordinance. All deeds and conveyances heretofore and hereafter so executed and delivered shall convey all title and interest the city has in such property, notwithstanding the fact that no public sale after advertisement was or is hereafter made.

SECTION 6.35.

Insurance.

The city shall maintain sufficient casualty and liability insurance coverage on all property owned and/or operated by city personnel to adequately indemnify the city on claims of loss by injured or aggrieved parties. The amounts of insurance coverage shall be set from time to time by the city council in the form of a resolution as the need arises.

ARTICLE VII

PUBLIC SCHOOLS

SECTION 7.1.

Board of Education.

The board of education of the public schools of the City of Dalton is provided for in O.C.G.A. Title 20, Ch. 2, Art. 3.

ARTICLE VIII

BOARD OF WATER, LIGHT AND SINKING FUND COMMISSIONERS

SECTION 8.10.

Organization of Board.

- (a) At the first regular meeting in January of each year the mayor and council of the City of Dalton shall be authorized to elect a Board of Water, Light and Sinking Fund Commissioners, consisting of five (5) members.
- (b) The Board of Water, Light and Sinking Fund Commissioners shall consist of five commissioners appointed by the mayor and council who shall serve five-year terms. The terms shall be staggered as in effect on the date of this charter. Any vacancy in a term of a commissioner shall be filled for the expiration of that term by appointment of the mayor and city council. Upon the expiration of the term of service of any commissioner so appointed, the mayor and city council shall appoint a commissioner for a full term. Existing commissioners as of the date of this charter shall serve out the balance of their terms.
- (c) The authority, powers, and duties of said commissioners shall be regulated by such ordinances as the mayor and council may prescribe, and as otherwise set forth in this Article VIII.

SECTION 8.11.

General Scope of Authority, Powers, and Duties as to Public Utilities.

- (a) The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton (doing business as “Dalton Utilities”) shall have entire control of all public utilities of the City of Dalton, and such control shall extend into the newly annexed area of said city. Said board shall have authority of extending the services of said utilities beyond the city limits of the City of Dalton when in their judgment it is to the best interest of the city to do so.
- (b) The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton (doing business as “Dalton Utilities”) shall have the power to control and operate any and all public utilities that the convenience and necessity of the citizens of the City of Dalton require, and have the right and power to operate any such public utilities within the City of Dalton when the convenience and necessity of the citizens of the city are affected.
- (c) The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton (doing business as “Dalton Utilities”) shall have entire control of the public utilities of the City of Dalton and as a part of said control, the board shall have authority to make all contracts necessary for the operation of said utilities; to buy all supplies and material needed, and to make all necessary improvements and extensions, to employ all help necessary in the operation of said utilities and all utility sectors thereof; to make all rates, rules and regulations for furnishing utility services to the inhabitants of said city and to enforce the same; and to deal in every way with said utilities as a separate and distinct part of the city government. Said board shall fix rates for utility services sufficiently high so as to bring in sufficient revenue to maintain said public utilities and to provide for needed repairs, extensions and improvements. Said board shall collect all moneys due to said utilities and shall pay all debts of said public utilities. No contract made by said board shall bind said city but shall be binding upon said board which shall operate as a separate and distinct part of the City of Dalton with the authority set forth in this Section, and pursuant to law and ordinances.

No moneys shall be appropriated by the mayor and council of the City of Dalton to the operation and improvement of said utilities, except that the board shall collect and receive the principal and interest on the public debt as now provided by law. As used in this Section, the term “utility services” shall mean any and all services provided by the board through various utility sectors as set forth in Section 8.12, and otherwise as authorized by law or ordinance, and is not intended to limit the board from providing utility services in the future that are not set forth in Section 8.12 and that may be later authorized by law or ordinance.

SECTION 8.12.

Utility Sectors.

(a) *Public Sewer System.* The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have power and authority to control and operate the public sewer system in said city in such way and manner as the board deems appropriate, and for such purpose they may employ competent engineers and superintendents, at such times and at such salaries as may be agreed upon by the board. The board shall have entire control of the public sewer system of the City of Dalton, and such control shall extend into all newly annexed areas of said city. Said board shall have the power and authority to make all contracts necessary for the operation of said public sewer system; to buy all supplies and materials needed, and to make all necessary improvements and extensions, to employ all clerical and other help necessary in the operation of said system; to make rates, rules and regulations for the furnishing of sewer service to residential, commercial and industrial users of said system, and to enforce the same; and the power to control and operate such system as the convenience and necessity of the citizens of the City of Dalton shall require. Said board shall make no contracts for the price of using the public sewer system for a longer period than two (2) years, and at the expiration of any term or lease the price paid for the use thereof shall be adjusted according to the regulations then established.

(b) *Communications and Information Services and Facilities.* The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have the authority to construct, acquire, control, operate and provide as public utilities (i) communications services and facilities, and (ii) information services and facilities; of all kinds, without limitation, over or through all media, including wireline and wireless, whether such services and facilities are now known or are developed in the future, within or without the City of Dalton and within or without Whitfield County, Georgia. Notwithstanding the foregoing, the specification of any such services and facilities as public utilities is not intended to (i) confer any additional power or be in any way in derogation of the power and authority of the Georgia Public Service Commission or any other regulatory body with respect to any such services and facilities, or (ii) subject any such services or facilities to common carrier or public utility regulation. The board shall have power and authority to control and operate the communications services and facilities and the information services and facilities in said city in such way and manner as the board deems appropriate, and for such purpose they may employ competent engineers and superintendents, at such times and at such salaries as may be agreed upon by the board. The board shall have entire control of the communications services and facilities and the information services and facilities of the City of Dalton, wherever located, and such control shall extend into all newly annexed areas of said city. Said board shall have the power and authority to make all contracts necessary for the operation of said communications services and facilities and the information services and facilities; to buy all

supplies and materials needed, and to make all necessary improvements and extensions, to employ all clerical and other help necessary in the operation of said facilities; to make rates, rules and regulations for the furnishing of communications services and facilities and the information services and facilities to residential and industrial users of said facilities, and to enforce the same; and the power to control and operate such communications services and facilities and the information services and facilities as the convenience and necessity of the citizens of the City of Dalton shall require.

(c) *Water System.* The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have power and authority to control and operate the water system in said city in such way and manner as the board deems appropriate, and for such purpose they may employ competent engineers and superintendents, at such times and at such salaries as may be agreed upon by the board. The board shall have entire control of the public water system of the City of Dalton, and such control shall extend into all newly annexed areas of said city. Said board shall have the power and authority to make all contracts necessary for the operation of said public water system; to buy all supplies and materials needed, and to make all necessary improvements and extensions, to employ all clerical and other help necessary in the operation of said system; to make rates, rules and regulations for the furnishing of water service to residential, commercial, and industrial users of said system, and to enforce the same; and the power to control and operate such system as the convenience and necessity of the citizens of the City of Dalton shall require. The board shall regulate the distribution and use of the water in all places and for all purposes, where the same may be required, and from time to time shall fix the price thereof, and the time of payment; and they shall erect such number of public hydrants in such places as they may see fit, and direct in what manner and for what purposes the same may be used, all of which they may change at their discretion. Said board shall make no contracts for the price of using water for a longer period than two (2) years, and at the expiration of any term or lease the price paid for the use thereof shall be adjusted according to the regulations then established. Said board shall have full power and authority to require the payment, in advance, for the use or rent of water furnished by the utility in or upon any building, place or premises, and in case prompt payment shall not be made, they may shut off the water from such building, place or premises, and shall not be compelled to supply said building, place or premises with water until such arrears, with accrued interest thereon, shall be fully paid.

(d) *Electric System.* The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have power and authority to control and operate the electrical transmission, distribution, and generation systems in said city in such way and manner as the board deems appropriate, and for such purpose they may employ competent engineers and superintendents, at such times and at such salaries as may be agreed upon by the board. The board shall have entire control of the public electric generation and transmission systems of the City of Dalton, and such control shall extend into all newly annexed areas of said city. Said board shall have the power and authority to make all contracts necessary for the operation of said electric generation, distribution, and transmission systems; to buy all supplies and materials needed, and to make all necessary improvements and extensions, to employ all clerical and other help necessary in the operation of said systems; to make rates, rules and regulations for the furnishing of electric service to residential, commercial, and industrial users of said system, and to enforce the same; and the power to control and operate such system as the convenience and necessity of the citizens of the City of

Dalton shall require. The board may acquire additional sources of supply of electric power within or without the City of Dalton and within or without Whitfield County, Georgia. Said additional sources of supply may include the whole of or any lesser interest in any electric generating or distribution facilities within or without the State of Georgia and the whole of or any lesser interest in any transmission lines running from any additional source of supply to and within the City of Dalton. Any such additional source of supply may include the whole of or any interest in a nuclear generating facility, including any or all nuclear fuel necessary for the operation thereof. Said board shall make no contracts for the price of electricity for a longer period than two (2) years, and at the expiration of any term or lease the price paid for the use thereof shall be adjusted according to the regulations then established. The Board of Water, Light and Sinking Fund Commissioners may enter agreements for the sale of surplus electricity to others if and when there shall be any excess over and above the city's requirements from time to time and may enter all contracts necessary or useful to assure efficient and economical management of any such additional source of supply, including transmission lines.

(e) *Natural Gas System.* The Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have power and authority to control and operate the natural gas system in said city in such way and manner as the board deems appropriate, and for such purpose they may employ competent engineers and superintendents, at such times and at such salaries as may be agreed upon by the board. The board shall have entire control of the public natural gas system of the City of Dalton, and such control shall extend into all newly annexed areas of said city. Said board shall have the power and authority to make all contracts necessary for the operation of said natural gas system; to buy all supplies and materials needed, and to make all necessary improvements and extensions, to employ all clerical and other help necessary in the operation of said systems; to make rates, rules and regulations for the furnishing of natural gas service to residential, commercial, and industrial users of said system, and to enforce the same; and the power to control and operate such system as the convenience and necessity of the citizens of the City of Dalton shall require. Said board shall make no contracts for the price of natural gas for a longer period than two (2) years, and at the expiration of any term or lease the price paid for the use thereof shall be adjusted according to the regulations then established. The board may acquire additional sources of supply of natural gas within or without the City of Dalton and within or without Whitfield County, Georgia.

SECTION 8.13.

Chief Executive Officer.

(a) The Board of Water, Light and Sinking Fund Commissioners shall appoint and employ a President and Chief Executive Officer who shall be qualified by training, education, and experience for the overall management of the utility. He/she shall serve at the pleasure of said board, which shall fix salary, and shall have such authority as delegated by said board and as set forth in this Section 8.13.

(b) The President and Chief Executive Officer of the utility shall report to the Board of Water, Light and Sinking Fund Commissioners at its monthly meetings and at special meetings, and shall carry out and execute all policies and directives of said board.

(c) The President and Chief Executive Officer of the utility shall, in consultation with the board, determine the number of employees necessary for the operation of the utility, and fix their duties and compensation. The prior consent of the Board of Water, Light and Sinking Fund Commissioners shall be required with respect to expenditures and contracts in excess of certain limits set by said board by resolution from time to time. The President and Chief Executive Officer shall, in consultation with the board, have control of all actual construction and repairs, the immediate management of operation of the utility, and the enforcement and execution of all policies, programs, plans, and decisions made or adopted by the said board. The President and Chief Executive Officer shall maintain permanent records regarding actions taken. The President and Chief Executive Officer shall prepare plans and specifications, take bids, and let contracts, subject to the approval of said board. The President and Chief Executive Officer shall prepare and submit to said board periodic reports on the utility's compliance with local, state and federal laws in the areas of safety, environmental matters, and civil rights. There shall be such other officers, executives and employees of the utility as may be required. The officers, executives and employees shall be appointed and removed by the President and Chief Executive Officer subject to the provisions of applicable local, state and federal laws or binding contracts entered into between employees and the Board of Water, Light and Sinking Fund Commissioners. The President and Chief Executive Officer shall have such further power, duties and responsibilities as may be assigned to him by said board from time to time.

(d) The President and Chief Executive Officer shall enter into contracts and shall have the authority to enter into contracts with vendors, customers, lenders, depositories, utilities, engineering firms, consultants and government agencies as may be necessary to effect proper operations of the utility. The prior consent of the Board of Water, Light and Sinking Fund Commissioners shall be required with respect to contracts in excess of certain limits set by the board by resolution from time to time.

(e) All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of the utility shall be signed by the Chief Financial Officer and countersigned by the President and Chief Executive Officer, and may be signed by such other officer or officers, agent or agents, of the utility and in such manner as may from time to time be determined by the President and Chief Executive Officer.

(f) All funds of the utility shall be deposited from time to time to the credit of the utility in such banks, trust companies or other depositories as the President and Chief Executive Officer may select in consultation with the Board of Water, Light and Sinking Fund Commissioners.

SECTION 8.14.

Control Over Public Utilities; Rates, Charges to Comply with Councilmanic Proceedings for
Issuance of Revenue Bonds or Certificates.

As by law and this charter, the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton shall have entire control over all public utilities owned or operated by said city, within or without its limits, with authority to make all contracts necessary to operate such utilities,

to make all improvements and extensions thereto and to fix, impose and collect the rates and charges made for services and commodities supplied by such public utilities; provided however, that such rates and charges shall always be such as to comply with the provisions of any proceedings adopted by the mayor and council of said city authorizing the issuance of revenue bonds or certificates payable from the revenues of such public utilities, or any part thereof.

SECTION 8.15.

Right of Eminent Domain for Public Utilities

The City of Dalton shall have the right and power to condemn lands, rights-of-way for public utilities, easements or right to use property of any kind, whether or not the same is already in use for such purpose, using the method of procedure provided under the general laws of the State of Georgia, and said City of Dalton is hereby vested with the power of eminent domain over private property for such purposes, whenever the Board of Water, Light and Sinking Fund Commissioners shall deem it necessary to the proper management and control of such public utilities that they exercise said power.

SECTION 8.16.

Investment of Sinking Funds.

The Board of Water, Light and Sinking Fund Commissioners shall be authorized to control the sinking funds collected by the city from any and every source, to invest the same in such manner, and in such securities, and upon such terms as the Board of Water, Light and Sinking Fund Commissioners may deem to be to the best interest of said city.

SECTION 8.17.

Disposition of Surplus Funds and Financial Reporting.

If said utility, as determined by the board, has more money on hand than is reasonably necessary for the operation of said utility and for contemplated improvements, the Board of Water, Light and Sinking Fund Commissioners shall pay a sum to the city treasury on an annual basis in an amount that is determined by agreement of the mayor and council and the board. The board, through the President and Chief Executive Officer, shall at the request of the mayor and council of the city, provide to the mayor and council such regular and routine reports agreed upon by the mayor and council and the board as may be necessary for the mayor and council to determine the financial status of the utility.

SECTION 8.18.

Penalties for Diversion of Water, Adulteration, Injury to Supply.

If any person or persons shall willfully or maliciously divert the water, or any portion thereof, from the water system of the city, or shall corrupt or render the same impure, or shall injure or destroy any canal, aqueduct, pipe, hydrant, conduit, machinery or other property used or required for procuring or distributing water, such person or persons, their aiders and abettors, shall forfeit to the mayor and council, to be recovered in an action of trespass, treble the amount of damages, besides cost of said suit, which shall appear on trial to have been sustained; all such acts are

declared to be misdemeanors under the laws of this state, and the parties found guilty thereof may be punished as prescribed in Code Section 50-14-1 of the Official Code of Georgia Annotated.

SECTION 8.19.

Dissolution of the Board and Disposition of Public Utility Assets.

(a) The mayor and council of the City of Dalton shall not (i) disband, dissolve or eliminate the Board of Water, Light and Sinking Fund Commissioners; (ii) remove control of the public utilities or any utility sector thereof from the Board of Water, Light and Sinking Fund Commissioners; or (iii) sell, encumber, or lease a substantial portion of the assets of the public utilities or any utility sector thereof unless approved by a referendum election as provided in this Section 8.19.

(b) A referendum election to authorize any of the actions of the mayor and council set forth in subsection (a) of this Section 8.19, may be initiated upon an ordinance or resolution from the mayor and council being filed with the election superintendent of the city. Such superintendent, upon validation of the ordinance or resolution, shall be required to call and conduct a referendum election as provided for in Chapter 2 of Title 21, the "Georgia Election Code," for the purpose of submitting to the qualified voters of the City of Dalton, the question of whether such action shall be permitted or prohibited. Such ordinance or resolution shall not be amended, supplemented, or returned after its presentation to the appropriate authority.

(c) Upon receipt of an ordinance or resolution, the election superintendent shall set the date of the referendum election on a date authorized under Code Section 21-2-540 of the Official Code of Georgia Annotated. The referendum may be held as a special referendum election or may be held at the time of holding any other primary or election in the City of Dalton.

(d) Notice of the call for the referendum election shall be published by the election superintendent in a newspaper of general circulation in the City of Dalton. The election superintendent shall also cause the date and purpose of the referendum election to be published in a newspaper of general circulation in said city, once a week for two weeks immediately preceding the date of the referendum election.

(e) Only following the expiration of two years after any referendum election is held which results in the disapproval of any action set forth in subsection (a) of this Section 8.19, another referendum election on the same question shall be held if another ordinance or resolution, as provided in subsection (a) of this Section 8.19, is filed with the appropriate election superintendent.

(f) The expense for the election shall be borne by the City of Dalton.

ARTICLE IX

POLICE AND FIRE DEPARTMENTS

SECTION 9.10.

Creation; Composition.

The City of Dalton shall have a police and fire department consisting of a chief of police appointed

by the mayor and council, and such other police officers as may be determined by the chief of police, and a fire chief appointed by the mayor and council, and such other firefighters as may be determined by the fire chief.

SECTION 9.11.

Promulgation of Rules and Regulations.

A public safety commission, which shall be an advisory commission consisting of five (5) members to be appointed by the mayor and council of said city as is hereinafter provided, may from time to time make such rules and regulations as they may think proper for the proper conduct of the affairs of such commission. The Public Safety Commission's purpose is to be an advisory authority to the public safety departments.

SECTION 9.12.

Appointment, Term, Compensation of Public Safety Commission.

The public safety commission shall consist of five commissioners appointed by the mayor and council and each such member shall serve a five-year term. The terms of the commissioners shall be staggered as in effect on the date of this charter. Any vacancy in a term of a member shall be filled for the expiration of that term by appointment of the mayor and council. Upon the expiration of the term of service of any member so appointed, the mayor and council shall appoint a member for a full term.

SECTION 9.13.

Services of City Attorney to Public Safety Commission.

The city attorney of the City of Dalton shall render such services as are required by said public safety commission.

SECTION 9.14.

Oath of Office.

Immediately upon the appointment of the public safety commissioners, police officers, and firefighters, they shall take oath as prescribed in the charter of the City of Dalton.

SECTION 9.15.

Public Safety Commission Seal.

The City of Dalton public safety commission may adopt an official seal for use on its official documents and/or any subpoenas issued by the City of Dalton public safety commission. Upon adoption of said seal the same shall be kept at all times in the custody and control of the duly appointed secretary of the City of Dalton public safety commission.

SECTION 9.16.

Age Requirements for Employment.

No person shall be employed by the City of Dalton for work as a mandate peace officer or mandate peace officer in training or certified firefighter or certified firefighter in training unless such person has reached the age of eighteen (18) years which shall be established by a birth certificate or other proper proof of age acceptable to the public safety commission.

SECTION 9.17.

Authority of Chief of Police to Remove Nuisances.

The chief of police shall also be empowered to remove all nuisances within the corporate limits of the city.

SECTION 9.18.

Chief of Police to Collect, Account for Fines and Fi. Fas.

The city council may in their discretion require the chief of police to collect and account for all fines and fi. fas.

SECTION 9.19.

Duties of Fire Chief.

The duties of the fire chief shall be those duties as are now imposed by the fire chief of the City of Dalton by law, and he or she shall be responsible for other duties and responsibilities as may from time to time be placed upon the fire chief by mayor and council.

SECTION 9.20.

Chiefs Constituted Heads of Departments; Status; Removal.

The chief of police and the chief of the fire department of the City of Dalton, shall be the head of their respective departments, and shall hold office until removed by the mayor and council. Such chiefs shall be appointed by the mayor and council of the City of Dalton. The chief of police and the chief of the fire department may be removed, demoted or discharged at any time by the mayor and council of the City of Dalton.

SECTION 9.21.

Supervision and Control of Police Officers and Firefighters.

All police officers shall be subject to the direction and control of the chief of police, and all firefighters shall be subject to the direction and control of the chief of the fire department, and they shall have the right to discharge or suspend any officer or firefighter for incompetency, insubordination, or misconduct, and report such suspension or discharge to the city administrator.

SECTION 9.22.

Salaries.

The salary of the chief of police and the chief of the fire department and all officers and firefighters, shall be fixed by the City Administrator from time to time.

ARTICLE X
ZONING AND PLANNING

SECTION 10.10.

Adoption of Plan for Districting City, Regulating Districts.

The mayor and council may, in the interest of the public health, safety, order, convenience, comfort, prosperity, or general welfare, adopt by ordinance a plan or plans for the districting or zoning of the city for the purpose of regulating the location of trades, industries, apartment houses, dwellings, or other uses of property, or for the purpose of regulating the height of the buildings or other structures, or for the area or dimensions of the lots, or of the yards used in connection with buildings or other structures, or for the purposes of regulating the alignment of buildings or other structures near street frontages. The zoning regulations may be based upon any one or more of the purposes above described. The city may be divided into such number of districts and zones, and such districts may be of such shape and area, as the mayor and council shall deem best situated to accomplish the purposes of the zoning regulations, including, but not limited to, unified zoning with Whitfield County.

In the determination and establishment of districts and regulations, classifications may be used based on the nature or character of the trade, industry, profession, or other activity conducted or to be conducted upon the premises, the number of persons, families or other group units to reside in or use buildings, the public, quasi-public, or private nature of the use of premises, or upon any other basis or bases relevant to the promotion of the public health, safety, order, morals, conveniences, prosperity, or welfare.

SECTION 10.11.

Classification, Regulation of Residential Districts.

For the reasons above stated, said mayor and council shall have the further right and power, in any districts proposed to be set aside primarily for residence purposes, to further classify the use thereof, and to provide therein the class or classes of residents to be housed therein, and to provide therein such other and similar regulations and restrictions as shall secure the peace and good order of the city and residents thereof.

SECTION 10.12.

Amendment of Zoning Regulations.

The City of Dalton, by and through its mayor and council, may from time to time amend or change the regulations or districts established by the zoning ordinance.

SECTION 10.13.

Vote Required to Adopt, Amend Zoning Regulations.

No such ordinance or amendment thereto, authorized by any of the above sections, shall be adopted except by three-fourths vote of the mayor and council.

ARTICLE XI

AUTHORITIES AND COMMISSIONS

DIVISION 1. DEVELOPMENT AUTHORITY

SECTION 11.10.

City of Dalton Building Authority.

- (a) *Name.* The City of Dalton Building Authority, created pursuant to the previous charter for the City of Dalton first approved February 24, 1874 (1874 Georgia Laws, p. 181), as amended, and is hereby affirmed, which is deemed to be an instrumentality of the State of Georgia and a public corporation and in that name, style and title said body may contract and be contracted with, sue and be sued, plead and be interpleaded, and complain and defend in all courts of law and equity. In the event the name of said authority shall ever become the subject of change, the same may be accomplished by an act of the General Assembly.
- (b) *Purpose.* The said authority was created for the purpose of acquiring, constructing, equipping, maintaining and operating self-liquidating projects embracing buildings and facilities for use by the City of Dalton, Georgia, for its governmental, proprietary and administrative functions and for the use by such other agencies, authorities, departments and political subdivisions of the State of Georgia or the government of the United States as may contract with the authority for the use of such facilities. The City of Dalton, Georgia, has the authority to lease or sell lands, buildings or land and buildings now owned by the City of Dalton, Georgia, to said authority by appropriate resolution of the mayor and council of said city and upon such terms and conditions as said mayor and council shall prescribe; provided, that such sales by the City of Dalton, Georgia, to the authority shall be for cash, and provided that such leases shall not exceed fifty (50) years in duration.
- (c) *Membership.* The authority shall consist of five (5) members as follows: One shall be the mayor of the City of Dalton, Georgia; one shall be a member of the city council of said city to be appointed by said city council; one shall be a banker or other person having knowledge of financial matters, who is a resident of the City of Dalton, to be appointed by the mayor and council of said city; one shall be a businessman, who is a resident of the City of Dalton, to be appointed by the mayor and council of said city; and one shall be a citizen of the City of Dalton, who is a freeholder and qualified registered voter of said city, to be appointed by the mayor and council of said city. The terms of office of the members who are the mayor and city councilmember shall be concurrent with their terms of office as mayor and councilmember. The terms of office of the remaining members of the authority shall be four (4) years and until their successors are appointed and qualified. Successors to such members and to the member who is a city councilmember shall be appointed as the original members were appointed, as provided herein, and any vacancies shall be filled by the appointing authority, as provided herein,

for the unexpired term. Immediately after such appointments, the members of such authority shall enter upon their duties. The authority shall elect one of its members as chairman, and one as vice-chairman, and shall also elect a secretary and treasurer, which secretary and treasurer need not necessarily be a member of the authority. Three (3) members of the authority shall constitute a quorum. No vacancy on the authority shall impair the right of the quorum to exercise all the rights and perform all the duties of the authority. The members of the authority shall receive no compensation for their services but may be reimbursed by the authority for their actual expenses necessarily incurred in the performance of their duties. The authority shall make rules and regulations for its own government. It shall have perpetual existence. In the event the number of the members of the authority or the qualifications of the membership of the authority or the manner in which the members of the authority shall be selected shall ever become the subject of change, the same may be accomplished by an act of the General Assembly.

(d) *Definitions.* As used in this Article XII, the following words and terms shall have the following meanings:

- (1) The word “authority” shall mean the City of Dalton Building Authority.
- (2) The words “the City of Dalton” and “city” shall mean the corporate body created by the General Assembly of Georgia under the name and style of “The City of Dalton.”
- (3) The word “project” shall be deemed to mean and include one or a combination of two (2) or more of the following: Buildings and facilities intended for use as courthouse, jail, police station, fire station, administrative offices and other offices and related uses, and all buildings, structures, electric, gas, steam and water utilities and facilities of every kind and character deemed by the authority necessary or convenient for the efficient operation of any department, board, office, commission or agency of the City of Dalton in the performance of its governmental, proprietary and administrative functions, or of such buildings and facilities intended for use by any division, department, institution, agency or political subdivision of the State of Georgia, or the government of the United States.
- (4) The term “cost of the project” shall embrace the cost of construction, the cost of all lands, properties, rights and easements and franchises acquired, the cost of all machinery and equipment, financing charges, interest prior to and during construction, cost of engineering, architectural and legal expenses, and of plans and specifications, and other expenses necessary or incident to determining the feasibility or practicability of the project, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized, the construction of any project, the placing of the same in operation, and the condemnation of property necessary for such construction and operation. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the cost of the project and may be paid or reimbursed as such out of the proceeds of revenue bonds issued under the provisions herein.

- (5) The terms “revenue bonds” and “bonds,” as used in this section, shall mean revenue bonds under the provisions of the Revenue Bond Law (O.C.G.A. § 36-82-60 et seq.), and such type of obligations may be issued by the authority as authorized under said Revenue Bond Law and in addition, shall also mean obligations of the authority, the issuance of which are hereinafter specifically provided for herein.
 - (6) Any project or combination of projects shall be deemed “self-liquidating” if, in the judgment of the authority, the revenues to be derived by the authority from rentals of said project or projects to the City of Dalton or agencies, authorities, departments and political subdivisions of the State of Georgia and of the United States will be sufficient to pay the cost of maintaining, repairing and operating the project and to pay the principal and interest of revenue bonds which may be issued for the cost of such project, projects, or combination of projects.
- (e) *Powers.* The authority shall have the powers:
- (1) To have a seal and alter the same at pleasure.
 - (2) To acquire by purchase, lease or otherwise, and to hold, lease and dispose of real and personal property of every kind and character for its corporate purposes.
 - (3) To acquire in its own name by purchase, on such terms and conditions and in such manner as it may deem proper or by condemnation in accordance with the provisions of any and all existing laws applicable to the condemnation of property for public use, real property or rights of easements therein or franchises necessary or convenient for its corporate purposes, and to use the same so long as its corporate existence shall continue and to lease or make contracts with respect to the use of or dispose of the same in any manner it deems to the best advantage of the authority, the authority being under no obligation to accept and pay for any property condemned as provided herein except from the funds provided herein, and in any proceedings to condemn, such orders may be made by the court having jurisdiction of the suit, action or proceedings as may be just to the authority and to the owners of the property to be condemned, and no property shall be acquired as provided herein upon which any lien or other incumbrance exists, unless at the time such property is so acquired a sufficient sum of money be deposited in trust to pay and redeem the fair value of such lien or incumbrance.
 - (4) To appoint and select officers, agents and employees, including engineering, architectural and construction experts, fiscal agents and attorneys, and fix their compensation.
 - (5) To make contracts and leases and to execute all instruments necessary or convenient, including contracts for construction of projects and leases of projects or contracts with respect to the use of projects which it causes to be erected or acquired, and the City of Dalton and any divisions, departments, institutions,

agencies, counties or political subdivisions of the State of Georgia are hereby authorized to enter into contracts, leases or agreements with the authority upon such terms and for such purposes as they deem advisable; and without limiting the generality of the above, authority is specifically granted to the said city and any division, department, institution, agency or political subdivision of the State of Georgia to enter into lease contracts and related agreements for the use of any structure, building or facility or a combination of any two (2) or more structures, buildings or facilities of the authority for a term not exceeding fifty (50) years and any division, department, institution, agency or political subdivision of the State of Georgia may obligate itself to pay an agreed sum for the use of such property and the City of Dalton may enter into lease contracts and related agreements for the use of any structure, building or facility or a combination of two (2) or more structures, buildings or facilities of the authority for a term not exceeding fifty (50) years upon a majority vote of its governing body and may obligate itself to pay an agreed sum for the use of such property so leased and also obligate itself as a part of the undertaking to pay the cost of maintaining, repairing and operating the property furnished by and leased from the authority.

- (6) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, operate and manage projects, as hereinabove defined, to be located on property owned by or leased by the authority, the cost of any such project to be paid in whole or in part from the proceeds of revenue bonds of the authority or from such proceeds and any grant from the United States of America or any agency or instrumentality thereof.
 - (7) To accept loans and/or grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof upon such terms and conditions as the United States of America or such agency or instrumentality may impose.
 - (8) To borrow money for any of its corporate purposes and to issue negotiable revenue bonds payable solely from funds pledged for that purpose, and to provide for the payment of the same and for the rights of the holders thereof.
 - (9) To exercise any power usually possessed by private corporations performing similar functions, which is not in conflict with this charter, the Constitution, and laws of this state.
 - (10) To do all things necessary or convenient to carry out the powers expressly given herein.
- (f) *Revenue bonds.* The authority, or any authority or body which has or which may in the future succeed to the powers, duties and liabilities vested in the authority created hereby, shall have power and is hereby authorized at one time, or from time to time, to provide by resolution for the issuance of negotiable revenue bonds, for the purpose of paying all or any part of the cost as herein defined of any one or more projects. The principal and

interest of such revenue bonds shall be payable solely from the special fund herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding the maximum limit prescribed in the Revenue Bond Law (O.C.G.A. § 36-82-60 et seq.) or any amendment thereto, shall be payable semiannually, shall mature at such time or times not exceeding thirty (30) years from their date or dates, shall be payable in such medium of payment as to both principal and interest as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority in the resolution providing for the issuance of the bonds. Such revenue bonds or obligations shall be issued pursuant to and in conformity with the Revenue Bond Law (O.C.G.A. § 36-82-60 et seq.), and all procedures pertaining to such issuance and the conditions thereof shall be the same as those contained in said Revenue Bond Law and any amendments thereto.

- (g) *Form; denominations; registration; place of payment.* The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest thereof which may be at any bank or trust company within or without the state. The bonds may be issued in coupon or registered form or both, as the authority may determine, and provision may be made for the registration of any coupon bond as to the principal alone and also as to both the principal and interest.
- (h) *Signature; seal.* In case any officer whose signature shall appear on any bonds or whose facsimile signature shall appear on any coupon shall cease to be an officer before the delivery of such bonds, such signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All such bonds shall be signed by the chairman of the authority and attested by the secretary and treasurer of the authority and the official seal of the authority shall be affixed thereto and any coupons attached thereto shall bear the facsimile signatures of the chairman and secretary and treasurer of the authority. Any bond may be signed, sealed and attested on behalf of the authority by such persons as at the actual time of the execution of such bonds shall be duly authorized or hold the proper office, although at the date of delivery and payment of such bonds such persons may not have been so authorized or shall not have held such office.
- (i) *Negotiability, exemption from taxation.* All revenue bonds issued under the provisions hereof shall be fully negotiable for all purposes and shall have and are hereby declared to have all of the qualifications of negotiable instruments under the laws of the state. Such bonds are declared to be issued for an essential public and governmental purpose and the said bonds and the income thereof shall be exempt from all taxation within the state.
- (j) *Sale, price.* The authority may sell such bonds in such manner and for such price as it may determine to be for the best interest of the authority.

- (k) *Proceeds of bonds.* The proceeds of such bonds shall be used solely for the payment of the cost of the project or projects, and unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust indenture, additional bonds may in like manner be issued to provide the amount of any deficit, which unless otherwise provided in the resolution authorizing the issuance of the bonds or in the trust indenture shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose. If the proceeds of the bonds of any issue shall exceed the amount required for the purpose for which such bonds are issued, the surplus shall be paid into such funds as may be provided in the resolution authorizing the issuance of the bonds or in the trust indenture.
- (l) *Interim receipts and certificates or temporary bonds.* Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts, interim certificates, or temporary bonds, with or without coupons exchangeable for definitive bonds upon the issuance of the latter.
- (m) *Replacement of lost or mutilated bonds.* The authority may also provide for the replacement of any bond which shall become mutilated or be destroyed or lost.
- (n) *Conditions precedent to issuance; object of issuance.* Such revenue bonds may be issued without any other proceedings. In the discretion of the authority, revenue bonds of a single issue may be issued for the purpose of any particular project. Any resolution, providing for the issuance of revenue bonds upon the provisions hereof, shall become effective immediately upon its passage and need not be published or posted, and any such resolution may be passed at any regular or special or adjourned meeting of the authority by a majority of the quorum as herein provided.
- (o) *Credit not pledged and debt not created.* Revenue bonds issued by the authority hereunder shall not be deemed to constitute a debt of the City of Dalton, Georgia, nor of any municipality, county, authority, or political subdivision of the State of Georgia or instrumentality of the United States government which may contract with such authority. No contracts entered into by the authority with any such municipality, county, authority or political subdivision of the State of Georgia or instrumentality of the United States government shall create a debt of the respective municipalities, counties, authorities or political subdivisions of the State of Georgia within the meaning of Article IX, Section V, Paragraph I of the Constitution of the State of Georgia, but any such municipality, county, authority or political subdivision of the State of Georgia may obligate itself to pay the payments required under such contracts from monies received from taxes and from any other source without creating a debt within the meaning of Article IX, Section V, Paragraph I of the Constitution of the State of Georgia.
- (p) *Trust indenture as security.* In the discretion of the authority, any issue of such revenue bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside of the state. Such trust indenture may pledge or assign fees, tolls, revenues, and earnings to be received by the authority, including the proceeds derived

from the sale from time to time of any surplus property of the authority, both real and personal. Either the resolution providing for the issuance of revenue bonds or such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property, the construction of the project, the maintenance, operation, repair and insurance of the property, and the custody, safeguarding and application of all monies, including the proceeds derived from the sale of property of the authority, both real and personal, and may also provide that any project shall be constructed and paid for under the supervision and approval of consulting engineers or architects employed or designated by the authority, and satisfactory to the original purchasers of the bonds issued therefor and may also require that the security given by contractors and by any depository of the proceeds of the bonds or revenues or other monies be satisfactory to such purchasers, and may also contain provisions concerning the conditions, if any, upon which additional revenue bonds may be issued. It shall be lawful for any bank or trust company incorporated under the laws of this state to act as such depository and to furnish such indemnifying bonds or pledge such securities as may be required by the authority. Such indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. In addition to the foregoing, such trust indenture may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repair of the project affected by such indenture.

- (q) *To whom proceeds of bonds shall be paid.* The authority shall, in the resolution providing for the issuance of revenue bonds or in the trust indenture, provide for the payment of the proceeds of the sale of the bonds to any officer or person who or any agency, bank or trust company which shall act as trustee of such funds and shall hold and apply the same to the purposes hereof, subject to such regulations as are herein provided and such regulations as may be provided in such resolution or trust indenture.

- (r) *Sinking fund.* The revenues, fees, tolls and earnings derived from any particular project or projects, regardless of whether or not such fees, earnings and revenues were produced by a particular project for which bonds have been issued and any monies derived from the sale of any properties, both real and personal of the authority, unless otherwise pledged and allocated, may be pledged and allocated by the authority to the payment of the principal and interest on revenue bonds of the authority as the resolution authorizing the issuance of the bonds or in the trust instrument may provide, and such funds so pledged from whatever source received, which said pledge may include funds received from one or more or all sources, shall be set aside at regular intervals as may be provided in the resolution or trust indenture, into a sinking fund which said sinking fund shall be pledged to and charged with the payments of:
 - (1) The interest upon such revenue bonds as such interest shall fall due,

- (2) The principal of the bonds as the same shall fall due,
- (3) The necessary charges of paying agent or agents for paying principal and interest, and
- (4) Any premium upon bonds retired by call or purchase as hereinabove provided.

The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of the revenue bonds or in the trust indenture, but, except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be a fund for the benefit of all revenue bonds without distinction or priority of one over another. Subject to the provisions of the resolution authorizing the issuance of the bonds or in the trust indenture surplus monies in the sinking fund may be applied to the purchase or redemption of bonds and any such bonds so purchased or redeemed shall forthwith be cancelled and shall not again be issued.

- (s) *Remedies of bondholders.* Any holder of revenue bonds issued under the provisions hereof or any of the coupons appertaining thereto, and the trustee under the trust indenture, if any, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the State of Georgia or granted hereunder such resolution or trust indenture, and may enforce and compel performance of all duties required herein or by such resolution or trust indenture, to be performed by the authority, or any officer thereof, including the fixing, charging, and collecting of revenues, fees, tolls, and other charges for the use of the facilities and services furnished.
- (t) *Refunding bonds.* The authority is hereby authorized to provide by resolution for the issue of revenue bonds of the authority for the purpose of refunding any revenue bonds issued under the provisions hereof and then outstanding, together with accrued interest thereon. The issuance of such revenue refunding bonds, the maturities and all other details thereof, the rights of the holders thereof, and the duties of the authority in respect to the same, shall be governed by the foregoing provisions hereof insofar as the same may be applicable.
- (u) *Venue and jurisdiction.* Any action to protect or enforce any rights under the provisions hereof or any suit or action against such authority shall be brought in the superior court of Whitfield County, Georgia, and any action pertaining to validation of any bonds issued under the provisions hereof shall likewise be brought in said court which shall have exclusive, original jurisdiction of such actions.
- (v) *Validation.* Bonds of the authority shall be confirmed and validated in accordance with the procedure of the Revenue Bond Law (O.C.G.A. § 36-82-60 et seq.). The petition for validation shall also make party defendant to such action any municipality, county, authority, subdivision, or instrumentality of the State of Georgia or the United States government or any department or agency of the United States government, if subject to

be sued, which has contracted with the authority for the services and facilities of the project for which bonds are to be issued and sought to be validated and such municipality, county, authority, subdivision or instrumentality shall be required to show cause, if any, why such contract or contracts and the terms and conditions thereof should not be inquired into by the court and the validity of the terms thereof be determined and the contract or contracts adjudicated as security for the payment of any such bonds of the authority. The bonds when validated and the judgment of validation shall be final and conclusive with respect to such bonds, against the authority issuing the same, and any municipality, county, authority, subdivision, or instrumentality of the United States government, if a party to the validation proceedings, contracting with the said The City of Dalton Building Authority.

- (w) *Interest of bondholders protected.* While any of the bonds issued by the authority remain outstanding, the powers, duties or existence of said authority or of its officers, employees or agents shall not be diminished or impaired in any manner that will affect adversely the interest and rights of the holders of such bonds, and no other entity, department, agency or authority will be created which will compete with the authority to such an extent as to affect adversely the interest and rights of the holders of such bonds, nor will the state itself so compete with the authority. The provisions hereof shall be for the benefit of the authority and the holders of any such bonds, and upon the issuance of bonds under the provisions hereof, shall constitute a contract with the holders of such bonds.
- (x) *Monies received considered trust funds.* All monies received pursuant to the authority hereof, whether as proceeds from the sale of revenue bonds, as grants or other contributions, or as revenues, income, fees, and earnings shall be deemed to be trust funds to be held and applied solely as provided for herein.
- (y) *Exemption from taxation.* It is hereby declared that the authority will be performing an essential governmental function in the exercise of the power conferred upon it hereunder and that the authority shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision or upon its activities in the operation and maintenance of the buildings erected or acquired by it or any fees, rentals or other charges for the use of such buildings or other income received by the authority.
- (z) *Immunity from tort actions.* The authority shall have the same immunity and exemption from liability for torts and negligence as the State of Georgia has and the officers, agents, and employees of the authority when in performance of the work of the authority shall have the same immunity and exemption from liability for torts and negligence as the officers, agents, and employees of the State of Georgia. The authority may be sued in the same manner as private corporations may be sued on any contractual obligation of the authority.
- (aa) *Property subject to levy and sale.* The property of the authority shall not be subject to levy and sale under legal process except such property, revenue, income, or funds as

may be pledged, assigned, mortgaged, or conveyed to secure an obligation of the authority, and any such property, revenue, funds, or income may be sold under legal process or under any power granted by the authority to enforce payment of the obligation.

SECTION 11.11.

Downtown Dalton Development Authority.

The General Assembly created in and for the City of Dalton, the Downtown Dalton Development Authority for the purpose of the redevelopment of the downtown Dalton area. Said authority shall have the power to employ engineers and planners, to contract for the construction of buildings and other facilities, and to contract with the City of Dalton for the construction, reconstruction, altering and changing and closing of streets and alleys. The authority shall have the power to issue bonds and/or revenue certificates, and to pledge revenues and to levy and collect taxes within said districts for the retirement of said indebtedness. No taxes shall be levied by said authority on property used for residential purposes or used for school or church purposes. The authority shall have the right and power of eminent domain for the purpose of acquiring property in the carrying out of its aims and objectives.

DIVISION 2. AIRPORT AUTHORITY

SECTION 11.12.

Short Title.

This Act may be cited as the "City of Dalton Airport Authority Ordinances."

SECTION 11.13.

Purposes.

The City of Dalton Airport Authority, was created pursuant to the previous charter for the City of Dalton first approved February 24, 1874 (1874 Georgia Laws, p. 181), as amended, and is hereby affirmed. The City of Dalton Airport Authority's purposes shall be to oversee the day-to-day operation and general management of the existing airport and landing field of the City of Dalton for the use of aircraft and related aeronautical activities.

SECTION 11.14.

Membership.

The City of Dalton Airport Authority shall be composed of five (5) individuals with qualifications as hereinafter provided, all of whom shall be appointed by the mayor and council of the City of Dalton pursuant to passage of appropriate resolution(s). The members of the City of Dalton Airport

Authority shall be designated by the mayor and council to serve terms for terms of five (5) years. The terms of the members of such authority shall be staggered as in effect on the date of this charter.

Upon the death, resignation or other event creating a vacancy in the seat of any member of the authority, the mayor and council shall fill the vacancy by appointing a qualified individual to fill the unexpired term of the vacating member through passage of an appropriate resolution of the mayor and council. For purposes of determining the time of the regular expiration of any term of office of any member of the authority, a year shall be deemed to run from the date of the first regular meeting of the mayor and council in January of any calendar year until the first regular meeting of the mayor and council in the succeeding calendar year.

A member of the authority must, at the time of appointment by the mayor and council and at all times thereafter, during the tenure of service on the authority possess the following qualifications:

- (i) Maintain a permanent residence within Whitfield County, Georgia; and
- (ii) Be not less than eighteen (18) years of age.

SECTION 11.15.

Ex Officio Members.

The city administrator or his successor in office shall be a non-voting ex officio member of the authority who shall be entitled to participate in all meetings of the authority.

SECTION 11.16.

Meetings.

The authority shall meet at such times as may be necessary to transact the business and fulfill its public purpose but the authority shall hold an organizational meeting each year within thirty (30) days of the first meeting of the mayor and council in January. At each organizational meeting, the members of the authority shall elect one of its members as its chairman and another member as secretary. The term of the chairman and secretary shall be for a period beginning with their election by the authority and expiring with the organizational meeting of the authority in the following year or upon their death, resignation, or vacancy in the position of authority member for whatever reason, whichever shall earlier occur. In the event of a death, resignation, or vacancy in the position of authority member of the chairman or secretary of the authority, the members of the authority shall elect one of their members to fill the vacant office for the expiration of the term of office. The chairman and secretary of the authority may be elected by the authority members for succeeding terms during their tenure.

A meeting of the authority may be held upon call of the chairman, or any two (2) members of the authority, or upon call of the city administrator as a non-voting ex officio member. A quorum for

the transaction of business of the authority shall consist of three (3) voting members of the authority. Each voting member of the authority shall have one vote on all matters and issues to be decided. A vote of the majority of the members of the authority present in person and voting at any meeting of the authority shall carry on any decision to be made.

SECTION 11.17.

Compensation.

No member of the authority shall be paid any salary or compensation for his or her service. However, the mayor and council shall be authorized in its discretion to set by ordinance a mileage allowance and per diem expense for members of the authority traveling or in attendance on official business of the authority. The salary and employment benefits of any staff member(s) of the authority shall be determined by the mayor and council through the budgetary processes of the mayor and council.

SECTION 11.18.

Staff.

The authority shall be authorized to hire, contract with and/or appoint an airport manager and such other employees as they deem necessary to carry out the business, affairs and public purposes of the authority provided compensation and any related benefits to said employees of the authority are included within the budget for the authority set by the mayor and council of the City of Dalton. Further, the authority may employ or retain such expert or consultant services as required to carry on its operations and meet its public purposes subject to the budgetary allowances as set by the mayor and council.

SECTION 11.19.

Budget.

The authority through its chairman shall submit an annual request for budget to the mayor and council or its designated committee at the times and in the form directed by the mayor and council.

SECTION 11.20.

Legal Services.

The city attorney shall serve as counsel and legal adviser to the authority and shall perform such legal services as the authority shall request.

SECTION 11.21.

Powers.

Subject to any general limitations enacted by the mayor and council as well as the budgetary allowances or limitations imposed by the mayor and council and the rights and interests of any holder of bonds or obligations issued by the City of Dalton relating to or affecting property owned, operated, or leased by the City for airport and related aeronautical activities, the authority shall have and exercise the following powers:

- (1) To have a seal and alter the same at its pleasure.
- (2) To appoint, select and employ officers, agents and employees including engineering, architectural and construction experts, and fiscal agents and fix their respective compensation subject to its budgetary limitations.
- (3) To oversee the day-to-day operations and general management of the airport and landing field; however, such power shall not include the power to make or terminate contracts or leases with respect to land, which powers are expressly reserved to the mayor and council.
- (4) To promulgate rules and regulations for air and ground operations on the airport and landing field all in conformity with applicable provisions of federal, state and local laws, statutes, ordinances, and regulations.

SECTION 11.22.

Monies Payable to General Fund.

All revenues collected by the authority on leases, franchises, hangar rentals, service fees, surplus property sales, and from any other source shall be properly accounted for and paid over to the general fund of the City of Dalton. The mayor and council shall establish accounts and audit procedures for revenues collected by the authority and shall implement same at all times.

DIVISION 3. RECREATION COMMISSION

SECTION 11.23.

Creation.

The recreation commission of the City of Dalton was established by resolution of the mayor and council in 1956. Said commission provides direction to, and advises, the City of Dalton parks and recreation department.

ARTICLE XII

GENERAL PROVISIONS

SECTION 12.10.

Bonds for Officials.

The officers and employees of this city, both elective and appointive, shall execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the mayor and council shall from time to time require by ordinance or as may be provided by law.

SECTION 12.11.

Prior ordinances.

All ordinances, resolutions, rules, and regulations now in force in the city not inconsistent with this charter are hereby declared valid and of full effect and force until amended or repealed by the mayor and council.

SECTION 12.12.

Pending matters.

Except as specifically provided otherwise by this charter, all rights, claims, actions, orders, contracts, and legal or administrative proceedings shall continue and any such ongoing work or cases shall be completed by such city agencies, personnel, or offices as may be provided by the mayor and council.

SECTION 12.13.

Construction.

- (a) Section captions in this charter are informative only and are not to be considered as a part thereof.
- (b) The word “shall” is mandatory and the word “may” is permissive.
- (c) The singular shall include the plural, the masculine shall include the feminine, and vice versa.

SECTION 12.14.

Severability.

If any article, section, subsection, paragraph, sentence, or part thereof of this charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair other parts of this charter unless it clearly appears that such other parts are wholly and necessarily dependent upon the part held to be invalid or unconstitutional, it being the legislative intent in enacting this charter that each article, section, subsection, paragraph, sentence, or part thereof be enacted separately and independent of each other.

SECTION 12.15.

Repealer.

An Act creating a new charter for the City of Dalton in the County of Whitfield, first approved February 24, 1874 (1874 Georgia Laws, p. 181), as amended, is hereby repealed in its entirety and all amendatory acts thereto are likewise repealed in their entirety. All other laws and parts of laws

in conflict with this Act are hereby repealed.

SECTION 12.16.

Effective Date.

This charter shall become effective on _____.



In Recognition of

Kathryn Sellers

*In Appreciation of your Dedicated Service
to the City of Dalton*

Historic Preservation Commission

1988 - 2023

*Presented by Mayor and Council
February 6, 2023*

THE CITY OF DALTON
MAYOR AND COUNCIL MINUTES
JANUARY 17, 2023

The Mayor and Council held a meeting this evening at 6:00 p.m. in the Council Chambers of City Hall. Present were Mayor David Pennington, Council members Annalee Sams, Dennis Mock, Tyree Goodlett and Steve Farrow, City Attorney Terry Miller and City Administrator Andrew Parker.

CALL TO ORDER

Mayor Pennington called the meeting of the Mayor and Council to order.

APPROVAL OF AGENDA

On the motion of Council member Mock, second Council member Farrow, the Mayor and Council approved the agenda. The vote was unanimous in favor.

PUBLIC COMMENTARY

Brian Long, Tony Armour, Anabelle Mckie-Voerste, and Brian Mathis voiced their concerns over a rate hike on hangar rentals at the Dalton Airport.

MINUTES

The Mayor and Council reviewed the Regular Meeting Minutes of December 19, 2022. On the motion of Council member Mock, second Council member Goodlett, the minutes were approved. The vote was unanimous in favor.

The Mayor and Council reviewed the Special Called Meeting Minutes of December 22, 2022. On the motion of Council member Sams, second Council member Mock, the minutes were approved. The vote was unanimous in favor.

SPECIAL PRESENTATIONS

Presentation of 2023 Dr. Martin Luther King Jr. Achievement Awards

Mayor David Pennington presented the 2023 Dr. Martin Luther King Jr. Achievement Award to Dr. Bishop Nicky Starling.

Council member Tyree Goodlett presented Mayor David Pennington as a co-recipient of the 2023 Dr. Martin Luther King Jr. Achievement Award.

2023 NEW ALCOHOL BEVERAGE APPLICATION

On the motion of Council member Sams, second Council member Mock, the Mayor and Council approved the following 2023 New Alcohol Beverage Application:

Business Owner:	Priyan Inc.
d/b/a:	Sunrise Market 4
Applicant:	Ajay A. Patel
Business Address:	105 W. Walnut Ave
License Type:	Package Beer (Convenience Store / Gas Station)
Disposition:	New

The vote was unanimous in favor.

2023 EQUITABLE SHARING AGREEMENT

Chief Cason presented the 2023 Equitable Sharing Agreement with the Department of Justice to the Mayor and Council stating the agreement requires an annual review and approval. On the motion of Council member Mock, second Council member Goodlett, the Mayor and Council approved the agreement. The vote was unanimous in favor.

CONTRACT AMENDMENT #4 TO EXTEND THE AGREEMENT WITH BLULYNX CONSULTING, INC.

CFO Cindy Jackson presented the Contract Amendment #4 to Extend the Agreement with Blulynx Consulting, Inc. for the Administration of the City's Community Development Block Grant for the year 2023 in the amount of \$66,687.00 per year. On the motion of Council member Mock, second Council member Sams, the Contract Amendment was approved. The vote was unanimous in favor.

ENVIRO TRENCHLESS, LLC CHANGE ORDER REQUEST NO. 002 FOR SP189 PIPE LINING PROJECT

PW Director Chad Townsend presented the Enviro Trenchless, LLC Change Order Request No. 002 for SP189 Pipe Lining Project in the total amount of \$5000.00. Townsend stated that the change order is for additional lining of a deteriorated yard inlet. On the motion of Council member Mock, second Council member Goodlett, the Change Order was approved. The vote was unanimous in favor.

ARCADIS PROFESSIONAL SERVICES TASK ORDER NO. 007

PW Director Chad Townsend presented Arcadis Professional Services Task Order No. 007 for the 133 Huntington Road Stormwater Improvements Project in the amount of \$78,740.00. On the motion of Council member Mock, second Council member Goodlett, the Task Order was approved. The vote was unanimous in favor.

RESOLUTION 23-02 - WARRANTY DEED TO WHITFIELD COUNTY RE: SENIOR CENTER

City Administrator Andrew Parker presented Resolution 23-02 To Transfer by Special Warranty Deed to Whitfield County the Property Where the Senior Center Is Located in Accordance with Intergovernmental Agreement Between the City of Dalton And Whitfield County. On the motion of Council member Farrow, second Council member Mock, the Warranty Deed was approved. The vote was unanimous in favor.

GENERAL CONSTRUCTION AGREEMENT WITH NORTHWEST GEORGIA PAVING, INC.

Recreation Director Caitlin Sharpe presented the General Construction Agreement with Northwest Georgia Paving, Inc. for Mill Creek Riverwalk – Phase II in the amount of \$2,234,278.75 for construction of 6,369 lineal feet, 8-foot-wide asphalt multi-use trail that begins at the Eagle Scout Trail Head located off Chattanooga Avenue. On the motion of Council member Mock, second Council member Goodlett, the Construction Agreement was approved. The vote was unanimous in favor.

FIREWORKS DISPLAY AGREEMENT WITH PYROTECNICO FOR JULY 4TH
FIREWORKS DISPLAY

Recreation Director Caitlin Sharpe presented the Fireworks Display Agreement with Pyrotecnico for July 4th Fireworks Display in the amount of \$33,000.00. On the motion of Council member Mock, second Council member Sams, the Fireworks Agreement was approved. The vote was unanimous in favor.

AGREEMENT WITH CYBER WATCH SYSTEMS, LLC FOR IT CONSULTING SERVICES

IT Director Jorge Paez presented the Agreement with Cyber Watch Systems, LLC for IT Consulting Services in the amount of \$5925.00 to provide risks and threat protection solutions as well as policy creation and strategic planning. On the motion of Council member Goodlett, second Council member Sams, the Construction Agreement was approved. The vote was unanimous in favor.

APPOINTMENT – RESIDENT HOUSING AUTHORITY

On the motion of Council member Mock, second Council member Goodlett, the Mayor and Council appointed Anita Lester for a One (1) Year Appointment to the Dalton Housing Authority as a Resident Member to expire 10/14/2023. The vote was unanimous in favor.

ANNOUNCEMENT

The next Mayor and Council meeting will be held on Monday, February 6, 2023 at the Mack Gaston Community Center.

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was Adjourned at 6:21 p.m.

Bernadette Chattam
City Clerk

David Pennington, Mayor

Recorded
Approved: _____
Post: _____



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 2/6/23
Agenda Item: Resolution 23-01 Aladdin Property Donation
Department: Administration
Requested By: Andrew Parker
Reviewed/Approved by City Attorney? Yes

Cost:

Funding Source if Not in Budget

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

Resolution 23-01 Aladdin Manufacturing Corporation Property Donation

CITY OF DALTON
RESOLUTION
Resolution No. 23-01

WHEREAS, the Mayor and Council of the City of Dalton is authorized by O. C.G.A. § 36-37-2 to accept donations of real property subject to conditions of the donor; and

WHEREAS, Aladdin Manufacturing Corporation, a Delaware Corporation, has heretofore made a donation to the City of Dalton of that real estate shown and described in Exhibit “A” attached hereto and made a part hereof by reference (hereafter “the Property”); and

WHEREAS, the donation of the Property was made by the donor with conditions lasting for a period of twenty (20) years from date of the Quitclaim Deed of Gift limiting use of the Property to “unimproved “green space” “park” only;” and

WHEREAS, Aladdin Manufacturing Corporation will now release said condition of encumbrance to allow use of the Property for housing development;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Dalton, and by the authority of same, IT IS HEREBY RESOLVED that the City of Dalton will accept from Aladdin Manufacturing Corporation, its successors, affiliates, or assigns, the Property free and clear of the aforesaid condition of encumbrance to be evidenced by Quitclaim Deed and allowing the City to use the Property for housing development and/or to transfer the Property to the Dalton Whitfield County Joint Development Authority for housing development purposes.

SO RESOLVED this _____ day of _____, 2023.

The foregoing Resolution was read on _____. A motion for passage of the Resolution was made by Council member _____, second by Council

member _____ and upon the question the vote is _____ ayes,
_____ nays and the Resolution is adopted.

Attest:

CITY OF DALTON, GEORGIA

City Clerk

Mayor

After recording return to:

Terry L. Miller
Mitchell & Mitchell, P. C.
108 S. Thornton Ave.
P. O. Box 668
Dalton, GA 30722-0668

Cross Reference Deed Book 5641, Page 61

GEORGIA, WHITFIELD COUNTY

QUITCLAIM DEED

THIS INDENTURE, made as of _____, _____, 2023, between Aladdin Manufacturing Corporation, a Delaware corporation authorized to transact business in the State of Georgia, its successors, affiliates, and assigns, of the first part, herein “Grantor,” and the City of Dalton, a Georgia municipal corporation, of the second part, herein “Grantee,” (the words “Grantor” and “Grantee” include all genders, plural and singular, and their respective successors whether by merger or otherwise, affiliates, and assigns where the context permits).

WITNESSETH: Grantor has heretofore made a charitable gift to Grantee of that real estate located in the City of Dalton, Whitfield County, Georgia shown and described in Exhibit “A” attached hereto and made a part hereof (“the Property”) and such Quitclaim Deed of Gift being made on August 29, 2011 and recorded on September 13, 2011 in Deed Book 5641, Page 61 of the Whitfield County, Georgia Deed Records and reserved in said conveyance a specific encumbrance on Grantee’s use of the Property “for a period of twenty (20) years from and after the date of this Quitclaim Deed of Gift, after the demolition of the buildings and other improvements located on the Property....” limiting the use thereof to “unimproved” “green space” “park” (the “Permitted Use”) and “for no other use or purpose, and no buildings or other

vertical improvements shall be constructed or maintained thereon other than such structures as Grantee reasonably determines are necessary or desirable in connection with Permitted Use.”

IN CONSIDERATION OF One and no/100's (\$1.00) Dollar and further gift GRANTOR does hereby release and forever quitclaim the Property free of the aforesaid Permitted Use of the Property by Grantee so that Grantee may use the Property for housing development or transfer and convey the Property by intergovernmental agreement to the Dalton Whitfield County Joint Development Authority for housing development.

Otherwise the covenants contained in the original Quitclaim Deed of Gift shall remain in full force and effect.

IN WITNESS WHEREOF, Grantor has signed and sealed this Quitclaim Deed, on the date first above written.

Aladdin Manufacturing Corporation

By: R. Paul Ritz

Its: VP-Business Strategy & General Counsel

Attest: _____

Sworn to and subscribed before me this 18th day of January, 2023. Its: _____

[Signature]
Witness

Joyce Jeffery
Notary Public

My Commission Expires: March 15, 2025

[SEAL]

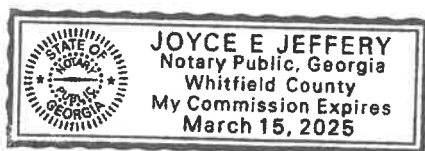


EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot No. 257 in the 12th District and 3rd Section of Whitfield County, Georgia, and being Lot No. 28, Lot Nos. 44 through 46, inclusive and a portion of Lot No. 27, in Block F of the Nichols Addition to the City of Dalton, as shown by plat of record in Plat Book 1 Page 58 (Plat Cabinet A Slide 14), and Lot Nos. 155 through 173 and Lot Nos. 180 through 194, inclusive and a portion of Lot No. 174 of the Nichols Subdivision, as shown by plat of record in Deed Book 9 Page 46, together with the alleys separating the above-described lots, and being more particularly described according to a plat of survey prepared for the City of Dalton by Joseph R. Evans, Georgia Registered Land Surveyor No. 2168, dated July 20, 2011, revised August 7, 2011, and being more particularly described according to said survey as follows:

BEGINNING at the Southeast corner of the intersection of the south right of way line of Nichols Street (50' R/W) and the east right of way line of Cherokee Street (40' R/W); thence south 89 degrees 08 minutes 58 seconds east along the south right of way line of Nichols Street a distance of 257.37 feet; thence south 12 degrees 11 minutes 50 seconds east along the west right of way line of South Hamilton Street (80' R/W), a distance of 485.15 feet to an iron pin; thence south 87 degrees 10 minutes 25 seconds west a distance of 257.25 feet to an iron pin; thence north 11 degrees 50 minutes 40 seconds west, along the east right of way line of Cherokee Street, a distance of 501.38 feet to THE POINT OF BEGINNING.



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 2/6/23
Agenda Item: Resolution 23-03 Hazard Mitigation Act
Department: Administration
Requested By: Andrew Parker
Reviewed/Approved by City Attorney? Yes

Cost:

Funding Source if Not in Budget

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF DALTON, GEORGIA PURSUANT TO THE DISASTER MITIGATION ACT OF 2000 AUTHORIZING ADOPTION OF THE WHITFIELD COUNTY HAZARD MITIGATION PLAN

RESOLUTION 23-03

**A RESOLUTION OF THE
MAYOR AND COUNCIL OF THE CITY OF DALTON, GEORGIA
PURSUANT TO THE DISASTER MITIGATION ACT OF 2000
AUTHORIZING ADOPTION OF THE
WHITFIELD COUNTY HAZARD MITIGATION PLAN**

WHEREAS, Whitfield County and its municipal governments are required to complete a Hazard Mitigation Plan by the Disaster Mitigation Act of 2000; and

WHEREAS, under the provisions of the Disaster Mitigation Act of 2000, local governments that complete Hazard Mitigation Plans will remain eligible for Federal mitigation funding; and

WHEREAS, Whitfield County and its municipal governments have completed an updated Hazard Mitigation Plan that fulfills the Federal requirements of the Disaster Mitigation Act of 2000.

NOW THEREFORE LET IT BE RESOLVED, that the Mayor and Council of the City of Dalton formally adopts this updated Hazard Mitigation Plan.

RESOLVED THIS ___ DAY OF _____, 2023.

Signed: David Pennington, Mayor

(City Seal)

Attest: Bernadette Chattam, City Clerk



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 2/6/2023
Agenda Item: Fire Alarm Replacement-City Hall
Department: Human Resources
Requested By: Greg Batts
Reviewed/Approved by City Attorney? Yes
Cost: \$69,408.77
Funding Source if Not in Budget CIP

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

Fire alarm replacement due to the current alarm system main control panel out of date and not serviceable. Several of the various components of the current system are also not serviceable and are at the end of their service life. This project was approved in 2022 CIP Budget. An RFP was published for this project in October with a sealed bid opening on December 1, 2022. All bids were scored according to requirements within the RFP, with ASA Fire Protection being awarded the bid. The project was approved for \$100,000 and the bid was in the amount of \$69,408.77.

**CITY OF DALTON
CITY HALL**

GENERAL CONSTRUCTION AGREEMENT

THIS GENERAL CONSTRUCTION AGREEMENT is made and entered into on this 6th day of February, 20 23 by and between the City of Dalton, a Georgia Municipal Corporation, hereinafter referred to as "CITY", and ASA Fire Protection, hereinafter referred to as "CONTRACTOR".

WHEREAS, CITY owns certain real Property located at 300 W. Waugh St. Dalton Ga upon which The City of Dalton operates; its City Hall housing administrative offices and offices of the City of Dalton Board of Education;

WHEREAS, CITY desires to have installed Fire Alarm upon said the Project ; and

WHEREAS, CONTRACTOR desires to install the project to the CITY's specifications; and

WITNESSETH: That the parties hereto for the considerations hereinafter mentioned covenant and agree as follows:

1. INSTALLATION SITE: The real property upon which the project shall be constructed is located at 300 W. Waugh St. Dalton Ga, hereinafter "subject property".

2. USE OF PROPERTY: CONTRACTOR shall have non-exclusive use and possession of the Property at the following days and times to complete the project:

Days: M-F

Time of day: 7am-5pm

In the event that CONTRACTOR should desire to use the subject property on additional dates or times, CONTRACTOR shall obtain written authorization from the Project Manager. CONTRACTOR shall not restrict the public use of or access to the subject property except as may be authorized by the Project Manager. The Property shall be occupied and used in conformity with all laws, statutes, ordinances, rules, restrictions and orders of any federal, state or municipal governments or agencies thereof having jurisdiction over the use of the subject property. The subject property shall be used for installation of the subject project and related storage only and not for any other commercial operations. The storage of flammable liquids, gases, fuels, lubricating or waste oil, acids, paint and solvents or other dangerous

materials is prohibited except that such materials may be kept and stored in proper receptacles and secured from access by the public at the subject property during construction as may be necessary for use in the operation of CONTRACTOR for completion of the subject project. Any such substances shall be delivered in such amount, and stored and used only as approved by the CITY and in accordance with applicable federal, state and local statutes, ordinances, rules and regulations in force during the term of the Agreement.

3. Project: The CONTRACTOR shall complete the project and perform the services specified in the City of Dalton (RFP) which is included herein by reference and the specifications provided in the CONTRACTOR's proposal attached hereto as Exhibit "A".

4. DATE OF COMMENCEMENT: The CONTRACTOR shall commence work on shall be ten days from execution of this Agreement. **Once the approved contract is awarded on February 6th 2023, ASA will begin Design process. This will take up to 2 weeks for completion. Once completed this will be submitted for review before onsite work starts. Actual onsite work will begin once all material is received. There are lead times for some equipment and those times will be updated as soon as the order is placed. The lead times could affect the completion dates below.*

5. DATE OF COMPLETION: THE CONTRACTOR contingent upon necessary materials being on hand shall complete installation in a two week time period and projects a date of completion of March 24, 2023.

6. CONTRACT SUM: The CITY shall pay to CONTRACTOR the total sum of \$ 69,408.77 Dollars for the complete performance of the project and terms of this Agreement. In addition, CITY shall pay CONTRACTOR for any additional work performed pursuant to any mutually agreed to change orders. All change orders shall be in writing signed by both parties.

7. PAYMENT: The CITY shall pay the contract sum to CONTRACTOR upon complete performance of the project and terms of this Agreement. CONTRACTOR shall provide to CITY an Affidavit from the CONTRACTOR stating the CONTRACTOR has fully performed all terms of the Agreement. Final payment shall be made no later than 30 days after receipt of said Affidavit. Upon completion of any additional services, said additional services shall be paid within 30 days of receipt of invoice from CONTRACTOR. Payment shall be made via electronic funds transfer (EFT).

8. SURRENDER OF subject property: CONTRACTOR shall, no later than 5 days after completion of the project, surrender possession of the subject property and remove all vehicles, equipment, supplies, construction debris, waste and refuse from the subject property. CONTRACTOR shall reimburse CITY for the cost of removal of any such items remaining on the subject property after 5 days. CITY may have any such items stored at CONTRACTOR'S risk and expense. All personal of Contractor property

remaining on the subject property or in possession of the CITY after 30 days shall be deemed abandoned by the CONTRACTOR and may be disposed of by CITY without liability to CONTRACTOR. All permanent improvements or fixtures to the subject property shall become the property of the CITY.

9. CITY COVENANTS: CITY covenants and agrees:
 - (a) to provide all available information, data, reports, records and maps to which CITY has possession or control which are necessary for CONTRACTOR to perform the scope of services provided for herein;
 - (b) to provide reasonable assistance and cooperation to CONTRACTOR in obtaining any information or documentation which are necessary for CONTRACTOR to perform the scope of services provided for herein;
 - (c) to designate a representative authorized to act on the CITY's behalf with respect to the project. Unless otherwise provided, said CITY representative shall be the Project Manager;
 - (d) to permit access to the subject property;
 - (e) to provide reasonable assistance to CONTRACTOR in applying for and obtaining any necessary Federal, State or local government permits for the scope of services;
10. CONTRACTOR COVENANTS: CONTRACTOR covenants and agrees:
 - (a) to perform the scope of services in a professional manner, using that degree of care and skill ordinarily exercised by contractors performing the same or similar work;
 - (b) to use only employees and subcontractors qualified to complete the work with sufficient experience in same or substantially similar projects;
 - (c) to use only properly licensed employees or subcontractors for any work requiring a specialty or professional license issued by the State of Georgia;
 - (d) to designate a representative authorized to act on the CONTRACTOR's behalf with respect to the project.
 - (e) to use the subject property in a safe, careful and lawful manner;
 - (f) to promptly report in writing to CITY any unsafe or defective condition of the subject property and any adverse site condition, which shall include but not be

limited to limited access, damaged property, or existing utilities, that may adversely affect CONTRACTOR's ability to complete the scope of services or other terms of this Agreement;

- (g) to promptly report in writing to CITY any damage to or injuries sustained on the subject property and to promptly repair any damage to the subject property which is made necessary by any act of CONTRACTOR, its employees, agents, subcontractors, or invitees;
- (h) to keep the subject property in a clean and orderly condition and to remove any personal property of CONTRACTOR upon completion of the project;
- (i) to perform all work on the project in a good and workmanlike manner, free from faults and defects, and in conformance with the terms of this Agreement;
- (j) to determine the appropriate method, details and means of performing the scope of services provided by this Agreement;
- (k) to exercise the ordinary standard of care in complying with the laws, codes, and regulations applicable to the CONTRACTOR's services;
- (l) to exercise diligence and to complete delivery of the scope of services in a timely manner consistent with the exercise of due care;
- (m) to attend meetings to make presentations or to otherwise review the progress of the work as set out in the scope of services at the reasonable request of the CITY;
- (n) to prepare and submit to the CITY reports required by the scope of services or upon the written request of the CITY.
- (o) to keep the subject property in a clean and orderly condition and to protect from loss, damage or theft any supplies or materials necessary for completion of the project;
- (p) to permit CITY and its employees and agents access to the subject property at all reasonable times for the purposes of making repairs, inspecting the subject property, and inspecting the progress of the Project;
- (q) to use only new materials appropriate for completion of the Project;

11. INDEMNITY: CONTRACTOR shall indemnify CITY from and hold CITY harmless against all claims, demands and judgments for loss, damage or injury to person or Subject property, resulting from or incurred by reason of CONTRACTOR'S use and occupancy or non-occupancy of the subject property or by the negligence of CONTRACTOR, its agents, officers, employees, invitees or licensees and from all expenses incurred by CITY as a result

thereof including, without limitation, reasonable attorneys' fees and expenses and court costs, except if arising from or caused by the sole fault or negligence of CITY or any of CITY's employees, agents or representatives acting on behalf of the CITY.

Additionally, pursuant to State law, CITY shall not indemnify or hold harmless CONTRACTOR for any claims arising from the actions or omissions of CONTRACTOR or any third party.

Additionally, CONTRACTOR agrees that all personal Subject property that may be at any time at the subject property shall be at CONTRACTOR's sole risk or at the risk of those claiming through CONTRACTOR and that CITY shall not be liable for any damage to or loss of such personal Subject property except if arising from or caused by the sole fault or negligence of CITY.

12. INSURANCE: CONTRACTOR agrees to carry at its own expense through the term of this Agreement the types and amounts of insurance required to maintain status as a Vendor of the City of Dalton. CONTRACTOR shall provide CITY with copies or evidence of such insurance coverage prior to the commencement date of the Agreement. Such insurance policies shall name CITY as an additional insured and shall be issued by such insurance companies and on such forms as may be approved by CITY. Said insurance shall include the following:

- (a) General Liability Coverage - General Liability policy with a minimum limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- (b) Workers' Compensation Coverage – Workers' Compensation policy with the following minimum limits:
 - (1) Workers' Compensation statutory limits;
 - (2) Employer's Liability:
 - a. Bodily Injury by Accident - \$100,000.00
 - b. Bodily Injury by Disease - \$500,000.00 policy limit
 - c. Bodily Injury by Disease - \$100,000.00 each employee.

CONSULTANT shall complete the Workers' Compensation Insurance Affidavit of the City of Dalton to determine if any exemption to Workers' Compensation Insurance is applicable.

- (c) Auto Liability Coverage – Auto Liability policy with a minimum of \$1,000,000.00 limit per occurrence for bodily injury and property damage, if motor vehicle is used in performance of scope of services. Comprehensive form covering all owned, non-owned, and hired vehicles.
- (d) Property Coverage or Builder's Risk Coverage - Property Coverage or Builder's Risk policy with a minimum equal to or greater than the existing building value for renovations, equal to or greater than the total cost of construction per contract for new construction, and equal to or greater than the existing building value being renovated

plus the total cost of new construction per contract for mixed renovation and new construction.

13. ASSIGNMENT: CONTRACTOR may not assign all or any portion of the Agreement without the prior written permission of CITY.

14. SUBCONTRACTORS: The CONTRACTOR shall provide written notice to CITY of CONTRACTOR'S intent to use a subcontractor for any portion of the project. CITY shall be entitled to reject any subcontractor it deems not qualified to complete the project. Any subcontractor approved for work on the project shall abide by any and all terms of this Agreement.

15. NON-WAIVER OF DEFAULT: The failure or delay by either party hereto to enforce or exercise at any time any of the rights or remedies or other provisions of this Agreement shall not be construed to be a waiver thereof, not affect the validity of any part of this Agreement or the right of either party thereafter to enforce each and every such right or remedy or other provision. No waiver of any default or breach of the Agreement shall be held to be a waiver of any other default and breach.

16. NOTICES: Any notice required or permitted to be given under this Agreement or by law shall be deemed to have been given if reduced in writing and delivered in person or mailed by certified mail, return receipt requested, postage prepaid to the party who is to receive such notice.

Such notice to CITY shall be mailed to: City of Dalton
ATTN: City Administrator
P.O. Box 1205
Dalton, GA 30722-1205

Such notice to CONTRACTOR shall be mailed to: 611 Grassdale Road ___
Cartersville, Ga
30121

When so mailed, the notice shall be deemed to have been given as of third (3rd) day after the date it was mailed. The addresses may be changed by giving written notice thereof to the other party.

17. CONTRACT DOCUMENTS: The Agreement shall include the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Addenda relating to bidding and proposal requirements, and any other written information provided by the CITY in anticipation of receiving bids or proposals, if any, except as specifically excluded herein, and the CONTRACTOR'S bid or proposal. The terms of this Agreement shall supersede any terms in the above-referenced documents in direct conflict with the terms of this Agreement.

Additionally, the Contract Documents and all drawings, plans, specifications and other

related construction or service related documents shall be the sole property of the CITY. The CONTRACTOR shall be permitted to retain copies thereof for its records and for its future professional services.

Additionally, CITY shall be authorized to rely upon all documents, whether in hard copy or electronic format, provided by CONTRACTOR. Any changes to the material terms of any document shall be clearly identified and noted to CITY.

18. VENDOR: CONTRACTOR shall register and remain active as a Vendor of the CITY by completing the City of Dalton Vendor Packet and fully comply with any and all requirements of said Vendor.

19. TERMINATION OF CONTRACT: In the event that CONTRACTOR defaults or neglects to perform work on the project in accordance with the terms of this Agreement, CITY may terminate this Agreement by providing written notice of termination. Prior to termination of this Agreement, CITY shall provide written notice to CONTRACTOR of any default and provide CONTRACTOR ten (10) days to correct said default or deficiency.

20. WARRANTY: CONTRACTOR shall provide to CITY a general warranty for labor and materials and guarantees that the work on the project it performs shall be free from any defects in workmanship and materials for a period for a period of two (2) years from the date of completion in addition to any additional warranty provided in Section 3 - Project description. Within ten days of completion of the terms of the Agreement, CONTRACTOR shall provide to CITY all original warranty documents from any third party.

21. BONDS: CONTRACTOR shall provide and maintain the types and amounts of bonds as required by the City of Dalton Request For Proposal provided in Section 3 – Project description.

22. MISCELLANEOUS PROVISIONS:

(a) Governing Law; Venue. This Agreement is being executed and delivered in the State of Georgia and shall be construed and enforced in accordance with the laws of that state. The exclusive jurisdiction and venue for any action arising out of this Agreement shall be the Superior Court of Whitfield County Georgia, and the parties hereby waive any and all objections or defenses thereto.

(b) Successors and Assigns. This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties. CONTRACTOR shall not assign its rights or obligations under this Agreement without the prior written consent of the CITY.

(c) Severability of Invalid Provisions. If any provision of this Agreement shall be deemed invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

(d) Complete Agreement; Amendments. This Agreement constitutes the entire agreement between the parties hereto; it supersedes all previous understandings and agreements between the parties, if any, and no oral or implied representation or understanding shall vary its terms, and it may not be amended except by written instrument executed by both parties hereto.

(e) Remedies Cumulative. All rights, powers, and privileges conferred hereunder upon the parties hereto shall be cumulative, but not restrictive to those given by law.

(f) Time is of the Essence. Time is of the essence of this Agreement in each and all of its provisions.

(g) Attorney Fees. In the event the CITY must enforce the terms of this Agreement by filing a civil action against CONTRACTOR, and is the prevailing party in that action then CONTRACTOR shall pay an amount equal to fifteen percent (15%) of the contract sum as attorney fees.

(h) Confidentiality. All information and documentation regarding the project and the CONTRACTOR services shall be maintained in confidence and shall not be disclosed to any third party by CONTRACTOR, without CITY's written authorization, except as may be required by the Georgia Open Records Act. CONTRACTOR shall promptly notify CITY of any third party request for said information or documentation prior to any disclosure. CITY agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by CONTRACTOR pertaining to this Agreement shall be considered confidential and proprietary, and shall not be disclosed to any third party, except as may be required by the Georgia Open Records Act.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

CONTRACTOR:

Jeremiah Murphy

2-1-23

CITY:

CONTRACTOR:

ASA Fire Protection

By: Jeremiah Murphy

Title: Div.61 Manager

CITY OF DALTON, GEORGIA

By: _____
MAYOR

Attest: _____
CITY CLERK



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: February 6, 2023

Agenda Item: Generator Maintenance Agreement for City Hall

Department: Human Resources

Requested By: Greg Batts

Reviewed/Approved by City Attorney? Yes

Cost: \$1679.35 per year

Funding Source if Not in Budget N/A

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

Preventative maintenance service for backup generator at City Hall



11/10/2022

DALTON CITY HALL
PO BOX 1205
DALTON, GA 30722
RE: Planned Maintenance Proposal

Dear GREG BATTIS,

Cummins Sales and Service is a premier engine and power generation systems provider committed to delivering fast and proven solutions to our customers. We are pleased to offer you a Planned Maintenance Proposal for your review and approval. Due to the critical nature of your standby power system, this Agreement was developed based on your specific needs and equipment to ensure maximum performance and reliability.

Benefits of Planned Maintenance

- Improves system reliability.
- Maintenance performed by certified technicians specifically trained in power generation.
- PM customers receive preferred service for unscheduled emergency repairs.
- Creation of a service record for customer equipment.
- Additional maintenance recommendations documented at that time.
- Scheduling managed by Cummins Sales and Service to ensure timely maintenance intervals.
- Eliminates administrative burden, covers equipment from multiple vendors.

Please sign, date and return the enclosed Agreement to our office along with any purchase documentation necessary so we can tend to your servicing needs. Planned Maintenance Agreements are "auto-renewed" annually prior to the end of your agreement. Should you have any questions or require additional information on this or any other subject relating to your equipment, please feel free to contact me. We look forward to the opportunity to earn your trust and business.

Sincerely,

Jeremy Hogan

Jeremy Hogan
PEM Territory Manager
Office: (404) 765-2032
Cell: (470) 217-7992
Email: hr946@cummins.com



Cummins Inc. dba Cummins Sales and Service
 1509 E 26th Street
 Chattanooga, TN 37407
 Phone: (423)629-1447
 Fax: (404) 763-0711

PLANNED EQUIPMENT MAINTENANCE AGREEMENT

Customer Address	Customer Contact	Quote Information	
DALTON CITY HALL	Name: GREG BATTIS	Quote Date:	11/10/2022
PO BOX 1205	Phone: (706) 529-2422	Quote Expires:	1/9/2023
DALTON, GA 30722	Cell:	Quote ID:	QT-17580
Customer #: 382102	Fax: (706) 281-1264	Quoted By:	Jeremy Hogan
Payment Type: Pay As You Go	E-mail: gbatts@cityofdalton-ga.gov	Quote Term:	5 Year

Site Name:WAUGH STREET
 (300 W WAUGH ST DALTON GA 30720)

Unit Name: GENERATOR
 Make: Cummins
 Model: 20.0GGMA
 S/N: K060993145
 Size: 20kW
 ATS Qty: 0
 Notes:

Year	Month of 1st Service	Service Type	Qty	Sell Price	Extended Price
1	Unknown	Inspection	3	\$384.08	\$1,152.24
1	Unknown	Full Service	1	\$527.10	\$527.10
				Year 1 Total:\$1,679.34	
2	Unknown	Inspection	3	\$384.08	\$1,152.24
2	Unknown	Full Service	1	\$527.10	\$527.10
2	Unknown	Battery	1	\$156.81	\$156.81
2	Unknown	Battery Labor	1	\$68.98	\$68.98
				Year 2 Total:\$1,905.13	
3	Unknown	Inspection	3	\$384.08	\$1,152.24
3	Unknown	Full Service	1	\$527.10	\$527.10
				Year 3 Total:\$1,679.34	
4	Unknown	Inspection	3	\$384.08	\$1,152.24
4	Unknown	Full Service	1	\$527.10	\$527.10
4	Unknown	Battery	1	\$156.81	\$156.81
4	Unknown	Battery Labor	1	\$68.98	\$68.98
				Year 4 Total:\$1,905.13	
5	Unknown	Inspection	3	\$384.08	\$1,152.24
5	Unknown	Full Service	1	\$527.10	\$527.10
				Year 5 Total:\$1,679.34	

Total Original Amount: \$9,313.98
Discount: (\$465.70)
Total Agreement Amount:* \$8,848.28

**Quote does not include applicable taxes*



Cummins Inc. dba Cummins Sales and Service
 1509 E 26th Street
 Chattanooga, TN 37407
 Phone: (423)629-1447

PLANNED EQUIPMENT MAINTENANCE AGREEMENT

Customer Address	Customer Contact	Quote Information
DALTON CITY HALL	Name: GREG BATTS	Quote Date: 11/10/2022
PO BOX 1205	Phone: (706) 529-2422	Quote Expires: 1/9/2023
DALTON, GA 30722	Cell:	Quote ID: QT-17580
Customer #: 382102	Fax: (706) 281-1264	Quoted By: Jeremy Hogan
Payment Type: Pay As You Go	E-mail: gbatts@cityofdaltonga.gov	Quote Term: 5 Year

Total Original Amount: \$9,313.98
Discount: (\$465.70)
Total Agreement Amount:* \$8,848.28

**Quote does not include applicable taxes*

Comment:

this is a 5 year quote with that includes 1 full service per year and 3 inspections per year. also includes 2 battery replacements.

The Contract be canceled at any time by Customer.

Total Agreement Amount Does Not Include Applicable Taxes. Please call 404-763-0151 or Email Southern.PEM@cummins.com for invoice total prior to sending payment.

Planned Equipment Maintenance Agreements are designed with an automatic renewal provision. Details of this provision are listed in the "Planned Equipment Maintenance Agreement Terms and Conditions". If you do not wish to participate in the auto renew option, please check the box below to opt out.

Opt out of Automatic Renewal.

Please return signed agreement to:
 Cummins Inc. d/b/a Cummins Power South
 5125 Hwy 85
 Atlanta, Ga 30349
 Tel #: 404-763-0151

Email: Southern.PEM@cummins.com

Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to buy from Seller, the foregoing products/services upon the terms and conditions set forth in the "Planned Equipment Maintenance Agreement Terms and Conditions" attached hereto, which are hereby incorporated herein by reference.

Customer Approval (Quote ID QT-17580) Cummins Inc. dba Cummins Sales and Service Approval

Signature: _____

Signature: _____

Date: _____

Date: _____

PLANNED MAINTENANCE AGREEMENT TERMS AND CONDITIONS

These Planned Maintenance Agreement Terms and Conditions, together with the Quote on the front side and the Scope of Services, are hereinafter referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the Quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of Customer's purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of any amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of or serves to explain or interpret this Agreement. Electronic transactions between Customer and Cummins will be solely governed by this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

1. SCOPE OF SERVICES; PERFORMANCE OF SERVICES. Cummins shall perform the maintenance ("Services") on the equipment identified in the Quote ("Equipment") in accordance with the schedule specified in the Quote. The Services include those services defined in the "Service Event" section of the Quote. No additional services or materials are included in this Agreement unless agreed upon by the parties in writing. Unless otherwise indicated in the Quote, Cummins will provide the labor and tools necessary to perform the Services and shall keep Customer's property free from accumulation of waste materials caused by Cummins' operations. Either party may terminate this Agreement with or without cause by providing thirty (30) days written notice to the other.

2. CUSTOMER OBLIGATIONS. Customer shall provide Cummins safe access to Customer's site and arrange for all related services and utilities necessary for Cummins to perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to facility occupants, customers, invitees, or any third party and or property damage or work interruption arising out of the Services. Customer shall make all necessary arrangement to address and mitigate the consequences of any electrical service interruption which might occur during the Services. CUSTOMER IS RESPONSIBLE FOR OPERATING AND MAINTAINING THE EQUIPMENT IN ACCORDANCE WITH THE OWNER'S MANUAL FOR THE EQUIPMENT.

3. PAYMENT TERMS. Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Unless otherwise stated, the Quote excludes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer and shall be stated on the invoice.

4. DELAYS. Any performance dates indicated in this Agreement are estimated and not guaranteed. Cummins shall not be liable for any delays in performance however occasioned, including any that result directly or indirectly from acts of Customer or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes. AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

5. WARRANTY. Cummins shall perform the Services in a reasonable and workmanlike manner. Parts and components supplied under this Agreement are governed by the express written manufacturer's limited warranty. No other warranty for parts or components is provided under this Agreement. All Services shall be free from defects in workmanship for a period of ninety (90) days after completion of Services. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of any Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New parts supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such parts. The remedies set forth in this Section 5 shall not be deemed to have failed of their essential purpose so long as Cummins is willing to correct defective Services or refund the purchase price therefor.

6. LIMITATIONS OF WARRANTIES AND LIABILITY. THE REMEDIES PROVIDED IN THE LIMITED WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY. NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, AND DAMAGES CAUSED BY DELAYS) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF PARTS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF PARTS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN.

7. INDEMNITY. Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

8. CONFIDENTIALITY. Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

9. GOVERNING LAW. This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Georgia without giving effect to any choice or conflict of law provision. The parties agree that the courts of the State of Georgia shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

10. INSURANCE. Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

11. ASSIGNMENT. This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

12. INTELLECTUAL PROPERTY. Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

13. MISCELLANEOUS. Cummins shall be an independent contractor with respect to the Services performed under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof.

14. ON-CALL SERVICES. Upon Customer's request, Cummins shall provide on-call services (repair, emergency work or other) on the Equipment ("On-call Services"). Any On-call Services shall be invoiced to the Customer at the Cummins current hour rate (including traveling) and shall be governed by the terms and conditions of this Agreement.

15. PRICING. To the extent allowed by law, actual prices may vary from the price at the time of order placement, as the same will be based on prices prevailing on the date of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and other unforeseen circumstances beyond Cummins' control.

16. To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirement set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.

[Handwritten signature]

Georgia

Generator Planned Equipment Maintenance



INSPECTION

INTERVALS AVAILABLE: WEEKLY, MONTHLY, QUARTERLY, SEMI-ANNUALLY OR ANNUALLY

BATTERIES AND BATTERY CHARGER

- Visually inspect battery terminal connections
- Verify electrolyte level, vent caps of all cells in the starting battery system
- Visually inspect wiring, connections and insulation
- Record battery charging functions
- Record battery information
- Record battery condition test

FUEL SYSTEM

- Visually inspect ignition system (Natural Gas and Propane Only)
- Record primary tank fuel level
- Inspect engine fuel system for leaks
- Visually inspect all engine fuel hoses, clamps, pipes, components and fittings
- Visually inspect rupture/ containment basin
- Inspect day tank and controls (if applicable)
- Optional - fuel sample for laboratory analysis*

COOLING SYSTEM

- Record coolant level
- Visually inspect for coolant leaks
- Visually inspect drive belts condition
- Verify for proper coolant heater operation
- Record jacket water temperature
- Visually inspect fan, water pump, drives and pulleys
- Visually inspect all coolant hoses, clamps and connections
- Visually inspect radiator condition
- Visually inspect louver for damage
- Visually inspect fan hub and drive pulley for mechanical damage
- Record freeze point of antifreeze protection
- Record DCA level prior to changing coolant filter
- Optional - Coolant sample for laboratory analysis*

LUBRICATION SYSTEM

- Visually inspect engine oil leaks
- Visually inspect engine oil lines and connections
- Record oil level
- Optional - Oil sample for laboratory analysis*

GENSET CONTROLS AND ACCESSORIES

- Visually inspect all engine mounted wiring, senders and devices
- Visually inspect all control mounted components and wiring
- Verify all connecting plugs are tightened and in a good condition
- Visually inspect all accessory components and wiring
- Visually inspect and test lighting indicators

INTAKE AND EXHAUST SYSTEMS

- Visually inspect air filter and housing
- Visually inspect all engine piping and connections
- Record air cleaner restriction
- Visually inspect engine exhaust system for leaks
- Visually inspect rain cap
- Optional – Air filter replacement*
- Optional - Clean crankcase breather or replace filters*

GENERAL CONDITIONS

- Visually inspect governor linkage and oil level
- Visually inspect guards
- Visually inspect enclosure
- Visually inspect engine and generator mounts
- Verify emergency stop operation

TRANSFER SWITCH

- Visually inspect controls and time delay settings
- Verify function of exercise clock and record settings from controller
- Verify remote start control operation
- Record utility / source one voltage

AFTERTREATMENT (Upon request)

- Verify DEF level
- Record DPF restriction
- Visually inspect aftertreatment and controls

SWITCHGEAR (Upon Request)

- Inspection and Full Service quote available upon request.

FULL SERVICE

INCLUDES INSPECTION

OPERATIONAL & FUNCTIONAL REVIEW OF GENERATOR CRITICAL COMPONENTS

- Inspect engine cooling fan & fan drives for excessive wear or shaft wobble
- Check all pulleys, belt tensioners, slack adjusters & idler pulleys for travel, wear & overall condition
- Inspect / lubricate drive bearings, gear or belt drives, and other shaft connecting hardware

LUBRICATION OIL & FILTRATION SERVICE

- Change engine oil
- Change oil, fuel and water filters
- Post lube services operations of genset (unloaded) at rated temperature

* Additional Charge

Any additional repairs, parts, or service which are required will be brought to the attention of the owner. Repairs will only be made after proper authorization from the owner is given to Cummins. Any additional repairs, maintenance or service performed by Cummins or a Planned Equipment Maintenance Agreement holder will be at current Cummins labor rates.

Arc flash boundary and available incident energy shall be identified and marked on equipment being serviced or maintained.



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: February 6, 2023

Agenda Item: Approval of the Agreement between Dalton Police Department and the District Attorney for Forensic Interviewer

Department: Police

Requested By: Assistant Chief Crossen

Reviewed/Approved by City Attorney? Yes/No

Cost: \$0

Funding Source if Not in Budget

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

Review and approval of the Agreement between Dalton Police Department and the District Attorney for Forensic Interviewer Services

Agreement Between

**The City of Dalton, Georgia,
The City of Chatsworth, Georgia,
Murray County, Georgia,
Whitfield County, Georgia,
And
The Conasauga Judicial Circuit
District Attorney's Office**

For Forensic Interviewer Services

This Agreement made and entered into this ____ day of _____, 2023 by and between THE CITY OF DALTON, GEORGIA ("Dalton"), THE CITY OF CHATSWORTH, GEORGIA ("Chatsworth"), MURRAY COUNTY, GEORGIA ("Murray"), WHITFIELD COUNTY, GEORGIA ("Whitfield"), and THE CONASAUGA JUDICIAL CIRCUIT DISTRICT ATTORNEY'S OFFICE ("DA").

GOALS AND OBJECTIVES

1. Provide a trained and certified Forensic Interviewer to assist with investigations involving the victims of child abuse and sexual assault.
2. Provide a forensic interview for all child victims of sexual and extreme physical abuse and assault.
3. Provide a neutral, child-friendly, and safe location for forensic interviews to be conducted.
4. Share the expenses related to this service between the agencies and governments which benefit therefrom.

A. RIGHTS AND DUTIES OF WHITFIELD COUNTY AND THE CONASAUGA JUDICIAL CIRCUIT DISTRICT ATTORNEY'S OFFICE

Whitfield County will fund a staff position within the District Attorney's Office for a certified forensic interviewer qualified to interview child and adult victims and witnesses in cases involving sexual abuse and severe physical abuse. The employee will work under the supervision and direction of the District Attorney conducting interviews in accordance with the goals and objectives outlined above in appropriate cases otherwise being investigated by the Whitfield County Sheriff's Office, the Murray County Sheriff's Office, the Dalton Police Department, and the Chatsworth Police Department. The total compensation package for this employee including all taxes, benefits and add-ons for calendar year 2023 is estimated to be seventy thousand and six-hundred and ninety five dollars (\$70,695.00)

**B. RIGHTS AND DUTIES OF THE CITY OF DALTON, CITY OF CHATSWORTH,
and MURRAY COUNTY**

The cities of Dalton and Chatsworth, Georgia as well as Murray County, Georgia, will contribute to the funding of the aforementioned interviewer based on the following percentages which are derived from population statistics and previously agreed upon SPLOST revenue splits.

Dalton/Whitfield will be responsible for a combined 72% of the total compensation, further divided as follows:

Dalton will pay 35% of the 72% or 25.2% of the total annual cost.

Whitfield will pay 65% of the 72% or 46.8% of the total annual cost.

Chatsworth/Murray will be responsible for a combined 28% of the total compensation, further divided as follows:

Chatsworth will pay 12% of the 28% or 3.36% of the total annual cost.

Murray will pay 88% of the 28% or 24.64% of the total annual cost.

Dalton, Chatsworth, and Murray shall be billed by Whitfield semi-annually for such Costs, in February and August during the Term. The invoice shall be due and payable within 30 days of the of receipt thereof.

C. TERM

The term of this Agreement shall be twelve (12) months and shall commence on January 1, 2023 and expire on December 31, 2023 (the "Term"). Provided, however, any party may terminate this Agreement upon sixty (60) days' prior written notice to the other parties.

In the event any party determines that a modification of this Agreement is necessary, such party shall request the other parties to enter into discussions regarding the modification of this Agreement. Within 5 business days of such request the parties shall hold a discussion and negotiate in good faith in an effort to find a solution to the requesting party's concerns. In the event the parties cannot reach an agreement regarding the modification of this Agreement within thirty (30) days of such request, any party may terminate or exit this Agreement upon thirty (30) days' prior written notice to the other parties. If neither party elects to terminate this Agreement, the terms of this Agreement shall remain in full force and effect until the expiration of the Term unless sooner terminated as provided herein.

Absent written notice as outlined above, the term of this agreement shall automatically renew for an additional 12-months beginning on January 1st of each year.

D. SEVERABILITY

Each provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the legality or validity of the remainder of the Agreement.

IN WITNESS WHEREOF, the parties have caused this agreement to be signed by their duly authorized officers.

Signed, sealed, and delivered in the presence of:

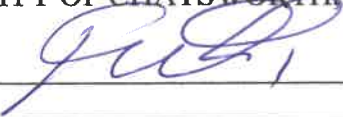
THE CITY OF DALTON, GEORGIA

By: _____

Attest:

Title: Mayor, City of Dalton

THE CITY OF CHATSWORTH, GEORGIA

By: 

Attest:

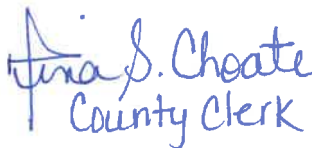

County Clerk

Title: Mayor, City of Chatsworth

MURRAY COUNTY, GEORGIA

By: 

Attest:


County Clerk

Title: Sole Commissioner, Murray County

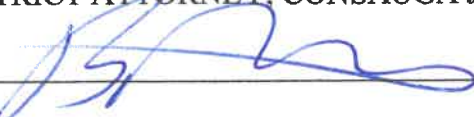
WHITFIELD COUNTY, GEORGIA

By: _____

Attest:

Title: Chairman, Board of Commissioners,
Whitfield County

DISTRICT ATTORNEY, CONSAUGA JUDICIAL CIRCUIT

By: 

Attest:


Chief Investigator

Title: District Attorney



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: February 6, 2023

Agenda Item: Approval of the 2023 Georgia Law Enforcement Certification Program Agreement

Department: Police

Requested By: Assistant Chief Crossen

Reviewed/Approved by City Attorney? Yes/No

Cost: \$0

Funding Source if Not in Budget

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

Review and approval of the Georgia Law Enforcement Certification Program Agreement between the Dalton Police Department and the Georgia Association of Chiefs of Police

Georgia Law Enforcement Certification Program
AGENCY APPLICATION & PARTICIPATION
AGREEMENT



The Agency Application and Participation Agreement (hereinafter the "Agreement") is entered into between the:

Dalton Police Department

(hereinafter referred to as the "Agency") and the Georgia Association of Chiefs of Police (hereinafter referred to as the "Association").

I. APPLICATION

The Dalton Police Department ("Agency") hereby applies to participate in the Georgia Law Enforcement Certification Program (GLECP) and affirms that it is committed to earning certification in accordance with the requirements set forth by the Association. The Agency and the Association agree to the provisions and terms set forth in this Agency Application and Participation Agreement, and to be bound by them in the execution of the Agreement.

A. AGENCY

Name of Law Enforcement Agency:

Dalton Police Department

Address:

301 Jones Street

Dalton, GA 30720

Telephone: 706-278-9085 Cell: _____

County: Whitfield

Number of Authorized Full-time Sworn Personnel: 89

Number of Authorized Full-time Civilian Personnel: 12

Number of Authorized Part-time Sworn Personnel: 0

Number of Authorized Part-time Civilian Personnel: 2

Service Area Population: 34,417 Square Miles: 20
Agency Chief Executive Officer: Chief William C. Cason

Certification Contact Person: PFC Grant Mantooth
Telephone: 706-278-9085 Ext. 528 CELL: 706-463-1937
E-mail: gmantooth@daltonga.gov

All correspondence should be sent to the agency at: (if different from above):

B. ASSOCIATION

The official address of the Association for all matters relating to the Certification Program is:

Chuck Groover
State Certification Coordinator
Georgia Association of Chiefs of Police
3500 Duluth Park Lane
Suite 700
Duluth, Georgia 30096
Telephone: 770-495-9650
E-mail: groover@gachiefs.com

II. PARTICIPATION AGREEMENT

The Agency and Association agree as follows:

A. PURPOSE AND LIMITATIONS OF THIS AGREEMENT

1. The purpose of this Agreement is to establish the terms of the relationship between the Agency and the Association and to establish their mutual responsibilities in the certification process.
2. It is understood that the Agency is not legally bound to participate in the Certification Program and that any responsibilities or expenses incurred by the Agency pursuant to this Agreement have been assumed voluntarily.
3. It is further understood that the Agency participation in the Certification Program is contingent upon the continued approval of the chief executive officer of the Agency and the governing body.

B. AGENCY RESPONSIBILITIES

The Agency agrees to:

1. Provide all information requested by the Association in good faith and to the best of the Agency's knowledge and honest judgment. Such information should include documents, files, records, and other data required by the Association insofar as they may be provided in accordance with the laws and regulations of the State of Georgia and of the municipality/county of which the agency is a part.
2. Cooperate fully with the Association assessors during the on-site verification of the Agency's compliance with program standards. The agency further agrees to provide all necessary files, records, and facilities requested by the assessors.
3. Pay the Association a non-refundable application fee based on the size of the agency.
 - Less than 25 full-time, sworn officers - \$375
 - 25-99 full-time, sworn officers - \$445
 - 100-199 full-time, sworn officers - \$515
 - 200+ full-time, sworn officers - \$600

The application expires three (3) years from the date of execution. The application fee is waived upon agency recertification. Application fee payable by check should accompany the application agreement. Application fee payable by credit card may be handled by email to have an invoice created.

4. Pay for the costs of assessors' travel, including gas, lodging, and parking, and seventy-five dollar (\$75) per diem per day for the Team Leader and fifty dollar (\$50) per diem per day for the assessor to cover meals and incidentals during the on-site evaluation. The per diem should be available to the assessment team upon their arrival at the agency.
5. If an agency is awarded a conditional certification by the Joint Review Committee (JRC) and a re-visit is necessary to ensure compliance with any standard(s) found not in compliance during the initial on-site, the agency shall be responsible for a fifty dollar (\$50) per diem fee for the assessor conducting the re-visit.
6. Once certified, pay the Association an annual fee based on agency size during the entire certification period. The agency will be invoiced in January

with a due date of sixty (60) days from the date of the invoice. (See "F. PENALTIES")

7. Agency will provide a minimum of one State Certified Assessor. If the agency has less than twenty (20) authorized personnel, this requirement is not applicable.
8. In order to maintain the integrity of the GLECP, the Association retains the right to conduct a follow-up inspection of an agency's certification files at any time during the 36-month contract period (48 months for CALEA Agencies) after the agency is awarded certification. This inspection shall be done by the Coordinator of the GLECP, or his/her designee. The purpose of this inspection is to ensure that the certified agency is maintaining certification files on a timely and consistent basis. This inspection in no way constitutes any type of mock assessment nor is the agency responsible for any expenses. If, in the opinion of the person conducting the inspection, the files are found to be inadequate or insufficient, a letter to the CEO will be sent from the Association to inform the CEO of potential problems with the certification files. The purpose of this inspection is to help agencies with difficult standards and to maintain a level of performance and transparency needed to retain future certification.

C. ASSOCIATION RESPONSIBILITIES

The Association agrees to:

1. Provide all publications, documents, forms, instructions, and assistance as necessary for the Agency to participate in the certification process.
2. Provide trained assessors to the Agency for the purposes of conducting an on-site assessment of Agency compliance with relevant standards.
3. Review and evaluate all information and findings obtained from the assessment and advise the Agency of the results thereof.
4. Provide formal certification and other necessary materials to the Agency in recognition of the certification status.
5. If certification is not granted, advise the Agency of the reason for denial and the necessary steps to gain certification.
6. Send the Agency an invoice for the annual fee once the Agency is certified.

D. LENGTH OF CERTIFICATION

Certification shall be for a period of 36 months. Agencies wishing to be re-certified at the end of this term will be expected to follow a procedure similar to the initial certification process and to comply with all guidelines then in effect. Agencies that are accredited by CALEA and under a four-year cycle may opt to move to a four-year cycle in certification.

E. MAINTENANCE OF AGENCY CERTIFICATION STATUS

1. Upon Certification by the Association, the Agency shall maintain compliance with all certification standards.
2. The Agency agrees to submit an annual report attesting to its continued compliance with all applicable standards. The Agency will notify the Association in the event that it cannot maintain compliance with any of the required standard(s).

F. PENALTIES

1. Certified Agencies that fail to pay the annual fee within sixty (60) days of the invoice date will be invoiced an additional penalty fee of twenty-five dollars (\$25.00). If the annual fee has not been paid within ninety (90) days of the invoice date, the Agency's Certification may be suspended by the Joint Review Committee.
2. An agency is prohibited from representing themselves as a state certified agency if they are no longer certified. If an agency loses their certification or voluntarily withdraws from the process, they have thirty (30) days to remove any certification decals from their patrol vehicles, remove the certification pins from their uniforms, and remove the certification logo from their website or stationery that identifies them as a state certified agency.

G. MISCELLANEOUS

1. This agreement shall take effect upon execution by authorized representatives of the Agency and the Association.
2. The Agency retains the right to terminate this Agreement for any reason by submitting written notice to the Association that the Agency intends to withdraw from the certification process. In this event, all fees and costs paid

to the Association by the Agency during and in connection with the certification process are nonrefundable.

3. The Association retains the right to terminate this Agreement if it determines that the Agency is not acting in good faith to honor the terms of the Agreement. The Association will submit written notice to the Agency's Chief Executive Officer if it chooses to exercise this privilege.
4. This document contains the full agreement of both parties. The parties to this Agreement acknowledge that there are no provisions, terms, or obligations other than those set forth herein.
5. The Georgia Association of Chiefs of Police or its designee will act on behalf of and in the name of the Association in all matters pursuant to this Agreement.
6. All disputes relative to this Agreement or any other matters pertaining to certification will be resolved by the Association following a hearing in which Agency representatives may participate.
7. Unless otherwise terminated by the Association or the Agency, this Agreement shall terminate on the _____ day of _____, _____ . (To be completed by the Association).



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: February 6, 2023
Agenda Item: Approval of the Service Agreement with Flock Group Inc
Department: Police
Requested By: Assistant Chief Crossen
Reviewed/Approved by City Attorney? Yes
Cost: \$0

Funding Source if Not in Budget

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

This is a service agreement and order form between the Police Department and Flock Group, Inc for the purchase and installation of four mounted cameras and one mobile camera.

**FLOCK GROUP INC.
SERVICES AGREEMENT
ORDER FORM**

This Order Form together with the Terms (as defined herein) describe the relationship between Flock Group Inc. (“**Flock**”) and the customer identified below (“**Agency**”) (each of Flock and Customer, a “**Party**”). This order form (“**Order Form**”) hereby incorporates and includes the “GOVERNMENT AGENCY AGREEMENT” attached (the “**Terms**”) which describe and set forth the general legal terms governing the relationship (collectively, the “**Agreement**”). The Terms contain, among other things, warranty disclaimers, liability limitations and use limitations.

The Agreement will become effective when this Order Form is executed by both Parties (the “**Effective Date**”).

Agency: GA - Dalton PD Legal Entity Name: <u>City of Dalton</u>	Contact Name: Ricky Long
Address: 301 Jones St Dalton, Georgia 30720	Phone: (706) 278-9085 E-Mail: rlong@daltonga.gov
Expected Payment Method: <u>ACH Transfer</u>	Billing Contact: (if different than above) <u>Martha Lopez</u> <u>mlopez@daltonga.gov</u>
Initial Term: 24 months Renewal Term: 24 months	Billing Term: Annual payment due Net 30 per terms and conditions

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Professional Services and One-Time Purchases

Name	Price/Usage Fee	QTY	Subtotal
Professional Services - Standard Implementation Fee	\$350.00	4.00	\$1,400.00

Hardware and Software Products

Annual recurring amounts over subscription term

Name	Price/Usage Fee	QTY	Subtotal
Falcon	\$2,500.00	4.00	\$10,000.00
Falcon Flex	\$3,000.00	1.00	\$3,000.00

Subtotal Year 1:	\$14,400.00
Subscription Term:	24 Months
Annual Recurring Total:	\$13,000.00
Estimated Sales Tax:	\$0.00
Total Contract Amount:	\$27,400.00

I have reviewed and agree to the Customer Implementation Guide on Schedule B at the end of this agreement.

By executing this Order Form, Agency represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms attached. The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Agency: GA - Dalton PD

By: _____

By: David Pennington

Name: _____

Name: _____

Title: _____

Title: Mayor, City of Dalton

Date: _____

Date: _____

flock safety

GOVERNMENT AGENCY AGREEMENT

This Government Agency Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Rd NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the police department or government agency identified in the signature block of the Order Form (“**Agency**”) (each a “**Party**,” and together, the “**Parties**”).

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution for automatic license plates, video and audio detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Services are capable of capturing audio, video, image, and recording data and can provide notifications to Agency upon the instructions of Non-Agency End User (as defined below) (“**Notifications**”);

WHEREAS, Agency desires access to the Flock Service on existing cameras, provided by Agency, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, including those from Non-Agency End Users of the Flock Service (where there is an investigative or bona fide lawful purpose) such as schools, neighborhood homeowners associations, businesses, and individual users;

WHEREAS, Flock deletes all Footage on a rolling thirty (30) day basis, excluding Wing Replay which is deleted after seven (7) days. Agency is responsible for extracting, downloading and archiving Footage from the Flock System on its own storage devices for auditing for prosecutorial/administrative purposes; and

WHEREAS, Flock desires to provide Agency the Flock Service and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations by police departments, and archiving for evidence gathering (“**Permitted Purpose**”).

AGREEMENT

NOW, THEREFORE, Flock and Agency agree that this Agreement, and any addenda attached hereto or referenced herein, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Advanced Search**” means the provision of Services, via the web interface using Flock’s software applications, which utilize advanced evidence delivery capabilities including convoy analysis, multi-geo search, visual search, cradlepoint integration for automatic vehicle location, and common plate analysis.

1.2 “**Agency Data**” means the data, media and content provided by Agency through the Services. For the avoidance of doubt, the Agency Data will include the Footage.

1.3 “**Agency Generated Data**” means the messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, other information or materials posted, uploaded, displayed, published, distributed, transmitted, broadcasted, or otherwise made available on or submitted through the Wing Suite.

1.4. “**Agency Hardware**” means the third-party camera owned or provided by Agency and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5. “**Aggregated Data**” means information that relates to a group or category of individuals, from which any potential individuals’ personal identifying information has been permanently “anonymized” by commercially available standards to irreversibly alter data in such a way that a data subject (i.e., individual person or impersonal entity) can no longer be identified directly or indirectly.

1.6. “**Authorized End User(s)**” means any individual employees, agents, or contractors of Agency accessing or using the Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

1.7. “**Deployment Plan**” means the strategic geographic mapping of the location(s) and implementation of Flock Hardware, and/or other relevant Services required under this Agreement.

1.8. “**Documentation**” means text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Services which are provided by Flock to Agency in accordance with the terms of this Agreement.

1.9. “**Embedded Software**” means the software and/or firmware embedded or preinstalled on the Flock Hardware or Agency Hardware.

1.10. “**Falcon Flex**” means an infrastructure-free, location-flexible license plate reader camera that enables the Agency to self-install.

1.11. “**Flock Hardware**” means the Flock cameras or device, pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services.

1.12. “**Flock IP**” means the Services, the Documentation, the Embedded Software, the Installation Services, and any and all intellectual property therein or otherwise provided to Agency and/or its Authorized End Users in connection with the foregoing.

1.13. “**Flock Safety Falcon™**” means an infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.14. “**Flock Safety Raven™**” means an audio detection device that provides real-time alerting to law enforcement based on programmed audio events such as gunshots, breaking glass, and street racing.

1.15. “**Flock Safety Sparrow™**” means an infrastructure-free license plate reader camera for residential roadways that utilizes Vehicle Fingerprint™ technology to capture vehicular attributes.

1.17 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Agency Hardware in the course of and provided via the Services.

1.18 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e. NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.19 “**Implementation Fee(s)**” means the monetary fees associated with the Installation Services, as defined below.

1.20 “**Installation Services**” means the services provided by Flock for installation of Agency Hardware and/or Flock Hardware, including any applicable installation of Embedded Software on Agency Hardware.

1.21 “**Non-Agency End User(s)**” means any individual, entity, or derivative therefrom, authorized to use the Services through the Web Interface, under the rights granted to pursuant to the terms (or to those materially similar) of this Agreement.

1.22 “**Services**” or “**Flock Services**” means the provision, via the Web Interface, of Flock’s software applications for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.23 “**Support Services**” means Monitoring Services, as defined in Section 2.10 below.

1.24 “**Usage Fee**” means the subscription fees to be paid by the Agency for ongoing access to Services.

1.25 “**Web Interface**” means the website(s) or application(s) through which Agency and its Authorized End Users can access the Services, in accordance with the terms of this Agreement.

1.26 “**Wing Suite**” means the Flock interface which provides real-time access to the Flock Services, location of Flock Hardware, Agency Hardware, third-party cameras, live-stream video, Wing Livestream, Wing LPR, Wing Replay, alerts and other integrations.

1.27 “**Wing Livestream**” means real-time video integration with third-party cameras via the Flock interface.

1.28 “**Wing LPR**” means software integration with third-party cameras utilizing Flock’s Vehicle Fingerprint Technology™ for license plate capture.

1.29 “**Wing Replay**” means enhanced situational awareness encompassing Footage retention, replay ability, and downloadable content from Hot Lists integrated from third-party cameras.

1.30 “*Vehicle Fingerprint™*” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Agency’s designated administrator, listed on the Order Form, and any Authorized End Users to access and download via the Web Interface for thirty (30) days. Authorized End Users will be required to sign up for an account and select a password and username (“*User ID*”). Flock will also provide Agency with the Documentation to be used in accessing and using the Services. Agency shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Agency, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Agency. Agency shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User’s use of the Services and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage) which makes the Services available to Agency and Authorized End Users. Warranties provided by said third party service providers are the agency’s sole and exclusive remedy and Flock’s sole and exclusive liability with regard to such third-party services, including without limitation hosting the Web Interface. Agency agrees to comply with any acceptable use policies and other terms of any third-party service provider that are provided or otherwise made available to Agency from time to time.

2.2 Embedded Software License. Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as installed on the Flock Hardware or Agency Hardware; in each case, solely as necessary for Agency to use the Services.

2.3 Documentation License. Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right and license to use the Documentation during the Term in connection with its use of the Services as contemplated herein, and under Section 2.5 below.

2.4 Wing Suite License. Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Wing Suite software and interface.

2.5 Usage Restrictions.

2.5.1 **Flock IP.** The permitted purpose for usage of the Flock Hardware, Agency Hardware, Documentation, Services, support, and Flock IP are solely to facilitate gathering evidence that could be used in a lawful criminal investigation by the appropriate government agency (“*Permitted Purpose*”). Agency will not, and will not permit any Authorized End Users to, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Services or Flock IP; (vi) use the Services, support, Flock Hardware, Documentation, or the Flock IP for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Agency’s rights under Sections 2.1, 2.2, 2.3, or 2.4.

2.5.2. **Flock Hardware.** Agency understands that all Flock Hardware is owned exclusively by Flock, and that title to any Flock Hardware does not pass to Agency upon execution of this Agreement. Except for Falcon Flex products, which are designed for self-installation, Agency is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Notwithstanding the notice and cure period set for in Section 6.3, Agency agrees and understands that in the event Agency is found to engage in any of the restricted actions of this Section 2.5.2, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination (without opportunity to cure) for material breach by Agency.

2.6 **Retained Rights; Ownership.** As between the Parties, subject to the rights granted in this Agreement, Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Subject to the terms of this Agreement, Agency further acknowledges that Flock retains the right to use its Flock IP and components for any other lawful purpose in Flock’s discretion.

2.7 Suspension.

2.7.1 **Service Suspension.** Notwithstanding anything to the contrary in this Agreement, Flock may temporarily suspend Agency’s and any Authorized End User’s access to any portion or all of the Flock IP or Flock Service if Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP by Agency; (b) Agency’s or any Authorized End User’s use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Agency or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Agency has violated any term of this provision, including, but not limited to, utilizing the Services for

anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Agency's account ("*Service Suspension*"). Agency shall not be entitled to any ~~refund~~remedy for the Service Suspension period, including any reimbursement, tolling, or credit.

2.7.2 Service Interruption. Services may be interrupted in the event that: (a) Flock's provision of the Services to Agency or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("*Service Interruption*"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Agency and to provide updates regarding resumption of access to Flock Services. Flock will use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Agency or any Authorized End User may incur as a result of a valid Service Interruption. To the extent that the Service Interruption is not caused by Agency's direct actions or by the actions of parties associated with the Agency, the expiration of the Term will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day) prorated for the proportion of cameras on the Agency's account that have been impacted. For example, in the event of a Service Interruption lasting five (5) continuous days, Agency will receive a credit for five (5) free days at the end of the Term.

2.8 Installation Services.

2.8.1 Designated Locations. For installation of Flock Hardware, excluding Falcon Flex products, prior to performing the physical installation of the Flock Hardware, Flock shall advise Agency on the location and positioning of the Flock Hardware for optimal license plate image capture, as conditions and location allow. Flock may consider input from Agency regarding location, position and angle of the Flock Hardware ("*Designated Location*") and collaborate with Agency to design the Deployment Plan confirming the Designated Locations. Flock shall have final discretion on location of Flock Hardware. Flock shall have no liability to Agency resulting from any poor performance, functionality or Footage resulting from or otherwise relating to the Designated Locations or delay in installation due to Agency's delay in confirming Designated Locations, in ordering and/or having the Designated Location ready for installation including having all electrical work preinstalled and permits ready, if necessary. After installation, any subsequent changes to the Deployment Plan ("*Reinstalls*") will incur a charge for Flock's then-current list price for Reinstalls, as listed in the then-current Reinstall policy (available at <https://www.flocksafety.com/reinstall-fee-schedule>) and any equipment fees. For clarity, Agency will receive prior notice and provide approval for any such fees. These changes include but are not limited to re-positioning, adjusting of the mounting, re-angling, removing foliage, replacement, changes to heights of poles, regardless of whether the need for Reinstalls related to vandalism, weather, theft, lack of criminal activity in view, and the like. Flock shall have full discretion on decision to reinstall Flock Hardware.

Notwithstanding anything hereinabove to the contrary, Agency being a Georgia tax exempt municipality shall not be invoiced for, be liable for, or pay any amount constituting Georgia sales tax, use, excise, gross receipts, or other similar taxes or federal taxes with respect to any aspect of the Agreement.

2.8.2 **Agency Installation Obligations.** Agency agrees to allow Flock and its agents reasonable access in and near the Designated Locations at all reasonable times upon reasonable notice for the purpose of performing the installation work. Although Flock Hardware is designed to utilize solar power, certain Designated Locations may require a reliable source of 120V or 240V AC power. In the event adequate solar power is not available, Agency is solely responsible for costs associated with providing a reliable source of 120V or 240V AC power to Flock Hardware. Flock will provide solar options to supply power at each Designated Location. If Agency refuses recommended solar options, Agency waives any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar power. Additionally, Agency is solely responsible for (i) any permits or associated costs, and managing the permitting process of installation of cameras or AC power; (ii) any federal, state, or local taxes including property, license, privilege, sales, use, excise, gross receipts, or other similar taxes which may now or hereafter become applicable to, measured by or imposed upon or with respect to the installation of the Flock Hardware, its use (excluding tax exempt entities), or (iii) any other supplementary cost for services performed in connection with installation of the Flock Hardware, including but not limited to contractor licensing, engineered drawings, rental of specialized equipment, or vehicles, third-party personnel (i.e. Traffic Control Officers, Electricians, State DOT-approved poles, etc., if necessary), such costs to be approved by the Agency ("**Agency Installation Obligations**"). In the event that a Designated Location for Flock Hardware requires permits, Flock may provide the Agency with a temporary alternate location for installation pending the permitting process. Once the required permits are obtained, Flock will relocate the Flock Hardware from the temporary alternate location to the permitted location at no additional cost. Without being obligated or taking any responsibility for the foregoing, Flock may pay and invoice related costs to Agency if Agency did not address them prior to the execution of this Agreement or a third party requires Flock to pay. Agency represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation.

2.8.32.8.2 **Flock's Obligations.** Installation of Flock Hardware shall be installed in a workmanlike manner in accordance with Flock's standard installation procedures, and the installation will be completed within a reasonable time from the time that the Designated Locations are confirmed. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Following the initial installation of the Flock Hardware and any subsequent Reinstalls or maintenance operations, Flock's obligation to perform installation work shall cease; however, for the sole purpose of validating installation, Flock will continue to monitor the performance of Flock Hardware for the length of the Term and will receive access to the Footage for a period of seven (7) business days after the initial installation for quality control and provide any necessary maintenance. Labor may be provided by Flock or a third-party. Flock is not obligated to install, reinstall, or provide physical maintenance to Agency Hardware. Notwithstanding anything to the contrary, Agency understands that Flock will not provide installation services for Falcon Flex products.

~~2.8.4~~2.8.3 **Ownership of Hardware.** Flock Hardware shall remain the personal property of Flock and will be removed upon the natural expiration of this Agreement at no additional cost to Agency. Agency shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Agency default on any Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Agency's default and Flock shall have the right to enforce any other legal remedy or right.

2.9 **Hazardous Conditions.** Unless otherwise stated in the Agreement, Flock's price for its services under this Agreement does not contemplate work in any areas that contain hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately in the area affected until such materials are removed or rendered harmless.

2.10 **Support Services.** Subject to the payment of fees, Flock shall monitor the performance and functionality of Flock Services and may, from time to time, advise Agency on changes to the Flock Services, Installation Services, or the Designated Locations which may improve the performance or functionality of the Services or may improve the quality of the Footage. The work, its timing, and the fees payable relating to such work shall be agreed by the Parties prior to any alterations to or changes of the Services or the Designated Locations ("**Monitoring Services**"). Flock will use commercially reasonable efforts to respond to requests for support. Flock will provide Agency with reasonable technical and on-site support and maintenance services ("**On-Site Services**") in-person or by email at support@flocksafety.com, at no additional cost. Notwithstanding anything to the contrary, Agency is solely responsible for installation of Falcon Flex products. Agency further understands and agrees that Flock will not provide monitoring services or on-site services for Falcon Flex.

2.11 **Special Terms.** From time to time, Flock may offer certain special terms related to guarantees, service and support which are indicated in the proposal and on the Order Form and will become part of this Agreement, upon Agency's prior written consent ("**Special Terms**"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

2.12 **Upgrades to Platform.** Flock may, in its sole discretion, make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock's products or services to its agencies, (b) the competitive strength of, or market for, Flock's products or services, (c) such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not materially change any terms or conditions within this Agreement.

3. RESTRICTIONS AND RESPONSIBILITIES

3.1 **Agency Obligations.** Flock will assist Agency Authorized End Users in the creation of a User ID. Agency agrees to provide Flock with accurate, complete, and updated registration information. Agency may not select as its User ID a name that Agency does not have the right to use, or another person's name with the intent to impersonate that person. Agency may not transfer its account to anyone else without prior written permission of Flock. Agency otherwise stated and defined in this Agreement, Agency may not designate Authorized End Users for persons who are not officers, employees, or agents of Agency. Authorized End Users shall only use Agency-issued email addresses for the creation of their User ID. Agency is responsible for any activity associated with its account.

Agency shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services. Agency will, at its own expense, provide assistance to Flock, including, but not limited to, by means of access to, and use of, Agency facilities, as well as by means of assistance from Agency personnel to the limited extent any of the foregoing may be reasonably necessary to enable Flock to perform its obligations hereunder, including, without limitation, any obligations with respect to Support Services or any Installation Services.

3.2 **Agency Representations and Warranties.** Agency represents, covenants, and warrants that Agency will use the Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of video, photo, or audio content. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

4. CONFIDENTIALITY; AGENCY DATA

4.1 **Confidentiality.** To the extent allowable by applicable FOIA and state-specific Public Records Acts, each Party (the "*Receiving Party*") understands that the other Party (the "*Disclosing Party*") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "*Proprietary Information*" of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Agency includes non-public data provided by Agency to Flock or collected by Flock via the Flock Hardware or Agency Hardware, to enable the provision of the Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event will a Party apply less than reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. Flock's use of the Proprietary Information may include processing the Proprietary Information to send Agency alerts, or to analyze the data collected to identify motion or other events. The Disclosing Party agrees that the foregoing shall not apply with respect to any

information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing

and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Flock, its users, a third party, or the public as required or permitted by law, including respond to an emergency situation. Flock may store deleted Footage in order to comply with certain legal obligations, but such retained Footage will not be retrievable without a valid court order.

4.2 Agency Data. As between Flock and Agency, all right, title and interest in the Agency Data, belong to and are retained solely by Agency. Agency hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to (i) use the Agency Data and perform all acts with respect to the Agency Data as may be necessary for Flock to provide the Flock Services to Agency, including without limitation the Support Services set forth in Section 2.10 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Data as a part of the Aggregated Data, (ii) disclose the Agency Data (both inclusive of any Footage) to enable law enforcement monitoring for elected law enforcement Hotlists as well as provide Footage search access to law enforcement for investigative purposes only, and (iii) and obtain Aggregated Data as set forth below in Section 4.5. As between Agency and Non-Agency End Users that have prescribed access of Footage to Agency, each of Agency and Non-Agency End Users will share all right, title and interest in the Non-Agency End User Data. This Agreement does not by itself make any Non-Agency End User Data the sole property or the Proprietary Information of Agency. Flock will automatically delete Footage older than thirty (30) days. Agency has a thirty (30) day window to view, save and/or transmit Footage to the relevant government agency prior to its deletion. Notwithstanding the foregoing, Flock automatically deletes Wing Replay after seven (7) days, during which time Agency may view, save and/or transmit such data to the relevant government agency prior to deletion. Flock does not own and shall not sell Agency Data.

4.3 Agency Generated Data in Wing Suite. Parties understand that Flock does not own any right, title, or interest to third-party video integrated into the Wing Suite. Flock may provide Agency with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available on or submit through the Wing Suite, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Agency. Agency shall retain whatever legally cognizable right, title, and interest that Agency has in Agency Generated Data. Agency

understands and acknowledges that Flock has no obligation to monitor or enforce Agency's intellectual property rights to Agency Generated Data. To the extent legally permissible, Agency grants Flock a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify, display, and distribute the Agency Generated Data for the sole purpose of providing Flock Services. Flock does not own and shall not sell Agency Generated Data.

other information relating to the subject matter hereunder, Agency hereby assigns (and will cause its agents and representatives to assign) to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

4.5 **Aggregated Data.** Flock shall have the right to collect, analyze, and anonymize Agency Data and Agency Generated Data to create Aggregated Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Agency hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right (during and after the Term hereof) to use and distribute such anonymized Aggregated Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, other Flock offerings, and crime prevention efforts. Parties understand that the aforementioned license is required for continuity of Services. No rights or licenses are granted except as expressly set forth herein. Flock does not sell Aggregated Data.

5. PAYMENT OF FEES

5.1.1 **Software Product Fees.** For Order Forms listing Wing Suite, Advanced Search and other software-only products, Agency will pay Flock the fees for the Initial Term (as described on the Order Form attached hereto) on or before the 30th day from the date of invoice. For any Renewal Terms, Agency shall pay invoice on or before the 30th day from the date of renewal invoice.

5.1.2 **Hardware Product Fees.** For Order Forms listing Falcon, Sparrow, Raven and Falcon Flex products, Agency will pay Flock fifty percent (50%) of the fees for the Initial Term as set forth on the Order Form on or before the 30th day from date of invoice. Upon commencement of installation, Flock will issue an invoice for twenty-five percent (25%) of total fees, and Agency shall pay on or before 30th day following date of invoice. Upon completion of installation, Flock will issue an invoice for the remaining balance and Agency shall pay on or before 30th day following date of final invoice. Flock is not obligated to commence the Installation Services unless and until the first payment has been made and shall have no liability resulting from any delay related thereto. For any Renewal Terms, Agency shall pay the total invoice on or before the 30th day from the date of renewal invoice.

5.2 **Notice of Changes to Fees.** Flock reserves the right to change the fees or applicable charges and to institute new charges and fees on subsequent terms by providing sixty (60) days' notice prior to the end of such Initial Term or Renewal Term (as applicable) to Agency (which may be sent by email).

5.3 **Invoicing, Late Fees; Taxes.** Flock may choose to bill through an invoice, in which case, full payment for invoices must be received by Flock thirty (30) days after the receipt of invoice. If Agency is a non-tax-exempt entity, Agency shall be responsible for all taxes associated with Services other than U.S. taxes based on Flock's net income. If Agency believes that Flock has billed Agency incorrectly, Agency must contact Flock no later than sixty (60) days after the closing date on the first billing statement in which the error or problem appeared, in order to (60) day period will serve as a waiver of any claim Agency may have had as a result of such billing error.

6. TERM AND TERMINATION

6.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form and shall commence at the time outlined in this section below (the "**Term**"). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "**Renewal Term**") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

- a. For Wing Suite products: the Term shall commence upon execution of this Agreement and continue for one (1) year, after which, the Term may be extended by mutual consent of the Parties, unless terminated by either Party.
- b. For Falcon and Sparrow products: the Term shall commence upon first installation and validation of Flock Hardware.
- c. For Raven products: the Term shall commence upon first installation and validation of Flock Hardware.
- d. For Falcon Flex products: the Term shall commence upon execution of this Agreement.
- e. For Advanced Search products: the Term shall commence upon execution of this Agreement.

6.2 **Termination for Convenience.** At any time during the agreed upon Term, either Party may terminate this Agreement for convenience. Termination for convenience of the Agreement by the Agency will be effective immediately. Termination for convenience by Agency will result in a one-time removal fee of \$500 per Flock Hardware. Termination for convenience by Flock will not result in any removal fees. Upon termination for convenience, a refund will be provided for Flock Hardware, prorated for any fees for the remaining Term length set forth previously. Wing Suite products and Advanced Search are not subject to refund for early termination. Flock will provide advanced written notice and remove all Flock Hardware at Flock's own convenience, within a commercially reasonable period of time upon termination. Agency's termination of this Agreement for Flock's material breach of this Agreement shall not be considered a termination for convenience for the purposes of this Section 6.2.

6.3 **Termination.** Notwithstanding the termination provisions in Section 2.5.2, in the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty

(30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period. Either Party may terminate this Agreement, without notice, (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. Upon termination for Flock's material breach, Flock will refund to Agency a pro-rata portion of the pre-paid fees for Services not received due to such termination.

Section 4.2 ("**No-Fee Term**"). In the event a Non-Agency End User grants Agency access to Footage and/or notifications from a Non-Agency End User, Agency will have access to Non-Agency End User Footage and/or notifications until deletion, subject to a thirty (30) day retention policy for all products except Wing Replay, which is subject to a seven (7) day retention policy. Flock may, in their sole discretion, provide access or immediately terminate the No-Fee Term. The No-Fee Term will survive the Term of this Agreement. Flock, in its sole discretion, can determine to impose a price per No-Fee Term upon thirty (30) days' notice to Agency. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon thirty (30) days' notice.

6.5 Survival. The following Sections will survive termination: 2.5, 2.6, 3, 4, 5, 6.4, 7.3, 7.4, 8.1, 8.2, 8.3, 8.4, 9.1 and 9.6.

7. REMEDY; WARRANTY AND DISCLAIMER

7.1 Remedy. Upon a malfunction or failure of Flock Hardware or Embedded Software (a "**Defect**"), Agency must notify Flock's technical support as described in Section 2.10 above. If Flock is unable to correct the Defect, Flock shall, or shall instruct one of its contractors to repair or replace the Flock Hardware or Embedded Software suffering from the Defect. Flock reserves the right in their sole discretion to refuse or delay replacement or its choice of remedy for a Defect until after it has inspected and tested the affected Flock Hardware provided that such inspection and test shall occur within a commercially reasonable time, but no longer than seven (7) business days after Agency notifies the Flock of a known Defect. In the event of a Defect, Flock will repair or replace the defective Flock Hardware at no additional cost to Agency. Absent a Defect, in the event that Flock Hardware is lost, stolen, or damaged, Agency may request that Flock replace the Flock Hardware at a fee according to the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Agency shall not be required to replace subsequently lost, damaged or stolen Flock Hardware, however, Agency understands and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen Flock Hardware and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted. ~~Flock is under no obligation to replace or repair Flock Hardware or Agency Hardware absent a reported defect.~~

Commented [KN1]: Respectfully, Flock (as the owner of the property) must retain the ability to choose/control the best course of action.

7.2 **Exclusions.** Flock will not provide the remedy described in Section 7.1 if Agency has misused the Flock Hardware, Agency Hardware, or Service in any manner.

7.3 **Warranty.** Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of writing or by e-mail of any scheduled service disruption.

7.4 **Disclaimer.** THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE EMBEDDED SOFTWARE. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6 .

7.5 **Insurance.** Flock will maintain commercial general liability policies with policy limits reasonably commensurate with the magnitude of Flock's business risk. Certificates of Insurance can be provided upon request.

~~PLEASE DISCLOSE FLOCKS COVERAGES AND LIMITS UNDER ITS COMMERCIAL GENERAL LIABILITIES. YOU MAY DO SO BY PROVIDING YOUR DECLARATION SHEET FROM YOUR POLICY THAT IS CURRENT~~

7.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, acts or omissions of third-Party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, weather conditions or acts of hackers, internet service providers or any other third Party acts or omissions. Force Majeure includes the novel coronavirus Covid-19 pandemic, and the potential spread of variants, which is ongoing as of the date of the execution of this Agreement.

Commented [KN2]: Please ask the rep for our COL.

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8. LIMITATION OF LIABILITY; NO FEE TERM; INDEMNITY

~~The below MUST be struck. Georgia cities cannot consent to such limitations of liability.~~

8.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL HARDWARE AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE

Commented [KN3]: Strike rejected. Please provide more context for your strike. This is standard language appropriate for the nature of our business model and state of Georgia. We are open to addressing your specific concerns with this language. However, from a risk assessment, this LOL is built into how we price our deals.

For further context, the purpose of this LOL is to allocate the risks and limit potential liability given the competitive pricing structure of Flock's services, which would be substantially higher if Flock were to assume any further liability. Flock has relied on these limitations in determining the price structure of this deal. Consequently, Flock can not easily open itself to more liability.

RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY, INCOMPLETENESS OR CORRUPTION OF DATA OR FOOTAGE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE OR IDENTIFY AND/OR CORRELATE A LICENSE PLATE WITH THE FBI DATABASE; (D) FOR ANY PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION MADE IN GOOD FAITH; (E) FOR CRIME PREVENTION; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 9.6.

8.2 Additional No-Fee Term Requirements. IN NO EVENT SHALL FLOCK'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THE COMPLIMENTARY NO-FEE TERM AS DESCRIBED IN SECTION 6.4 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. Parties acknowledge and agree that the essential purpose of this Section 8.2 is to allocate the risks under the No-Fee Term described in Section 6.4 and limit potential liability given the aforementioned complimentary service, which would have been substantially higher if Flock were to assume any further liability other than as set forth herein. Flock has relied on these limitations in determining whether to provide the complementary No-Fee Term. The limitations set forth in this Section 8.2 shall not apply to claims or damages resulting from Flock's other obligations under this Agreement.

8.3 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own officers, agents, or employees.

9. INDEMNIFICATION

Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses in connection with any claim or action that arises from an alleged violation of Section 3.1, Agency's

breach of this Agreement, Agency's Installation Obligations, Agency's sharing of any data in connection with the Flock system, or otherwise from Agency's use of the Services, Flock Hardware, Agency Hardware and any Embedded Software. Although Flock has no obligation to monitor Agency's use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of Section 3.1 or this Agreement. Notwithstanding anything herein to the contrary neither party shall be required to indemnify the other party for any liability of the other party.

10. MISCELLANEOUS

10.1 **Compliance With Laws.** The Agency agrees to comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any government mandate, to disclose Agency Data or Agency Generated Data, Flock will provide Agency with notice.

10.2 **Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

10.3 **Assignment.** This Agreement is not assignable, transferable or sublicensable by either Party, without prior written consent Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent,

(i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

10.4 **Entire Agreement.** This Agreement, together with the Order Form(s), the then-current Reinstall policy (<https://www.flocksafety.com/reinstall-fee-schedule>), Deployment Plan(s), and any attached addenda are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Agency's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail.

10.5 **Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Agency does not have any authority of any kind to bind Flock in any respect whatsoever. Flock shall at all times be and act as an independent contractor.

10.6 **Governing Law; Venue.** This Agreement shall be governed by the laws of the State in which the Agency is

located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Agency is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

10.7 **Publicity.** Upon prior consent from Agency, Flock has the right to reference and use Agency's name and trademarks and disclose the nature of the Services provided hereunder in each case in business and development and marketing efforts, including without limitation on Flock's website.

10.8 **Export.** Agency may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

10.9 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

10.10 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

10.11 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210
ATLANTA, GA 30318
ATTN: LEGAL DEPARTMENT
EMAIL: legal@flocksafety.com

AGENCY NOTICES ADDRESS:

ADDRESS:

ATTN:

EMAIL:



CITY COUNCIL AGENDA REQUEST

Meeting Type:	Mayor & Council Meeting
Meeting Date:	February 6, 2023
Agenda Item:	Bill of Sale/Transfer Agreement to Purchase Stream Credits from the Conasauga River Mitigation Bank for the Mill Creek Riverwalk
Department:	Recreation
Requested By:	Caitlin Sharpe
Reviewed/Approved by City Attorney?	Yes
Cost:	11,352.00
Funding Source if Not in Budget	2020 Bond Series

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

This agreement is between the Conasauga River Mitigation Bank and the City of Dalton for the purchase of 516 stream credits located in the Coosa River Basin for the Mill Creek Riverwalk. The funding source will be



Conasauga River Mitigation Bank
Dalton-Whitfield Regional Solid Waste Management Authority
C/O Dirk Verhoeff
PO Box 1205, Dalton, GA 30722-1205
(706) 277-2545 Fax: (706) 277-2546

January 26, 2023

City of Dalton (Dalton Riverwalk – Mill Creek)
Attn: Andrew Parker
532 N. Elm St.
Dalton, GA 30721

RE: Credit Sale/Transfer Agreement

Mr. Andrew Parker,

Please find attached a Bill of Sale/Transfer Agreement to purchase stream credits from the Conasauga River Mitigation Bank for the City of Dalton Mill Creek Riverwalk. The Conasauga River Mitigation Bank has available 516 stream credits needed by the City of Dalton and agrees to sell those credits at the referenced price in the agreement.

I have mailed two copies of the Agreement, please sign and notarize both copies and return by mail to the following address:


Conasauga River Mitigation Bank
Dalton-Whitfield Regional Solid Waste Management Authority
C/O Dirk Verhoeff
P.O. Box 1205, Dalton, GA 30722-1205
587 Gazaway Rd.
Dalton, GA 30721

Please include a check made payable to the Conasauga River Mitigation Bank in the amount of \$11,352.00.

Upon receipt of payment and the two signed and notarized documents, we will sign and notarize our portion of the Agreement and mail one original back to you.

We appreciate doing business with you and look forward to the opportunity in the future. If you have any questions, please give me a call at 706-277-2545.

Respectfully,

A handwritten signature in blue ink, appearing to read "Dirk Verhoeff".

Dirk Verhoeff
CRMB Project Manager

CC: Henry Tharpe, Sponcler and Tharpe, Legal Counsel DWRSWMA



Conasauga River Mitigation Bank
Dalton-Whitfield Regional Solid Waste Management Authority
C/O Dirk Verhoeff
PO Box 1205, Dalton, GA 30722-1205
(706) 277-2545 Fax: (706) 277-2546

January 26, 2023

City of Dalton (Dalton Riverwalk – Mill Creek)
 Attn: Andrew Parker
 532 N. Elm St.
 Dalton, GA 30721

Credit Sale/Transfer Agreement

GEORGIA, WHITFIELD COUNTY
 THIS AGREEMENT made and entered into this 26th day of January 2023, by and between the Conasauga River Mitigation Bank and the City of Dalton, whereas the City of Dalton has agreed to purchase and the Conasauga River Mitigation Bank has agreed to sell 516 stream credits for \$11,352.00. The City of Dalton has obtained a permit from the Georgia Department of Natural Resources environmental Protection Division and has received approval to purchase stream credits from an approved mitigation bank and may enter into this agreement with the Conasauga River Mitigation Bank, an approved mitigation bank located in the Coosa River Basin.

City of Dalton

Signed and Sworn to Me, On this _____ day of _____, 2023

BY: _____

Authorized Representative

Notary Public

The Conasauga River Mitigation Bank

Signed and Sworn to Me, On this _____ day of _____, 2023

BY: _____

Authorized Representative

Notary Public



**Conasauga River Mitigation Bank
 Dalton-Whitfield Regional Solid Waste Management Authority
 C/O Dirk Verhoeff
 PO Box 1205, Dalton, GA 30722-1205
 (706) 277-2545 Fax: (706) 277-2546**

January 26, 2023

City of Dalton (Dalton Riverwalk – Mill Creek)
 Attn: Andrew Parker
 532 N. Elm St.
 Dalton, GA 30721

Credit Sale/Transfer Agreement

GEORGIA, WHITFIELD COUNTY

THIS AGREEMENT made and entered into this 26th day of January 2023, by and between the Conasauga River Mitigation Bank and the City of Dalton, whereas the City of Dalton has agreed to purchase and the Conasauga River Mitigation Bank has agreed to sell 516 stream credits for \$11,352.00. The City of Dalton has obtained a permit from the Georgia Department of Natural Resources environmental Protection Division and has received approval to purchase stream credits from an approved mitigation bank and may enter into this agreement with the Conasauga River Mitigation Bank, an approved mitigation bank located in the Coosa River Basin.

City of Dalton

Signed and Sworn to Me, On this _____ day of _____, 2023

BY: _____

Authorized Representative

Notary Public

The Conasauga River Mitigation Bank

Signed and Sworn to Me, On this _____ day of _____, 2023

BY: _____

Authorized Representative

Notary Public



CITY COUNCIL AGENDA REQUEST

Meeting Type:	Mayor & Council Meeting
Meeting Date:	February 6, 2023
Agenda Item:	Civitan Park Playground Replacement
Department:	Recreation
Requested By:	Caitlin Sharpe
Reviewed/Approved by City Attorney?	N/A
Cost:	\$349,359.73
Funding Source if Not in Budget	2022 Capital Funds

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

The plan is to replace the current playground at Civitan Park with a new one that is ADA (Americans with Disabilities Act) accessible. The new playground will ensure that everyone, including individuals with disabilities, can enjoy the play area safely and comfortably. It will be designed with accessibility features such as rubber surfacing, a zipline, and an adapted sensory play area with ground-level play structures, making it an inclusive and welcoming space for all. Additionally, the new playground will be updated with the latest safety standards and materials, ensuring a fun and secure play experience for all visitors.

The funding source is the 2022 Capital Improvement Funds. The cost of the playground includes site work, playground equipment, equipment and surfacing installation.



GameTime
 c/o Dominica Recreation Products, Inc.
 P.O. Box 520700
 Longwood, FL 32752-0700
 800-432-0162 * 407-331-0101
 Fax: 407-331-4720
www.playdrp.com

01/04/2023
 Quote #
 104444-01-07

Civitan Park Playground - Option C (with Poured Rubber)

Dalton Parks & Recreation
 Attn: Caitlin Sharpe
 904 Civic Drive, P.O. Box 661
 Dalton, GA 30721
csharpe@daltonga.gov

Ship to Zip 30721

Qty	Part #	Description	List \$	% Disc.	Selling \$	Ext. Selling \$
		~~~~~ Scope of Work by Others - - Removal of existing equipment - Wood Fiber Topoff and New Area EWF				
1	178749	GameTime - Owner's Kit			\$84.00	\$84.00
1	RDU	GameTime - Large Tower System	\$160,785.00	40.71	\$95,329.95	\$95,329.95
		(1) 3963RP -- 12' Spiral Slide (W/ Slide Panel)				
		(1) 153653 -- 49" Tube Section				
		(1) 153844 -- 90 Deg Elbow Sec 30" Dia				
		(1) 153844 -- 90 Deg Elbow Sec 30" Dia				
		(1) 153844 -- 90 Deg Elbow Sec 30" Dia				
		(1) 153844 -- 90 Deg Elbow Sec 30" Dia				
		(1) 160199 -- 90 Deg 30"W/15 Deg Flange				
		(1) 200172 -- STRAIGHT EXIT 30"DIA				
		(1) 203582 -- Tube Entrance Section				
		(1) 205377 -- Arch Bridge Trim 3				
		(1) 301503 -- 7010-SUPPORT ASSY 36 1/4"				
		(1) 3963HW -- HDW-12'SPIRAL SLIDE W/PNL				
		(1) V10792 -- FORMED FOOTBUCK 54 1/4"LG				
		(1) V10792 -- FORMED FOOTBUCK 54 1/4"LG				
		(1) V10794 -- FORMED FOOTBUCK 91 1/4"LG				
		(1) V10794 -- FORMED FOOTBUCK 91 1/4"LG				
		(1) X18007 -- FOOTBUCK SADDLE 15DEG				
		(1) X18009 -- FOOTBUCK SADDLE 30DEG				
		(1) X18020 -- 30 DEG ELBOW W/10*OFFSET				
		(1) X18886 -- SLIDE ENCLOSURE 44 5/16"				
		(2) 3964RP -- Panel Enclosure (For 12' Tower)				
		(1) 3965RP -- 12' Curved Slide Reverse (Slide Pnl)				
		(1) 153651 -- 24" St Section 30"Dia				
		(1) 153653 -- 49" Tube Section				
		(1) 155320 -- 30 Deg Elbow W/15 Deg Holes				
		(1) 155320 -- 30 Deg Elbow W/15 Deg Holes				
		(1) 160199 -- 90 Deg 30"W/15 Deg Flange				
		(1) 203582 -- Tube Entrance Section				



GameTime  
 c/o Dominica Recreation Products, Inc.  
 P.O. Box 520700  
 Longwood, FL 32752-0700  
 800-432-0162 * 407-331-0101  
 Fax: 407-331-4720  
[www.playdrp.com](http://www.playdrp.com)

01/04/2023  
 Quote #  
 104444-01-07

## Civitan Park Playground - Option C (with Poured Rubber)

Qty	Part #	Description	List \$	% Disc.	Selling \$	Ext. Selling \$
	(1)	205377 -- Arch Bridge Trim 3				
	(1)	218855 -- 30" Exit Section				
	(1)	3965HW -- HDW-12"CURVED SLIDE-REV				
	(1)	301503 -- 7010-SUPPORT ASSY 36 1/4"				
	(1)	V10796 -- FORMED FOOTBUCK 84 1/4"LG				
	(1)	V10796 -- FORMED FOOTBUCK 84 1/4"LG				
	(1)	V10798 -- FORMED FOOTBUCK 134 11/16"LG				
	(1)	V10798 -- FORMED FOOTBUCK 134 11/16"LG				
	(1)	X18009 -- FOOTBUCK SADDLE 30DEG				
	(1)	X18011 -- FOOTBUCK SADDLE 45DEG				
	(1)	X18020 -- 30 DEG ELBOW W/10*OFFSET				
	(1)	X18020 -- 30 DEG ELBOW W/10*OFFSET				
	(1)	X18886 -- SLIDE ENCLOSURE 44 5/16"				
	(1)	3966RP -- 4' Spiral Stairs (Reverse)(W/ Filler)				
	(1)	3967RP -- Citadel Tower W/ 3D Panels				
	(6)	4044RP -- Tower Extensions W/O Cap				
	(1)	4045RP -- Tower Extensions W/ Cap				
	(5)	80000 -- 49" Sq Punched Steel Deck				
	(8)	80001 -- 49"Tri Punched Steel Deck				
	(1)	80210 -- Tin Roof 4 Square				
	(1)	80657 -- Access Attachment 4'				
	(1)	81665 -- Seat And Table For Two				
	(2)	81666 -- Fun Seat				
	(1)	90033 -- 4' Transfer Platform W/Guardrail				
	(1)	90149 -- 5'-6"/6' Corner Vine Climber Reverse				
	(1)	90151 -- 5'/6' Double Vine Climber				
	(1)	90211 -- Rung Encl Telescope & Barrier,Above Dk				
	(1)	90268 -- 10' Upright, Alum				
	(3)	90270 -- 12' Upright, Alum				
	(1)	90271 -- 13' Upright, Alum				
	(7)	90273 -- 15' Upright, Alum				
	(1)	90369 -- River Rock Climber				
	(1)	90425 -- Letters Maze Above Deck				
	(1)	90578 -- Swerve Slide				
	(1)	90579 -- Double Swerve Slide				
	(1)	90598 -- Hour Glass Climber				



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01/04/2023  
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## Civitan Park Playground - Option C (with Poured Rubber)

Qty	Part #	Description	List \$	% Disc.	Selling \$	Ext. Selling \$
		(1) 90713 -- Frog Slide Puzzle-Gadget Pnl Above Dk				
		(1) 91139 -- Entryway - Barrier				
		(4) 91150 -- Entryway - Timbers				
		(3) 91151 -- Climber Entryway - Timbers				
		(1) 91163 -- Climber Offset Archway - Timbers				
		(1) 91182 -- 5' 0" Plank Climber - Timbers				
		(1) 91211 -- Funnel Bridge - Timbers (2 Deck Span)				
		(1) 91245 -- 3'6" - 5'0" Leaf Scramble Up				
		(1) 91275 -- 3'0" Thru 4'6" Splash				
		(1) 91340 -- Timbers Enclosure W/ Thunderring (Abov				
		(1) 91500 -- Olympus Climber - 5'0 thru 6'0 attac				
		(1) 91599 -- HDPE Vertical Ladder 1'6"				
		(7) G90272 -- 14' Upright, Galv				
		(1) G90273 -- 15' Upright, Galv				
1	10768	GameTime - Toad Stool Seat	\$627.00	31.00	\$432.63	\$432.63
1	38002	GameTime - The Spider	\$12,306.00	31.00	\$8,491.14	\$8,491.14
1	RDU	GameTime - Odyssey Play System	\$35,265.00	25.43	\$26,296.16	\$26,296.16
		(1) 4662 -- Up & Around Bronze Sensor Package				
		(6) 12650 -- 3 1/2" Uprt Ass'Y Alum 4'				
		(1) 19059 -- Wavy Tree (2'-6" & 3')				
		(1) 19104 -- Ridge Climber				
		(1) 19121 -- Curved Zip Slide				
		(1) 19122 -- Wave Zip Slide (2'-6" & 3')				
		(1) 19491 -- 3' Odyssey Pod w/thunderring				
		(1) 19715 -- PT Sensory Wave Up & Around (3' & 3'				
		(1) 19832 -- Flower Spinner Panel				
1	3274	GameTime - Sensory Wave Seat	\$2,539.00	31.00	\$1,751.91	\$1,751.91
1	6238	GameTime - Shadow Play Flower	\$6,883.00	31.00	\$4,749.27	\$4,749.27
1	6255	GameTime - Sensory Dome - Small	\$9,265.00	31.00	\$6,392.85	\$6,392.85
1	6249	GameTime - Sensory Cove Climber - Square	\$3,912.00	20.00	\$3,129.60	\$3,129.60
1	90860	GameTime - 53'SKY RUN ZIP TRACK W/ ZERO-G	\$21,185.00	31.00	\$14,617.65	\$14,617.65
1	90863	GameTime - 53'SKY RUN ZIP TRACK ADD W/ ZIP SEAT	\$22,012.00	31.00	\$15,188.28	\$15,188.28
1	INSTALL	5-Star Plus - Five Star Plus Playground Installation Services- <i>Performed by a Certified Installer, includes meeting and unloading delivery truck, signed completion forms, site walkthrough, 90 day site revisit by installation foreman, and 3-Year Labor Warranty!</i>			\$82,400.00	\$82,400.00
		~~~~~				



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Civitan Park Playground - Option C (with Poured Rubber)

Qty	Part #	Description	List \$	% Disc.	Selling \$	Ext. Selling \$
3950	Digout	5-Star Plus - Digout/Sitework of area (per sq. ft.)- <i>Two New Areas - Spoils to be left on site or in directed area by city.</i>			\$1.30	\$5,135.00
350	Curb	GT-Impax - Concrete Curb (ln. ft.)- <i>Two new areas - 6" Wide - Not Reinforced - with drainage cutouts</i>			\$33.00	\$11,550.00
1	Access	5-Star Plus - Short access Sidewalk for Sensory Area			\$1,000.00	\$1,000.00
2650	Crush	GT-Impax - Crushed & Compacted Stone Sub-Base (sq. ft.)- <i>Installed per specification of Unitary Surfacing requirements.</i>			\$4.70	\$12,455.00
2650	Poured-6	GT-Impax - Poured Rubber Surfacing - 6' fall height- <i>50% Standard Color - Aromatic Binder - 3" Thick with 1/2" EPDM wear course cap - 5-year warranty</i>	\$26.27	27.79	\$18.97	\$50,270.50
Sub Total						\$339,273.94
Freight						\$9,996.35
Total						\$349,270.29

This quote was prepared by Rob Dominica, President.
 For questions or to order please call - 800-432-0162 ext. 113 robd@gametime.com

Due to supply chain issues, and availability of some products. ALL orders are shipping in approximately 8-10 weeks, from date of accepted order.
Some orders depending on specific items may take longer or possibly go quicker. Not until an order is in the system and processed can we give an expected ship date.
In addition, labor shortages may cause installation dates to be extended. It is difficult to provide exact days for delivery and installation.

Payment Terms: Governmental Purchase Order.

Purchases in excess of \$1,000.00 to be supported by your written purchase order made out to GameTime.

Net 30 days subject to approval by GameTime Credit Manager. A completed Credit Application and Bank Reference Authorization, must be received with the order. The decision on credit is the sole discretion of GameTime/PlayCore. A 1.5% per month finance charge will be imposed on all past due accounts.

Multiple Invoices: Invoices will be generated upon services rendered. When equipment ships it will be invoiced separately from installation and/or other services. Terms are Net 30 for each individual invoice.

This Quotation is subject to policies in the current GameTime Park and Playground Catalog and the following terms and conditions. Our quotation is based on shipment of all items at one time to a single destination, unless noted, and changes are subject to price adjustment.

Pricing: Firm for 60 days from date of quotation.

Shipment: F.O.B. factory, order shall ship within 60 days after GameTime's receipt and acceptance of your purchase order, color selections, approved submittals, and receipt of payment.

Taxes: State and local taxes will be added at time of invoicing, if not already included, unless a tax exempt certificate is provided at the time of order entry.

Exclusions: Unless specifically discussed, this quotation excludes all sitework and landscaping; removal of existing equipment; acceptance of equipment and off-loading; storage of goods prior to installation; security of equipment (on site and at night); equipment assembly and installation; safety surfacing; borders; drainage; signed/sealed drawings; or permits.

Installation Terms: Shall be by a Certified Installer. The installer is an independent installer and not part of PlayCore, GameTime, nor Dominica Recreation Products. If playground equipment, installer will be NPSI and Factory Trained and Certified. Unless otherwise noted, installation is based on a standard installation consistent with GameTime installation sheets and in suitable soil with a sub-base that will allow proper playground installation. Drainage is not part of our scope of work unless otherwise noted. Customer shall be responsible for scheduling and coordination with the installer. Site should be level and allow for unrestricted access of trucks and machinery. Customer shall also provide a staging and construction area. Installer not responsible for sod replacement or damage to access path and staging area. Customer shall be responsible for unknown conditions such as buried utilities, tree stumps, rock, or any concealed materials or conditions that may result in additional labor or material costs. Customer will be billed hourly or per job directly by the installer for any additional costs that were not previously included.

Unitary Surfacing Notes : The installer of the Unitary Surfacing (Poured, Bonded, Turf, Tiles) is not the same installer of the playground equipment. However, your certified equipment installer will coordinate the timing of the unitary surfacing installation, but more than likely they will not be on-site at the time. They will continue to be your contact should you have any questions. Security is needed to protect surfacing at night or after installation as the product set. Normally it is not needed or a concern, however in some areas additional security is needed to prevent vandalism. **Security is not included.** Vandalism will be the responsible of the owner.



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01/04/2023
Quote #
104444-01-07

Civitan Park Playground - Option C (with Poured Rubber)

Acceptance of quotation:

Accepted By (printed): _____

P.O. No: _____

Signature: _____

Date: _____

Title: _____

Phone: _____

E-Mail: _____

Purchase Amount: **\$349,270.29**



Playpalette: Malibu

12/27/22
Intellectual property of GameTime, a PlayCore Company. The site shown in rendering is an interpretation and may not reflect exact site conditions.

Civitan Park Playground ~ Option C ~ Dalton, GA



A PLAYCORE company

www.gametime.com



www.playdrp.com



Playpalette: Malibu

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Civitan Park Playground ~ Option C ~ Dalton, GA



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Civitan Park Playground ~ Option C ~ Dalton, GA



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Civitan Park Playground ~ Option C ~ Dalton, GA



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Civitan Park Playground ~ Option C ~ Dalton, GA



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Civitan Park Playground ~ Option C ~ Dalton, GA



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www.gametime.com



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Civitan Park Playground ~ Option C ~ Dalton, GA



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www.gametime.com



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Civitan Park Playground ~ Option C ~ Dalton, GA



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Civitan Park Playground ~ Option C ~ Dalton, GA



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Civitan Park Playground ~ Option C ~ Dalton, GA



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N

Zip Track Area
 ~ 2,050 sq. ft.
 ~ 190 In. ft.
 - multi Track design
 - fully enclosed ADA Seat

Events : 2
 Capacity : 6
 (zip lines count with 2 waiting)

NOTE : Standard Zip Line can be substituted at no cost difference if the metal frame structures are not desired.
 FYI - Space size nearly doubles

Sensory Environment

~ 1,900 sq. ft.
 ~ 160 In. ft.
 - unique fun designed system
 - sensory ADA Wave Climber
 - sensory items on access
 - Rainbow Shadow Spinner
 - Sensory Seat
 - Cozy Spots
 - Challenging Climbers

Events : 13
 Capacity : 35-40

Scope of Work By Others -

- Removal of existing equipment on site
- digout and grading of new areas
- Borders and linking sidewalks
- Tap-off and New Wood Fiber

Large Playground Area

~ 2,600 sq. ft.
 ~ 190 In. ft.
 - Timber Themed Playground
 - 12' tower
 - Tube slides compliant (no room for hiding)
 - multiple routes of travel
 - Large spider themed net climber
 - Themed Items
 - Timber decor on equipment
 - Large roofs
 - All level and complexity in climbers

Events : 22
 Capacity : 85-90



150 PlayCore Drive SE
 Fort Payne, AL 35967
 www.gametime.com

Civitan Park Playground
 Dalton, Georgia
 ~Option C~
 Representative
 Dominica Recreation Products

This play equipment is recommended for children ages 2-5 & 5-12

Minimum Area Required:
 Scale: 1" = 5'-0"
 This drawing can be scaled only when in an 36" x 48" format

IMPORTANT: Soft resilient surfacing should be placed in the use zones of all equipment, as specified for each type of equipment, and at depths to meet the critical fall heights as specified by the U.S. consumer Product Safety Commission, ASTM standard F 1487 and Canadian Standard CAN/CSA-Z614

Drawn By:
 Rob
 Date:
 12-22-22
 Drawing Name:
 Civitan Park



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: February 6, 2023
Agenda Item: Contract with Dalton Convention Center
Department: Municipal Court
Requested By: Robert Cowan
Reviewed/Approved by City Attorney? Yes/No
Cost: \$639.75/day

Funding Source if Not in Budget

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

This is to extend the current contract with between Municipal Court and the Dalton Convention Center one day per week for Court proceedings. This will include the months of February, March and April.



Contract #: 15827, 16016, 16017, 16018, 15830, 16044, 16045, 16046, 15983, 16047, 16048
 Salesperson: Ragan, Kelly

**LICENSE AGREEMENT
 DALTON CONVENTION CENTER
 FULL CONTRACT**

THIS LICENSE AGREEMENT (the "Agreement") made January 26, 2023, by and between the Dalton Convention Center, located in Dalton, Georgia ("Licensor"), having an office at 2211 Tony Ingle Parkway Dalton, GA 30720, and **City of Dalton, Andrew Parker** ("Licensee") having an address at P.O. Box 1205, Dalton, Georgia, 30722

WHEREAS, the Northwest Georgia Trade & Convention Center Authority ("Owner") owns the Center.

INTENDING TO BE LEGALLY BOUND, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:

I. Specific Terms of License.

A. DESCRIPTION OF LICENSED SPACE AND PERIOD OF USE:

#15827

Date	In Time	Out Time	Function	Room	Setup
(Monday) 02/06/23	08:00 AM	05:00 PM	City Court	Lecture Hall, Coat Check	Custom

#16016

Date	In Time	Out Time	Function	Room	Setup
(Monday) 02/13/23	08:00 AM	05:00 PM	City Court	Lecture Hall, Coat Check	Custom

#16017

Date	In Time	Out Time	Function	Room	Setup
(Monday) 02/20/23	08:00 AM	05:00 PM	City Court	Lecture Hall, Coat Check	Custom

#16018

Date	In Time	Out Time	Function	Room	Setup
(Monday) 02/27/23	08:00 AM	05:00 PM	City Court	Lecture Hall, Coat Check	Custom

#15830

Date	In Time	Out Time	Function	Room	Setup
(Monday) 03/06/23	08:00 AM	05:00 PM	City Court	Lecture Hall, Coat Check	Custom

#16044

Date	In Time	Out Time	Function	Room	Setup
(Monday) 03/13/23	08:00 AM	05:00 PM	City Court	Lecture Hall, Coat Check	Custom

#16045

Date	In Time	Out Time	Function	Room	Setup
(Monday) 03/20/23	08:00 AM	05:00 PM	City Court	Lecture Hall, Coat Check	Custom

#16046

Date	In Time	Out Time	Function	Room	Setup
(Monday) 03/27/23	08:00 AM	05:00 PM	City Court	Lecture Hall, Coat Check	Custom

#15983

Date	In Time	Out Time	Function	Room	Setup
(Monday) 04/10/23	08:00 AM	05:00 PM	City Court	Lecture Hall, Coat Check	Custom

Licensee Initial: _____

#16047

Date	In Time	Out Time	Function	Room	Setup
(Monday) 04/17/23	08:00 AM	05:00 PM	City Court	Lecture Hall, Coat Check	Custom

#16048

Date	In Time	Out Time	Function	Room	Setup
(Monday) 04/24/23	08:00 AM	05:00 PM	City Court	Lecture Hall, Coat Check	Custom

- B. **PURPOSE OF LICENSE:** For the sole purpose of holding the **Dalton Municipal Court**
- C. **EXPECTED ATTENDANCE:** 200/event
- D. **DEPOSIT:** Deposit Waived *see Section H*
- E. **LICENSE FEE:** \$419.75 See Section H plus reimbursement of Event expenses, per Section 5 of the General Terms and Conditions. Per Section 5, any food and beverage shall be provided at an additional cost, and is not included within the license fee.
- F. **FOOD MINIMUM:** N/A (such amount is to be paid in addition to the License Fee and other fees set forth herein; does not include 20% service charge or sales tax.)
- G. **PAYMENT TERMS:** The deposit shall be due according to the following schedule:

Payment Type	Payment Order	Due Date	Amount Due
Initial Deposit	1	Deposit Waived	\$0.00
Final Payment	2	02/27/23	\$2,559.00 + additional equipment and services ordered, service charge and sales tax.
Final Payment	3	03/27/23	\$2,559.00 + additional equipment and services ordered, service charge and sales tax.
Final Payment	4	04/24/23	\$1,919.25 + additional equipment and services ordered, service charge and sales tax.

The balance of the license fee, reimbursable expenses and food and beverage fees shall be paid prior to the Event, no later than ten (10) days prior to event move in.

- H. **SPECIAL CONDITIONS:**
 - Deposit is waived in lieu of signed contract received by February 7, 2023.
 - Licensor is still operating and functioning for other events during the time of Licensee's events and, should additional business be booked on the same day as Licensee's event(s), the set guidelines will be reevaluated and updated if deemed necessary.
 - Licensee is permitted to utilize the Coat Check space for their event along with the tables, with pipe & drape, outside of the Lecture Hall entrance. Licensee's holding area for their event will be inside the Lecture Hall. Any additional space needed for Licensee's event beyond what is listed above will incur an additional charge.
 - Licensor is discounting the Lecture Hall room rental from \$590.00/day to \$419.75/day.
 - No smoking outside of the facility will be permitted.
 - In the event that Licensor has another client looking to book a large portion of our facility on one of Licensee's event days, Licensor reserves the right to meet with Licensee prior to said event day(s) to discuss other room options at Licensor's facility for Licensee's event.
 - Licensee must provide a minimum of (2) officers for each event day.
 - Licensee's cameras must be removed from the Lecture Hall and Upper Concourse at the end of each event day.
 - Licensor is not liable for any of Licensee's items stored onsite during Licensee's time at Licensor's facility.
 - Licensee must provide copy of liability insurance no later than (10) days prior to Licensee's first event.
 - Licensee operates under direction from the State Chief Justices as it relates to operating during the pandemic. In the event that the Chief Justice requires courts not to hold in-person appearances due to the pandemic, force majeure would apply.
 - Licensee would have (30) days prior to the event date to cancel their event.

Equipment included in License Fee:

- One-time room set.
- One podium with wired microphone (House PA System).

Licensee Initial: _____

- Four 8' skirted table and two chairs for solicitor's area.
- One high-top table for check-in.
- Licensor shall provide daily cleaning of premises throughout tenancy, including lobbies and restrooms.

Additional Rental Equipment:

- Wired microphone = \$25/microphone.
- 8' black pipe and drape = \$3/foot.
- Digital Mixer = \$75/mixer.

*Additional equipment or services will incur additional charges; Rate sheet for equipment and services available upon request.

*All food and beverage purchases are subject to 20% service charge and applicable sales tax, or tax-exempt certificate.

THE ABOVE TERMS ARE SUBJECT IN ALL RESPECTS TO THE GENERAL TERMS AND CONDITIONS ATTACHED HERETO, WHICH ARE INCORPORATED HEREIN AND MADE AN INTEGRAL PART OF THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement by their authorized representatives on the date set forth below.

Licensor:

**Dalton Convention Center
As Agent**

Sign: _____

Name: Doug Phipps

Title: General Manager, Dalton
Convention Center

Date: _____

Licensee:

**City of Dalton
Andrew Parker**

Sign: _____

Print: _____

Title: _____

Date: _____

Licensor Initial: _____

II. GENERAL TERMS AND CONDITIONS

1. **Grant of License; Premises.** Subject to the terms and conditions herein set forth, Licensor hereby grants to Licensee the right and license to use the rooms/space described in Section I.A, located within the Center (the "Premises") for the limited purpose of holding the event described in Section I.B (the "Event"), and not for any other purpose. Licensee shall not have access rights or privileges in or to any other part of the Center besides the Premises, except for the privilege of ingress and egress through the public corridors in the Center, on a non-exclusive basis, as necessary to utilize the Premises. Unless agreed otherwise in writing by Licensor, the Event is by "invitation only" and will not be open to the public.
2. **Dates of Use.** Unless this License Agreement (the "Agreement") is earlier terminated pursuant to the provisions hereof, Licensor grants to Licensee the right to use the Premises for the Event on the date(s) and time(s) set forth in Section I.A (the "Term"). The Term may not be extended by Licensee without obtaining Licensor's prior written permission (which permission may be withheld in Licensor's sole discretion). In the event the Term is extended pursuant to the preceding sentence, Licensee shall be responsible for any additional fees and costs required by Licensor in connection therewith.
3. **Duties of Licensor.** Except as may be otherwise specified in Section I.H, Licensor shall, at the sole cost and expense of Licensee, provide (or cause to be provided), any and all personnel as may be required by Licensor (in its sole discretion) to properly staff the Center for the Event and for the proper and safe presentation of the Event, including without limitation personnel to set up and take down the event (including all riggers), security personnel, ushers, crowd control, first aid (EMT), fire personnel, badge checkers, supervisors, electricians, janitorial staff, audio visual technicians, telecommunications staff, internet technology staff, box office staff, ticket takers, concession and catering staff and other necessary support services customarily provided by Licensor for a like event, as applicable, and additional items, equipment, personnel and services (such as telephone, internet and other services and utilities) which Licensee requests to be provided in connection with the Event and which Licensor is reasonably able to provide, all of which shall be subject to the approval of Licensor. It is understood by Licensee that services, labor and equipment will be provided only to the extent of existing available inventory and in consideration of other Center events and activities.
4. **Non-Refundable Deposit.** A non-refundable deposit in the amount set forth in Section I.D is due and payable to Licensor according to the payment schedule set forth in Section I.G. Such deposit shall be credited to the License Fee and reimbursable expenses described below. Licensee shall not be entitled to the payment of any interest whatsoever on the deposit paid to Licensor. This deposit is non-refundable without regard to whether Licensee makes use of the Premises. If the deposit (or any portion thereof) is not paid on or before the due date(s) specified in I.G, Licensor may terminate this Agreement, in its sole discretion, by providing written notice of termination to Licensee. Any such termination shall be in addition to any other right or remedy available to Licensor at law or in equity arising out such breach by Licensee, including Licensor's right to recover damages.
5. **License Fee.** In consideration of the license granted hereunder, Licensee agrees to pay to Licensor (i) a license fee in the amount set forth in Section I.E, plus (ii) the "Food and Beverage Fee" as described in Section 6 below, plus (iii) reimbursement for any and all costs incurred by Licensor in connection with Licensee's use of the Premises, including, without limitation, costs incurred for the provision of the items, services and personnel described in Section 3 above. Unless otherwise set forth in Section I.G or I.H, all such fees shall be paid by Licensee prior to the Event, according to the schedule set forth in Section I.G. Any additional costs relating to changes in the event requirements shall, unless otherwise agreed by Licensor, be paid by Licensee by credit card on the day of the Event. In the event Licensee fails to remit payment when due of any amounts due, interest shall accrue on such overdue amounts at the rate of 1 ½ % per month (18% per annum), or the maximum rate permitted by law, whichever is less. Unless otherwise agreed by Licensor, payments shall be made by money order, wire transfer, or certified check. A \$30.00 charge will be added payment should a check be submitted to the Licensor and return NSF (Not Sufficient Funds).
6. **Food and Beverage.**
 - A. Licensor shall have the exclusive right to provide food and beverage services in connection with the Event. No other individual or organization is permitted to bring food or beverage products into the Center without the express written consent of Licensor.
 - B. Licensee shall pay Licensor for all food and beverage products and services provided at the Event (the "Food and Beverage Fee"), in accordance with the payment schedule set forth in Section I.G. Licensee acknowledges that the License Fee has been established based on Licensee's representation that the Food and Beverage Fee to be paid by Licensee hereunder shall be no less than the amount of the Food and Beverage Minimum set forth in Section I.F. In the event the actual Food and Beverage Fee is less than the Food and Beverage Minimum, Licensor shall have the right to increase the License Fee by an amount necessary to compensate the Center for the deficiency, as described in Section I.F and/or I.H.
 - C. No later than 10 business days prior to the Event, the work order containing the estimate of the Food and Beverage Fee shall be revised to reflect any changes in the "guaranteed" number of people attending the Event. Once such work order is entered into, Licensee shall be required to pay, at a minimum, the Food and Beverage Fee specified therein, regardless of any subsequent changes requested to the menu or attendance number. Unless otherwise set forth in Section I.G or I.H, any remaining balance of the Food and Beverage fee not previously paid to Licensor shall be paid to Licensor by credit card on the day of the Event.
7. **Event Requirements.** Licensee shall provide to Licensor all necessary set-up instructions (personnel, equipment, utilities, layout, etc.) for the Event no later than ten (10) days prior to the commencement of the Term (or, if this Agreement is executed and delivered less than 10 days from the commencement of the Term, then immediately upon execution hereof). Such

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instructions shall include a copy of a full and complete floor plan for any exhibit at the Event. If such instructions are not provided to Licensor by such date, or if changes are made to such instructions after they have been provided to Licensor and Licensor incurs additional costs or expenses as a result of such changes, Licensee shall be responsible for such additional costs and expenses at Licensor's prevailing rates. No set-up of any exhibits may begin without proof of approval of such floor plan by the Fire Marshal of the City or County in which the Center is located, as applicable, and by the Licensor.

8. **Advertising and Promotion.** Licensee shall not publicize, or permit to be publicized, the Event prior to execution of this Agreement by Licensor. Licensee warrants that all advertising of the Event will be accurate and truthful, and will include accurate information of event times and ticket prices (if applicable). All advertising of the Event shall be subject to the prior written approval of Licensor (which shall not be unreasonably withheld). All print and broadcast materials associated with the Event shall use the official facility name. Licensor reserves the right to display or sell, without limitation, advertising and promotions within and about the Center, and to retain all income from such display or sale. Licensee shall not interfere with, block, remove or otherwise disturb advertising or promotions within or about the Center without the prior written consent of Licensor. Signs containing commercial or sponsored advertising messages must be approved in advance in writing by Licensee. Licensee agrees to open the Event to the public in accordance with advertised times and in compliance with Center policies.
9. **Licenses; Permits.** Licensee shall secure prior to commencement of the Term, all licenses, permits and approvals that may be required in connection with the use of the Premises for the Event, including without limitation those required by ordinances, rules and/or regulations of governmental authorities, and all licenses required by any performing arts societies such as ASCAP or BMI or SESAC for music or other copyrighted works to be utilized or displayed at the Event; provided, however, Licensee shall not be required to secure any permits for the general occupancy of the Center. Licensee shall defend, indemnify and hold harmless Licensor and the Owner from any and all claims, fees, expenses, costs or damages, including reasonable attorneys' fees and court costs, suffered or incurred by such parties in connection with any breach of this paragraph.
10. **Insurance.**
 - A. **Coverage.** Licensee shall obtain, at its own cost and expense, with insurance companies currently rated A VIII or better by Best's Key Rating Guide, commercial general liability insurance that insures all operations of Licensee contemplated by this Agreement. Such insurance shall name the Northwest Georgia Trade & Convention Center Authority as additional insureds. Such insurance shall be written with a limit of at least One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury, property damage and personal injury. Licensee shall also maintain, at its own cost and expense, with insurance companies currently rated A VIII or better by Best's Key Rating Guide, commercial automobile liability insurance, including coverage for the operation of owned, leased, hired and non-owned vehicles, in the minimum amount of One Million Dollars (\$1,000,000) per accident (PI and PD combined single limit). Such commercial general liability insurance shall be primary to and not contributory with any insurance coverage or self-insured program of Licensor. Licensee shall also maintain, at its own cost and expense, workers' compensation insurance in respect of all employees and any borrowed, leased or other person to whom such compensation may be payable by Licensee.
 - B. **Certificates.** Certificates evidencing insurance required pursuant to this Section 10 shall be provided to Licensor not less than thirty (30) days prior to commencement of the Term, provided that if this Agreement is executed and delivered less than thirty (30) days prior to the Term, the certificates shall be provided immediately upon execution of this Agreement. The policies shall also provide, and the certificate shall so note, that the coverages may not be canceled or that a major change in coverage may not be implemented without at least thirty (30) days' prior written notice given to Licensor.
11. **Indemnity; Limitation on Liability.**
 - A. **Indemnification.** Licensee hereby agrees to indemnify, defend, and hold harmless Licensor, the Owner and the "Center", and the Northwest Georgia Trade & Convention Center Authority, and their respective officials, officers, directors, agents, employees, successors and assigns from and against any and all claims, damages, expenses, costs (including, without limitation, reasonable attorneys' fees) and liabilities (collectively, "Claims") arising or alleged to arise from (i) any breach of this Agreement by Licensee, (ii) any alleged or actual violation or infringement by Licensee or its employees, agents or contractors of any copyright or other intellectual property right of a third party in connection with the Event or activities occurring at the Event, (iii) the use of occupancy of the Center by Licensee, its employees, agents, contractors, exhibitors, invitees, guests or patrons, and (iv) the acts or omissions, or violation of any applicable law, rule, regulation or order, of or by Licensee or any of its employees, agents, contractors, exhibitors, invitees, guests or patrons. Notwithstanding the foregoing, the obligations of Licensee in this paragraph shall not apply to the extent the Claims or Costs arise out of the gross negligence or intentional misconduct of Licensor or its employees or agents.
 - B. **Condition of Premises.** Licensor makes no warranty or representation to Licensee of any kind (express or implied) regarding the suitability of or compliance with applicable laws by the Premises, or any portion thereof, as built, for any aspect of the use Licensee expects or intends to make of the Premises. Licensee further agrees that the Premises shall be delivered by Licensor to Licensee "AS IS," "WHERE IS" and "WITH ANY AND ALL FAULTS" and without warranty, express or implied, as to the merchantability or fitness for the use thereof for any particular purpose.
 - C. **Limitation on Liability.** Licensor shall not be liable under any circumstances to Licensee or to any third party for any indirect, special, punitive or consequential damages, or loss of revenue or profits, arising in connection with this Agreement, even if Licensor has been advised of the possibility of such damages. Furthermore, Licensor shall not be responsible or liable for any injury or death to person or loss or damage to property sustained by Licensee, its employees, agents, exhibitors, contractors, or any other person claiming through Licensee resulting from any condition, accident or occurrence in or upon the Premises, unless such injury, loss or damage is due to the gross negligence or intentional misconduct of Licensor or its employees or agents.

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D. Survival. The provisions of this Section 11 shall survive any expiration or termination of this Agreement.

12. **Compliance With Laws and Rules of the Premises; Taxes.** Licensee shall fully abide by, conform to and comply with, and shall cause every person under its direction or control who is connected with the performance of any aspect of this Agreement to fully abide by, conform to and comply with all applicable laws, rules, regulations and ordinances of the United States of America, the State of Georgia, the City of Dalton and their respective agencies, as well as all rules, regulations and policies of Licensor for the use, occupancy and operation of the Premises. Licensee agrees to pay promptly all taxes assessed on its activities at the Center hereunder, including any sales tax on the payment of Licensee's fees hereunder (which shall be in addition to the amounts due hereunder).

13. **Use of the Premises.**

- A. **Duty of Care; Return of Premises.** Licensee shall use the Premises in a safe and careful manner. Licensee agrees not to do or allow to be done any act which shall mar, deface or injure any part of the Premises, nor shall Licensee change or rearrange any equipment or other property on the Premises without Licensor's prior written approval. Upon expiration of the Term, Licensee shall deliver up to Licensor the Premises in as good condition and repair and in the condition received at the beginning of the Term, excepting usual wear and tear. Upon expiration of the Term, Licensee shall immediately remove from the Center any and all property, goods, or other effects belonging to, or brought into the Center by, Licensee, its employees, agents, contractors, representatives, guests or invitees. If Licensee fails to do so, Licensor may store or cause to be stored any such property at Licensee's expense. Alternatively, Licensor may deem such property to be abandoned and sell such property in such a manner and to such an extent as is permitted by applicable law, and apply the proceeds of such sale(s) in a manner determined by Licensor in its sole discretion.
- B. **Licensor Access and Control.** Licensee shall, and shall cause its employees, agents and exhibitors and contractors to, follow any and all rules, regulations and policies of the Center, including any instructions of Licensor's representatives regarding Licensee's use and occupancy of the Center. In licensing the use of the Premises to Licensee, it is understood that Licensor does not relinquish the right to control the management thereof and to enforce all necessary rules and regulations. Licensor shall at all times have the right to limit the number of people attending the Event, for the purpose of ensuring the safety of people and property at the Premises.
- C. **Disorderly Conduct.** Licensor reserves the right at all times to refuse admission to or to cause to be removed from the Event, the Premises and/or the Center any disorderly person, including Licensee's employees, agents, contractors, exhibitors, guests and invitees, as determined by Licensor in its sole discretion, and in the event of the exercise of such authority, Licensee hereby waives any and all claims for damages against Licensor and the Owner on account thereof.
- D. **Other Events.** Licensee acknowledges that other events or activities may be scheduled within the Center during the Term in areas other than the Premises. Licensee acknowledges that the public parking areas surrounding the Center are not exclusive to or for the Event contemplated by this Agreement. Licensee agrees to adhere to a "good neighbor" policy and will not permit or allow to be permitted, any activity in the Premises that will disturb use of other areas of the Center by any other individual, entity, organization or event.
- E. **Broadcasting.** Licensee shall not televise or broadcast the Event or any part thereof without the prior written approval of Licensor (which may be withheld in Licensor's sole discretion, and may be conditioned on Licensee paying an additional fee for the privilege to broadcast the Event, or Licensee procuring additional insurance to cover such broadcasting activities).

14. ~~**Tickets/Box Office.**~~

- A. ~~Generally. Unless otherwise agreed to in writing, Licensor shall provide all ticket and/or box office services for Licensee in connection with the Event. As consideration for the performance of such duties by Licensor, Licensee shall pay Licensor any additional fees described in Section 1-G. Licensor shall have complete control over the ordering, sale and distribution of tickets for the Event, as well as complete control over the box office, which will sell tickets to the Event only on the day of the Event, unless prior arrangements have been agreed to in writing by the parties hereto.~~
- B. ~~Ticket Proceeds. Licensor shall have complete and sole custody and control of any and all monies received from the sale of tickets. All such funds shall be the rightful property of Licensor for the purposes of applying same toward payment of any balance for license fees and other fees due or to become due to Licensor, in accordance with the terms and conditions of this Agreement. The balance shall be remitted to Licensee immediately following the Event.~~
- C. ~~Sale of Tickets. Licensee agrees that all tickets to the Event shall be sold at the prices as advertised by Licensee and approved by Licensor, and that any changes in ticket prices shall require the prior approval of Licensor. Licensee shall be responsible for all check and credit card service charges and other similar fees, charges and expenses incurred in connection with the sale of tickets for the Event. Licensee shall be responsible for the credit worthiness of its guests and patrons, and shall cover and be responsible for any invalid or fraudulent checks, checks returned due to insufficient funds or for any other reason, credit card penalties and similar or related penalties, fees, charges and/or expenses incurred by Licensor in connection herewith. Licensee will not permit tickets or passes to be sold or distributed in excess of the maximum capacity of the Premises, as determined by Licensor in its sole discretion.~~

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- ~~D. Taxes. Licensee shall be responsible for filing of federal, state and local tax returns and the payment of all sales, admission, excise and other taxes due, if any, in connection with the Event or admissions thereto. Licensor shall have the right (but not the obligation) to collect and/or withhold any such taxes or business license fees due in connection with ticket sales, and to remit such taxes directly to the proper authority or agency.~~
- ~~E. Complimentary Tickets. Licensor reserves the right to limit the number of complimentary tickets to be issued for the Event. Unless otherwise specified in Section I above, Licensee shall provide to Licensor, free of charge, at least forty (40) complimentary tickets or admission credentials for each day of the Event.~~
- ~~15. Programs, Novelties and Merchandise. Unless otherwise agreed by Licensor in writing, Licensor reserves the exclusive right to operate, or contract for the operation of, a coat checkroom and program, novelty and/or merchandise sales at the Event (including without limitation programs, t-shirts, CD's, books, cassette tapes, DVD's, VHS tapes, lapel pins, photographs and souvenirs), and to receive all income therefrom.~~
16. **Termination.** Either party may terminate this Agreement in the event the other party fails to perform any of its material obligations under this Agreement, and such failure has not been cured within fifteen (15) days (or 5 days in the event of a payment default) after the date on which the breaching party receives written notice describing such breach in reasonable detail. Notwithstanding the foregoing, in the event Licensee fails to provide the insurance certificate required herein by the date due hereunder, or if Licensor may suffer irreparable harm as a result of the breach by Licensee, Licensor shall not be required to wait any period of time before terminating this Agreement or pursuing any remedies hereunder or under applicable law. Any termination of this Agreement shall not prejudice any other right or remedy available to the non-breaching party at law or in equity. In the event Licensor terminates this Agreement due to a breach or default by Licensee, Licensor may retain as damages any fees paid by Licensee under this Agreement (including the deposit), without prejudice to any other legal rights or remedies Licensor may have.
17. **Cancellation of Event by Licensee.** In the event of a cancellation by Licensee of the Event (except as may be authorized by Section 16 above), no deposit refund shall be made. Additionally, and unless indicated otherwise in Section I.H above, Licensee shall be obligated to pay the full amount of fees contemplated to be due hereunder had the Event actually occurred, including without limitation the Food and Beverage Minimum. The parties agree that Licensor will be damaged by any such cancellation, and that the exact amount of such damages would be either impossible or inconvenient to prove, and that the amounts set forth in the preceding sentence are a reasonable estimate of the amount of such damages. The parties further agree that such amount shall constitute liquidated damages, and not a penalty of any kind. The remedies set forth in this section are in addition to, and not in lieu of, any other rights or remedies Licensor may have, at law or in equity, in the event of a breach or cancellation of this Agreement by Licensee.
18. **Force Majeure.** Should Licensee be unable to take possession of the Premises or present the Event due to an Event of Force Majeure, neither Licensor nor Licensee shall have any liability under the Agreement and Licensee, as its sole remedy and relief, shall receive a refund of any uncommitted or cancelable advance payments less any expenses incurred by Licensor in preparing for the Event. The term "Event of Force Majeure" shall mean any and all acts of God, strikes, lock-outs, other industrial disturbances, acts of the public enemy, laws, rules and regulations of governmental or quasi-governmental entities, wars or warlike action, arrest or other restraint of government (civil or military), blockades, insurrections, riots, vandalism, terrorism or terrorist threats, epidemics, lightning, earthquakes, hurricanes, storms, floods, washouts, fire or other casualty, civil disturbances, explosions, breakage or accidents to equipment or machinery, threats of bombs or similar interruptions, confiscation or seizure by any government or public authority, nuclear reaction, radioactive contamination, accidents, or any other causes, whether of the kind herein enumerated or otherwise that are not reasonably within the control or caused by the party claiming the right to delay the performance on account of such occurrence; provided, however, in no circumstances shall the monetary inability of a party to perform any obligation contained in this Agreement be construed to be an Event of Force Majeure. Upon removal or cessation of the Event of Force Majeure, the parties' respective rights and obligations hereunder shall be reinstated for any and all subsequent sessions of the Event remaining in the Term (if any). However, Licensor and Licensee stipulate and agree that Force Majeure shall not include the novel coronavirus Covid-19 pandemic, which is ongoing as of the date of the execution of this Agreement.
19. **Non-Discrimination / Americans With Disability Act.** Licensee agrees not to discriminate against any employee or applicant for employment to be employed in the performance of or in relation to this Agreement, with respect to the hire, tenure, terms, conditions or privileges of employment, or any other matter directly or indirectly related to such employment, whether on account of race, marital status, color, religion, national origin, ancestry, age, sex, or handicap except where based on a bona-fide occupational qualification. With respect to the Event, Licensee recognizes that it is subject to the provisions of Title III of the Americans With Disabilities Act, as amended ("ADA"). To the extent that Licensee reconfigures, modifies, alters, rearranges, or otherwise prepares or "sets up" the Premises or any other portion of the Center in order to accommodate the Event, Licensee shall be responsible for ensuring that such areas comply (and continue to comply throughout the Term) in all respects with the ADA, including without limitation with regard to accessibility, usability, and configuration. Licensee shall be solely responsible for providing auxiliary aids or any modification of the Premises or other portions of the Center that may be required in order to accommodate the Event, and for ensuring that the policies, practices, and procedures it applies in connection with the Event are in full compliance with the ADA.
20. **Miscellaneous.**
- A. **Entire Agreement; Amendments; Governing Law.** This Agreement represents the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes any and all prior understandings, written or oral, among the parties hereto. This Agreement may only be modified or amended by a subsequent written agreement signed by an authorized

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representative of Licensor and by Licensee. This Agreement shall be governed by the laws of the State of Georgia applicable to contracts made and to be performed in such state, without regard to conflicts of laws principles.

- B. **Notices.** Notices by Licensor and Licensee to each other shall be deemed duly given if (i) delivered personally with a signed receipt evidencing such delivery, (ii) transmitted by telecopier with confirmation of transmission, (iii) mailed by certified mail, return receipt requested, postage prepaid, or (iii) delivered by duly recognized air courier service to the addresses indicated in the opening paragraph hereof. All notices sent to Licensor shall be sent to the attention of General Manager.
- C. **Assignment.** This Agreement shall not be assigned nor shall Licensee's right to use the Premises be sublicensed by Licensee without the prior written consent of Licensor in each instance, which may be withheld in Licensor's sole discretion. Licensor may assign this Agreement at any time to any party including, without limitation, any successor owner or operator of the Premises.
- D. **No Agency.** The relationship between Licensor and Licensee is that of independent contractors and not agents or employees. Under no circumstances shall this license be considered a contract of partnership or joint venture. Neither party shall be liable for any of the debts, accounts, obligations or other liabilities of the other party, its agents or employees, and neither party shall have any authority to obligate or bind the other party in any manner except as may be expressly provided herein.
- E. **Waivers.** No waiver shall be effective unless in writing and executed by the party to be charged with such waiver. No waiver shall be deemed a continuing waiver in respect of any subsequent breach or default, whether of similar or dissimilar nature, unless expressly so stated in writing.
- F. **Severability.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.
- G. **Effectiveness of Agreement.** This Agreement will not be effective or binding upon Licensor until it has been executed and delivered by Licensor.

[END OF AGREEMENT]

Licensee Initial: _____