



**MAYOR AND COUNCIL MEETING  
MONDAY, JULY 20, 2020  
6:00 PM  
DALTON CITY HALL**

**A G E N D A**

**Call to Order**

**Pledge of Allegiance**

**Approval of Agenda**

**Public Commentary:** (Must Complete Commentary Contact Card Prior To Speaking)

**Proclamation:**

- [1.](#) National Soccer Day - July 28, 2020 - Mr. Jorge Paez

**Minutes:**

- [2.](#) Mayor and Council Minutes of June 15, 2020

**Unfinished Business:**

- [3.](#) Second Reading -- Ordinance 20-10 – Article II “Collection” of Chapter 94 “Solid Waste”

**New Business:**

- [4.](#) (1) New 2020 Alcohol Beverage Application
- [5.](#) Renewal of School Resource Officer Contract
- [6.](#) Appointment of Mr. Truman W. Whitfield, III to the Public Safety Commission to fill the unexpired term of Mr. Kenneth Willis
- [7.](#) Reappointment of Kenneth Harless to the Zoning Appeals Board
- [8.](#) Waiver of Real Estate Reversion – Legion Post 112 Property
- [9.](#) CDBG Consultant Amendment #2 with BLULYNX Solutions, Inc.
- [10.](#) CDBG Small Business Loan Agreements
- [11.](#) FY-2020 Budget Amendment #4

12. Professional Services Agreement with Westmor Fluid Solutions, LLC to Refurbish the Fuel Tank and Pump Systems on the Jet A Refueler and Install on New Truck Chassis for Dalton Municipal Airport.
13. Change Order Request - City Email Migration Project
14. Remote Monitoring and Management Service to Replace Cisco AMP and TeamViewer.
15. Contract for Services with Northwest Georgia Paving, Inc. for the 2020 Milling and Resurfacing of Various City Streets
16. First Reading - Ordinance 20-11- Amendment to the Unified Zoning Ordinance

**Supplemental Business**

**Adjournment**

# PROCLAMATION



## NATIONAL SOCCER DAY JULY 28, 2020

**WHEREAS**, National Soccer Day is celebrated on July 28<sup>th</sup>; and

**WHEREAS**, soccer is played by 250 million people in over 200 countries and considered the most popular sport in the world; and

**WHEREAS**, our community has many GHS A state ranked championship teams including the Dalton High School Catamounts, the Northwest Bruins, the Southeast Raiders, and the Coahulla Creek Colts; and

**WHEREAS**, the City of Dalton has a strong presence of soccer in our community starting in 1986 with the Adult Dalton Mexico Soccer league, now named Dalton Soccer League, being the oldest competitive soccer league in the city of Dalton. Dalton Soccer League has paved the path for these young athletes to practice competitive soccer year round and not only during soccer season; and

**WHEREAS**, the Dalton Recreation Department has been a tremendous help in forming a partnership with the North Georgia Soccer Academy, (CFA) Correcaminos Futbol Academy, and is a pathway for young athletes to have access to professional soccer guidance in partnership with Chattanooga Redwolves Soccer Club, a USL1 Soccer team.

**NOW, THEREFORE BE IT RESOLVED**, I, David Pennington, Mayor of the City of Dalton, Georgia hereby proclaim July 28, 2020 as “**NATIONAL SOCCER DAY**” in recognition of all the outstanding local soccer team players, coaches and parents.

*In witness whereof I have hereunto set my hand and caused the seal of this city to be affixed.*

Mayor \_\_\_\_\_

Date July 6, 2020 \_\_\_\_\_

THE CITY OF DALTON  
MAYOR AND COUNCIL MINUTES  
JUNE 15, 2020

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 Harlan, Derek Waugh (teleconference), Tyree Goodlett, and Gary Crews, City Administrator Jason Parker and City Attorney Gandhi Vaughn.

PLEDGE OF ALLEGIANCE

The audience was led in the Pledge of Allegiance.

APPROVAL OF AGENDA

On the motion of Council member Harlan, second Council member Goodlett, the Mayor and Council approved the June 15, 2020 agenda. The vote was unanimous in favor.

MINUTES

The Mayor and Council reviewed the Mayor and Council Regular Meeting Minutes of May 18, 2020. On the motion of Council member Goodlett, second Council member Waugh, the minutes were approved. The vote was unanimous in favor.

The Mayor and Council reviewed the Mayor and Council Work Session Minutes of May 27, 2020. On the motion of Council member Crews, second Council member Goodlett, the minutes were approved. The vote was unanimous in favor.

PROCLAMATION

Amateur Radio Week - June 21-27, 2020 – Mr. Jack Thompson, Dalton Amateur Radio Club

The Mayor and Council proclaimed the week of June 21-27, 2020 as Dalton Amateur Radio Week where Amateur Radio operators are celebrating over a century of the miracle of the human voice broadcast over the airwaves.

(2) NEW 2020 ALCOHOL BEVERAGE APPLICATIONS

The Mayor and Council reviewed the following New 2020 Alcohol Beverage Applications:

Business Owner: Creative Arts Guild Community Support Corporation  
d/b/a: Creative Arts Guild Community Support Corporation  
Applicant: Leanne Martin  
Business Address: 520 West Waugh St  
Type: Pouring Beer, Pouring Wine  
Disposition: New

Business Owner: Tenoch, LLC  
d/b/a: Tenoch  
Applicant: Laura Vital  
Business Address: 319 N. Hamilton St.  
Type: Pouring Beer, Pouring Wine, Pouring Liquor  
Disposition: New

On the motion of Council member Harlan, second Council member Goodlett, the Mayor and Council approved the Applications. The vote was unanimous in favor.

RESOLUTION 20-12

The Mayor and Council reviewed Resolution 20-12 regarding the Mayor and City Council of the City of Dalton, Georgia, Authorizing the Adoption and Approval of the Fiscal Year 2020 - 2021 Annual Action Plan for CDBG Program, a required annual report to HUD that provides the activities for June 1, 2020 through June 30, 2021. On the motion of Council member Harlan, second Council member Waugh, the Resolution was approved. The vote was unanimous in favor.

REVISION OF DRUG-FREE WORKPLACE POLICY

On the motion of Council member Harlan, second Council member Waugh, the Policy was tabled for further information. The vote was unanimous in favor.

AGREEMENT FOR THE CORONAVIRUS AID, RELIEF AND ECONOMIC SECURITY (CARES) ASSISTANCE BETWEEN GEORGIA DEPARTMENT OF TRANSPORTATION AND CITY OF DALTON MUNICIPAL AIRPORT

The Mayor and Council reviewed the Agreement for the Coronavirus Aid, Relief and Economic Security (Cares) Assistance the Between Georgia Department of Transportation and the City of Dalton Municipal Airport for reimbursement for eligible expenses in the amount of \$69,000 to offset lost revenue due to the COVID-19 pandemic. On the motion of Council member Waugh, second Council member Harlan, the Mayor and Council approved the agreement. The vote was unanimous in favor. A copy of this complete agreement is a part of these minutes.

AGREEMENT WITH MUNICODE, INC FOR CITY WEBSITE UPDATE

The Mayor and Council reviewed the Agreement with Municode Inc., for a City Website update. The agreement covers the revision of the City's website, migration of existing data hosting and support as well as ADA compliance in the amount of \$34,500 for the first year and \$6,000 annual maintenance the following years. On the motion of Council member Harlan, second Council member Waugh, the Mayor and Council approved the agreement. The vote was unanimous in favor.

STATION ROOF REPLACEMENT - DFD STATION ONE

The Mayor and Council reviewed the contract between Porter Roofing Contractors Inc. and the City of Dalton for Station One Roof Replacement in the amount of \$271,870.00. On the motion of Council member Goodlett, second Council member Crews, the Mayor and Council approved the contract. The vote was unanimous in favor.

PROPOSAL FROM AP TRITON FOR DALTON WHITFIELD FIRE SERVICES STUDY

The Mayor and Council reviewed a Proposal from AP Triton for Dalton Whitfield Fire Services Study in the amount of \$60,265.00. City Administrator Jason Parker stated the proposal is to study the efficiency of the current delivery of fire services in incorporated Dalton and Unincorporated Whitfield County and offer recommendations. On the motion of Council member Crews, second Council member Waugh, the Mayor and Council approved the study. The vote was unanimous in favor.

CHANGE ORDER 001 – RICHARDS AND ASSOC. ENGINEERING, INC. FOR COVIE DRIVE SITE DESIGN SERVICES

The Mayor and Council reviewed Change Order 001 – Richards and Assoc. Engineering, Inc. for Covie Drive Site Design Services in the amount of \$1,500.00 to cover the cost of additional Errors and Omissions insurance coverage for this project. On the motion of Council member Goodlett, second Council member Harlan, the Change Order was approved. A complete copy of this Order is a part of these minutes. The vote was unanimous in favor.

FIRST READING - ORDINANCE 20-10

The Mayor and Council held a first reading of Ordinance 20-10 To Repeal Article II “Collection” Of Chapter 94 “Solid Waste” Of The Revised Code Of Ordinances Of 2001 Of The City Of Dalton In Its Entirety And To Substitute In lieu Thereof Article II “Collection” Of Chapter 94 “Solid Waste” As Provided Herein; To Provide For The Collection Of Garbage, Refuse, Recyclable Materials And Yard Trimmings; To Provide For A System Of Fees And Fines For The Violation Of Said Chapter; To Provide An Effective Date; To Repeal All Ordinances Conflicting Therewith; To Provide For Severability; And For Other Purposes.

PUBLIC COMMENTARY

On June 15, 2020, the citizens listed below, as well as organizers from the Southern Advocacy Group and the North Georgia Justice Coalition, held marches earlier this month and made public comments/demands to the Mayor and Council regarding various community issues such as:

- Removing the General Joseph E. Johnston confederate statue monument from Downtown Dalton to a different, more appropriate location (not downtown)
- Keeping the General Joseph E. Johnston confederate statue monument in Downtown Dalton
- Increase funding for public education and social service programs
- Implement “8 Can’t Wait” Reforms
- Reduce DPD and WCSO budgets and move funds towards rehabilitation programs (Defund Police)
- Make Dalton and Whitfield County budgets more accessible and transparent to the general public
- Terminate Relations with ICE and 287G

Citizen Commentary:

- 1.) Savannah Thomas
- 2.) Nicholas Perez Curreno
- 3.) David Thomas
- 4.) Bianca Mugia
- 5.) Ms. Francis Stone
- 6.) Mary Gutierrez Hernandez
- 7.) Brad Bailey
- 8.) Alejandra Garcia
- 9.) Sergio Reyes
- 10.) Michael Kelly
- 11.) William Drew Greeson
- 12.) Nick Moles
- 13.) Rashan Mack
- 14.) Tyler Martin
- 15.) Rod Miller
- 16.) Jessica Hocker
- 17.) Anne Piscateli
- 18.) Wendell Bruce
- 19.) Scott Delay
- 20.) Alicia Lennard
- 21.) Marjorie Greene
- 22.) Matt Hickman
- 23.) William Barragan
- 24.) Charles Whittle
- 25.) Zach Layer
- 26.) Mary Johnson
- 27.) Mary Anne
- 28.) Vanessa Blackman

SUPPLEMENTAL BUSINESS

The next Mayor and Council meeting will be held July 6, 2020.

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was Adjourned at 8:23 p.m.

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Bernadette Chattam  
City Clerk

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David Pennington, Mayor

Recorded  
Approved: \_\_\_\_\_  
Posted: \_\_\_\_\_



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 07/20/2020

**Agenda Item:** Second Reading -- City of Dalton Ordinance No. 20-10 - Article II "Collection" of Chapter 94 "Solid Waste"

**Department:** Public Works

**Requested By:** Andrew Parker

**Reviewed/Approved by City Attorney?** Yes

**Cost:** N/A

**Funding Source if Not in Budget** N/A

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

Based on ongoing discussions with the Public Works Committee, the City Council Work Session on 05/27/2020, first reading of the ordinance on 06/15/2020, and feedback from the community, the City Attorney & Public Works Director have prepared a revised ordinance pertaining to the City's refuse collection program.



CITY OF DALTON  
ORDINANCE  
Ordinance No. 20-10

An Ordinance Of The City Of Dalton To Repeal Article II “Collection” Of Chapter 94 “Solid Waste” Of The Revised Code Of Ordinances Of 2001 Of The City Of Dalton In Its Entirety And To Substitute In lieu Thereof Article II “Collection” Of Chapter 94 “Solid Waste” As Provided Herein; To Provide For The Collection Of Garbage, Refuse, Recyclable Materials And Yard Trimmings; To Provide For A System Of Fees And Fines For The Violation Of Said Chapter; To Provide An Effective Date; To Repeal All Ordinances Conflicting Therewith; To Provide For Severability; And For Other Purposes.

WHEREAS, the Article II “Collection” of Chapter 94 “Solid Waste” Of The Revised Code Of Ordinances Of 2001 Of The City Of Dalton has been amended from time to time;

WHEREAS, the City desires to revise and amend Article II “Collection” of Chapter 94 “Solid Waste” to provide clarity and the orderly collection of garbage, refuse, recyclable materials and yard trimmings;

BE IT ORDAINED by the Mayor and Council of the City of Dalton in regular meeting assembled and by authority of the same it is hereby ordained as follows:

-1-

The recitals contained herein above are incorporated herein by reference and are adopted as findings and determinations of the Mayor and Council.

-2-

Article II “Collection” of Chapter 94 “Solid Waste” of the Revised Code Of Ordinances Of 2001 of the City of Dalton, as amended, is hereby repealed in its entirety. Article II “Collection” of Chapter 94 “Solid Waste” is hereby adopted and shall read as follows:

ARTICLE II. - COLLECTION

DIVISION 1. – GENERALLY

Sec. 94-25. – City responsible for sanitation services generally.

- (a) Solid waste shall be defined as: any discarded waste, except water-carried body waste and recovered materials and shall include garbage, rubbish, refuse, cartons, boxes, wood, tree branches, yard trimmings, furniture,

appliances, metal, tin cans, glass, crockery, or dunnage; ashes; street refuse; dead animals; animal manures; electronic waste; residue from incineration; food processing waste; and any other waste material in a solid, semi-solid, or liquid state not otherwise defined. Solid waste shall not include medical waste, hazardous waste, or construction and demolition debris.

- (b) Solid waste generated by or accumulated from single-family dwellings, individually owned condominiums and townhomes, and multi-family dwellings which are triplex or less in the City shall be collected, conveyed, and disposed of by the Public Works Department, its designated agents, or contract representatives.
- (c) All solid waste generated or accumulated by commercial activity or businesses in the City shall be collected, conveyed, and disposed of by a private hauler properly permitted by applicable local, State, or Federal agencies.
- (d) The City shall collect garbage, refuse, recyclables, and yard trimmings in accordance with a schedule established from time to time by the City and kept on file by the Public Works Department.
- (e) No person shall haul, convey or transport in any manner garbage, refuse, yard trimmings, junk or solid waste matter in any form over and along the streets and other public places upon any motor vehicle, trailer or other mode of transportation without having such garbage, refuse, yard trimmings, junk or solid waste matter tightly covered with a canvas tarpaulin, or other equally suitable material, to prevent littering the streets or other public places of the City. Transportation of baled or containerized solid waste matter is exempted from this provision.
- (f) Any motor vehicle, trailer or other mode of transportation used for hauling solid waste shall comply with all local, State, and Federal laws.
- (g) Any person, business or entity who shall violate this section shall be subject to the general penalty as set forth in section 1-7 of the Code. The Director of Public Works and the Chief of Police, or their respective designee, are authorized and directed to make inspections for the orderly compliance with this section and to issue citations for any violation of this section.

Sec. 94-26. - Use of City garbage and recycling containers; penalty.

- (a) *Generally.* No person within the City shall throw or dispose of any paper, trash, fruit, fruit peelings, food scraps or any other garbage or refuse of any kind on the streets, sidewalks, or other public roads or public places nor shall any of such things be left open and exposed on the premises of any person. Except as provided in section 94-29 and subsection (d) herein, all such garbage must be placed in a garbage container provided by the City to be disposed of as provided in this section.
- (b) *Ownership.* Such garbage and recycling containers are and shall remain the property of the City. It shall be unlawful to remove any such garbage or recycling container from the address to which it is assigned without the written permission of the Director of Public Works. It shall be unlawful for the owner of the property to which any such garbage or recycling container is assigned to allow such garbage or recycling container to remain on the curbside later than midnight on the day of collection or to deposit such garbage or recycling container on the curbside of the property earlier than 5:00 p.m. of the day immediately preceding the next scheduled pickup. The garbage and recycling container shall be stored by the property owner when not on the curbside in such a manner that it is not visible from the curbside of the property.
- (c) *Preparation and use.* All garbage shall be placed in plastic bags. Plastic bags shall be securely tied at the top. Garbage placed in the plastic bag must not exceed the capacity of the bag causing it to tear open. All garbage must be stored in City issued garbage containers with a properly fitted lid that is to remain closed except for filling, emptying, or cleaning.
- (h) *Amount.* The amount of garbage to be collected shall not exceed ninety-five (95) gallons per collection.

- (i) *Schedule.* Curbside garbage and recycling collection shall be provided by the City on a once weekly basis on a date and time as determined by the Director of Public Works.
- (j) *Penalty.* Any person, business or entity who shall violate this section shall be subject to the general penalty as set forth in section 1-7 of the Code. The Director of Public Works and the Chief of Police or their respective designee are authorized and directed to make inspections for the orderly compliance with this section and to issue citations for any violation of this section.
- (k) *For the purposes of this section, only household garbage shall be placed in such garbage container.* Any recyclable commodity (i.e., type I and II plastics, aluminum cans, bimetal cans, newspaper with inserts, magazines, junk mail, cereal and shoe boxes, computer paper, writing paper, tissue tubes) shall not be placed in such garbage container but shall be placed for disposal in the curbside recycling program container.
- (l) *Limitation on use of City garbage containers in the downtown business district.* The City garbage containers located on the sidewalks within the downtown business district (as defined in section 10-101 of the Code) shall be for use by pedestrian traffic only. It shall be unlawful for a merchant located within the downtown business district to deposit garbage or other refuse generated by the merchant's business into City garbage containers located on the sidewalks within the downtown business district.
- (m) *Excessive or unbagged garbage.* It shall be a violation of this section to place excessive garbage in the container that prevents the lid from closing, garbage on top of the container, unbagged garbage in the container, or garbage outside of the container.
- (n) *Disposable needles and medical waste.* Any person that uses disposable needles shall be required to dispose of said needles in containers that are rigid, puncture-resistant and leak-proof, and which are taped closed or tightly lidded to completely contain the contents therein and prevent any spillage. Said containers and any other medical waste generated at residential dwellings identified in section 94-25(b) shall be placed in the City issued garbage containers.

Sec. 94-27. - Recyclable materials.

- (a) *Definition.* For purposes of this section, the term "recyclable materials" is defined as follows: Recyclable materials shall include newspapers, cardboard, aluminum containers, bimetal containers, plastic containers, plastic milk jugs and plastic two-liter bottles and such other materials determined by the Director of Public Works. Glass shall not be deemed recyclable material for the purposes of this section.
- (b) *Placement.* Recyclable materials shall be placed on the curbside in a specially designated bin as directed by the Director of Public Works.
- (c) *Removal without consent.* No person shall remove any recyclable material or the bin in which it is placed without the consent of the Director of Public Works.
- (d) *Penalty.* Any person, business or entity who shall violate this section shall be subject to the general penalty as set forth in section 1-7. The Director of Public Works and the Chief of Police, or their designees, are authorized and directed to make inspections for the orderly compliance with this section and to issue citations for any violation of this section.

Sec. 94-28. – Collection of yard trimmings

- (a) *Definition.* The term “yard trimmings” is defined as follows: Yard trimmings shall consist of inert items generated from routine yard maintenance including grass trimmings, small shrubbery trimmings, leaves, pine needles, and sticks, branches and small tree limbs.

- (b) *Collected Items:* The Public Works Department shall collect items of yard trimmings upon the following conditions:
- (1) Yard trimmings shall be collected from residential property wholly within the corporate limits.
  - (2) Yard trimmings shall be generated wholly by the residential property owner or his lessee.
  - (3) Yard trimmings shall be placed upon the residential property immediately behind the sidewalk, or if there is no sidewalk, immediately behind the curb or off the pavement and shall not be placed upon any City street, sidewalk, alley, or right-of-way and shall not be located as to impede or obstruct or divert either pedestrian or vehicular traffic or the flow of surface water or block drains.
  - (4) The maximum volume per collection pickup is four (4) cubic yards (about the size of a two standard refrigerators) without being charged additional fees as determined by the Director of Public Works.
  - (5) Yard trimmings shall be recycled as mulch by the City and shall be separated from other garbage or refuse by the owner or lessee.
  - (6) Individual yard trimmings shall not exceed eight (8) feet in length or one hundred (100) pounds in weight.
  - (7) Sticks, branches and tree limbs shall be neatly stacked such that the butt ends are parallel to the street.
  - (8) Yard trimmings shall not be placed over or next to fixed objects such as fire hydrants, telephone or electrical boxes, mailboxes, water meters, or any other object that may be damaged by equipment or personnel picking up said items.
  - (9) The City of Dalton shall not be responsible for repairing, replacing, or payment of items that are removed or damaged by the City as a result of being placed curbside in such a manner that it appears that the items are intended for removal by the City or are not visible due to being mixed with yard trimmings.
  - (10) Leaves shall be placed in neat piles or bagged. In no event shall they be placed in gutters or drainage ditches. Leaf piles shall not contain any other garbage, refuse, junk or other debris such as sticks, tree limbs, rocks, bricks, or concrete. Leaf piles that contain exclusively leaf material which may be collected using the City leaf vacuum shall not be counted towards the maximum volume per collection for yard trimmings.
  - (11) The City shall not collect yard trimmings generated from commercial activity (including but not limited to mowing contractors, commercial tree trimmers, commercial landscapers, grading contractors, and building contractors). Any person receiving compensation for landscaping or yard work shall be responsible for hauling off the yard trimmings generated by the commercial activity and disposing of them in accordance with applicable local, State and Federal laws.
  - (12) The City shall not collect dirt, brush, stumps, tree trunks, limbs, and rocks which result from ground clearing or grading, including but not limited to, all items generated from the use of heavy equipment and machinery.
  - (13) No person shall place out for collection any yard trimmings in violation of this section.
  - (14) The resident shall be entitled to one curbside collection of yard trimmings per collection schedule as determined by the Director of Public Works.
- (c) *Schedule.* Yard trimmings shall be collected on an alternating weekly schedule as follows:
- (1) One week on the north section of the City.
  - (2) The following week on the south section of the City.
  - (3) The dividing line between the north section and south section of the City is Martin Luther King, Jr. Boulevard from the east City limit to Thornton Avenue, south on Thornton Avenue to Emery Street, west on Emery Street to Tibbs Road, south on Tibbs Road to Walnut Avenue, west on Walnut Avenue to Dug Gap Mountain Battle Road at the top of the mountain.

- (d) *Penalty.* Any person, business or entity who shall violate this section shall be subject to the general penalty as set forth in section 1-7. The Director of Public Works and the Chief of Police, or their designees, are authorized and directed to make inspections for the orderly compliance with this section and to issue citations for any violation of this section.

Sec. 94-29. - Collection of refuse from residential property.

- (a) *Definition.* The term "refuse" is defined as follows: discarded items that have not been bagged or containerized and/or shall not fit into the City provided garbage container, are not yard trimmings, and are not prohibited items according to section 94-29(c).
- (b) *Collected items.* The Public Works Department shall collect items of refuse upon the following conditions:
  - (1) Refuse shall be collected from residential property wholly within the corporate limits.
  - (2) The refuse shall be generated wholly by the residential property owner, lessee or tenant.
  - (3) The maximum volume per collection pickup is two (2) cubic yards (about the size of a standard refrigerator) without being charged additional fees as determined by the Director of Public Works.
  - (4) Refuse shall not be placed over or next to fixed objects such as fire hydrants, telephone or electrical boxes, mailboxes, water meters, or any other object that may be damaged by equipment or personnel picking up said items.
  - (5) The City of Dalton shall not be responsible for repairing, replacing, or payment of items that are removed or damaged by the City as a result of being placed curbside in such a manner that it appears that the items are intended for removal by the City or are not visible due to being mixed with refuse.
  - (6) The following shall apply to solid waste originating from the property of a landlord cleaning up between tenants:
    - (i.) Following an eviction, all solid waste and any personal property of the tenant shall be placed on some portion of the landlord and/or owner's residential property immediately behind the sidewalk, or if there is no sidewalk, immediately behind the curb or off the pavement and shall not be placed upon any City street, sidewalk, alley, or right-of-way and shall not be located as to impede or obstruct or divert either pedestrian or vehicular traffic or the flow of surface water or block drains.
    - (ii.) After an execution of a writ of possession, all solid waste and any personal property of the tenant shall be regarded as abandoned. Such items placed adjacent to the City right-of-way on the landlord and/or owner's property shall be removed within twenty-four (24) hours of the physical eviction by the landlord or property owner. If the personal property is not removed within twenty-four (24) hours, the property owner and landlord shall be deemed in violation of this Code.
  - (7) The City shall not be responsible for collection and disposal of refuse resulting from major cleanups of residential property, including but not limited to, clean out of basements, attics, storage areas or from move-ins or move-outs of residential property or change in tenant of rental property.
- (c) *Advanced authorization.* Refuse shall not be placed at the curbside for collection by the City until the resident has requested and received authorization from the Public Works Department in advance. The resident shall place the refuse out for collection on the date authorized.
- (d) *Items permitted for collection:*
  - 1. Household furniture including couches, love seats, recliners, tables, chairs, coffee tables, headboards, nightstands.
  - 2. Mattresses, box springs, beds, and bedding materials.
  - 3. White Goods including discarded household appliances such as stoves, refrigerators with the doors removed, washing machines, clothes dryers, microwaves, dishwashers, and water heaters.
  - 4. Electronic waste such as computers, monitors, televisions, game consoles, and stereos.

5. Paint and paint-related products which must be treated with an absorbent material, such as sawdust, prior to collection and shall be separated from other refuse.
6. Bicycles, weed trimmers, push mowers (non-riding mowers), metal swing sets, basketball goals, children's toys, and patio furniture. Weed trimmers and push mowers shall be empty of gas or other fuel products.
7. Items not specifically excluded for collection in Section 94-29(e) at the discretion of the Director of Public Works.

(e) *Limitations.* The Public Works Department shall not collect the following items of refuse:

- (1) Tires or vehicle wheels.
- (2) Paint and paint-related products in a liquid form.
- (3) Construction debris, demolition debris, and roofing material. – The City shall not be responsible for collecting or hauling discarded building materials, dirt, broken concrete, asphalt, bricks, rock or debris resulting from repairs, remodeling, or construction waste (including, but not limited to, plumbing fixtures, sinks, bath tubs, shower stalls, toilets, cabinets, doors, windows, trim, sheetrock, insulation, wood paneling, water/sewer piping, wire, roofing material and debris, lumber, plywood, subfloor, siding, plastic pails or buckets 5-gallons or larger, pallets, landscape timbers, crossties, lattice, fencing of any type, carpet, ceramic tile and other floor coverings). Such material must be disposed of by the contractor, tenant, or owner of the property in accordance with any applicable local, State or Federal laws.
- (4) Cardboard boxes. Cardboard boxes shall only be collected when broken down and placed in the City issued recycling bin. Cardboard shall not be placed out as part of refuse collection. Several cardboard only recycling dumpsters are located throughout the City for residents to use.
- (5) Packing material, including but not limited to, packing peanuts, Styrofoam, air cushions, bubble wrap, shredded paper, wrapping materials, foam, and other similar material and other loose debris not contained in an all-weather container.
- (6) Hazardous and environmentally sensitive material, including but not limited to, wet paint, automotive parts, acid, explosive material, batteries, flammable items, dangerous or corrosive material, medical waste, needles, or any waste requiring special disposal procedures by the Rules of Solid Waste Management of the State of Georgia Department of Natural Resources or other local, State or Federal laws.
- (7) Refuse generated from commercial activity or by a person for hire on residential property.
- (8) No person shall place out for collection any refuse in violation of this section.
- (9) The resident shall be entitled to one curbside collection of refuse per collection schedule as determined by the Director of Public Works.

(e) *Schedule.* Refuse shall be collected on an alternating weekly schedule as follows:

- (1) One week on the north section of the City.
- (2) The following week on the south section of the City.
- (3) The dividing line between the north section and south section of the City is Martin Luther King, Jr. Boulevard from the east City limit to Thornton Avenue, south on Thornton Avenue to Emery Street, west on Emery Street to Tibbs Road, south on Tibbs Road to Walnut Avenue, west on Walnut Avenue to Dug Gap Mountain Battle Road at the top of the mountain.

(f) *Penalty.* Any person, business or entity who shall violate this section shall be subject to the general penalty as set forth in section 1-7. The Director of Public Works and the Chief of Police, or their respective designee, are authorized and directed to make inspections for the orderly compliance with this section and to issue citations for any violation of this section.

Secs. 94-30—94-55. - Reserved.

## DIVISION 2. - BUSINESSES; MULTIFAMILY DWELLINGS

Sec. 94-56. - Duty to provide containers.

It shall be the duty of the owner, lessee, tenant, or occupant of a business or multifamily dwelling (not including triplex or less) to provide an adequate number of garbage and refuse containers or dumpster-type containers for the proper accumulation and disposal of garbage and refuse.

Sec. 94-57. - Occupants of business premises to properly secure refuse.

It shall be the responsibility of the occupant of a business premises to ensure that all garbage and refuse is properly secured in the appropriate garbage or refuse container. No garbage or refuse shall be allowed at any time to accumulate outside the garbage or refuse container.

Sec. 94-58. - Owners of multifamily dwelling premises to properly secure refuse.

It shall be the responsibility of the owner of multifamily dwelling premises (not including triples or less) to ensure that all garbage or refuse is properly secured in the appropriate garbage or refuse container. No garbage or refuse shall be allowed at any time to accumulate outside the garbage or refuse container.

Sec. 94-59. - Violations.

Failure to remove any accumulation of garbage or refuse outside the garbage or refuse container shall be deemed a violation of this division.

Sec. 94-60. - Inspections.

The Director of Public Works and the Chief of Police, or their designees, are authorized and directed to make inspections for the orderly compliance with this section and to issue citations for any violation of this section.

Sec. 94-61. – Penalties.

Any person, business or entity who shall violate this section shall be subject to the general penalty as set forth in section 1-7.

Secs. 94-61-94-70. - Reserved.

DIVISION 3. - CONSTRUCTION SITES

Sec. 94-71. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*Building inspector* means the building inspector for the City.

*Construction and demolition waste* means solid waste composed of building materials and rubble resulting from construction, remodeling, repair and demolition operations of houses, commercial buildings and other structures. Such waste includes, but is not limited to, roofing shingles containing asbestos, wood, bricks, metal, concrete, wall board, paper, cardboard, inert waste, and other wastes not likely to cause leachate of environmental concern.

*Construction site* means any residential, commercial, industrial, or other area, lot, or site which construction or demolition of any type is conducted including roads at buildings, and at all other places actively being constructed, demolished, renovated, or repaired.

*Litter* means the definition of litter contained in section 94-207 of the Code.

Sec. 94-72. - On-site burial of waste prohibited.

The burial on a construction site of construction and demolition waste, litter, tree trunks, logs, limbs, and tree tops is prohibited.

Sec. 94-73. - Containers required; exclusion; condition of building permit.

- (a) The owner, agent, or contractor in charge of a construction site shall furnish on such site containers sufficient to contain workers' litter and containers sufficient to contain all construction and demolition waste. All containers shall be conveniently available and maintained and secured or covered so as to prevent litter and waste from being spilled, discharged, or blown by wind or water. The primary contractor shall determine the number and capacity of containers, but no less than one container for construction waste shall be placed at each construction site. Containers required under this subsection shall be not less than ten gallons capacity. All containers shall be emptied as necessary, but not less frequently than weekly, except that containers used exclusively to contain construction and demolition waste shall be serviced with sufficient frequency to prevent spillage from overflow and to prevent offensive odors. All containers required under this subsection shall remain conveniently available on the site from the time construction activity commences until the construction activity ceases.
- (b) The requirement for containers in this section shall not apply to any construction site on which only repair or renovation of a building is taking place, provided that no litter or construction waste is placed, stored, or otherwise accumulated on the exterior of the property outside of a proper container and any such container is maintained in accordance with this subsection.
- (c) Prior to issuance of building permits for all construction or demolition, including new construction or remodeling of residential, commercial or industrial sites, the applicant must provide documentation of the manner in which collection, storage and disposal of all construction and demolition waste and litter shall be handled during construction. The Building Inspector, or his designee, shall approve the proper location for the containers.

Sec. 94-74. - Violations; penalties.

- (a) Upon determining that a violation of this division exists, the Building Inspector, or his designee, shall cause a written notice of violation to be issued to the subject owner or contractor setting forth the condition existing and a reasonable time within which the owner or contractor shall correct the condition.
- (b) Upon determining that the owner or contractor has failed to correct the subject condition within the time limit prescribed in the notice, the Building Inspector, or his designee, shall cause a summons and citation to be issued directing the violator to appear in the Municipal Court of the City of Dalton to answer the charge of violation of the appropriate section of this division.
- (c) Any person, business or entity who shall violate this section shall be subject to the general penalty as set forth in section 1-7. The Building Inspector, Director of Public Works and the Chief of Police, or their respective designees, are authorized and directed to make inspections for the orderly compliance with this section and to issue citations for any violation of this section. Each day a violation of any provision of this division continues after expiration of the time to correct a violation shall constitute a separate violation.

### DIVISION III. – SCHEDULE OF EXCESS SERVICE FEES

Sec. 94-75. - *Generally*. It shall be unlawful to dispose of any solid waste in the City of Dalton except as specified in this chapter.

Sec 94-76. - *Collection of fees*. The Chief Financial Officer of the City of Dalton is hereby authorized to establish a method for the orderly billing and collection of service fees provided for in this section.

Sec. 94-77. - *General violations*. The civil excess service fees for the following violations shall apply to all residences,



businesses, and institutions within City of Dalton:

- (1) Placing prohibited items other than dangerous items in a trash container for collection or disposal = \$50.00
- (2) Placing a dangerous (toxic, caustic, contagious, explosive or otherwise hazardous) item in a trash container for collection or disposal = \$1,000.00
- (3) Placing excessive garbage in the container that prevents the lid from closing, garbage that is piled on top of the container, garbage that is unbagged, or garbage that is placed outside of the container = \$10.00 per 20 gallon bag
- (4) Placing more than four (4) cubic yards of yard trimmings out for collection = \$30.00 for each additional cubic yard of yard trimmings
- (5) Placing more than two (2) cubic yards of refuse out for collection = \$30.00 for each additional cubic yard of refuse
- (6) Placing trash or garbage on the property of another or in the waste container of another without permission = \$25.00
- (7) Placing recyclable material in the City provided garbage container = \$10.00 per 20 gallon bag of material
- (8) Failure to remove property of tenant or lessee within 24 hours of eviction = \$250.00 per truck load
- (9) Placing construction debris, demolition debris, or roofing material out for collection = \$50.00 per cubic yard of said debris or material
- (10) Dumping garbage, yard trimmings, refuse, or junk on vacant lots or public roadway = \$250.00
- (11) Overloading a dumpster = \$50.00
- (12) Placing a dumpster in an unauthorized area = \$50.00
- (13) Failure to remove solid waste and personal property from right-of-way within 24 hours of move out of tenant or eviction = \$250.00

Sec. 94-78. - *Central Business District violations.* The civil excess service fees for the following violations shall apply to all businesses and institutions within the Central Business District:

- (1) Disposing of garbage or refuse in public waste containers meant for pedestrians = \$25.00
- (2) Disposing of garbage or refuse in front of the business establishment of another = \$50.00
- (3) Placing loose garbage on the sidewalk or street = \$25.00
- (4) Placing roll carts or bagged garbage on the street or sidewalk at other than established collection locations and periods = \$25.00

Sec. 94-79. - *Penalty.* Failure to pay the excess service fee in full within 30 days of the invoice date shall be a separate violation of this ordinance. Any person, business or entity who shall violate this section shall be subject to the general penalty as set forth in section 1-7 of the Code.

Sec. 94-80. - *Waiver of excess service fee.* The Director of Public Works is hereby authorized to establish from time to time a schedule of dates on which the excess service fee is waived for the collection of yard trimmings and refuse. The purpose and intent of the waiver is to provide for spring, fall and holiday cleaning of residential properties. Said schedule shall be published no later than 90 days prior to the scheduled dates. Said schedule shall be posted on the City website and provided to local media for publication to the general public.

Secs. 94-81- *Financial hardship waiver.* The Director of Public Works is hereby authorized to waive the excess service fee for a resident no more than one time in a twelve month period from the date of the last waiver, if any. The resident must complete a financial hardship affidavit in advance of the collection on such forms as provided by the City.

94-82 through 94-85. - Reserved.

-3-

Article III “Sanitary Landfill” of Chapter 94 “Solid Waste” of the Revised Code Of Ordinances Of 2001 of the City of Dalton, as amended, is hereby renumbered as Article IV “Sanitary Landfill”.

-4-

Should any section or provision of this Ordinance be declared by a Court of competent jurisdiction to be unconstitutional, invalid or unlawful, such declaration shall not affect the validity of the remaining portions of the ordinance not so declared to be unconstitutional, invalid, or unlawful.

-5-

All resolutions and ordinances of the City of Dalton or parts thereof in conflict herewith are hereby repealed.

-6-

This Ordinance shall take effect and be in force beginning August 17, 2020 following its adoption and publication in two public places within the City of Dalton for five (5) consecutive days, the public welfare of the City of Dalton requiring it.

ADOPTED AND APPROVED on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, at the regular meeting of the Mayor and Council of the City of Dalton.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Council member \_\_\_\_\_, second by Council member \_\_\_\_\_ and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays and the Ordinance is adopted.

CITY OF DALTON, GEORGIA

Attest:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
CITY CLERK  
CITY OF DALTON



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting  
**Meeting Date:** 07/06/2020  
**Agenda Item:** (1) New 2020 Alcohol Applications  
**Department:** City Clerk  
**Requested By:** Gesse Cabrera  
**Reviewed/Approved by City Attorney?** Yes  
**Cost:** N/A  
**Funding Source if Not in Budget** N/A

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

(1) New 2020 Alcohol Applications recommendation by the Public Safety Commission on June 23, 2020 regular called meeting.

**2020 ALCOHOL BEVERAGE APPLICATION**

**PSC TUESDAY JUNE 23, 2020**

**M&C MONDAY JULY 6, 2020**

**(1) 2020 ALCOHOL APPLICATION**

1. Business Owner: Downtown Dalton Development Authority  
d/b/a: Downtown Dalton Development Authority  
Applicant: Audrey Batts  
Business Address: 305 S. Depot St.  
Type: Pouring Beer, Pouring Wine  
Disposition: **New**



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting  
**Meeting Date:** July 20, 2020  
**Agenda Item:** School Resource Officer Contract Approval  
**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:**

Yearly renewal of the School Resource Officer Contract between the City of Dalton and Dalton Public Schools.

**Agreement Between  
The City of Dalton, Georgia  
And  
The Dalton Board of Education  
For  
The School Resource Officer Program**

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by and between THE CITY OF DALTON, GEORGIA (the “City”) and THE DALTON BOARD OF EDUCATION (the “Board”) pursuant to O.C.G.A. §20-2-1183.

**GOALS AND OBJECTIVES**

1. Establish a positive working relationship in a cooperative effort to prevent juvenile delinquency and assist in student development.
2. Maintain a safe and secure environment on campus, which will be conducive to learning.
3. Promote positive attitudes regarding the police role in society.

**A. EMPLOYMENT AND ASSIGNMENT OF SCHOOL RESOURCE OFFICER**

1. The City shall cause the DALTON POLICE DEPARTMENT (the “Department”) to provide six School Resource Officers (“SROs” or “SRO”) one of which is to be a SRO Sergeant to Dalton City School System, as resources are available. These officers will primarily serve at Dalton City School System.
2. The Department shall coordinate with the Board on the selection of the SROs and assignment of the officers to the schools. The SROs’ chain of command will be the Department’s supervisory system on all law enforcement matters, and the Department shall hire, train, assign, discipline and dismiss SRO personnel. For non-law enforcement issues the SROs are to work with their assigned school principal and the Dalton City School System Safety Coordinator (“Safety Coordinator”) for the school system, but the SRO’s supervisor shall be the supervisor assigned to the SRO by the Department (the “SRO Supervisor”).
3. In the event the SRO is absent from work, the SRO is to notify both his/her supervisor at the Department and the principal at the school to which he/she is assigned. The Department shall use its best efforts to assign an SRO alternate but shall give primary consideration to the public safety of the City in determining if police personnel are available for SRO duty.
4. The Department shall maintain records relating to the attendance, salary, and any other associated costs for SRO services and provide a copy of said records along with each reimbursement request submitted to the Board. In addition, the records may be provided at any time to the Board upon such a request.

## **B. HOURS AND SPECIAL EVENTS**

1. The SROs will be assigned as follows: Two officers will be assigned to serve Dalton High School, one officer will be assigned to serve Morris Innovative High School. One officer will be assigned to serve Dalton Middle School. One officer will serve the elementary schools. The SRO Sergeant will also serve the elementary schools as well as a floater for all city schools as needed from time to time. The officers will coordinate schedules with their school principals, the Safety Coordinator and the SRO Supervisor. The SROs shall be on-duty at their assigned schools thirty minutes prior to school start and thirty minutes after school dismissal or times arranged with an individual school's administration and approval by the Department and the Board. During regular hours, SROs may be off campus as needed or required by their duties. The SROs will notify their school principal and the SRO Supervisor when they will be off of the school campus as needed or required by their duty.
2. The Department shall pay overtime for the SROs working special events that are authorized by the SRO Supervisor.
3. SROs that enter contractual agreements directly with the Board for coaching duties, after school programs, athletic events or teaching shall be paid directly by the Board for such duties.
4. All SROs shall wear an approved Department uniform and shall carry their duty weapons while at school unless authorized otherwise by the SRO Supervisor.

## **C. DUTIES OF THE SCHOOL RESOURCE OFFICER**

1. The SRO may assist the principal and Safety Coordinator in developing plans and strategies to prevent and/or minimize dangerous situations that may occur on the school campus. The principal and Safety Coordinator shall have ultimate responsibility for preparation and implementation of emergency operations policy. The SRO may advise school officials in declaring an emergency or lockdown situation. The principal and Safety Coordinator shall have ultimate responsibility for declaring an emergency or lockdown situation pursuant to Board policy.
2. The SRO may present programs on various topics to students and faculty. Subjects may include but are not limited to a basic understanding of the law, role of law enforcement, drug awareness, anger management, the mission of law enforcement, gang education, and familiarization of weapons in a school environment.
3. The SROs are encouraged to interact with students on an individual basis and in small groups to foster a positive relationship between students and law enforcement.
4. The SROs shall make themselves available for conferences involving teachers, parents and faculty upon request by school officials.
5. Upon the request of the school principal or Safety Coordinator, the SRO shall take all necessary and appropriate law enforcement action against intruders, unwanted guests, or unruly persons who may appear at the school or related school functions.
6. Upon request of the school principal or the Safety Coordinator, the SROs shall conduct investigations of crimes, which occur at their assigned schools and use other resources if needed for follow up



investigations. When requested by the Safety Coordinator, SROs may conduct investigations at other sites with the approval of the Department.

7. After the principal has conducted a search, locates contraband and requests assistance, the SROs shall follow the Board's Policy for the confiscation of any items or substances that while not illegal are not allowed on school property. The SRO will follow the Department's Policy for the seizure of any illegal items, drugs or substances from students on school property.
8. The SROs shall follow the guidelines of the state law, Board policy and Department policies and procedures in regard to investigations, interviews, and searches relating to juveniles.
9. The SROs shall be granted unlimited access to the buildings and grounds of their assigned school in the regular performance of their duties. The school principal may limit access to areas of the buildings and grounds if good reasons exist.
10. Upon request of the school principal or the Safety Coordinator, the SROs may observe any questioning by school staff of students suspected of violating Board policy or local or state law.
11. SROs shall execute an acknowledgment form prepared by the Board of SROs responsibilities for safeguarding student information under FERPA.
12. SROs shall enforce criminal law and protect students, staff and the public against criminal activity. SROs shall not be responsible for enforcing school discipline, truancy, violations of student code of conduct or school rules that are not violations of criminal law.
13. SROs shall routinely submit an activity report to the school principal and SRO Supervisor. Said report shall include a description of the activities engaged in by the SRO, number of student related incidents, number of parent incidents, type of incident or criminal activity, number of arrests and related charges, number of searches and items seized, and any other data agreed to by the principal and SRO Supervisor.

#### **D. RIGHTS AND DUTIES OF THE BOARD**

1. The Board agrees to reimburse the City for 75% of the personnel and associated costs for the SROs, an estimate of which is set forth on Exhibit "A" and incorporated herein by reference (the "Costs"); provided however, nothing in this Agreement shall limit the Costs to those estimates set forth on Exhibit "A." The Board shall be responsible for 75% of the Costs even if the Costs exceed the budgeted amounts. The Board shall be billed semi-annually for such Costs, in February and August during the Term. The invoice shall be due and payable within 30 days of the Board's receipt thereof. In addition to the terms set forth in Section F, the City may terminate this Agreement immediately upon the failure of the Board to timely make a payment.
2. The principal for each school assigned an SRO will provide the police department with a written assessment of the assigned SRO's performance in May and December during the term. The metrics for assessment will be determined in advance by the principal of the school to which the SRO is assigned and the SRO Supervisor.
3. The Board shall provide to the SROs the following materials and facilities, which are deemed necessary to the performance of the SROs.

- a. Access to and exclusive use to an air-conditioned and properly lighted private office containing a telephone line to be used for general business purposes.
  - b. A desk with drawers, a chair, and a filing cabinet, which can be locked and secured.
  - c. Access to a computer terminal and internet access.
  - d. Limited access to the District's Infinite Campus portal as determined by the District for all schools for use within the duties as SROs.
4. The Board shall co-operate with the City in its defense of any legal action by a third party against an SRO and/or the City arising out of the performance by the SRO of his duties as set forth herein.

#### **E. DUTIES OF THE DEPARTMENT AND DISMISSAL OF SCHOOL RESOURCE OFFICER**

1. The Department will supply the SROs with the usual and customary office supplies and forms required in the performance of their duties.
2. In the event the Board determines that the particular SRO is not effectively performing his or her duties and responsibilities, the Board shall contact the SRO Supervisor. Within a reasonable time after receiving the information from the Board, the SRO Supervisor shall advise the Chief of Police for the City of the Board's request. The Chief of Police for the City, the appropriate principal, and Safety Coordinator, or their designees, shall meet, if necessary, with the SRO to mediate or resolve any problems which may exist.
3. The Chief of Police for the City may dismiss or reassign SROs in accordance with the Department's rules, regulations, and general orders.

#### **F. TERM**

The City and the Board expressly agree that they have previously executed an Agreement Between The City of Dalton, Georgia and The Dalton Board of Education for The School Resource Officer Program dated July 1, 2019. This Agreement supersedes and replaces the Prior Agreement in all respects, and the Prior Agreement shall be and is terminated and void as of the date of this Agreement. The term of this Agreement shall be twelve (12) months and shall commence on July \_\_\_, 2020 and expire on July \_\_\_, 2021 (the "Term"). Provided, however, either party may terminate this Agreement upon sixty (60) days' prior written notice to the other party.

In the event either party determines that a modification of this Agreement is necessary, such party shall request the other party 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. A request from the Board shall be addressed to the Chief of Police and a request from the City shall be addressed to the Superintendent of the Dalton City School System. In the event the parties cannot reach an agreement regarding the modification of this Agreement within thirty (30) days of such request, either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party. 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.

**G. 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 DALTON BOARD OF EDUCATION, DALTON GEORGIA

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

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

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

Secretary

THE CITY OF DALTON, GEORGIA

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

Title: Mayor, City of Dalton

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

City Clerk

Exhibit "A"

Costs

This proposed budget is calculated based on estimated expenses. The following amounts reflect the cost of the contract with the addition of a sixth SRO serving as a Sergeant over the other SRO's. Also listed is a onetime cost for the new Sergeant SRO.

Salaries	\$326,437.47
FICA	\$24,898.18
Pension/Valic	\$44,487.87
Hosp. Insurance	\$78,120.00
Worker's Comp Ins.	\$4,440.00
Life & Disability Ins.	\$1806.73
Uniforms	\$3,600.00
Training	\$6,500.00
Fuel	\$10,200.00
Total	\$500,490.25
<b>DPS responsibility (total X 75%)</b>	<b>\$375,367.68</b>



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 7-20-20

**Agenda Item:** Appointment of Mr. Truman W. Whitfield, III to Public Safety Commission to fill the unexpired term of Mr. Kenneth Willis

**Department:** Administration

**Requested By:** Public Safety Commission

**Reviewed/Approved by City Attorney?** N/A

**Cost:** N/A

**Funding Source if Not in Budget** N/A

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

To fill the unexpired term ending 12-31-2022



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 07/06/20

**Agenda Item:** Reappointment of Kenneth Harless to Zoning Appeals Board

**Department:** Dalton-Whitfield Zoning

**Requested By:** Jean Garland

**Reviewed/Approved by City Attorney?** N/A

**Cost:** N/A

**Funding Source if Not in Budget** N/A

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

Kenneth Harless's term as a Dalton appointee on the Unified Board of Zoning Appeals will expire July 2020. Kenneth is willing to serve an additional 5-year term if the M&C agrees to re-appoint him.



## CITY COUNCIL AGENDA REQUEST

<b>Meeting Type:</b>	Mayor & Council Meeting
<b>Meeting Date:</b>	7-6-20
<b>Agenda Item:</b>	Waiver of Real Estate Reversion – Legion Post 112 Property
<b>Department:</b>	Administration
<b>Requested By:</b>	Jason Parker
<b>Reviewed/Approved by City Attorney?</b>	Yes
<b>Cost:</b>	N/A
<b>Funding Source if Not in Budget</b>	N/A

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

The property in question is being refinanced and the City has not transferred or further conveyed its reversionary interest in the Legion Real Estate. This is a request for the City to waive its Right of Reversion for the period of the Lenders' loan terms and retain the Right of Reversion after the expiration of said loan terms.

In consideration of the promises and the benefits to be derived by the City through the payment of taxes, the City does hereby release the Legion Real Estate from its Right of Reversion or Remainder Interest as contain in the aforesaid deed of record in Deed Book 64, page 516, Whitfield County, Georgia Records for the term of the lenders' loan. The City will not assert any ownership by virtue of said Right of Reversion or Remainder Interest with respect to the Leased Premises.

When Recorded Return to:  
Carl J. Franzman, P.C.  
3355 Lenox Rd NE, Suite 250  
Atlanta, GA 30326

### Waiver Agreement

THIS WAIVER AGREEMENT, entered into this 6 day of July, 2020 by and between THE CITY OF DALTON, (hereinafter referred to as "City") and DALTON POST NO. 112 OF THE AMERICAN LEGION, Inc., a Georgia corporation (hereinafter referred to as "Legion");

WHEREAS, by virtue of a deed recorded in Deed Book 64, page 516, in the office of the Clerk of Superior Court of Whitfield County, Georgia Records, the City has a possibility of reverter or an interest as a contingent remainderman in and to that certain tract or parcel of land located in the County of Whitfield, State of Georgia, more particularly described in Exhibit "A" attached hereto and by the reference made a part hereof (hereinafter referred to as the "Legion Real Estate") if used for other than the purposes therein described; and

WHEREAS, Legion is the successor-in-interest to the TRUSTEES FOR DALTON POST NO. 112 OF THE AMERICAN LEGION, the original grantee of the aforesaid deed recorded in Deed Book 64, page 516, in the office of the Clerk of Superior Court of Whitfield County, Georgia Records; and

WHEREAS, the City has not transferred or further conveyed its reversionary interest in the Legion Real Estate; and

WHEREAS, Legion has entered into a Ground Lease Agreement dated June 7, 2013, with Springfield Investments, LLC a Georgia limited liability company as assigned to Global/Southern Realty Holdings, LLC, a Georgia limited liability company hereinafter referred to as "The Lease" for a portion of the Legion Real Estate (hereinafter referred to as the "Leased Premises") and more particularly described in Exhibit "B"; and

WHEREAS the Lessee, under the terms of the Lease will operate a Wendy's Old Fashioned Hamburgers restaurant in a building on the Leased Premises; and



WHEREAS the Lessee will obtain lender financing to refinance the project; said financing to be secured by a Leasehold Deed to Secure Debt; and

WHEREAS the Lenders providing the financing for the refinance project require that their interest in the Leasehold Estate be free of the City's possible Right of Reversion; and

WHEREAS, revenues derived from taxes generated by the renovation, use and occupancy of the Leased Premises will be of great value to the City and the City has determined that such use will be of more benefit to the City than it could obtain by the exercise of the Right of Reversion as contained in the aforesaid deed; and

WHEREAS, the City can waive its Right of Reversion for the period of the Lenders' loan terms and retain the Right of Reversion after the expiration of said loan terms.

NOW, THEREFORE, in consideration of the promises and the benefits to be derived by the City through the payment of taxes, the City does hereby release the Legion Real Estate from its Right of Reversion or Remainder Interest as contain in the aforesaid deed of record in Deed Book 64, page 516, Whitfield County, Georgia Records for the term of the lenders' loan. The City will not assert any ownership by virtue of said Right of Reversion or Remainder Interest with respect to the Leased Premises.

This waiver and release shall extend to Legion, Lessees of the Leased Premises from Legion, their respective heirs, administrators, successor and assigns.

IN WITNESS WHEREOF, the City of Dalton has caused its corporate name and seal to be hereunto affixed, pursuant to a resolution duly adopted by the Mayor and Council of said City on the day and year first above written.

Signed, sealed and delivered  
In the presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

CITY OF DALTON

BY: \_\_\_\_\_ (SEAL)  
David Pennington, Mayor

Attest: \_\_\_\_\_ (SEAL)  
Bernadette Chattam, City Clerk

July 6, 2020



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting  
**Meeting Date:** 7-6-20  
**Agenda Item:** CDBG Consultant Amendment  
**Department:** Finance  
**Requested By:** Cindy Jackson  
**Reviewed/Approved by City Attorney?** Yes  
**Cost:** \$3,500  
**Funding Source if Not in Budget** Community Development Block Grant Funds

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

Consultant increase to facilitate the additional CDBG funds received from HUD through the CARES Act.

**AMENDMENT #2  
2019 CONSULTING AGREEMENT  
BETWEEN THE**

**CITY OF DALTON and BLULYNX SOLUTIONS for CONSULTING SERVICES FOR THE CDBG PROGRAM**

The City of Dalton agrees to incorporate the modification listed below into the Contract, and BLULYNX SOLUTIONS (hereinafter referred to as "Consultant") agrees to perform all work necessary to satisfy the requirements of the Contract as stated below.

The Consulting Agreement is changed to read as follows:

- A: **Scope of Services:** The Consultant agrees to perform the services described in Exhibit "A" for Community Development Block Grant funding authorized through the Coronavirus Aid Relief & Economic Security Act, which is annexed hereto and a part hereof.
  
- B. **Term:**  
The term of this Amendment will commence as of July 1, 2020, and end April 30, 2021 with one (1) one-year renewal terms.
  
- C. **Compensation:**  
The cost for this service shall be increased by \$3,500.00 to a total of \$65,987.00. Said amount will be billed in accordance with the attached Exhibit "B" (Fee Schedule) and made part hereof. Such fees shall be paid to the Consultant within a reasonable amount of time after receipt by the City and invoices in accordance with the standard practices of the City of Dalton. The City shall pay the Consultant for services rendered under this Agreement in accordance with the Exhibit "B" (Fee Schedule) within thirty (30) days. The total amount to be paid to the Consultant for services rendered pursuant to the Consulting Agreement shall not exceed Sixty-Five Thousand, Nine Hundred and Eighty-Five-Dollars (\$65,987.00).

All other terms of the original Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, and such are as corporations have caused these presences to be signed by their duly authorized officer.

**CITY OF DALTON**

BY: \_\_\_\_\_  
David Pennington, Mayor

DATE: \_\_\_\_\_

WITNESSED: \_\_\_\_\_  
Bernadette Chattam, City Clerk

DATE: \_\_\_\_\_

**BLULYNX SOLUTIONS, INC.**

BY: \_\_\_\_\_  
KIMBERLY ROBERTS, PRINCIPAL

DATE: \_\_\_\_\_

**EXHIBIT B**

*FEE SCHEDULE*

<b>FEE SCHEDULE</b>	
<b>DATE BILLED</b>	<b>AMOUNT</b>
May 1, 2020	\$5,207.25
June 1, 2020	\$5,207.25
July 1, 2020	\$5,557.25
August 1, 2020	\$5,557.25
September 1, 2020	\$5,557.25
October 1, 2020	\$5,557.25
November 1, 2020	\$5,557.25
December 1, 2020	\$5,557.25
January 1, 2020	\$5,557.25
February 1, 2021	\$5,557.25
March 1, 2021	\$5,557.25
April 1, 2021	\$5,557.25
<b>TOTAL BILLED</b>	<b>\$65,987.00</b>



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting  
**Meeting Date:** 7-6-20  
**Agenda Item:** CDBG Small Business Loan Agreements  
**Department:** Finance  
**Requested By:** Cindy Jackson  
**Reviewed/Approved by City Attorney?** Yes  
**Cost:** \$222,250  
**Funding Source if Not in Budget** Community Development Block Grant Funds

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

17 agreements with local businesses for the CDBG Small Business Loan Forgiveness Program.

**City of Dalton**  
**CDBG Program Office**  
300 West Waugh Street  
Dalton, Ga. 30720  
(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** Automotive Specialist of Dalton  
**LENDER:** The City of Dalton  
**LOAN:** \$11,250.00  
**NUMBER OF JOBS** 3.00  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the May \_\_\_\_\_, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and Automotive Specialist of Dalton, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$11,250.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.

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**USE OF FUNDS:** The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION AND/OR JOB REHIRE:** In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 3.00 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:** The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:** Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND REPAYMENTS:** Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND SCHEDULE OF VALUES:** Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:** Borrower shall provide the following information and documentation to

**City of Dalton**  
**CDBG Program Office**  
300 West Waugh Street  
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City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default. Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.**

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower



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represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.

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cdbg@daltonga.gov



IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

FOR CITY OF DALTON:

By Emmaza Hernandez  
(Signature)

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

By Emmaza Hernandez CFO  
(Typed Name/Title)

By David Pennington, Mayor  
(Typed Name/Title)

MAY 13, 2020  
(Signature Date)

\_\_\_\_\_  
(Signature Date)

ATTEST:

ATTEST:

By [Signature]  
(Signature)

By [Signature]  
(Signature) City Clerk

By Diana Madero CFO  
(Typed Name/Title)

By Bernadette Chattam, City Clerk  
(Typed Name/Title)

May 13, 2020  
(Signature Date)

\_\_\_\_\_  
(Signature Date)

ATTEST:

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

By Cindy Jackson, CFO  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

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**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** California Cars  
**LENDER:** The City of Dalton  
**LOAN:** \$8,000.00  
**NUMBER OF JOBS** 1.00  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the May 15, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and California Cars, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$8,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.

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**USE OF FUNDS:** The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION AND/OR JOB REHIRE:** In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 1.00 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:** The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:** Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND REPAYMENTS:** Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND SCHEDULE OF VALUES:** Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:** Borrower shall provide the following information and documentation to

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City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default. Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.**

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower

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represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.

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IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

By [Signature]  
(Signature)

By Noe Maldonado  
(Typed Name/Title)

05/15/2020  
(Signature Date)

ATTEST:

By [Signature]  
(Signature)

By Noe Maldonado  
(Typed Name/Title)

05/15/2020  
(Signature Date)

FOR CITY OF DALTON:

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

By David Pennington, Mayor  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:

By \_\_\_\_\_  
(Signature) City Clerk

By Bernadette Chattam, City Clerk  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:

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

By Cindy Jackson, CFO  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

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**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** CR&G d/b/a Cyras Restaurant  
**LENDER:** The City of Dalton  
**LOAN:** \$12,000.00  
**NUMBER OF JOBS** 17.78  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the May 11<sup>th</sup>, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and CR&G d/b/a Cyras Restaurant, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$12,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.



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**USE OF FUNDS:**

The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION  
AND/OR JOB REHIRE:**

In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 17.78 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:**

The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:**

Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND  
REPAYMENTS:**

Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND  
SCHEDULE OF VALUES:**

Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:**

Borrower shall provide the following information and documentation to



City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default.** Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower



represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.



IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

By [Signature]  
(Signature)  
By T.J. KAIKOBAD  
(Typed Name/Title)  
6/1/2020  
(Signature Date)

ATTEST:

By [Signature]  
(Signature)  
By Lily Bradley  
(Typed Name/Title)  
6/2/2020  
(Signature Date)

FOR CITY OF DALTON:

By \_\_\_\_\_  
(Signature) Mayor  
By David Pennington, Mayor  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

ATTEST:

By \_\_\_\_\_  
(Signature) City Clerk  
By Bernadette Chattam, City Clerk  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

ATTEST:

By \_\_\_\_\_  
(Signature) CFO  
By Cindy Jackson, CFO  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

City of Dalton  
CDBG Program Office  
300 West Waugh Street  
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(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** Culprit Athletics  
**LENDER:** The City of Dalton  
**LOAN:** \$15,000.00  
**NUMBER OF JOBS** 3.52  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the May 14, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and Culprit Athletics, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$15,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.

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**CDBG Program Office**  
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**USE OF FUNDS:** The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION AND/OR JOB REHIRE:** In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 3.52 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:** The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:** Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND REPAYMENTS:** Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND SCHEDULE OF VALUES:** Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:** Borrower shall provide the following information and documentation to

**City of Dalton**  
**CDBG Program Office**  
300 West Waugh Street  
Dalton, Ga. 30720  
(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default. Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.**

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower

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represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.



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 300 West Waugh Street  
 Dalton, Ga. 30720  
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 cdbg@daltonga.gov



IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

By [Signature]  
(Signature)

By Austin Cup (owner)  
(Typed Name/Title)

5/14/2020  
(Signature Date)

ATTEST:  
By [Signature]  
(Signature)  
By ELIZABETH BURNETT  
(Typed Name/Title) Financial Director  
5/14/2020  
(Signature Date)

FOR CITY OF DALTON:

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

By David Pennington, Mayor  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:  
By \_\_\_\_\_  
(Signature) City Clerk

By Bernadette Chattam, City Clerk  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:  
By \_\_\_\_\_  
(Signature) CFO

By Cindy Jackson, CFO  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

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cdbg@daltonga.gov



**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** Juli-Yo, LLC d/b/a Sweet Spot  
**LENDER:** The City of Dalton  
**LOAN:** \$15,000.00  
**NUMBER OF JOBS** 3.50  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the June 5 <sup>2020</sup> ~~May~~, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and Juli-Yo, LLC d/b/a Sweet Spot, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$15,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.



**USE OF FUNDS:**

The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION  
AND/OR JOB REHIRE:**

In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 3.50 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:**

*of June*  
*of July*

The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of ~~April~~, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of \$7,500 towards the actual payroll expended for the number of jobs retained and/or rehired for the month of ~~May~~, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by ~~June 30, 2020~~. The Borrower shall furnish supporting documentation as requested by City. *August*

**INTEREST RATES:**

Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND  
REPAYMENTS:**

Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND  
SCHEDULE OF VALUES:**

Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:**

Borrower shall provide the following information and documentation to



City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default.** Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower

City of Dalton  
CDBG Program Office  
300 West Waugh Street  
Dalton, Ga. 30720  
(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.

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cdbg@daltonga.gov



IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

By Denise Smith  
(Signature)  
By Denise Smith/owner  
(Typed Name/Title)  
6-8-20  
(Signature Date)

FOR CITY OF DALTON:

By \_\_\_\_\_  
(Signature) Mayor  
By David Pennington, Mayor  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

ATTEST:

By Cindy Jackson  
(Signature)  
By Cindy Jackson, CFO  
(Typed Name/Title)  
6-8-20  
(Signature Date)

ATTEST:

By \_\_\_\_\_  
(Signature) City Clerk  
By Bernadette Chattam, City Clerk  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

ATTEST:

By \_\_\_\_\_  
(Signature) CFO  
By Cindy Jackson, CFO  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

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**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** MedNow, Inc.  
**LENDER:** The City of Dalton  
**LOAN:** \$12,000.00  
**NUMBER OF JOBS** 12.00  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the May 12, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and MedNow, Inc., a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$12,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.

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cdbg@daltonga.gov



**USE OF FUNDS:**

The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION  
AND/OR JOB REHIRE:**

In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 12.00 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:**

The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:**

Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND  
REPAYMENTS:**

Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND  
SCHEDULE OF VALUES:**

Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:**

Borrower shall provide the following information and documentation to





City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default.** Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower

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300 West Waugh Street  
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cdbg@daltonga.gov



represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.

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cdbg@daltonga.gov



IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

By Steven Foster  
(Signature)

By Steven Foster/owner  
(Typed Name/Title)

May 12, 2020  
(Signature Date)

ATTEST:

By [Signature]  
(Signature)

By Hazel Moreno  
(Typed Name/Title)

May 12, 2020  
(Signature Date)

FOR CITY OF DALTON:

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

By David Pennington, Mayor  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:

By \_\_\_\_\_  
(Signature) City Clerk

By Bernadette Chattam, City Clerk  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:

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

By Cindy Jackson, CFO  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

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**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** Paleteria Monarca

**LENDER:** The City of Dalton

**LOAN:** \$15,000.00

**NUMBER OF JOBS  
RETAINED/REHIRED:** 6.00

THIS AGREEMENT, made and entered into on the May 13, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and Paleteria Monarca, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

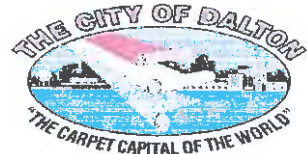
WHEREAS, \$15,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.

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**USE OF FUNDS:** The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION AND/OR JOB REHIRE:** In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 6.00 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:** The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

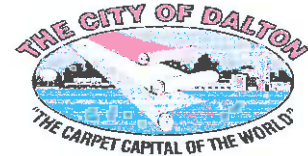
**INTEREST RATES:** Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND REPAYMENTS:** Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND SCHEDULE OF VALUES:** Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:** Borrower shall provide the following information and documentation to

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City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default.** Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.

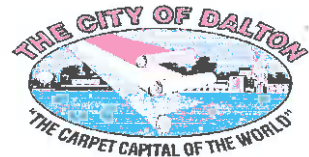
**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower

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represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

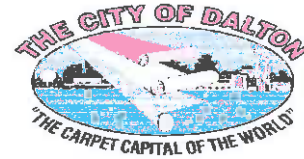
**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.

City of Dalton  
CDBG Program Office  
300 West Waugh Street  
Dalton, Ga. 30720  
(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

FOR CITY OF DALTON:

By Guadalupe Alvarez By \_\_\_\_\_  
(Signature) (Signature) Mayor

By Guadalupe Alvarez-CFO By David Pennington, Mayor  
(Typed Name/Title) (Typed Name/Title)

May 13, 2020 \_\_\_\_\_  
(Signature Date) (Signature Date)

ATTEST:

ATTEST:

By [Signature] By \_\_\_\_\_  
(Signature) (Signature) City Clerk

By Diana Madero-Bookkeeper By Bernadette Chattam, City Clerk  
(Typed Name/Title) (Typed Name/Title)

May 13, 2020 \_\_\_\_\_  
(Signature Date) (Signature Date)

ATTEST:

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

By Cindy Jackson, CFO  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)



City of Dalton  
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revised 5/26/20

**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** Pay4Less, LLC  
**LENDER:** The City of Dalton  
**LOAN:** \$12,000.00  
**NUMBER OF JOBS** 3.00  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the May 26, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and Pay4Less, LLC, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

**WITNESSETH:**

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$12,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.

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cdbg@daltonga.gov



**USE OF FUNDS:**

The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION AND/OR JOB REHIRE:**

In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of **3.00** full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:**

The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:**

Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND REPAYMENTS:**

Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND SCHEDULE OF VALUES:**

Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:**

Borrower shall provide the following information and documentation to

City of Dalton  
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300 West Waugh Street  
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City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default.** Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower

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represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.

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IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

By Falima  
(Signature)

By FATIMA ASSANI / CEO  
(Typed Name/Title)

05-26-20  
(Signature Date)

ATTEST:

By [Signature]  
(Signature)

By Sandra Nunez / witness  
(Typed Name/Title)

[Signature] 5/26/20  
(Signature Date)

FOR CITY OF DALTON:

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

By David Pennington, Mayor  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:

By \_\_\_\_\_  
(Signature) City Clerk

By Bernadette Chattam, City Clerk  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:

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

By Cindy Jackson, CFO  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

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**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** Sol de Mayo, LLC  
**LENDER:** The City of Dalton  
**LOAN:** \$15,000.00  
**NUMBER OF JOBS** 3.48  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the May 18, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and Sol de Mayo, LLC, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$15,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.

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**USE OF FUNDS:** The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION AND/OR JOB REHIRE:** In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 3.48 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:** The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of \$7,500 towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:** Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND REPAYMENTS:** Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND SCHEDULE OF VALUES:** Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:** Borrower shall provide the following information and documentation to



City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default.** Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower



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**CDBG Program Office**  
300 West Waugh Street  
Dalton, Ga. 30720  
(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.

City of Dalton  
CDBG Program Office  
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IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

By Kanna Cwarter  
(Signature)

By Kanna Cwarter  
(Typed Name/Title)

5-18-2020  
(Signature Date)

FOR CITY OF DALTON:

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

By David Pennington, Mayor  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:

By Jasmin Gomez  
(Signature)

By Jasmin Gomez  
(Typed Name/Title)

5/16/2020  
(Signature Date)

ATTEST:

By \_\_\_\_\_  
(Signature) City Clerk

By Bernadette Chattam, City Clerk  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:

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

By Cindy Jackson, CFO  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

City of Dalton  
CDBG Program Office  
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REVISED  
5/26/20

**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** SK Trader, Inc d/b/a Metro by T-Mobile

**LENDER:** The City of Dalton

**LOAN:** \$15,000.00

**NUMBER OF JOBS  
RETAINED/REHIRED:** 6.00

THIS AGREEMENT, made and entered into on the May 26, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and SK Trader, Inc d/b/a Metro by T-Mobile, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$15,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.

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**USE OF FUNDS:**

The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION AND/OR JOB REHIRE:**

In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 6.00 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:**

The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of \$7,500 towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:**

Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND REPAYMENTS:**

Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

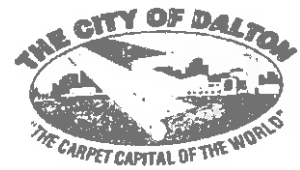
**OTHER FINANCING AND SCHEDULE OF VALUES:**

Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:**

Borrower shall provide the following information and documentation to

City of Dalton  
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City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default.** Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower

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represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.



IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

By [Signature]  
(Signature)

By Shirley K. [Signature]  
(Typed Name/Title)

05/24/2020  
(Signature Date)

ATTEST:  
By [Signature]  
(Signature)

By Harim Notta / [Signature]  
(Typed Name/Title)

5/20/2020  
(Signature Date)

FOR CITY OF DALTON:

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

By David Pennington, Mayor  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:  
By \_\_\_\_\_  
(Signature) City Clerk

By Bernadette Chattam, City Clerk  
(Typed Name/Title)

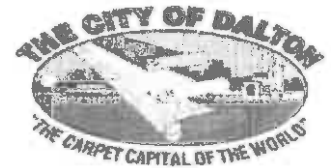
\_\_\_\_\_  
(Signature Date)

ATTEST:  
By \_\_\_\_\_  
(Signature) CFO

By Cindy Jackson, CFO  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

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cdbg@daltonga.gov



**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** Tamay Samples, Inc. d/b/a Sample Stars  
**LENDER:** The City of Dalton  
**LOAN:** \$15,000.00  
**NUMBER OF JOBS** 5.00  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the May 29, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and Tamay Samples, Inc. d/b/a Sample Stars, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$15,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.





**USE OF FUNDS:**

The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION  
AND/OR JOB REHIRE:**

In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 5.00 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:**

The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:**

Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND  
REPAYMENTS:**

Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND  
SCHEDULE OF VALUES:**

Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:**

Borrower shall provide the following information and documentation to



City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default.** Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower

City of Dalton  
CDBG Program Office  
300 West Waugh Street  
Dalton, Ga. 30720  
(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

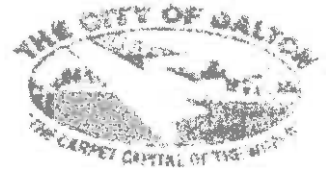
**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.

City of Dalton  
CDBG Program Office  
300 West Waugh Street  
Dalton, Ga. 30720  
706: 529-2470 fax: 706:277-4640  
cdbg@daltonga.gov



IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below

~~FOR BUSINESS~~

FOR CITY OF DALTON

By: Donnie J. Funder  
(Signature)  
By: Daniel J. TAMA  
(Typed Name/Title)  
6/2/20  
(Signature Date)

By: \_\_\_\_\_  
(Signature) Mayor  
By: David Pennington Mayor  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

~~ATTEST~~

ATTEST:

By: [Signature]  
(Signature)  
By: (Friend) John Kirk Remy  
(Typed Name/Title)  
6-8-20  
(Signature Date)

By: \_\_\_\_\_  
(Signature) City Clerk  
By: Bernadette Chattam City Clerk  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

ATTEST:

By: [Signature] (friend)  
(Signature) CFO  
By: Cindy Jackson CFO  
(Typed Name/Title)  
6-8-20  
(Signature Date)

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**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** Three Oaks Custom Cabinets  
**LENDER:** The City of Dalton  
**LOAN:** \$15,000.00  
**NUMBER OF JOBS** 3.00  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the May \_\_\_\_\_, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and Three Oaks Custom Cabinets, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$15,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.

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- USE OF FUNDS:** The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.
- JOB RETENTION AND/OR JOB REHIRE:** In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 3.00 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.
- FUNDING:** The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.
- INTEREST RATES:** Interest Rate of 0% (zero) per annum during term of loan and/or after default.
- MATURITY AND REPAYMENTS:** Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.
- OTHER FINANCING AND SCHEDULE OF VALUES:** Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.
- REPORTING:** Borrower shall provide the following information and documentation to



City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default.** Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower

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represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.





IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

FOR CITY OF DALTON:

By David Gregory Broome  
(Signature)

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

By DAVID GREGORY BROOME  
(Typed Name/Title)

By David Pennington, Mayor  
(Typed Name/Title)

5/14/20  
(Signature Date)

\_\_\_\_\_  
(Signature Date)

ATTEST:

ATTEST:

By Mandy Broome  
(Signature)

By \_\_\_\_\_  
(Signature) City Clerk

By Mandy Broome  
(Typed Name/Title)

By Bernadette Chattam, City Clerk  
(Typed Name/Title)

5/14/20  
(Signature Date)

\_\_\_\_\_  
(Signature Date)

ATTEST:

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

By Cindy Jackson, CFO  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

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**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** Totally Enterprises, LLC  
**LENDER:** The City of Dalton  
**LOAN:** \$15,000.00  
**NUMBER OF JOBS**  
**RETAINED/REHIRED:** 2.00

THIS AGREEMENT, made and entered into on the May 14, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and **Totally Enterprises, LLC**, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$15,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a **forgivable loan to cover payroll expenses to retain or re-hire employees.**



**USE OF FUNDS:**

The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION  
AND/OR JOB REHIRE:**

In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 2.00 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:**

The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:**

Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND  
REPAYMENTS:**

Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND  
SCHEDULE OF VALUES:**

Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:**

Borrower shall provide the following information and documentation to



City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default. Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.**

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower



represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.



IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

By [Signature]  
(Signature) CEO  
By Robert Weiner CEO  
(Typed Name/Title)  
05/14/2020  
(Signature Date)

ATTEST:  
By [Signature]  
(Signature)  
By Controller  
(Typed Name/Title)  
05/14/2020  
(Signature Date)

FOR CITY OF DALTON:

By \_\_\_\_\_  
(Signature) Mayor  
By David Pennington, Mayor  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

ATTEST:  
By \_\_\_\_\_  
(Signature) City Clerk  
By Bernadette Chattam, City Clerk  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

ATTEST:  
By \_\_\_\_\_  
(Signature) CFO  
By Cindy Jackson, CFO  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

City of Dalton  
CDBG Program Office  
300 West Waugh Street  
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cdbg@daltonga.gov



**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** The Perfect Cup  
**LENDER:** The City of Dalton  
**LOAN:** \$12,000.00  
**NUMBER OF JOBS** 4.00  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the May 14, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and The Perfect Cup, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$12,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.

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**USE OF FUNDS:** The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION AND/OR JOB REHIRE:** In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 4.00 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:** The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:** Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND REPAYMENTS:** Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND SCHEDULE OF VALUES:** Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:** Borrower shall provide the following information and documentation to





City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default.** Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower

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(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.

City of Dalton  
CDBG Program Office  
300 West Waugh Street  
Dalton, Ga. 30720  
(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

By *Yongla*  
(Signature)  
By *TONG Bao (owner)*  
(Typed Name/Title)  
*5/14/2020*  
(Signature Date)

ATTEST:

By *Kyoung Park*  
(Signature)  
By *Kyoung Park*  
(Typed Name/Title)  
*5/14/2020*  
(Signature Date)

FOR CITY OF DALTON:

By \_\_\_\_\_  
(Signature) Mayor  
By David Pennington, Mayor  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

ATTEST:

By \_\_\_\_\_  
(Signature) City Clerk  
By Bernadette Chattam, City Clerk  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

ATTEST:

By \_\_\_\_\_  
(Signature) CFO  
By Cindy Jackson, CFO  
(Typed Name/Title)  
\_\_\_\_\_  
(Signature Date)

**City of Dalton**  
**CDBG Program Office**  
300 West Waugh Street  
Dalton, Ga. 30720  
(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



**CITY OF DALTON**  
**Small Business Stabilization Forgivable Loan Program Agreement**

**NAME OF BUSINESS:** Triple L Construction, LLC  
**LENDER:** The City of Dalton  
**LOAN:** \$8,000.00  
**NUMBER OF JOBS** 3.00  
**RETAINED/REHIRED:**

THIS AGREEMENT, made and entered into on the May 19, 2020 by and between City of Dalton, a municipal corporation of the State of Georgia acting by and through its duly elected City Council, hereinafter referred to as the "City", and Triple L Construction, LLC, a for profit entity, hereinafter referred to as the "Borrower," located within the municipal boundary of the City of Dalton, Georgia, and incorporated in the State of Georgia.

WITNESSETH:

WHEREAS, City of Dalton has received a Fiscal Year [FY] 2020 Community Development Block Grant [CDBG], hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act [HCDA] of 1974, as amended, to carry out various economic development activities in the City's CDBG Program; and

WHEREAS, \$8,000.00 from Fiscal Year 2020 CDBG funds has been appropriated for award to the Subrecipient for the implementation of activities determined to be CDBG eligible by the City; and

WHEREAS, the Borrower agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained herein.

NOW, THEREFORE, the parties hereunto do hereby agree as follows:

**PROJECT DESCRIPTION:** The Borrower is seeking program funds for short-term financial relief due to a reduction in revenue as a result of COVID-19, which will consist of a forgivable loan to cover payroll expenses to retain or re-hire employees.

City of Dalton  
CDBG Program Office  
300 West Waugh Street  
Dalton, Ga. 30720  
(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



**USE OF FUNDS:**

The Loan proceeds may only be used for paying payroll for the retention or rehiring of employees. Borrower will be monitored for the eligible use of said funds.

**JOB RETENTION  
AND/OR JOB REHIRE:**

In addition to meeting the requirements provided in the program guidelines, in order to meet the national objective of retaining low to moderate income (LMI) jobs, Borrower and/or Borrower's tenants must retain or rehire a minimum of 3.00 full time equivalent (FTE) jobs with at least 51% of such jobs being jobs held by LMI persons.

**FUNDING:**

The City shall initially reimburse Borrower for the actual payroll expended for the number of jobs retained and/or rehired for the month of April, 2020 up to the maximum principal loan amount. In addition, the City shall advance to the Borrower an amount of **\$7,500** towards the actual payroll expended for the number of jobs retained and/or rehired for the month of May, 2020 up to the maximum principal loan amount. The City shall pay to Borrower any remaining balance of the maximum principal loan amount not already funded by June 30, 2020. The Borrower shall furnish supporting documentation as requested by City.

**INTEREST RATES:**

Interest Rate of 0% (zero) per annum during term of loan and/or after default.

**MATURITY AND  
REPAYMENTS:**

Repayment of the principal loan amount shall not be required by Borrower provided that for a period of 2 YEARS from the anniversary date of the Note, the Borrower has met the requirements outlined in Job Retention. Principal loan amount shall be forgiven at the rate of 50% of the outstanding loan amount at the 1<sup>st</sup> anniversary date of the Note and the remaining 50% of the outstanding loan amount at the 2<sup>nd</sup> anniversary date.

**OTHER FINANCING AND  
SCHEDULE OF VALUES:**

Prior to the closing, Borrower shall provide to City all updated source of additional funding received by Borrower for disaster-related issues, including but not limited to: FEMA funds, SBA funds and private insurance funds.

**REPORTING:**

Borrower shall provide the following information and documentation to



City as provided in the program guidelines or upon request:

1. Weekly, bi-weekly, or monthly or quarterly payroll register with copies of cancelled checks or EFT's for employees included on the Monthly Job Rehire/Retention Report
2. For W-2 employees include monthly or quarterly federal and state payroll tax reports
3. For 1099 employees include weekly, bi-weekly, or monthly payroll certification form and copies of cancelled checks or EFT's
4. Monthly Job Rehire/Retention Report
5. Self-Certification Report for all LMI employees retained or rehired
6. Annual W-2's or 1099's of each employee

**DEFAULT:**

The occurrence of any one or more of the following events shall be deemed a default:

1. Failure to submit monthly/quarterly/annual forms
2. Failure to comply with Job Retention/Rehire section of Agreement
3. Borrower ceases operation or otherwise closes business prior to 2<sup>nd</sup> anniversary date of this Agreement
4. Sale of business to a third party
5. Change of business ownership
6. Borrower files bankruptcy or Borrower's creditor(s) files an involuntary bankruptcy against Borrower
7. Business is located outside the municipal boundary of City
8. Borrower fails to maintain a current City of Dalton business license
9. Borrower fails to pay and is past due on any real estate taxes, occupational taxes, other taxes, licenses or fees owed to City
10. Borrower files suit against City
11. City obtains civil judgment against Borrower on any grounds

**Remedy upon default. Upon the occurrence of any event of default, the entire unpaid principal balance, at the option of City, shall become immediately due and payable without further demand.**

**PREPAYMENT:**

Payment is not required except in the event of default. No penalty for prepayment of this obligation.

**REPRESENTATIONS AND WARRANTIES:**

The Borrower represents that all information provided in the Small Business Stabilization Forgivable Loan Program application and supporting documentation is true and accurate. Further, Borrower

**City of Dalton**  
**CDBG Program Office**  
300 West Waugh Street  
Dalton, Ga. 30720  
(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



represents that said business is 1) properly organized in the State of Georgia and administratively active with the Secretary of State; 2) that the undersigned is a duly elected officer, director, or member of the business; 3) that business is not prohibited from borrowing funds pursuant to this Agreement; 4) that the undersigned is duly authorized to sign all documents, including but not limited to the Agreement and Note on behalf of said business.

**INDEMNIFICATION:**

The Borrowers will indemnify and hold harmless the City and its affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and reasonable expenses arising out of or relating to the Loan, the Borrowers' use of loan proceeds or the commitments, including, but not limited to, reasonable attorneys' fees and settlement. This indemnification shall survive and continue for the benefit of all such persons or entities.

**GOVERNING LAW:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.

**JURISDICTION:**

Jurisdiction and Venue of any lawsuit brought in connection with this Agreement shall be in the Superior Court of Whitfield County, Georgia and the parties hereby waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

**JURY TRIAL:**

The parties hereby waive the right to trial by jury of any issues in the event any lawsuit is filed in connection with this Agreement.

**City of Dalton**  
**CDBG Program Office**  
300 West Waugh Street  
Dalton, Ga. 30720  
(706) 529-2470 fax (706)277-4640  
cdbg@daltonga.gov



IN WITNESS WHEREOF, the parties hereunto have affixed their signatures on the dates specified below:

FOR THE BUSINESS:

By [Signature]  
(Signature)

By Owner  
(Typed Name/Title)

May 19, 2020  
(Signature Date)

ATTEST:

By [Signature]  
(Signature)

By Brittany Trejo Administrative Assistant  
(Typed Name/Title)

5-19-2020  
(Signature Date)

FOR CITY OF DALTON:

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

By David Pennington, Mayor  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:

By \_\_\_\_\_  
(Signature) City Clerk

Bernadette Chattam, City Clerk  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)

ATTEST:

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

By Cindy Jackson, CFO  
(Typed Name/Title)

\_\_\_\_\_  
(Signature Date)





## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting  
**Meeting Date:** 7-20-20  
**Agenda Item:** Budget Amendment #4  
**Department:** Finance  
**Requested By:** Cindy Jackson  
**Reviewed/Approved by City Attorney?** No  
**Cost:** \$271,870  
**Funding Source if Not in Budget** Fund Balance from Capital Acquisition Fund

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

Various departmental requests, contract awards, and CDBG funding.

**2020 Budget Amendment  
Budget Amendment #4**

<b>GENERAL FUND</b>	<b>Increase (Decrease)</b>	
<b>Revenues &amp; Transfers-In</b>		
Donations	\$ 2,500	(1)
Reimbursements damaged property	18,305	(2)
Miscellaneous income	<u>          </u>	
	<u>\$ 20,805</u>	
<b>Expenditures &amp; Transfers-out</b>		
Fire - Equipment Maintenance & Repair	\$ 2,500	(1)
Fire - Apparatus Maintenance	18,305	(2)
	<u>\$ 20,805</u>	
<b>Net Increase (Decrease) Budgeted Fund Balance</b>	<u><u>\$ -</u></u>	
(1) Donation from Wal-Mart for Fire Department operations		
(2) Insurance reimbursement for damages incurred to property on 2/27/20		

<b>Capital Acquisition Fund</b>	<b>Increase (Decrease)</b>	
<b>Expenditures &amp; Transfers-out</b>		
Capital - Fire Department	\$ 271,870	(1)
	<u>\$ 271,870</u>	
<b>Net Increase (Decrease) Budgeted Fund Balance</b>	<u><u>\$ (271,870)</u></u>	
(1) Bid for roof replacement at Fire Station 1 approved by M&C on 6/20/20		

<b>CDBG Fund</b>	<b>(Decrease)</b>	
<b>Revenues &amp; Transfers-In</b>		
Federal Funds - COVID	\$ 255,545	(1)
Federal Funds	217,200	(2)
	<u>\$ 472,745</u>	
<b>Expenditures &amp; Transfers-out</b>		
Economic Development - COVID	\$ 150,000	(1)
Public Service - COVID	54,435	(1)
Administratio - COVID	51,110	(1)
Public Facility	143,240	(2)
Public Service	30,520	(2)
Administration	43,440	(2)
	<u>\$ 472,745</u>	
<b>Net Increase (Decrease) Budgeted Fund Balance</b>	<u><u>\$ -</u></u>	
(1) Additional funds received through CARE's Act		
(2) Annual entitlement funding for 7/01/20 - 6/30/21		

# DALTON FIRE DEPARTMENT

TODD PANGLE  
Fire Chief  
Telephone 706-278-7363  
Fax 706-272-7107  
tpangle@daltonga.gov

404 School Street  
Dalton, GA 30720



## PUBLIC SAFETY COMMISSION

Bill Weaver  
Dr. Luis Viamonte  
Terry Mathis  
Kenneth E. Willis  
Anthony Walker

Cindy,

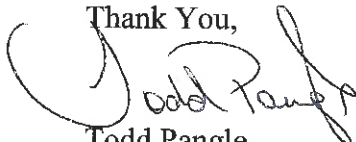
The two checks listed below are funds from Walmart grants that were awarded to Dalton Fire Department. I have also listed the budget line that I am requesting the funds be deposited into for utilization according to the use listed on the grant request. If you have any questions or issues please do not hesitate contacting me.

<b>Check Number:</b> 0588852	<b>Check Date:</b> 4-16-20	<b>Amount:</b> \$500.00
<b>Check Number:</b> 0617321	<b>Check Date:</b> 5-13-20	<b>Amount:</b> \$2,000.00
<b>TOTAL: \$2,500.00</b>		

### DEPOSIT INTO ACCOUNT LINE:

**141400 000400      Equipment Maintenance & Repair**

Thank You,



Todd Pangle  
Fire Chief

Walmart  
 702 S.W. 8th Street  
 Bentonville, AR 72716

DALTON FIRE DEPARTMENT  
 WALMART# 4528  
 404 SCHOOL STREET  
 DALTON GA 30720



IN PAYMENT  
 OF INVOICES TO

**Walmart**  
 702 S.W. 8th ST.  
 BENTONVILLE, AR 72716

\* INCLUDES

AIDCO  
 SAM'S CLUB  
 BJD'S OUTLET STORES  
 CMAUSA

NORTH ARKANSAS WHOLESALE CO. INC.  
 BEAVER LAKE AVIATION, INC.  
 PHILLIPS COMPANIES, INC.  
 WALMART PHARMACY OF MICHIGAN, INC.  
 WALMART PUERTO RICO, INC.

CHECK DATE: 04-16-20

CHECK NUMBER: 0588852

DATE	INVOICE NUMBER	STORE NUMBER	DOCUMENT NUMBER	TYPE CODE*	GROSS AMOUNT	DISCOUNT/ALLOWANCES	NET AMOUNT
04 14 20	61748421	05-09000	91916892		500.00	0.00	500.00

VENDOR: /9999999975 DALTON FIRE DEPARTMENT 500.00 0.00 500.00

\* VENDOR: Deduction codes are described on the reverse side of this statement

↓ DETACH AT PERFORATION ↓

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER. THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK. HOLD AT AN ANGLE TO VIEW.



702 S.W 8th St. BENTONVILLE, AR 72716

WELLS FARGO BANK, N.A. 66-156  
 CHARLOTTE, NC 28288-0013 531

NON-NEGOTIABLE AFTER 180 DAYS  
**0588852**

Vendor Number 9999999975	Check Date 04-16-20	Check Number 0588852
-----------------------------	------------------------	-------------------------

PAY  
 FIVE HUNDRED DOLLARS AND NO CENTS

\$ 

DOLLARS	CENTS
*****500.00	

  
 NET AMOUNT OF CHECK

TO THE DALTON FIRE DEPARTMENT  
 ORDER WALMART# 4528  
 OF 404 SCHOOL STREET  
 DALTON GA 30720

WALMART, INC.

*M. Brett Biggs*



Executive Vice President and Treasurer

⑈0588852⑈ ⑆053101561⑆ 2079900136854⑈

Walmart  
 702 S.W. 8th Street  
 Bentonville, AR 72716

DALTON FIRE DEPARTMENT  
 WALMART# 669  
 404 SCHOOL STREET  
 DALTON GA 30720



IN PAYMENT  
 OF INVOICES TO

**Walmart**  
 702 S.W. 8th ST.  
 BENTONVILLE, AR 72716

\* INCLUDES

AIDCO  
 SAM'S CLUB  
 BUD'S OUTLET STORES  
 CMA USA

NORTH ARKANSAS WHOLESALE CO., INC.  
 BEAVER LAKE AVIATION, INC.  
 PHILLIPS COMPANIES, INC.  
 WALMART PHARMACY OF MICHIGAN, INC.  
 WALMART PUERTO RICO, INC.

CHECK DATE: 05-13-20

CHECK NUMBER: 0617321

DATE	INVOICE NUMBER	STORE NUMBER	DOCUMENT NUMBER	TYPE CODE*	GROSS AMOUNT	DISCOUNT/ALLOWANCES	NET AMOUNT
05 11 20	62240341	05-09000	92453405		2000.00	0.00	2000.00

VENDOR: /999999975 DALTON FIRE DEPARTMENT 2000.00 0.00 2000.00

\* VENDOR: Deduction codes are described on the reverse side of this statement

↓ DETACH AT PERFORATION ↓

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER. THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW



702 S.W 8th St. BENTONVILLE, AR 72716



WELLS FARGO BANK, N.A. 66-156  
 CHARLOTTE, NC 28288-0013 531

Vendor Number 999999975	Check Date 05-13-20	Check Number 0617321
----------------------------	------------------------	-------------------------

NON-NEGOTIABLE AFTER 180 DAYS  
 0617321

PAY  
 TWO THOUSAND DOLLARS AND NO CENTS

DOLLARS	CENTS
*****2,000.00	
NET AMOUNT OF CHECK	

TO THE DALTON FIRE DEPARTMENT  
 ORDER: WALMART# 669  
 OF 404 SCHOOL STREET  
 DALTON GA 30720

WALMART, INC.

*M Brett Biggs*



Executive Vice President and Treasurer

⑈0617321⑈ ⑆053101561⑆ 2079900136854⑈

## Cindy Jackson

---

**From:** Todd Pangle  
**Sent:** Tuesday, June 9, 2020 11:33 AM  
**To:** Cindy Jackson  
**Subject:** Insurance Check  
**Attachments:** L-3 Accident Initial Payment.pdf

Cindy,

We finally received the initial check for the repairs on one of our apparatus that was involved in an accident on 2/27/20. The insurance company that is covering the repairs is Progressive Insurance. This will not be the final payment for the repairs as the initial estimate for repairs was over \$30k and their check is just over \$18k. The shop completing the repairs will have to negotiate the supplement amount with them. Repairs have not started on the truck as we were waiting on the check so we knew there would be no issues with payment. I will bring the check over to you sometime today. I realize you will have to do an amendment in order to add it to our budget and we should have plenty time for that to occur prior to repairs being completed. I will be paying this out of our “**Apparatus Maintenance – 000830**” line.

**Thank You,**  
**Chief Todd Pangle**  
**Dalton Fire Department**  
404 School St.  
Dalton, GA 30720  
Phone: 706-278-7363 x222  
Fax: 706-272-7107



\*\* Please note: The City of Dalton has adopted a new domain and my email address has changed. My primary address is [tpangle@daltonga.gov](mailto:tpangle@daltonga.gov). I can still be reached at [tpangle@cityofdaltong-ga.gov](mailto:tpangle@cityofdaltong-ga.gov), however all outgoing email will use the new domain

**PROGRESSIVE**

PAYABLE THROUGH  
PNC BANK, N.A. 070  
ASHLAND, OH  
1-877-448-9544

VOID IF NOT PRESENTED WITHIN 90 DAYS

CLAIM NUMBER: 20-1276345  
NAME: DALTON CITY FIRE TRU  
CK

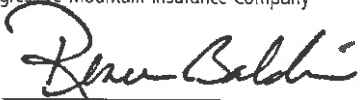
DRAFT NUMBER: 56-389  
**2780662333** 412  
**June 4, 2020**

PAY EXACTLY \$\*\*\*\*\*18,302.53

**EIGHTEEN THOUSAND, THREE HUNDRED TWO AND 53/100 \*\*\*\*\***

PAY TO DALTON CITY FIRE TRUCK  
THE ORDER 404 SCHOOL STREET  
OF: DALTON, GA 30720

Progressive Mountain Insurance Company

BY:   
AUTHORIZED SIGNATURE

⑈ 2780662333⑈ ⑆041203895⑆ 4239694516⑈

DALTON CITY FIRE TRUCK  
404 SCHOOL STREET  
DALTON, GA 30720

ADVICE FOR PAYMENT 2780662333		
Payee: DALTON CITY FIRE TRUCK	Payment Date	06/04/2020
	Total Payment Amount	\$18,302.53
	Total Number of Invoices	1
If you have any questions regarding this payment, please call us at 1-800-274-4499.		

Details							
Claim Number: 201276345	Name: DALTON CITY FIRE TRU, CK	Date of Loss: 02/27/2020	Invoice Number: 72220972	Company: Progressive Mountain Insurance Company			
Type	Description	*Coverage	Reference	Identifier	Service Dates	Deductible	Payment Amount
Repair	Estimate	PD	N/A	02 STUPHEN MT75 FIRE ENGINE 003067	N/A	\$0.00	\$18,302.53

Total Payment Amount	\$18,302.53
----------------------	-------------

**\*Full Description of Coverage:**

PD - Property Damage Liability

# 383000



**PUBLIC NOTICE**

**PUBLIC REVIEW MEETING NOTICE**

**2020 ACTION PLAN**

**PUBLICATION DATE: FRIDAY, MAY 22, 2020**

**PUBLIC COMMENTS DUE BY: WEDNESDAY, MAY 27, 2020 – 5:00 P.M.**

The City of Dalton will hold a Virtual Public Review Meeting to solicit comments on the 2020 Annual Action Plan at **10:00 A.M on Tuesday, May 26, 2020** via conference call. All meeting attendees may dial **252-524-2144** and enter pin#: **950 344 678#** when prompted to join the call or login from your computer, tablet, or smartphone at: **meet.google.com/xqk-rxhn-nme**.

The City is required to develop an Annual Action Plan to displays the annual allocation of funding by the City and is submitted to the U.S. Department of Housing & Urban Development as a prerequisite to receiving funds for the Community Development Block Grant Program. The City of Dalton received \$434,399 in CDBG funding for FY2020. The City of Dalton also received \$255,543 in CDBG funds through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). Funding allocations for the City's 2020 CDBG and CDBG-CV Program are as listed below:

<b>FISCAL YEAR 2020 FUNDING ALLOCATIONS</b>			
<b>CDBG</b>			
<b>Organization</b>	<b>Project Title</b>	<b>Funding Category</b>	<b>Amount Allocated</b>
Northwest GA Family Crisis Center	Domestic Violence Services	Public Services	\$14,923.00
Friendship House	Preschool Tuition Assistance	Public Services	\$21,000.00
LAA Dalton CDBG	Latino Family Well Being	Public Services	\$25,119.00
City of Dalton	City of Dalton - Planning & Admin	Administration	\$86,879.00
Housing Authority	HVAC (Phase 4) - Beechland Property	Public Facility	\$180,000.00
City of Refuge	Raise the Roof	Public Facility	\$106,478.00
		<b>TOTAL</b>	<b>\$434,399.00</b>
<b>CDBG-CV (Covid-19)</b>			
<b>Organization</b>	<b>Project Title</b>	<b>Funding Category</b>	<b>Amount Allocated</b>
City of Dalton	City of Dalton - Planning & Admin	Administration	\$51,108.60
City of Dalton Food Delivery Program	Food Delivery Program	Public Services	\$54,434.40
City of Dalton	Economic Development Small Business Loan Program	Economic Development	\$150,000.00
		<b>TOTAL</b>	<b>\$255,543.00</b>

Draft copies of the 2020 Annual Action Plan will be available for examination and comment by the public via the City's website at [www.cityofdalton-ga.gov](http://www.cityofdalton-ga.gov). The City will receive written comments until 5:00 P.M. on **Wednesday, May 27, 2020**.

No displacement will occur as a result of the activities described herein. Should displacement occur, the City of Dalton implements the provisions as required by CFR 570.606 (Residential Anti-Displacement and Relocation Assistance). The City of Dalton does not discriminate on the basis of disability in the admission of, access to, or treatment of, or employment; the programs and activities described herein. An interpreter is available upon request to assist persons with limited English proficiency. Any requests for reasonable accommodation required by an individual to fully participate in any open meetings, programs, or activities of the City of Dalton's CDBG Office at (706) 529-2470 or via email at [cdbg@daltonga.gov](mailto:cdbg@daltonga.gov).



## CITY COUNCIL AGENDA REQUEST

<b>Meeting Type:</b>	Mayor & Council Meeting
<b>Meeting Date:</b>	July 6, 2020
<b>Agenda Item:</b>	Contract with Westmor Fluid Solutions LLC for Jet Truck Tank Refurbish
<b>Department:</b>	Airport
<b>Requested By:</b>	Andrew Wiersma
<b>Reviewed/Approved by City Attorney?</b>	Yes
<b>Cost:</b>	\$66,900
<b>Funding Source if Not in Budget</b>	Capital Improvements

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

This project was approved for funding from the 2020 Capital Improvement budget. Westmor will be removing the tank from our existing Jet A refueler truck, refurbishing it, and installing it on a new truck chassis. The contract is a standard services contract with a penalty clause for late delivery and small bonus for early delivery.

SCANNED

CITY OF DALTON  
AIRPORT AUTHORITY

GENERAL PROFESSIONAL SERVICES AGREEMENT

THIS GENERAL PROFESSIONAL SERVICES AGREEMENT is made and entered into on this 16<sup>th</sup> day of June, 2020 by and between the City of Dalton, a Georgia Municipal Corporation, hereinafter referred to as "CITY", and Westmor Fluid Solutions, LLC of 14044 W. Freeway Drive, Columbus, Minnesota 55038, hereinafter referred to as "SERVICE PROVIDER".

WHEREAS, the CITY desires to engage the SERVICE PROVIDER to provide professional services; and,

WHEREAS, the CITY finds that the proposed Scope of Services and terms of this Contract are acceptable; and,

WHEREAS, the SERVICE PROVIDER desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth,

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

1. EMPLOYMENT OF SERVICE PROVIDER: The CITY hereby engages the SERVICE PROVIDER and the SERVICE PROVIDER hereby agrees to perform the professional services hereinafter set forth.

2. PROJECT/SCOPE OF SERVICES: The SERVICE PROVIDER shall complete the project and perform the scope of services specified in the CITY's Request for Proposal which is included herein by reference and the specifications provided as follows:

Removal of one (1) 2200 gallon, stainless-steel tank and pump/meter assembly from a 1993 Ford F700 chassis. Upon removal, mount tank on new, customer supplied, Freightliner M2-106 chassis. Work will include: removal of tank from current chassis, clean/steam tank and remove old decals, rebuild pump, install new meters (2), replace primary and secondary control valves, install electronic water detection system with external test feature, replace overwing and underwing hoses with new, replace underwing nozzle with new, install new DP gauge with test feature, install new fueling and pump pressure gauges, refurbish control boxes, test and repair/refurbish electrical control system, PTO and shaft assembly, install brake interlock system, install new fire extinguishers with side bucket holders, refurbish emergency valve operation/cable

2020/09/01 10:00 AM

system, install NFPA required secondary overflow system, conform tank and new chassis to all current ATA and NFPA 407 standards including installation of new required decals, install new Shell tank decals, perform full operational test and provide new truck manual (electronic).

3. ADDITIONAL SERVICES: The SERVICE PROVIDER shall provide additional services, not specifically provided for in herein, upon written request and authorization by the CITY.

4. DATE OF COMMENCEMENT: The SERVICE PROVIDER shall commence work on the project on September 1, 2020 or upon receipt of both chassis components at site identified by SERVICE PROVIDER, whichever occurs later.

5. DATE OF COMPLETION: The SERVICE PROVIDER shall complete the project between 55-90 days.

6. CONTRACT SUM: The CITY shall pay to SERVICE PROVIDER the total sum of \$66,900.00 Dollars for the complete performance of the project and terms of this Agreement. In addition, CITY shall pay to SERVICE PROVIDER for any authorized additional services performed at the rate or amount provided in any mutually agreed to change order.

7. CONTRACT PENALTY: The SERVICE PROVIDER shall pay to the CITY the amount of \$100.00 Dollars per calendar day for unexcused delay in completion of the project past 90 days of the date of commencement. CONTRACT BONUS: CITY shall pay a contract bonus of \$400.00 if the project is completed on or before 55 days of the date of commencement.

8. PAYMENT: The CITY shall pay the contract sum to SERVICE PROVIDER as follows:

a.) 25 % deposit in the amount of \$16,725.00 upon execution of the Agreement.

b.) the remaining contract balance in the amount of \$50,175.00 upon complete performance of the project and terms of this Agreement. SERVICE PROVIDER shall provide to CITY an Affidavit from the SERVICE PROVIDER stating the SERVICE PROVIDER 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 SERVICE PROVIDER. Payment(s) shall be made via electronic funds transfer (EFT).

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 SERVICE PROVIDER to perform the scope of services provided for herein;

(b) to provide reasonable assistance and cooperation to SERVICE PROVIDER in obtaining any information or documentation which are necessary for SERVICE PROVIDER 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 Director of Public Works;

(d) to permit access to the subject public property and obtain permission to access necessary private property for SERVICE PROVIDER to complete the scope of services;

(e) to provide reasonable assistance to SERVICE PROVIDER in applying for and obtaining any necessary Federal, State or local government permits for the scope of services;

10. SERVICE PROVIDER COVENANTS: SERVICE PROVIDER covenants and agrees:

- (a) to perform the scope of services in a professional manner, using that degree of care and skill ordinarily exercised by consultants practicing in the same or similar field;
- (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 SERVICE PROVIDER'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;
- (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 SERVICE PROVIDER, 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 SERVICE PROVIDER 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 SERVICE PROVIDER'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.

11. INDEMNITY: SERVICE PROVIDER shall indemnify CITY from and hold CITY harmless against all claims, demands and judgments for loss, damage or injury to person or property, resulting from or incurring by reason of SERVICE PROVIDER'S use and occupancy of the subject property or by the negligence, willful acts, or errors or omissions with respect to the performance of the professional services of SERVICE PROVIDER, its employees, agents, subcontractors, or invitees 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 SERVICE PROVIDER for any claims arising from the actions or omissions of SERVICE PROVIDER or any third party.

12. INSURANCE: SERVICE PROVIDER 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 or as provided herein below, whichever is greater. SERVICE PROVIDER 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.

SERVICE PROVIDER 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.

14. ASSIGNMENT: SERVICE PROVIDER may not assign all or any portion of the Agreement without the prior written permission of CITY.

15. SUBCONTRACTOR: The SERVICE PROVIDER shall provide written notice to CITY of SERVICE PROVIDER'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.

16. 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.

17. 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 SERVICE PROVIDER shall be mailed to:

Westmor Fluid Solutions, LLC  
14044 W. Freeway Drive  
Columbus, Minnesota 55038

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.

18. 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 SERVICE PROVIDER'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 SERVICE PROVIDER 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 SERVICE PROVIDER. Any changes to the material terms of any document shall be clearly identified and noted to CITY.

19. VENDOR: SERVICE PROVIDER 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 during the term of this Agreement.

20. TERMINATION OF CONTRACT: In the event that SERVICE PROVIDER 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 for default, CITY shall provide written notice to SERVICE PROVIDER of any default and provide SERVICE PROVIDER ten (10) days to correct said default or deficiency,

21. 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. SERVICE PROVIDER 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 SERVICE PROVIDER, then SERVICE PROVIDER 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 SERVICE PROVIDER's services shall be maintained in confidence and shall not be disclosed to any third party by SERVICE PROVIDER, without CITY's written authorization, except as may be required by the Georgia Open Records Act. SERVICE PROVIDER 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 SERVICE PROVIDER 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.

SERVICE PROVIDER:

Westmor Fluid Solutions, LLC

By: Michelle R. [Signature]

Title: Controller

CITY:

CITY OF DALTON, GEORGIA

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

Attest: \_\_\_\_\_  
CITY CLERK



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
6/12/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

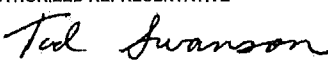
<b>PRODUCER</b> Fairly Consulting Group, LLC 1800 S. Washington, Suite 400 Amarillo, TX 79102	<b>CONTACT NAME:</b> Dawn Harelik <b>PHONE (A/C, No, Ext):</b> (806) 345-3655 <b>E-MAIL ADDRESS:</b> dawn.harelik@fairlygroup.com	<b>FAX (A/C, No):</b> (806) 376-5136
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b>  Westmor Fluid Solutions, LLC 14044 W Freeway Drive Columbus, MN 55038	<b>INSURER A:</b> Navigators Specialty Insurance Company	<b>NAIC #</b> 36056
	<b>INSURER B:</b> Phoenix Insurance Company	<b>NAIC #</b> 25623
	<b>INSURER C:</b> Sentry Casualty Company	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	

**COVERAGES**                      **CERTIFICATE NUMBER:**                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			MP19NP30A2OYDIC	12/31/2019	6/30/2021	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 500,000
							MED EXP (Any one person)	\$ 25,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			Y-810-6N949566-PHX-19	6/30/2019	6/30/2020	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			MP19NP30A2OYDIC	12/31/2019	6/30/2021	EACH OCCURRENCE	\$ 1,000,000
							AGGREGATE	\$ 1,000,000
								\$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input checked="" type="checkbox"/> Y <input type="checkbox"/> N    N/A If yes, describe under DESCRIPTION OF OPERATIONS below			90-19728-03	6/30/2019	6/30/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

<b>CERTIFICATE HOLDER</b>  City of Dalton Attn: City Administrator PO Box 1205 Dalton, GA 30722	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 





## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting  
**Meeting Date:** 7-6-20  
**Agenda Item:** Change Order Request - City Email Migration Project  
**Department:** Technology  
**Requested By:** Jorge Paez  
**Reviewed/Approved by City Attorney?** Yes  
**Cost:** \$6273.45  
**Funding Source if Not in Budget** IT Services Budget 2020

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

This serves as a request to approve a change order for two contracts related to the City Email Migration to Office 365 which was previously approved by the City Council on May 4th, 2020 with CDW-G/ Microsoft; and with INTERDEV. **The total increase requested for this project is \$6273.45.**

INTERDEV is handling the email migration, and CDW-G/Microsoft is providing the licenses.

Upon further Investigation we have found that the Police department's domain did not export all of its users to our list count, thus needing to add 55 additional licenses and 1 Service account. Bringing the new total licensed users to 331. 330 users and 1 service account.

CDW-G/Microsoft's price increase is 4513.45, and the InterDev increase is \$1760.

The total requested increase for this project is \$6273.45



CDW Government, LLC  
 Microsoft Enterprise 6.6 Agreement Pricing

**Enterprise Quote  
 for**

**City of Dalton**

Date 7/2/20  
 Account Manager Halcyon

VSL Specialist Mike Buckley  
 Channel Price Sheet Month June

Unless otherwise noted, All Quotes expire upon current month's end

**Annual Payment**  
 Customer to make three annual payments to CDW-G

Microsoft Part #	Description	Level	Quantity	Year 1		Year 2		Year 3			
				Price	Extended	Price	Extended	Price	Extended		
U4S-00002	O365GCCE1 ShrdSvr ALNG SubsVL MVL PerUsr	D	55	\$ 74.58	\$ 4,101.90	\$ 81.36	\$ 4,474.80	\$ 81.36	\$ 4,474.80		
3MS-00001	ExchgOnlnP1GCC ShrdSvr ALNG SubsVL MVL PerUsr	D	1	\$ 35.43	\$ 35.43	\$ 38.65	\$ 38.65	\$ 38.65	\$ 38.65		
<b>Total</b>					<b>\$ 4,137.33</b>	<b>Total</b>		<b>\$ 4,513.45</b>	<b>Total</b>		<b>\$ 4,513.45</b>
<b>Three Year Total</b>					<b>\$ 13,164.23</b>						

**Notes**

No Tax Referenced  
 GASOFTMSFTE: State of Georgia Software Microsoft Enterprise

Terms and Conditions of sales and services projects are governed by the terms at:  
<http://www.cdwg.com/content/terms-conditions/product-sales.aspx>

**Alpharetta (Global)**

900 Holcomb Woods Parkway

Roswell, GA 30076

7706434400

www.interdev.com



**We have prepared a quote for you**

**Additional Licenses for Office 365 Migration**

QUOTE # 003686 V1

PREPARED FOR

**City of Dalton, GA**

PREPARED BY

**Nathan Holder**

Software

Description	Price	Qty	Ext. Price
<b>Email Migration Tool (Priced per Mailbox)</b>	\$32.00	55	\$1,760.00
Subtotal:			<b>\$1,760.00</b>



## Additional Licenses for Office 365 Migration



**Prepared by:**  
**Alpharetta (Global)**  
Nathan Holder  
678-672-1508  
Fax 6786721555  
nholder@interdev.com

**Prepared for:**  
**City of Dalton, GA**  
IT Department PO BOX 1205  
Dalton, GA 30720  
Jorge Paez  
(706) 529-2445  
JPaez@daltonga.gov

**Quote Information:**  
**Quote #: 003686**  
Version: 1  
Delivery Date: 06/29/2020  
Expiration Date: 07/27/2020

### Quote Summary

Description	Amount
Software	\$1,760.00
Total:	<b>\$1,760.00</b>

Taxes, shipping, handling and other fees may apply. We reserve the right to cancel orders arising from pricing or other errors.

Alpharetta (Global)

City of Dalton, GA

Signature: *Nathan Holder*  
Name: Nathan Holder  
Title: Account Manager  
Date: 06/29/2020

Signature: \_\_\_\_\_  
Name: Jorge Paez  
Date: \_\_\_\_\_



## CITY COUNCIL AGENDA REQUEST

<b>Meeting Type:</b>	Mayor & Council Meeting
<b>Meeting Date:</b>	07/20/2020
<b>Agenda Item:</b>	Ninja RMM to Replace Cisco AMP and TeamViewer.
<b>Department:</b>	I.T.
<b>Requested By:</b>	Jorge Paez
<b>Reviewed/Approved by City Attorney?</b>	No
<b>Cost:</b>	\$15,600
<b>Funding Source if Not in Budget</b>	I.T. Software Services budget 2020

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

Ninja RMM is a software that does Remote Monitoring and Management including Security Patch updating fully automatic.

During our current task in deploying new Computers throughout the whole City of Dalton we have noticed that there are no agents to help us speed up the process of deploying new computers. The I.T. department currently has agreements with Teamviewer for remote login and Cisco AMP for Antivirus protection. Currently the city pays for 7 concurrent users on TeamViewer \$5,451.60 and \$13,860 for its antivirus protection through Cisco AMP. Ninja RMM has the ability to handle remote login and antivirus protection included in its annual agreement.

By contracting with Ninja RMM it will not only allow us to roll out all the security patches without the need of hiring an extra technician, but it will also net us a savings of \$3,711.60.



Review, complete and sign this form (this "Purchase Order") to authorize your purchase of an annual subscription to NinjaRMM (the "Software") as follows:

License	As identified in <a href="https://ninjarmm.com/license/">https://ninjarmm.com/license/</a>
Committed Contract Term	12 months
Activation Date	Processing fee payment date
Bill Date	30th (if none last day of the month)
Company Name	City of Dalton
Buyer Email	blloyd@daltonga.gov
Billing Email	
Billing Street Address	
Billing City	
Billing State	
Billing Postal Code	
Billing Country	
Payment Terms	Due upon receipt

Product	Price/Month	QTY	Months	Annual Subtotal
Ninja + TeamViewer + Webroot	\$3.25	400	12	\$15,600.00

Subtotal **\$15,600.00**

**Annual Total: \$15,600.00**

## Annual Payment due by August 30th, 2020

Purchasing a bundle has entitled you to receive a special discount based upon the number of devices in your bundle. If your usage exceeds the number of devices you purchased, you will be contacted by your account manager and you will have the option to (1) be billed on a monthly basis for the added consumption, or (2) be billed an additional pro-rated amount for the added consumption that covers the remainder of the contracted term. If we are not able to get in contact with you upon increased consumption, you will be billed on a monthly basis for the added consumption. No refunds are given for any downgrades that occur within a contracted term.

Upon each annual anniversary date of this Purchase Order, the Purchase Order will renew for an additional annual term at the then current price you are paying including any upgrades or additional software or services added after this Purchase Order plus 2.75%, unless you provide written notice of your intent to terminate this Purchase Order to [success@ninjarmm.com](mailto:success@ninjarmm.com) 60 days prior to the annual anniversary date of this Purchase Order. Any initial ramp or discount given will not be renewed. This Purchase Order cannot be cancelled or downgraded prior to the expiration of the Committed Contract Term stated on this Purchase Order.

By signing this agreement, you agree to all of the terms and conditions contained herein, as well as the terms and conditions of the NinjaRMM license agreement, which can be found at: <https://ninjarmm.com/license/>

# City of Dalton

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To: City of Dalton  
Mayor, David Pennington, III

X: \_\_\_\_\_

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

**\$15,600.00**

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## IMPORTANT – READ CAREFULLY

THIS USER AGREEMENT (THIS “AGREEMENT”) IS A LEGAL AND BINDING CONTRACT BETWEEN YOU AND THE COMPANY LICENSING THE SOFTWARE (“CUSTOMER”) ON THE ONE HAND AND NINJARMM LLC (“NINJARMM”) ON THE OTHER. THE AGREEMENT GOVERNS CUSTOMER’S ACCESS TO AND USE OF THE NINJARMM SOFTWARE (AS FURTHER DEFINED BELOW, THE “SOFTWARE”).

PLEASE READ THIS AGREEMENT CAREFULLY. BY INSTALLING AND USING THE SOFTWARE, AND BY SIGNING ITS PURCHASE ORDER, CUSTOMER INDICATES ITS ACCEPTANCE OF THE TERMS, CONDITIONS AND LIMITATIONS OF THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO BE BOUND BY ALL OF THE TERMS, CONDITIONS AND LIMITATIONS OF THIS AGREEMENT, CUSTOMER MUST PROMPTLY (A) DELETE THE SOFTWARE FROM ANY AND ALL OF CUSTOMER’S COMPUTERS ON WHICH IT IS INSTALLED AND DESTROY ALL COPIES OF THE SOFTWARE IN CUSTOMER’S POSSESSION AND ALL ACCOMPANYING MATERIALS, INCLUDING PACKAGING AND DOCUMENTATION, AND (B) CEASE ALL OF CUSTOMER’S USE OF THE SOFTWARE.

THIS AGREEMENT APPLIES TO THAT VERSION OF THE SOFTWARE THAT CUSTOMER HAS LICENSED. THE SOFTWARE IS LICENSED, NOT SOLD. CUSTOMER MAY USE ONLY THE VERSION OF THE SOFTWARE THAT CUSTOMER HAS LICENSED AND HAS PAID FOR, AND CUSTOMER MUST USE IT STRICTLY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT. CUSTOMER IS RESPONSIBLE FOR ENSURING THAT ALL EMPLOYEES, CONTRACTORS, AND OTHER USERS (“AUTHORIZED USERS”) WITHIN ITS ORGANIZATION ABIDE BY THE TERMS OF THIS AGREEMENT.

NINJARMM RESERVES THE RIGHT, IN ITS SOLE DISCRETION, TO MODIFY THE TERMS AND CONDITIONS OF THIS AGREEMENT, AT ANY TIME, EFFECTIVE UPON MAKING THE MODIFIED PROVISIONS AVAILABLE THROUGH SOFTWARE UPDATES OR OTHERWISE THROUGH CUSTOMER’S USE OF THE SOFTWARE.

### 1. DEFINITIONS.

1.1 “Remote Monitoring And Management Services” shall mean the remote monitoring and management services that Customer is providing to its Clients using the Software (including the Client Software and the SAAS Service).

1.2 “Client” shall mean Customer’s clients, i.e. the organizations to which Customer is providing the managed services.

1.3 “Client Software” shall mean the client interface component of the Software and all Software installed on Client computers.

1.4 “Purchase Order” shall mean the document or another method (including, but not limited to, online or email order form) by which Customer purchases the Software licenses from NinjaRMM.

1.5 “SAAS service” shall mean the NinjaRMM platform service that stores, manages, reports and alerts on all Client/Customer’s computers.

1.6 “Software” shall mean all the software provided by NinjaRMM collectively (including without limitation the Client Software and SAAS Software), and each separate component of the foregoing individually, any updates, upgrades or enhancements to the Software or any Software component provided to you by NinjaRMM, including, without limitation, any support software provided to you by NinjaRMM via the Internet, email or by any other means.

### 2. LICENSE GRANT.

(A) SAAS SERVICE LICENSE. Provided that Customer fully complies with this Agreement and other terms of use regarding the Software, NinjaRMM hereby grants to Customer, subject to the terms and conditions of this Agreement, a nonexclusive, limited, non-transferable right and license (a) to use the software service to manage a number of Customer computers specified in the applicable Purchase Order for purposes of providing Remote Monitoring And Management Services to Customer’s Clients; and (b) used to deploy 3rd party products for the applicable Purchase Order.

(B) CLIENT SOFTWARE LICENSE. Customer is purchasing the number of Client Software licenses specified in the applicable Purchase Order. The Purchase Order specifies the number of Clients for which Customer may use the Software to provide Remote Monitoring And Management Services. Customer may install the Client Software on computers within the number of Clients specified in the applicable Purchase Order. Customer may only install the Client Software on the number of user computers within each Client organization as specified in the applicable Purchase Order.

(C) LICENSE RESTRICTIONS. Notwithstanding anything to the contrary herein, the license grants of Section 2 are subject to the following restrictions:

(i) Representations. Customer shall be responsible for obtaining and maintaining any equipment or ancillary services needed to connect to, access or otherwise use the Software, including, without limitation, modems, hardware, software, and long distance or local telephone service. Customer shall be responsible for ensuring that such equipment or ancillary services are compatible with the Software.

(ii) Derivative Works. Customer may not modify or make derivative works of the Software, the documentation thereof, or any other component that may be included in the Software or provided with the Software, nor rent, lease or otherwise distribute the Software or the documentation thereof, except as expressly permitted in Section 2 of this Agreement.

(iii) Transfer of Rights. Except as expressly set forth in Section 2, Customer shall not assign, sublicense, rent or otherwise transfer Customer's access and use rights under this Agreement to the Software without the prior written approval of NinjaRMM.

(iv) Reverse Engineering and Software Development. Customer may not reverse engineer, decompile, or disassemble the Software, directly or indirectly, in whole or in part. The Software shall only be used in accordance with the accompanying documentation and shall not be used for software development or any other purposes.

(v) Copies. Customer may not copy the Software except as expressly permitted in Section 2 of this Agreement or the applicable Purchase Order.

(vi) Ownership. All worldwide ownership of and all rights, title and interest in and to the Software, and all copies and portions thereof, including without limitation, all copyrights, patent rights, trademark rights, trade secret rights, inventions and other proprietary rights therein and thereto, are and shall remain exclusively in NinjaRMM. The only rights Customer acquires under this Agreement are the licenses set forth in this Agreement.

(vii) Other Restrictions. Customer may not use the Software to:

(a) defame, abuse, harass, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of others;

(b) conduct or forward illegal contests, pyramid schemes, chain letters, unsolicited or unauthorized advertising, promotional materials, unsolicited e-mail or multi-level marketing campaigns;

(c) publish, post, distribute, disseminate or link to any: (i) defamatory, infringing, or unlawful topic, name, material or information; (ii) software or other material protected by intellectual property laws, copyright licenses, rights of privacy or publicity, or other proprietary rights, unless you own, control such rights or have received all necessary consents for your use of such software and other materials;

(d) harvest usernames or email addresses for any purpose;

(e) restrict or inhibit any other user from using and enjoying its rights with respect to NinjaRMM or its website (its "Website"), interfering with or disrupting the Website, the NinjaRMM SAAS Service or networks connected to NinjaRMM; or (f) violate any applicable government laws or regulations.

**3. FEES.** Customer must pay the fees specified in the applicable Purchase Order. Such fees may include ongoing monthly or other periodic fees. Failure to pay such fees on time will result in the shutdown of Customer and its Clients' use of the Software as specified in the Termination section of this Agreement.

Purchase Order prices are guaranteed for the first 12 months and are subject to change thereafter.

**4. USE OF THE SOFTWARE AND NINJARMM WEBSITE AND SERVICES.** NinjaRMM has no special relationship with or fiduciary duty to Customer. Customer acknowledges that NinjaRMM has no control over, and no duty to take any action regarding: what Customer accesses via NinjaRMM or its Website; what effects the content Customer accesses may have on Customer; how Customer may interpret or use the content; or what actions Customer may take as a result of having been exposed to the content. The customer is solely responsible for Customer's activities in using the Website, Software or other services including the activities of your employees, contractors, clients and all parties that Customer allows having access to the Website and Software. NinjaRMM may access Customer's account, including its data, to respond to service or technical problems or as stated in this Agreement. Customer, not NinjaRMM, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and copyright of all data stored in Customer's account. Furthermore, NinjaRMM shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any data.

**5. FEEDBACK MECHANISM; SHUTDOWN MECHANISM.** The Software is equipped with a feedback mechanism that allows NinjaRMM to review Customer's and its Clients' use of the Software and communicates activity using the Software back to NinjaRMM. NinjaRMM reserves the right to use such data to evaluate the Software use and for any purposes which NinjaRMM deems useful or appropriate. The Software is also equipped with a shut-down mechanism by which NinjaRMM may shut down Customer's and its Clients' use of the Software. NinjaRMM reserves the right to use this shut down mechanism if Customer or its Clients breach this agreement, Customer or its Clients use the Software in ways not permitted by this Agreement, and/or if Customer fails to pay the applicable periodic Software fees as specified in the applicable Purchase Order.

**6. ACCESS RESTRICTION.** NinjaRMM reserves the right to deny to any user, in its sole discretion, access to the Software or any portion thereof without notice. The customer is responsible for safeguarding the confidentiality of password(s) and username(s) created by Customer for use with the Software, and for any use or misuse of the NinjaRMM account resulting from any third party using a password or username created by Customer. Customer shall be solely responsible for securing access to its and its Clients' data. NinjaRMM shall in no event be liable for any unauthorized access to any data stored using the [143] re.

**7. WARRANTY DISCLAIMER.** THE SOFTWARE, THE NINJARMM WEBSITE AND ALL OF THE CONTENTS THEREOF ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESSED, IMPLIED OR STATUTORY, AND

NINJARMM HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS, WITH RESPECT TO THE SOFTWARE, THE WEBSITE AND ALL CONTENTS THEREOF, THE ACCOMPANYING DOCUMENTATION, AND ANY ACCOMPANYING SUPPORTING MATERIALS OR OTHER MATERIALS RECEIVED FROM NINJARMM AND/OR ANY AFFILIATE, AGENT, RESELLER, DEALER, DISTRIBUTOR, EMPLOYEE, CONTRACTOR OR REPRESENTATIVE OF NINJARMM. CUSTOMER EXPRESSLY ACKNOWLEDGES THAT THE WEBSITE AND/OR THE SOFTWARE MAY CONTAIN TECHNICAL INACCURACIES OR TYPOGRAPHICAL ERRORS. NO AFFILIATE, CONTRACTOR, EMPLOYEE, AGENT, RESELLER, DEALER OR DISTRIBUTOR OR REPRESENTATIVE OF NINJARMM IS AUTHORIZED TO MODIFY THIS LIMITED WARRANTY OR TO MAKE ANY ADDITIONAL WARRANTIES. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE OR JURISDICTION TO JURISDICTION.

**8. LIABILITY DISCLAIMER; NO LIABILITY FOR CONSEQUENTIAL DAMAGES.** CUSTOMER IS SOLELY RESPONSIBLE FOR CUSTOMER'S AND ITS CLIENTS' USE OF THE SOFTWARE, INPUTS INTO THE SOFTWARE, VERIFYING THE RESULTS OF THE USE OF THE SOFTWARE AND HOW THE OUTPUT FROM THE SOFTWARE IS USED BY CUSTOMER AND ITS CLIENTS. IN NO EVENT SHALL NINJARMM BE RESPONSIBLE OR LIABLE TO CUSTOMER, ITS CLIENTS OR ANY THIRD PARTY FOR ANY LIABILITY ARISING OUT OF INSTALLATION OR USE OF THE SOFTWARE, WHETHER BY CUSTOMER, CLIENTS, USERS WITHIN CUSTOMER OR CLIENTS' ORGANIZATIONS, OR OTHER AUTHORIZED USERS.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL NINJARMM BE LIABLE OR OBLIGATED TO CUSTOMER OR ITS CLIENTS IN ANY MANNER FOR ANY SPECIAL, NON-COMPENSATORY, CONSEQUENTIAL, INDIRECT, INCIDENTAL, STATUTORY OR PUNITIVE DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DAMAGES RELATING TO LOST DATA OR PROGRAMS, PRIVACY OF DATA OR PROGRAMS, UNAUTHORIZED ACCESS TO DATA OR PROGRAMS, BUSINESS INTERRUPTIONS, LOST PROFITS AND LOST REVENUE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF NINJARMM IS AWARE OF THE POSSIBILITY OF ANY SUCH DAMAGES IN ADVANCE. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY.

NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS AGREEMENT, EXCEPT AS PROVIDED IN PARAGRAPH 9, NINJARMM SHALL NOT BE LIABLE TO CUSTOMER OR ITS CLIENTS IN AN AMOUNT IN THE AGGREGATE GREATER THAN \$5,000 OR THE AMOUNT RECEIVED BY NINJARMM IN THE PAST 3 MONTHS FROM CUSTOMER FOR THE SOFTWARE LICENSED UNDER THIS AGREEMENT. THE LIMITATIONS SET FORTH ABOVE SHALL BE DEEMED TO APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDIES SET FORTH IN THIS AGREEMENT. THE PARTIES ACKNOWLEDGE AND AGREE THAT THEY HAVE FULLY CONSIDERED THE FOREGOING ALLOCATION OF RISK AND FIND IT REASONABLE, AND THAT THE FOREGOING LIMITATIONS ARE AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

**9. INDEMNIFICATION.** Customer agrees to defend, indemnify and hold harmless NinjaRMM, and its employees, officers, contractors, investors, directors, agents, licensors and affiliates from and against any and all claims, losses, liability, costs and expenses (including but not limited to attorneys' fees) arising from (a) Customer's and/or any Client's or any users authorized by either of the foregoing's ("Authorized Users and Organizations") installation or use of the Software, including without limitation claims relating to loss or confidentiality of data or programs (b) any violation by Authorized Users or Organizations of any warranty, representation or covenant under this Agreement, (c) Authorized Users and Organizations infringement of any third-party's rights, (including, without limitation, infringement of any copyright, violation of any proprietary right and invasion of any privacy rights), and/or the use or misuse of your NinjaRMM account by you or any third party using your password(s) and/or user name(s). These obligations will survive any termination of Customer's relationship with NinjaRMM.

Ninja shall indemnify Customer against all losses arising out of (1) any proceeding brought by a third party arising out of a claim that Ninja's remote monitoring and management product infringes the third party's intellectual property rights; (2) Ninja's willful fraud or misconduct.

**10. US GOVERNMENT RESTRICTED RIGHTS.** If Customer is the United States Government or are acquiring the right to access and use NinjaRMM on behalf of the United States Government, then the United States Government agrees that: (a) if the right to access and use NinjaRMM is acquired by or supplied to the Department of Defense ("DOD"), NinjaRMM shall be classified as "Commercial Computer Software" and the government is acquiring only "restricted rights" in NinjaRMM and its documentation, as defined in Clause 252.227-7013(c)(1) of the DFARS; (b) for any part of the United States Government other than DOD, the government's rights in the Software and its documentation will be as defined in Clause 52.227-19(c)(2) of the FAR or, for NASA, in Clause 18-52.227-86(d) of the NASA Supplement to the FAR.

**11. TERMINATION.** The license granted herein is effective until this Agreement is terminated. NinjaRMM may terminate this Agreement immediately, without notice, in the event Customer (i) fails to comply with any of the terms and conditions set forth in this Agreement, (ii) ceases doing business, (iii) does not make any applicable payments within 30 days of the applicable date, or (iv) ceases using NinjaRMM service and notifies NinjaRMM thereof. Upon the expiration of Customer's contract with NinjaRMM, if applicable, Customer may terminate this Agreement upon providing NinjaRMM with 60 days written notice of



Customer's intent to terminate. All payments due during the 60-day notice period shall remain due and payable. All cancellation requests must be sent to [success@ninjarmm.com](mailto:success@ninjarmm.com). NinjaRMM reserves the right to refuse service to anyone at its sole discretion and to terminate this Agreement upon 30 days written notice. NinjaRMM does not refund any part of the payment made by Customer. Upon termination Customer must immediately (i) destroy all copies of the Software and Software documentation in your possession, or (ii) return the Software and documentation according to the instructions of NinjaRMM.

**12. TRADEMARKS.** Msp.Ninja, NinjaRMM, Ninja RMM and their respective designs, trademarks and logos are trademarks or registered trademarks of NinjaRMM LLC. All other trademarks and/or service marks are the property of their respective owners.

**13. COPYRIGHT MATTERS.** NinjaRMM respects the intellectual property of others, and we ask Customer to do the same. We reserve the right to disable the accounts of users who we believe to be infringing the intellectual property rights of others and to remove any such infringing materials. If you believe that your copyrighted work has been copied and is accessible on the Website in a way that constitutes copyright infringement, please notify NinjaRMM's copyright agent by email at [allie.hovsepian@ninjarmm.com](mailto:allie.hovsepian@ninjarmm.com), or by regular mail 111 New Montgomery Street #301, San Francisco, CA 94105 and provide the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (b) a description of the copyrighted work that you claim has been infringed, including the URL (i.e., web page address) of the location where the copyrighted work exists or a copy of the copyrighted work; (c) identification of the URL or other specific location on the NinjaRMM Websites where the material that you claim is infringing is located; (d) your address, telephone number, and email address; (e) a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and (f) a statement by you, made under penalty of perjury, that the information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. You hereby agree that you shall not assert any claim against NinjaRMM or its officers or directors with respect to such content unless and until: (1) you have fully completed the process set forth above; and (2) NinjaRMM has failed to remove the offending content within thirty (30) days after such notification without a reasonable explanation for its failure to do so. It is NinjaRMM's policy to (1) block access to or remove content that it believes in good faith to be copyrighted material that has been illegally copied, displayed or distributed by any of our advertisers, affiliates, content providers, members or users; and (2) remove and discontinue services to repeat offenders.

**14. GENERAL.** This Agreement embraces the full, complete understanding of the parties as to the subject matter hereof, and may not be altered or modified, except by written amendment or collateral agreement which expressly refers to this Agreement and which is duly executed by NinjaRMM and Customer's authorized representative. All prior representations, understandings and agreements regarding the subject matter hereof whether written or oral, expressed or implied, are superseded and shall be of no effect. In the event of conflicting provisions between this Agreement and a duly executed collateral agreement, the duly executed collateral agreement shall control. This Agreement shall be construed and governed in accordance with the laws of the State of California, excluding the application of its conflicts of law rules. Any action related to this Agreement or the Software shall be brought exclusively in the state or federal courts located in the County of Los Angeles, State of California, United States of America.

Each party hereby agrees to submit to the jurisdiction of such courts. Customer acknowledges that a breach of this Agreement will cause irreparable and continuing damage to NinjaRMM for which money damages are insufficient, and NinjaRMM shall be entitled to injunctive relief and/or a decree for specific performance, and such other relief as may be proper (including money damages if appropriate). In the event of litigation between Customer and NinjaRMM concerning the Software or any other item which is subject to this Agreement, the prevailing party in the litigation will be entitled to recover attorney fees and expenses from the other party. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to this Agreement. If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of the Agreement, which shall remain valid and enforceable according to its terms. Customer agrees that the Software will not be shipped, transferred or exported into any country or used in any manner prohibited by the United States Export Administration Act or any other export law, restrictions or regulations. No waiver by NinjaRMM of any breach or default by you of any of the covenants or agreements herein set forth shall be deemed a waiver as to any subsequent and/or similar breach or default.

BY ACCESSING AND USING THE WEBSITE AND BY INSTALLING, ACCESSING AND USING THE SOFTWARE, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE UNCONDITIONALLY THAT CUSTOMER SHALL BE BOUND BY ITS TERMS AND CONDITIONS. YOU FURTHER REPRESENT, WARRANT AND INDEMNIFY NINJARMM THAT YOU HAVE FULL AUTHORITY TO EXECUTE THIS AGREEMENT ON BEHALF OF CUSTOMER AND BIND THE CUSTOMER.



## CITY COUNCIL AGENDA REQUEST

<b>Meeting Type:</b>	Mayor & Council Meeting
<b>Meeting Date:</b>	07/20/20
<b>Agenda Item:</b>	Contract for Services with Northwest Georgia Paving, Inc. for the 2020 Milling and Resurfacing of Various City Streets
<b>Department:</b>	Public Works
<b>Requested By:</b>	Megan Elliott
<b>Reviewed/Approved by City Attorney?</b>	Yes- Template Previously Approved
<b>Cost:</b>	\$996,067.80 (unit pricing)
<b>Funding Source if Not in Budget</b>	2015 SPLOST & GDOT LMIG

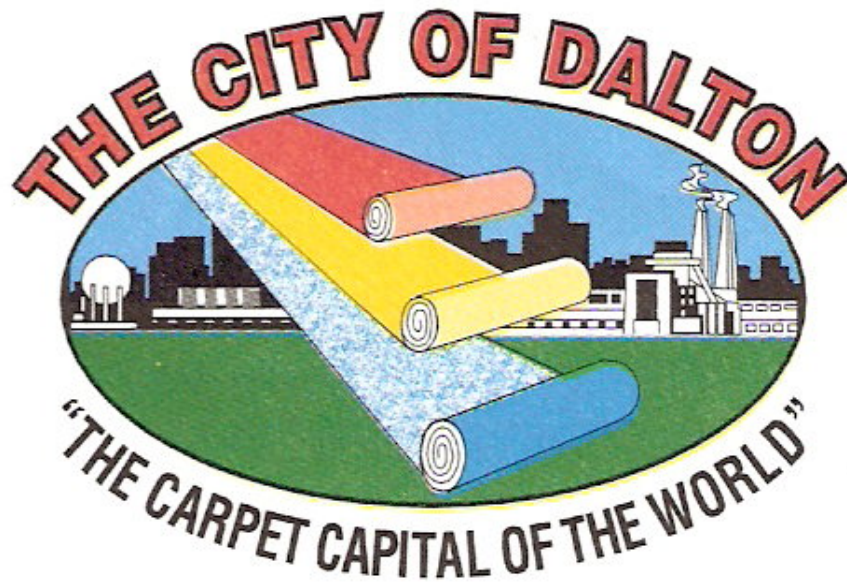
**Please Provide A Summary of Your Request, Including Background Information to Explain the Request:**

This contract for services with Northwest Georgia Paving, Inc. is to perform the 2020 Milling and Resurfacing of Various City Streets listed in the attached contract.

Four (4) bids were received for completion of this work, and Northwest Georgia Paving, Inc. was the low bidder at \$996,067.80.

The Finance Department will set up a charge account to fund this project: 320110 007133 SP176 Paving 2020.

**CITY OF DALTON, GEORGIA**



**CONTRACT DOCUMENTS**

For

**PROJECT:**

**2020 LMIG MILLING AND RESURFACING**

**VARIOUS CITY STREETS**

**DALTON PROJECT NO. PW-2020-LMIG**

**CITY OF DALTON PUBLIC WORKS DEPARTMENT**

**PO BOX 1205**

**DALTON, GEORGIA 30722**

**ADVERTISEMENT FOR BID**

2020 MILLING AND RESURFACING  
VARIOUS CITY STREETS  
DALTON PROJECT NO. PW-2020-LMIG

Sealed bids will be received by the City of Dalton Finance Department located at 300 W. Waugh Street, Dalton, Georgia 30722 until:

TUESDAY, JUNE 30, 2020 AT 2 PM

for the furnishing of all materials, labor, tools, skill, equipment and incidentals unless noted otherwise for the construction of the project entitled:

2020 MILLING AND RESURFACING  
VARIOUS CITY STREETS  
DALTON PROJECT NO. PW-2020-LMIG

at which time and place the sealed bids will be publicly opened and read aloud.

Bids received after the designated time will not be considered.

The principal items of construction are:

Approximately 3.55 centerline miles of variable depth milling (including around utilities), leveling, resurfacing, and thermoplastic striping of various City Streets using GDOT LMIG and local SPLOST funds. All work shall be performed according to the latest Georgia D.O.T. Standards and Specifications. Road mileage is subject to change and depends upon the availability of funding.

Bidders shall inform themselves of and comply with all conditions and specifications contained in the bid package, contract, related documents and State and Federal Law.

The bid package, specifications, and contract documents for this project are open to public inspection at the City of Dalton Public Works Department located at 535 Elm Street, Dalton, Georgia 30721. The Public Works Department may be contacted by telephone at (706) 278-7077 or by mail at P.O. Box 1205, Dalton, Georgia 30722.

One Contract shall be awarded covering all work and the bidder must agree to commence work on or before a date to be specified in a written "Notice to Proceed" of the Owner. Fifty percent (50%) of the contract is to be completed by December 31, 2020 and the project is to be fully complete by May 31, 2021. Bidders must agree to pay as liquidated damages the sum of \$300.00 per each consecutive calendar day thereafter. Due consideration will be given to delivery of materials in specifying starting date.

Contract documents and the bid package for this project may be obtained electronically via the City of Dalton's webpage @ <http://www.cityofdalton-ga.gov>.

Should a bidder choose to download the bid package from the City of Dalton webpage, please send a written request to be added to the Project "Bidder's List" by sending an email request to: [melliott@daltonga.gov](mailto:melliott@daltonga.gov).

Bids must be accompanied by a Certified Check or Bid Bond in an amount equal to not less than five percent (5%) of the bid to be considered.

No bid may be withdrawn after the scheduled closing time for receiving bids for a period of sixty (60) days.

The Owner reserves the right to reject any or all bids (and/or alternates) and to waive formalities and re-advertise.

Anyone seeking to bid on and/or perform work on this project must be prequalified by the Georgia Department of Transportation.

CITY OF DALTON, GEORGIA

BY \_\_\_\_\_  
Megan Elliott  
Project Engineer

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SECTION 0400 – GENERAL NOTES



## SECTION 0100 – INFORMATION FOR BIDDERS

### 0101 RECEIPT AND OPENING OF BIDS

The CITY OF DALTON, GEORGIA (*hereinafter called the Owner*), invites bids on the form attached hereto, all blanks of which must be appropriately filled in. Bids will be received by the Owner at the CITY OF DALTON FINANCE DEPARTMENT  
300 W. WAUGH STREET, DALTON, GEORGIA 30722 until JUNE 30, 2020 AT 2  
PM and then at said office publicly opened and read aloud. The envelope containing the bids must be sealed and designated as the bid for the construction of the project entitled:

2020 MILLING AND RESURFACING  
VARIOUS CITY STREETS  
DALTON PROJECT NO. PW-2020-LMIG

The Owner may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities to reject any and all bids. Any bid may be withdrawn prior to the above scheduled time for opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within 60 days after the actual date of the opening thereof.

### 0102 PREPARATION OF BID

Each bid must be submitted on the prescribed form. All blank spaces for bid prices must be filled in, in ink or typewritten, in numerals for unit prices and for total amounts.

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and the name of the project for which the bid is submitted. **ALL SEALED BIDS MUST INCLUDE AN EXECUTED E-VERIFY AFFIDAVIT, THIS DOCUMENT CAN BE FOUND IN THE BID PROPOSAL SECTION.** If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form. Any bid which is not properly prepared and accompanied by required certifications may be rejected by the Owner.

Each bidder will be required to certify compliance with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act O.C.G.A. §13-10-90 et seq. by doing the following: registering at <https://www.vis-dhs.com/EmployerRegistration> to verify information of all newly hired employees in order to comply with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act. Each firm must submit a completed and notarized E-verify (Exhibit A) affidavit with their bid submittal. During the entire duration of this contract, Contractor and all sub-contractors must remain in compliance with Georgia Security and Immigration Compliance Act of 2007 and Georgia code §13-10-91 and §50-36-1.

#### 0103 TELEGRAPHIC MODIFICATION

Any bidder may modify his bid by telegraphic communication at any time prior to the scheduled closing time for receipt of bids, provided such telegraphic communication is received by the Owner prior to the closing time, and, provided further, the Owner is satisfied that a written confirmation of the telegraphic modification over the signature of the bidder was mailed prior to the closing time. If written confirmation is not received within two days from the closing time, no consideration will be given to the telegraphic modification.

#### 0104 QUALIFICATIONS OF BIDDERS

The Owner may make such investigations as he deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. By submission of his Bid, the Bidder acknowledges the right of the Owner to make such investigations, to contact references and utilize this information as a basis of determining award of the contract. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the Owner that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional bids will not be accepted.

Written information pertaining to the Bidder's qualifications may be requested by the Owner. Failure of the Bidder to provide such information within fifteen days of notification will be grounds for disqualification.

#### 0105 BID SECURITY

Each bid must be accompanied by a certified check or bid bond prepared on the form of bid bond attached hereto, duly executed by the bidder as principal and having as surety thereon a surety company approved by the Owner, in the amount

of five (5)% of the bid. Such certified checks or bid bonds will be returned to all except the three lowest bidders within three days after the opening of bids, and the remaining certified checks or bid bonds will be returned promptly after the Owner and the accepted bidder have executed the contracts, or, if no award has been made within 60 days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid.

0106 LIQUIDATED DAMAGES AND FAILURE TO ENTER INTO CONTRACT

The successful bidder, upon his failure or refusal to execute and deliver the contract and bonds required within 10 days after he has received notice of the acceptance of his bid, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his bid.

0107 TIME OF COMPLETION AND LIQUIDATED DAMAGES

Bidder must agree to commence work on or before a date to be specified in a written "Notice to Proceed" of the Owner with a significant portion (minimum of fifty (50)%) to be completed in 2020 and to fully complete the project by May 31, 2021. Bidders must agree also to pay as liquidated damages the sum of \$300.00 per each consecutive calendar day thereafter.

0108 CONDITION OF WORK

Each bidder must inform himself fully of the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other contractor.

0109 ADDENDA AND INTERPRETATIONS

Oral interpretations of the meaning of plans, specifications or other contract documents shall not be binding over written material.

Every request for such interpretation should be in writing addressed to City of Dalton Public Works, P.O. Box 1205, Dalton, Georgia 30722 or by email to Megan Elliott ([melliott@daltonga.gov](mailto:melliott@daltonga.gov)) and to be given consideration must be received at least ten days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications, which, will be emailed to all prospective bidders. Failure of any bidder to receive any such addendum or interpretations shall not relieve such bidder from any obligation under his bid as submitted. All addenda so

issued shall become part of the contract documents.

0110 SECURITY FOR FAITHFUL PERFORMANCE

Simultaneously with his delivery of the executed contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of his contract and for the payment of all persons performing labor on the project under this contract, and furnishing materials in connection with his contract, as specified in the General Conditions included herein. Surety companies executing Bonds must appear on the Treasury Department's most current list (*Circular 570 as amended*) and be authorized to transact business in the state where the project is located.

0111 POWER OF ATTORNEY

Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

0112 NOTICE OF SPECIAL CONDITIONS

Attention is particularly called to those parts of the contract documents and specifications which are identified subsequently under Special Conditions.

0113 LAWS AND REGULATIONS

The bidders' attention is directed to the fact that all applicable federal and state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

0114 METHOD OF AWARD

If the Contract is awarded, it will be awarded to the lowest Bidder whose evaluation by Owner indicates to Owner that the award will be in the best interests of the project. The Owner shall have complete discretion in making this determination and may consider factors such as, but not limited to the following:

0114.01 Unit bid prices of various items as they relate to total bid price.

0114.02 Proximity of the Bidder's permanent place of business as it may relate to Bidder's responsiveness in carrying out the contract.

0114.03 Litigation record of the Bidder.

0114.04 Satisfactory completion of similar projects.

0114.05 Resources pertaining to management, personnel and equipment.

0114.06 Financial history, credit rating and current resources.

0115 OBLIGATION OF BIDDER

At the time of the opening of bids, each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the plans and contract documents (*including all addenda*). The failure or omission of any bidder to examine any form, instrument, or document shall in no way relieve any bidder from any obligation in respect to his bid.

0116 CORRELATION AND INTENT OF DOCUMENTS

The contract documents are complementary, and what is called for by one shall be as binding as if called for by all.

The intent of the documents is to describe in detail all construction entailed in this project. The contractor will furnish all labor, materials, equipment, transportation, tools and appurtenances such as may be reasonably required under the terms of the contract to make each part of the work complete.

The drawings are intended to conform and agree with the specifications. If, however, discrepancies occur, the Owners will decide which shall govern. Special specifications stated on the drawings govern that particular piece of construction and have equal weight and importance as the printed specifications. In the event of any discrepancies between the drawings and the figures written thereon, the figures are to be taken as correct.

0117 CLAIMS

The Owner reserves the right to refuse to issue any voucher and to direct that no payment shall be made the contractor in the case they have reason to believe that said contractor has neglected or failed to pay any subcontractor, material dealer, worker or employee for work performed on or about the project including work as set forth in these specifications, until the Owner is satisfied that such subcontractors, material dealers, worker, or employees have been fully paid. However this provision shall not obligate the Owner to intervene in any claim.

0118 ORDER OF WORK

The work shall be started at such points as the Owner shall designate and shall be prosecuted in the order he directs. This applies to both location and items of construction.

0119 SUBCONTRACTS

If required by the Owner, the apparent Successful Bidder, and any other Bidder so requested, will within seven days after the day of the Bid opening submit to Owner a list of all Subcontractors and other persons and organizations (*including those who are to furnish the principal items of material and equipment*) proposed for those portions of the Work as to which such identification is so required. If the Owner, after due investigation, has reasonable objection to any proposed Subcontractor, other person or organization, may, before giving the Notice of Award, request the apparent Successful Bidder to submit an acceptable substitute without an increase in Bid price. If the apparent Successful Bidder declines to make any such substitution, the contract shall not be awarded to such Bidder, but his declining to make any such substitution will not constitute grounds for sacrificing his Bid Security. Any Subcontractor, other person or organization so listed and to whom the Owner does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner.

0120 TIMELY EXECUTION

When the Owner gives a Notice of Award to the Successful Bidder, it will be accompanied by at least five unsigned counterparts of the Agreement and all other Contract Documents. Within ten days thereafter, the Contractor shall sign and deliver at least five counterparts of the Agreement to Owner with all other Contract Documents attached. Thereafter, the Owner will deliver two fully signed counterparts to Contractor.

..... END OF SECTION .....

SECTION 0200 – BID PROPOSAL

**BID BOND**  
*(Five Percent of Bid)*

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned \_\_\_\_\_  
Northwest Georgia Paving, Inc.

of the City of Calhoun State of Georgia and County of Gordon  
as Principal and Liberty Mutual Insurance Company

as Surety, are hereby held and firmly bound unto the CITY OF DALTON, GEORGIA as  
Owner in the penal sum of Five Percent (5%) of Principal's Bid

Dollars (\$\_\_\_\_\_) for the payment of which, well and truly to be made,  
we hereby jointly and severally bind ourselves, our heirs, executors, administrators,  
successors and assigns.

Signed this 30th day of June, 2020.

The condition of the above obligation is such that whereas the Principal has submitted to  
the CITY OF DALTON, GEORGIA a certain bid attached hereto and hereby made a part  
hereof to enter into a contract in writing for the construction of the project entitled:

2020 MILLING AND RESURFACING  
VARIOUS CITY STREETS  
DALTON PROJECT NO. PW-2020-LMIG

NOW, THEREFORE,

- (a) If said bid shall be rejected or in the alternate,
- (b) If said bid shall be accepted and the Principal shall execute and deliver a contract  
in the Form of Contract attached hereto (*properly completed in accordance with  
said bid*) and shall furnish a bond for his faithful performance of

BID BOND  
(Continued)

said contract and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said bid, then this obligation shall be void; otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Owner may accept such Bids, and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Lisa Callaway  
Witness As To Principal

Northwest Georgia Paving, Inc.  
Principal  
By [Signature]



[Signature]  
Witness As To Surety  
James H. Vaughan, Jr.

Liberty Mutual Insurance Company  
Surety  
175 Berkeley Street, Boston, MA 02117  
Address  
By Felisa H. Vaughan SEAL  
Attorney-in-Fact  
Felisa H. Vaughan





This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8200226-016007

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Brian E. Madden; Deborah B. Sasser; Travis G. Huffines; Bart Peppers; Brittany L. Triplett; Felisa H. Vaughan

all of the city of Alpharetta state of GA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 4th day of January, 2019.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 4th day of January, 2019 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Liewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 30th day of June, 2020.



By: Renee C. Liewellyn
Renee C. Liewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees. To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

BID PROPOSAL

Place Calhoun, GA  
Date 06/30/2020

Proposal of Northwest Georgia Paving, Inc. (hereinafter called "Bidder") a contractor organized and existing under the laws of the City of Calhoun State of Georgia and County of Gordon, \* an individual, a corporation, or a partnership doing business as Corporation - Northwest Georgia Paving, Inc.

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TO: CITY OF DALTON, GEORGIA  
(Hereinafter called "Owner")

Gentlemen:

The Bidder in compliance with your invitation for bids for the construction of 2020 Milling and Resurfacing, VARIOUS CITY STREETS, PW-2020-LMIG having examined the plans and specifications with related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project, including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the project in accordance with the contract documents, within the time set forth herein, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under this contract, of which this proposal is a part.

Bidder hereby agrees to commence work under this contract on or before a date to be specified in a written "Notice to Proceed" of the Owner. Fifty percent (50%) of the contract is to be completed by December 31, 2020 and the project is to be fully complete by May 31, 2021. Bidder further agrees to pay as liquidated damages the sum of \$300.00 for each consecutive calendar day thereafter as hereinafter provided in the General Conditions under "Time of Completion and Liquidated Damages."

Bidder acknowledges receipt of the following addenda:  
N/A

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\*Strike out inapplicable terms

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0200-3



BID PROPOSAL  
*(Continued)*

Amount shall be shown in figures.

The prices submitted shall include all labor, materials, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving bids.

The undersigned further agrees that, in case of failure on his part to execute said contract and bond within ten (10) days after the award thereof, the check or bond accompanying his bid and the money payable thereon shall become the property of the Owner; otherwise, the check or bond accompanying this proposal shall be returned to the Bidder.

The Bidder declares that he understands that the quantities shown on the proposal are subject to adjustment by either increase or decrease, and that should the quantities of any of the items of work be increased, the undersigned proposes to do the additional work at the unit prices stated herein; and should the quantities be decreased, he also understands that payment will be made on actual quantities at the unit price bid and will make no claim for anticipated profits for any decrease in the quantities and that actual quantities will be determined upon completion of work, at which time adjustment will be made to the contract amount by direct increase or decrease.

Attached hereto is a bid bond or certified check on the 30th of June, 2020 in the amount of 5% of Principal Bid according to conditions under "Information For Bidders" and the provisions therein.

The full name and residence of persons or parties interested in the foregoing bids, as principals, are named as follows:

Russell Smith - 501 W. May St., Calhoun, GA 30701  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

BID PROPOSAL  
(Continued)

Dated at:

Calhoun, GA

The 30th day of June, 2020



Northwest Georgia Paving, Inc.

Principal

By 

SEAL

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0200-5



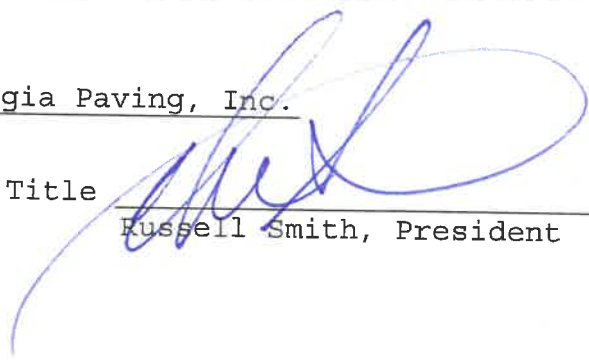
**Bid Proposal Form - Dalton Project No. PW-2020-LMIG**

ITEM NUMBER	QUANTITY	UNIT	UNIT PRICE	ITEM DESCRIPTION	TOTAL
150-1000	1	LS	101,000.00	Traffic Control	101,000.00
402-1812	200	TN	80.00	Recycled Asph. Conc. Leveling, Incl. Bitum Material and H-Lime	16,000.00
402-3100	885	TN	78.00	Recycled Asph. Conc. 9.5 MM Superpave, Type I, GP 1 or Blend 1, Incl Bitum Matl & H-Lime	69,030.00
402-3102	775	TN	80.00	Recycled Asph. Conc. 9.5 MM Superpave, Type II, Blend I, Incl Bitum Matl & H-Lime	62,000.00
402-3130	5,645	TN	84.00	Recycled Asph Conc. 12.5 MM Superpave, GP 2 Only, Incl. Bitum Mtl. And H-Lime	474,180.00
413-1000	5,905	GL	0.01	Bitum Tack Coat	59.05
432-5010	88,385	SY	2.15	Mill Asph Conc Pvmt., Variable Depth	190,027.75
611-8050	50	EA	340.00	Mill/Remove Asphalt Around Manhole, Gas Valve, or Water Valve to Prepare for Resurfacing	17,000.00
653-0110	1	EA	100.00	Thermoplastic Pvmt. Marking, Arrow, TP 1	100.00
653-0120	64	EA	100.00	Thermoplastic Pvmt. Marking, Arrow, TP 2	6,400.00
653-0130	1	EA	100.00	Thermoplastic Pvmt. Marking, Arrow, TP 3	100.00
653-0220	2	EA	100.00	Thermoplastic Pvmt. Marking, Word, TP 2	200.00
653-1704	880	LF	6.60	Thermoplastic Solid Traffic Stripe, 24 In., White	5,808.00
653-1804	3520	LF	1.90	Thermoplastic Solid Traffic Stripe, 8 In., White	6,688.00
653-2501	2.25	LM	3,500.00	Thermoplastic Solid Traffic Stripe, 5 In., White	7,875.00
653-2502	4.80	LM	3,500.00	Thermoplastic Solid Traffic Stripe, 5 In., Yellow	16,800.00
653-4501	1.6	GLM	3,500.00	Thermoplastic Skip Traffic Stripe, 5 In., White	5,600.00
653-4502	2.15	GLM	3,500.00	Thermoplastic Skip Traffic Stripe, 5 In., Yellow	7,525.00
653-6006	505	SY	15.00	Thermoplastic Traffic Striping, Yellow	7,575.00
654-1001	275	EA	4.00	Raised Pvmt Markers TP 1	1,100.00

654-1003	250	EA	4.00	Raised Pmnt Markers TP 3	1,000.00
				<b>Total Bid Proposal</b>	996,067.80

Bidding Company Name: Northwest Georgia Paving, Inc.

Authorized Bidding Rep. Signature & Title

  
Russell Smith, President

CONSTRUCTION PAYMENT BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR *(Name and Address):*

Northwest Georgia Paving, Inc.  
501 May Street  
Calhoun, Ga 30701

OWNER *(Name and Address):*

CITY OF DALTON  
P.O. BOX 1205  
DALTON, GEORGIA 30722

CONSTRUCTION CONTRACT:

Date: 7/20/2020  
Amount: \$996,067.80

Description *(Name and location):*

2020 MILLING AND RESURFACING  
VARIOUS CITY STREETS – DALTON PROJ. NO. PW-2020-LMIG

SURETY *(Name and Principal place of Business):*

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

BOND:

Date: \_\_\_\_\_  
Amount: \_\_\_\_\_  
Bond Number: \_\_\_\_\_

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner and for the use and protection of all subcontractors and persons supplying labor, materials, machinery, and

CONSTRUCTION PAYMENT BOND  
(Continued)

equipment in the prosecution of the Work involved in this Construction Contract.

2. With respect to the Owner, this obligation shall be null and void if the Contractor:
  - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
  - 2.2. Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (*at the address described in Paragraph 11*) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
4. The Surety shall have no obligations to Claimant unless the Claimant has substantially complied with the requirements of O.C.G.A. 36-82-104 by giving the notices provided for therein. Each Claimant failing to substantially comply with said Code Section shall be deemed to have waived the protection of the payment bond. No Claimant shall file an action for payment against the Owner, Contractor or Surety, except in accordance with this section.
  - 4.1. Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (*at the address described in Paragraph 12*) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
  - 4.2. Claimants who do not have a direct contract with the Contractor:
    1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed: and
    2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and
    3. Not having been paid within the above 30 days, have sent a written notice



CONSTRUCTION PAYMENT BOND  
(Continued)

to the Surety (*at the address described in Paragraph 12*) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
  - 6.1. Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and that basis for challenging any amounts that are disputed.
  - 6.2. Pay or arrange for payment of any undisputed amounts.
7. The Surety's total obligation shall not exceed the amount of this Bond and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
9. The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
11. No suit or action on this bond shall be instituted by a Claimant after expiration of one (1) year from the completion of the contract and the acceptance of the work by the public entity responsible therefor.

CONSTRUCTION PAYMENT BOND  
(Continued)

12. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on this Bond.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in the Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

15. DEFINITIONS

- 15.1. Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
- 15.2. Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 15.3. Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

CONTRACTOR AS PRINCIPAL

Company: Northwest Georgia Paving, Inc.

\_\_\_\_\_ (Corp. Seal)

Signature: \_\_\_\_\_

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

SURETY

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

\_\_\_\_\_ (Corp. Seal)

Signature: \_\_\_\_\_

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

CONSTRUCTION PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR *(Name and Address):*

Northwest Georgia Paving, Inc.

501 W. May Street

Calhoun, Ga 30701

OWNER *(Name and Address):*

CITY OF DALTON

P.O. BOX 1205

DALTON, GEORGIA 30722

CONSTRUCTION CONTRACT:

Date: 7/20/2020

Amount: \$996,067.80

Description *(Name and location):*

2020 MILLING AND RESURFACING

VARIOUS CITY STREETS – DALTON PROJ. NO. PW-2020-LMIG

SURETY *(Name and Principal place of Business):*

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

BOND:

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

Amount: \_\_\_\_\_

Bond number: \_\_\_\_\_

1. The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor

CONSTRUCTION PERFORMANCE BOND  
(Continued)

shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
  - 3.1. The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and
  - 3.2. The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and
  - 3.3. The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
  
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
  - 4.1. Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or
  - 4.2. Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or
  - 4.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or
  - 4.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
    1. After investigation, determine the amount for which it may be liable to the

CONSTRUCTION PERFORMANCE BOND  
(Continued)

- Owner and, as soon as practicable after the amount is determined, tender payment therefore to the Owner; or
2. Deny liability in whole or in part and notify the Owner citing reasons therefor.
  5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
  6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:
    - 6.1. The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
    - 6.2. Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
    - 6.3. Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
  7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
  8. The Surety hereby waives notice of any change, including changes of time to the Construction Contract or to related subcontracts, purchase orders and other obligations.

CONSTRUCTION PERFORMANCE BOND  
(Continued)

9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12. Definitions.

- 12.1. Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
- 12.2. Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
- 12.3. Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.
- 12.4. Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

CONTRACTOR AS PRINCIPAL

Company: Northwest Georgia Paving, Inc.

\_\_\_\_\_ (Corp. Seal)

Signature: \_\_\_\_\_

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

SURETY

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

\_\_\_\_\_ (Corp. Seal)

Signature: \_\_\_\_\_

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



CONTRACT

THIS AGREEMENT made this the 20th day of July, 2020, by  
and between the CITY OF DALTON, GEORGIA, hereinafter called "Owner",  
and Northwest Georgia Paving, Inc.

a contractor doing business as an individual, a partnership, or a corporation\* of the City  
of Calhoun, County of Gordon, and State of Georgia  
hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements  
hereinafter mentioned, to be made and performed by the Owner, the Contractor hereby  
agrees to commence and complete the construction of the project entitled:

2020 MILLING AND RESURFACING  
VARIOUS CITY STREETS – DALTON PROJECT NO. PW-2020-LMIG

hereinafter called the "Project", for the sum of \$996,067.80  
Dollars (Nine Hundred Ninety Six Thousand Sixty Seven Dollars and Eighty Cents)  
and all extra work in connection therewith, under the terms as stated in the Contract  
Documents, and at his (*its or their*) own proper cost and expense to furnish all  
materials, supplies, machinery, equipment, tools, superintendence, labor, insurance and  
other accessories and services necessary to complete the said project in accordance with  
the conditions and prices stated in the proposal, the General Conditions of the Contract,  
the specifications and contract documents therefore as prepared by the Owner and as  
enumerated in Paragraph 2 of the General Conditions, all of which are made a part hereof  
and collectively constitute the Contract.

The Contractor hereby agrees to commence work under this contract on or before a date  
to be specified in a written "Notice to Proceed" of the Owner. Fifty percent (50%) of the  
contract is to be completed by December 31, 2020 and the project is to be fully complete  
by May 31, 2021. The Contractor further agrees to pay as liquidated damages the sum of  
\$300.00 for each consecutive calendar day thereafter as hereinafter provided in  
the General Conditions under "Time of Completion and Liquidated Damages."

\*Strike out inapplicable terms.

CONTRACT  
(Continued)

The Owner agrees to pay the Contractor in current funds for the performance of the contract, subject to additions and deductions as provided in the General Conditions of the Contract, and to make payments on account thereof as provided in "Payments to Contractor," of the General Conditions.

IN WITNESS WHEREOF, the parties to those presents have executed this contract in five (5) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

ATTEST:

CITY OF DALTON, GEORGIA

\_\_\_\_\_  
City Clerk

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

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Title

ATTEST:

\_\_\_\_\_  
Secretary

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

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Title

Secretary of Owner should attest. If Contractor is corporation, secretary should attest.

Give proper title of each person executing contract.

**CONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with City of Dalton has registered with and is participating in a federal work authorization program\* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with City of Dalton, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Dalton at the time the subcontractor(s) is retained to perform such service.

The undersigned Contractor is using and will continue to use the federal work authorization program throughout the contract period.

110560  
EEV/Basic Pilot Program\* User Identification Number

06/30/2020  
Date

BY: [Signature]  
Authorized Officer or Agent  
(Contractor Name)

President  
Title of Authorized Officer or Agent of Contractor

Russell Smith  
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE  
30th DAY OF June, 2020

[Signature]  
Notary Public  
My Commission Expires:  
06/05/2023



\* As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).



## SECTION 0300 - GENERAL CONDITIONS

### 0301 CONTRACT AND CONTRACT DOCUMENTS

The Contract Documents as hereinafter enumerated in Paragraph 2 of the General Conditions, shall form this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were fully set forth. The Table of Contents, Titles, Headings, Running Headlines and Marginal Notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way effect, limit or cast light on the interpretation of the provisions to which they refer.

### 0302 DEFINITIONS

The following terms as used in this contract are respectively defined as follows:

- 0302.01 Contractor - A person, firm or corporation with whom the contract is made by the Owner.
- 0302.02 Contract Documents - The Contract Documents are composed of the Advertisement for Bids; Instructions to Bidders; Bid Package; Form of Proposal, General Conditions, Supplementary Conditions, Detail Specifications, Form of Contract, Form of Bond(s), Addenda and the drawings including all changes incorporated herein before their execution.
- 0302.03 Project Representative - Refers to the authorized representative of the Owner, who is assigned to the site or any part thereof.
- 0302.04 Owner - The party of the First Part in the accompanying Contract, and meaning the CITY OF DALTON, GEORGIA.
- 0302.05 Subcontractor - A person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with the contractor for performance of a part of the work at the site.
- 0302.06 Work on (at) the Project - Work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Contractor and any Subcontractor.

### 0303 CORRELATION AND INTENT OF DOCUMENTS

The contract documents are complementary, and what is called for by any one shall be as binding as if called for by all.

0303.01 The intent of the documents is to describe all construction entailed in this project. The contractor will furnish all labor and materials, equipment, transportation, tools and appurtenances such as may be reasonably required under the terms of the contract to make each part of the work complete.

0303.02 The Drawings are intended to conform and agree with the Specifications; if, however, discrepancies occur, the Owner will decide which shall govern. Special specifications stated on the Drawings govern that particular piece of construction and have equal weight and importance as the printed specifications. In the event of any discrepancies between the Drawings and the figures written thereon, the figures are to be taken as correct.

### 0304 MATERIALS, SERVICES AND FACILITIES

0304.01 It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

0304.02 Any work necessary to be performed by the Contractor to complete the project on time after regular working hours, on Sundays or Legal Holidays, shall be performed without additional expense to the Owner.

### 0305 CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims and/or encumbrances.

### 0306 MATERIALS FURNISHED BY THE CONTRACTOR

All materials used in the work including equipment shall be new and unused materials of a reputable U.S. Manufacturer conforming to the applicable requirements of the Specifications, and no materials shall be used in the work until

they have been approved by the Owner. The Contractor shall furnish all materials necessary except as otherwise specifically noted or specified.

### 0307 INSPECTION AND TESTING OF MATERIALS

All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the Owner. Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

### 0308 PATENTS

- 0308.01 The Contractor shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract, including its use by the Owner, unless otherwise specifically stipulated in the Contract Documents.
- 0308.02 License and/or Royalty Fees for the use of a process which is authorized by the Owner of the project must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the Owner and not by or through the Contractor.
- 0308.03 If the Contractor uses any design, device or materials covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the Owner of such patented or copyrighted design, device or material. It is mutually agreed and understood, that, without exception, arising from the use of such design, device, or materials or in any way involved in the work, the Contractor and/or his Sureties shall indemnify and save harmless the Owner of the project from all claims for infringement by the reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this contract and shall indemnify the Owner for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

### 0309 SURVEYS, PERMITS AND REGULATIONS

- 0309.01 Unless otherwise expressly provided for in the Specifications, the Owner will furnish to the Contractor any control alignment and bench mark data from previous engineering surveys.
- 0309.02 The Contractor shall procure and pay all permits, licenses and approvals necessary for the execution of his contract. The Contractor shall comply with all laws, ordinances, rules, orders, and regulations relating to performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences or other protective facilities.

### 0310 CONTRACTOR'S OBLIGATIONS

- 0310.01 The Contractor shall and will, in good workmanlike manner do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this contract, within the time herein specified, in accordance with the plans and drawings covered by this contract, any and all supplemental plans and drawings and in accordance with the directions of the Owner as given from time to time during the progress of the work. He shall furnish, erect, maintain and remove such construction plant and such temporary works as may be required. He alone shall be responsible for the safety, efficiency and adequacy of his plant, appliances, and methods, and for any damage which may result from their failure of their improper construction, maintenance or operation.
- 0310.02 The Contractor shall observe, comply with and be subject to all terms, conditions, requirements, and limitations of the Contract and specifications and shall do, carry on, and complete the entire work to the satisfaction of the Owner.

### 0311 CONTRACTOR'S RESPONSIBILITY

The Contractor shall be responsible for all material and work until they are finally accepted by the Owner and shall repair at his own expense any damage that they sustain before their final acceptance. The Contractor shall be responsible for all damages caused by him of whatever nature and must settle all claims arising from such damage without cost to the Owner; he shall act as defendant in, and bear the expense of each and every suit of any and every nature which may be brought against him or the Owner, by reason of, or connected with the work under the Contract. Should any claim arise, the Owner may hold back sufficient money to meet said claims or until the Contractor has satisfied the Owner that all claims

against him as the result of his work have been adjusted. He must also show that there are no claims or liens whatsoever outstanding at the completion of his contract before final payment is made.

### 0312 WEATHER CONDITIONS

In the event of temporary suspension of work, or during inclement weather, or whenever the Owner shall direct, the Contractor will, and will cause his subcontractors to protect carefully his and their work and materials against damage or injury from the weather. If, in the opinion of the Owner, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of his subcontractors so to protect his work, such materials shall be removed and replaced at the expense of the Contractor.

### 0313 SAFETY PROVISIONS

0313.01 The Contractor shall comply with the Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (*PL 91-596*) and under Sec.107 of the Contract Work Hours and Safety Standards Act (*PL 91-54*).

0313.02 The Contractor shall be responsible for the Safety, efficiency and adequacy of his plant, appliances and methods, and for any damage which may result from their failure of their improper construction, maintenance and operation.

0313.03 The Contractor shall employ, when necessary, watchmen on the work and shall, when necessary, erect and maintain such strong and suitable barriers and such light as will effectually prevent the happening of any accident to health, limb or property.

### 0314 SANITARY PROVISIONS

The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of his employees as may be necessary to comply with the regulations of the State Board of Health and all local ordinances. No nuisance will be permitted.

### 0315 PUBLIC CONVENIENCE AND SAFETY

Materials stored at the site of the work shall be so placed and the work shall, at all times, be so conducted as to cause no greater obstruction to traffic than is considered permissible by the Owner. No roadway shall be closed or opened except by express permission of the Owner and the Contractor's proper notification of local fire and police departments. Precaution shall be exercised at all times for



the protection of persons and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment and other hazards shall be guarded in accordance with the safety provisions of the manual of Accident Prevention in Construction, published by the Associated General Contractors of America to extent that such provisions are not in contradiction of applicable laws.

#### 0316 PROTECTION OF WORK AND PROPERTY - EMERGENCY

The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this contract. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury unless such be caused directly by errors contained in the contract or by the Owner, or his duly authorized representative.

0316.01 In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the Owner in a diligent manner. He shall notify the Owner immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Owner for approval.

0316.02 Where the Contractor has not taken action but has notified the Owner of an emergency threatening injury to persons or damage to the work or any adjoining property, he shall act as instructed or authorized by the Owner.

0316.03 The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Paragraph 0327 of the General Conditions.

#### 0317 INSPECTION

The authorized representatives and agents of the Owner shall be permitted to observe all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records.

#### 0318 REPORTS, RECORDS AND DATA

The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the Owner may request concerning work performed or to be performed under this contract.

#### 0319 SUPERINTENDENCE BY CONTRACTOR

At the site of the work, the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Owner and shall be one who can be continued in that capacity for the particular job involved unless he ceases to be on the Contractor's payroll.

#### 0320 COMPETENT LABOR

0320.01 The Contractor shall employ only competent and skilled workers on the project. The Contractor shall have a competent superintendent or foreman present at all times when the work is in progress and with authority to receive orders and execute the work.

0320.02 The Contractor shall, upon demand from the Owner, immediately remove any superintendent, foreman or worker whom the Owner may consider incompetent or undesirable.

#### 0321 CONSTRUCTION EQUIPMENT

The Contractor shall provide all necessary equipment in good repair for the expeditious construction of the work. Any equipment not adapted for the work, in such repair as to be dangerous to the project or workers, shall not be used.

#### 0322 CHANGES IN THE WORK

0322.01 Without invalidating the Agreement, the Owner may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by Change Orders. Upon receipt of a Change Order, the Contractor will proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Paragraph 0328. A Change Order signed by the Contractor indicates his agreement therewith.

0322.02 The Owner may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the Contractor believes that any Field Order authorized by the Owner entitles him to an increase in the Contract Price or extension of Contract Time, he shall inform the Owner in writing of the amount of increased price or time associated with the Field Order, and he shall include reference to appropriate contract documents supporting the basis for the claim, and he shall not proceed with the work in question until a written decision has been rendered by the Owner.

- 0322.03 Any changes or additional work performed by the Contractor without authorization of a Change Order will not entitle him to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency.
- 0322.04 It is the Contractor's responsibility to notify his surety of any changes affecting the general scope of the Work or change in the Contract Price and the amount of the applicable bonds shall be adjusted accordingly. The Contractor will furnish proof of such adjustment to the Owner.
- 0322.05 The term Change Order is defined as a written order to the Contractor signed by the Owner which authorizes a change in the work or the contract price or the contract time issued after execution of the Agreement.
- 0322.06 The Contract Price constitutes the total compensation payable to the Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the Contractor shall be at his expense without changing the Contract Price, except where authorized by Change Order.

### 0323 CHANGE IN CONTRACT PRICE

- 0323.01 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:
- 0323.01.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.
- 0323.01.2 By mutual acceptance of a lump sum (*which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 0327.04.2.1*).
- 0323.01.3 On the basis of the Cost of the Work (*determined as provided in Paragraphs 0327.04 and 0327.05*) plus a Contractor's Fee for overhead and profit (*determined as provided in Paragraphs 0327.4 and 0327.05*).
- 0323.02 The term Cost of the Work means the sum of all costs necessarily incurred and paid by the Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by Owner, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in Paragraph 0327.03.

- 0323.02.1 Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing work after regular working hours, on Sunday or legal holidays shall be included in the above to the extent authorized by Owner.
- 0323.02.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith.
- 0323.02.3 Payments made by Contractor to the Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from Subcontractors acceptable to him and shall deliver such Bids to Owner who will then determine which Bids will be accepted.
- 0323.02.4 Costs of special consultants (*including, but not limited to, engineers, architects, testing laboratories, surveyors, lawyers, and accountants*) employed for services specifically related to the Work.
- 0323.02.5 Supplemental costs including the following:
- 0323.02.5.1 The proportion of necessary transportation, traveling and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
- 0323.02.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workmen, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of Contractor.
- 0323.02.5.3 Rentals of all construction equipment and machinery and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by Owner and the costs of

transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.

0323.02.5.4 Sales, use or similar taxes related to the Work, and for which Contractor is liable, imposed by any governmental authority.

0323.02.5.5 Deposits lost for causes other than Contractor's negligence, royalty payments and fees for permits and licenses. Costs for permits and licenses must be shown as a separate item.

0323.02.5.6 Losses, damages and expenses, not compensated by insurance or otherwise, sustained by Contractor in connection with the execution of, and to, the Work, provided they have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's Fee.

0323.02.5.7 The cost of utilities, fuel and sanitary facilities at the site.

0323.02.5.8 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.

0323.02.5.9 Cost of premiums for additional Bonds and Insurance required because of changes in the Work.

0323.03 The term Cost of the Work shall not include any of the following:

0323.03.1 Payroll costs and other compensation of Contractor's officers, executives, principals (*of partnership and sole proprietorships*), general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by Contractor whether at the site or in his principal or a branch office for general administration of the Work and not specifically included in the schedule referred to in subparagraph 0327.02.1 - all of which are to be considered administrative costs covered by the Contractor's Fee.

0323.03.2 Expenses of Contractor's principal and branch offices other than his

office at the site.

- 0323.03.3 Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
  - 0323.03.4 Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.
  - 0323.03.5 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 0327.04.
- 0323.04 The Contractor's Fee which shall be allowed to Contractor for his overhead and profit shall be determined as follows:
- 0323.04.1 a mutually acceptable firm fixed price; or if none can be agreed upon.
  - 0323.04.2 a fee based on the following percentages of the various portions of the Cost of the Work.
    - 0323.04.2.1 for costs incurred under paragraphs 0327.02.1 and 0328.02.2, the Contractor's Fee shall be fifteen percent.
    - 0323.04.2.2 for costs incurred under paragraph 0328.02.3, the Contractor's Fee shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a Fee, the maximum allowable to Contractor on account of overhead and profit of all Subcontractors shall be fifteen percent:
    - 0323.04.2.3 no fee shall be payable on the basis of costs itemized under paragraphs 0327.02.4, 0327.02.5, and 0327.03;
    - 0323.04.2.4 the amount of credit to be allowed by Contractor to Owner for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in Contractor's Fee by an amount equal to ten percent of the net decrease; and
    - 0323.04.2.5 when both additions and credits are involved in any one change, the adjustment in Contractor's Fee shall be computed on the basis of the net change in accordance with paragraphs 0327.04.2.1 through 0328.04.2.4, inclusive.

- 0323.05 Whenever the cost of any Work is to be determined pursuant to Paragraph 0327.02 or 0327.03. Contractor will submit in form acceptable to Owner an itemized cost breakdown together with supporting data.

#### 0324 CHANGE OF THE CONTRACT TIME

The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to Owner within ten days of the occurrence of the event giving rise to the claim. Notice of the extent of the claim with supporting data shall be delivered within forty-five days of such occurrence unless Owner allows an additional period of time to ascertain more accurate data. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

- 0324.01 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR if he makes a claim therefor as provided in Paragraph 0327.01. Such delays shall include, but not be restricted to, acts or neglect by any separate contractor employed by Owner, fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.
- 0324.02 All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Paragraph 0328 shall not exclude recovery for damages (*including compensation for additional professional services*) for delay by either party.

#### 0325 CORRECTION OF WORK

All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the review of the Owner who shall be the final judge of the quality and suitability of the work, material, processes of manufacture and methods of construction for the purposed for which they are used. Should they fail too meet his approval, they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Contractor at his own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the Engineer shall be equitable. It is not intended that the Engineer should be liable for the Contractor's performance of the work nor for safety during construction.

### 0326 EXISTING UNDERGROUND UTILITIES AND STRUCTURES

- 0326.01 The Owners and/or operators of private or public utilities shall have access to such utility at all times, for the installation, maintenance, adjustment, repair and operation of said utility. No extra compensation will be allowed because of the delay or interference caused by such work.
- 0326.02 Wherever existing utilities are encountered which conflict in actual position and location with the proposed work, the Contractor shall promptly notify the Owner for resolution of the conflict.
- 0326.03 The Contractor shall be solely and directly responsible to the Owner and/or other operator of such utility properties for any damage, injury, expense, loss, inconvenience or delay, or for any suits, actions, claims of any character brought on account of any injuries or damages which may result from the carrying out of the work.

### 0327 SUBSURFACE CONDITIONS FOUND DIFFERENT

Should the Contractor encounter sub-surface and/or latent conditions at the site materially differing from those shown on the plans or indicated in the specifications, he shall immediately give notice to the Owner of such conditions before they are disturbed. The Owner will thereupon promptly investigate the conditions, and if he finds that they materially differ from those shown on the plans or indicated in the specifications, he will at once make such changes in the plans and/or specifications as he may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 0326 of the General Conditions.

### 0328 CLAIMS FOR EXTRA WORK

No claim for extra work or cost shall be allowed unless the same was one in pursuance of a written order of the Owner and approved by the Owner, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done. When work is performed under the terms of Subparagraph 0326 of the General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the Owner, give the Owner access to accounts relating thereto.

### 0329 RIGHT OF THE OWNER TO TERMINATE CONTRACT

In the event that any of the provisions of this contract are violated by the Contractor or by any of his Subcontractors, the Owner may serve written notice upon the Contractor and the surety of its intention to terminate the contract, such notices to



contain the reasons for such intention to terminate the contract, and unless within ten (10) days after the serving of such notice upon the Contractor such violation or delay shall cease and satisfactory arrangement of correction be made, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination the Owner shall immediately serve notice thereof upon the Surety and the Contractor and the Surety shall have the right to take over and perform the contract; provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the Owner may take over the work and prosecute the same to completion by contract or by force account for the account and at the expense of the Contractor and the Contractor and his Surety shall be liable to the Owner for any excess cost occasioned the Owner thereby, and in such event the Owner may take possession of and utilize in completing the work, such materials, appliances and plant as may be on the site of the work and necessary therefor.

### 0330 CONSTRUCTION SCHEDULE AND PERIODIC ESTIMATES

Immediately after execution and delivery of the contract, and before the first partial payment is made, the Contractor shall deliver to the Owner an estimated construction progress schedule in form satisfactory to the Owner showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the contract documents and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule. The Contractor shall also furnish on forms to be supplied by the Owner, (a) a detailed estimate giving a complete breakdown of the contract price and (b) periodic itemized estimate of work done for the purpose of making partial payments thereon. The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the contract price.

### 0331 PAYMENTS TO CONTRACTORS

- 0331.01 No later than thirty (30) days after submittal of a progress payment request the Owner shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under this contract, but to insure the proper performance of this contract, the Owner shall retain ten percent (10%) of the amount of each estimate until final completion and acceptance of all work covered by this contract. Provided, that the Contractor shall submit his estimate not later than the first day of the month; provided, further, that the Owner at any time after fifty percent (50%) of the work has been completed, if it finds that satisfactory progress is being made, *may* reduce the retainage to 5%.

- 0331.02 Where a project is under the jurisdiction of a Force Account Agreement between the Owner and the Georgia Department of Transportation, the Contractor shall maintain a *daily* report of the amount of completed work as shown in the bid proposal. A copy of the accepted report appears in Appendix A at the end of this section and may be reproduced for use on this project. The Contractor's representative shall certify by signature that the report is accurate on behalf of the Contractor for the Owner (*shown as "Utility" on the report*). The Project Engineer representing the Georgia Department of Transportation shall certify by signature that the report is accurate for the "State". A copy of each days report properly certified as required by this part shall accompany each progress payment request by the Contractor. The quantity of work completed shown on the progress payment request *must* be supported by an equal quantity shown on the daily report for that progress payment period. Payment requested for quantities of work not supported by a properly certified daily report(s) may *not* be recommended for payment by the Owner.
- 0331.03 In preparing estimates, the material delivered on the site and preparatory work done may be taken into consideration. Where a project is under the jurisdiction of a Force Account Agreement between the Owner and the Georgia Department of Transportation, however, material delivered on the site and preparatory work done may *not* be taken into consideration.
- 0331.04 All material and work covered by partial payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the contract.
- 0331.05 The Contractor agrees that he will indemnify and save the Owner harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary incurred in the furtherance of the performance of this contract. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the Contractor fails to do so, then the Owner may, after having served written notice on the said Contractor, either pay unpaid bills, of which the Owner has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed

to impose any obligations upon the Owner to either the Contractor or his Surety. In paying any unpaid bills of the Contractor, the Owner shall be deemed the agent of the Contractor, and any payment so made by the Owner shall be considered as a payment made under the contract by the Owner to the Contractor and the Owner shall not be liable to the Contractor for any such payments made in good faith.

- 0331.06 If at any time the Owner shall determine that the amount of work completed at that time is lagging behind the expired contract time by more than 20 percent, the Owner may determine that the Contractor is not faithfully performing on the contract and therefore the Owner may elect to withhold all monies and refrain from making any additional payments to the Contractor until such time as the Owner determines the work to be progressing satisfactorily.

### 0332 ACCEPTANCE AND FINAL PAYMENT

When the project provided for under this contract shall have been completed by the Contractor, and all parts of the work have been approved by the Owner according to the contract, the Owner shall, within ten (10) days unless otherwise provided, make final inspection and advise the Contractor as to preparing a final estimate, showing the value of work as soon as the necessary measurements and computations can be made, all prior certificates or estimates upon which payments have been being made are approximately only, and subject to correction in the final payment. The amount of the final estimates, less any sums that may have been deducted or retained under the provisions of this contract, will be paid to the Contractor within sixty (60) days after approval by the Owner, provided that the contractor has properly maintained and operated the project as specified under these specifications, and provided, that he has furnished to the Owner a sworn affidavit to the effect that all bills are paid and no suits are pending in connection with the work done or labor and material furnished under this contract. A sample affidavit appears at the end of this section to be considered as an example of an acceptable affidavit.

### 0333 PAYMENTS BY CONTRACTORS

The Contractor shall pay (a) for all transportation and utility services not later than the 20th day of the calendar month following that in which such services are rendered, (b) for all materials, tools, and other expendable equipment to the extent of 90 percent of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools and equipment are delivered at the site of the project, and the balance of the cost thereof not later than the 30th day following the completion of that part of the work in or on which such materials, tools and equipment are incorporated or used, and (c) to each of his Subcontractors, not later than the 5th day following each payment to the Contractor, the respective

amounts allowed the Contractor on account of the work performed by his Subcontractors to the extent of each Subcontractor's interest therein.

### 0334 CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

0334.01 The Contractor shall not commence work under this Contract until he has obtained all the insurance required under this paragraph and such insurance has been reviewed by the Owner, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until the insurance has been so obtained and reviewed.

0334.01.1 Contractor's Liability Insurance: Contractor shall purchase and maintain such comprehensive general liability and other insurance as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the work and Contractor's other obligations under the Contract Documents, whether such performance is indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

0334.01.1.1 Claims under workers' or workmen's compensation, disability benefits and other similar employees benefit acts;

0334.01.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

0334.01.1.3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;

0334.01.1.4 Claims for damages insured by personal injury liability coverage which are sustained (i) by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or (ii) by any other person for any other reason.

0334.01.1.5 Claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and

0334.01.1.6 Claims for damages because of bodily injury or death of any person or property damage arising out of the Ownership, maintenance or use of any motor vehicle.

The insurance required by this paragraph shall include the specific coverages and be written for not less than the limits of liability and coverages provided in these specifications, or required by law,

whichever is greater. The comprehensive general liability insurance shall include completed operations insurance. All such insurance shall contain a provision that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty days prior written notice has been given to Owner. All such insurance shall remain in effect until final payment and at all times thereafter when Contractor may be correcting, removing or replacing defective work. In addition, Contractor shall maintain such completed operations insurance for at least one year after final payment and furnish Owner with evidence of continuation of such insurance at final payment. Renewal certificates shall be sent to the Owner 30 days prior to the expiration date of any policy required herein.

0334.02 Contractual Liability Insurance: The comprehensive general liability insurance required by paragraph 0338.01.1 will include contractual liability insurance applicable to Contractor's obligations under separate contract and subcontracting.

0334.03 Unless otherwise provided in these General Conditions, Contractor shall purchase and maintain property insurance upon the work at the site to the full insurable value thereof (*subject to such deductible amounts as may be provided in these general conditions or required by law*). This insurance shall include the interest of Owner, Contractor and Subcontractors in the work, shall provide "all risk" insurance for physical loss and damage including but not limited to fire, lightning, windstorms, hail, smoke, explosion, riot, aircraft, vehicles, falling objects, flood, earthquake, theft, vandalism, malicious mischief, collapse, water damage and other perils, and shall include damages, losses and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (*including fees and charges of engineers, architects, attorneys and other professionals*). If not covered under the "all risk" insurance or otherwise provided in these General Conditions, Contractor shall purchase and maintain similar property insurance on portions of the work stored on and off the site or in transit when such portions of the work are to be included in an Application for Payment. The policies of insurance required to be purchased and maintained by Contractor in accordance with paragraphs c and d shall contain a provision that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty days prior written notice has been given to the Owner.

0334.04 Contractor shall purchase and maintain such boiler and machinery insurance as may be required by these General Conditions or by law. This insurance shall include the interest of Owners, Contractor and Subcontractors in the work and shall provide coverage for all installed and

functional mechanical equipment for the full replacement value of the equipment.

0334.05 Owner shall not be responsible for purchasing and maintaining any property insurance to protect the interests of Contractor or Subcontractors in the work to the extent of any deductible amounts that are provided in the supplemental conditions. If Contractor wishes property insurance coverage within the limits of such amounts, Contractor may purchase and maintain it at his own expense.

0334.06 If Owner has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by Contractor in accordance with paragraphs 0338.01.1. through 0338.01.1.4., Owner will notify Contractor thereof within ten days of the date of delivery of such certificates, to Owner. Contractor will provide to the Owner such additional information in respect of insurance provided by him as Owner may reasonably request. The right of the Owner to review and comment on Certificates of Insurance is not intended to relieve the Contractor of his responsibility to provide insurance coverage as specified nor to relieve the Contractor of his liability for any claims which might arise.

0334.07 Partial Utilization - Property Insurance: If Owner finds it necessary to occupy or use a portion or portions of the work prior to Substantial Completion of all the work, such use or occupancy may be accomplished provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected the changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be cancelled or lapse on account of any such partial use or occupancy.

0334.08 The Contractor shall carry and maintain Combined Excess Liability (*Umbrella*) Insurance for a limit of not less than the following:

Each Occurrence:	\$3,000,000
Aggregate:	\$3,000,000

0334.09 The limits of liability for the insurance required by paragraph 36.1.1. of the General Conditions shall provide coverage for not less than the following amounts or greater where required by law:

For claims under paragraph 0338.01.1.1. and 0338.01.1.2., Worker's Compensation:

State

Statutory

Federal	Statutory
Employer's Liability – Each Accident:	\$1,000,000
Employer's Liability – Disease – Each Employee:	\$1,000,000
Employer's Liability – Disease – Policy Limit:	\$1,000,000

If the Contractor chooses to maintain a policy with a maximum of the state mandated amounts of \$100,000 per accident, \$100,000 for disease per employee and a disease policy limit of \$500,000, the Contract required minimum of \$1,000,000 can be achieved by the excess liability policy required by paragraph 0338.08 above.

For claims under 0339.01.1.1. through 0339.01.1.5. (*General Liability*),

General Liability Provided Per Occurrence

Each Occurrence (Bodily and Property Damage Included):	\$1,000,000
Fire Damage ( <i>Any One Fire</i> ):	\$50,000
Medical Expense ( <i>Any One Person</i> ):	\$5,000
Personal and Adv Injury, With Employment Exclusion Deleted:	\$1,000,000
General Aggregate ( <i>Per Project</i> ):	\$2,000,000
Products and Completed Operations Aggregate:	\$1,000,000

Notes: Property Damage Liability Insurance will provide explosion, collapse and underground hazard coverages where applicable. Each detonation of blasting shall be considered a single occurrence. General Liability shall include Contractual Liability as stipulated in Paragraph 0339.02. above.

Comprehensive Automobile Liability:

Combined Single Limit Per Occurrence, For Any and All Autos, Including Bodily Injury and Property Damage:	\$1,000,000
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0334.10 Scope of Insurance and Special Hazards - The amounts stated in subparagraph 0334.09. above are minimum amounts of insurance to be carried. The Contractor shall carry such additional insurance as may be required to provide adequate protection of the Contractor and his Subcontractors, respectively, against any and all damage claims which may

arise from operations under this Contract, whether such operations be by the insured or by anyone directly or indirectly employed by his and, also, against any of the special hazards which may be encountered in the performance of this Contract.

Where the scope of work involves crossing of a railway and/or railway rights-of-way, Contractor shall be required to furnish railway with a Railroad Protective Liability Insurance Policy naming railway as the named insured and issued to the Contractor with a combined single limit of \$2,000,000 for all damages arising out of bodily injury, death, property damage liability and physical damage to property liability per occurrence with an aggregate limit of \$6,000,000.

**0334.11 Certificate Holder should read:**

**CITY OF DALTON  
P.O. BOX 1205  
DALTON, GEORGIA 30722**

0334.12 Insurance company must have an A.M. Best Rating of A-6 or higher. Insurance company must be licensed to do business by the Georgia Secretary of State. Insurance company must be authorized to do business in the State of Georgia by the Georgia Insurance Department.

**0335 CONTRACT SECURITY**

The Contractor shall furnish a Construction Performance Bond in an amount at least equal to one hundred percent (100%) of the contract prices as security for the faithful performance of this contract and also a Construction Payment Bond in an amount at least equal to one hundred percent (100%) of the contract price or in a penal sum not less than that prescribed by State, Territorial or local law, as security for the payment of all persons performing labor on the project under this contract and furnishing materials in connection with this contract. The performance bond and the payment bond may be in one or in separate instruments in accordance with local law.



### 0336 ADDITIONAL OR SUBSTITUTE BOND

If at any time the Owner for justifiable cause shall be or become dissatisfied with any Surety or Sureties, then upon the Construction Performance or Payment Bonds, the Contractor shall within five (5) days after notice from the Owner to do so, substitute an acceptable bond (*or bonds*) in such form and sum and signed by such other Surety or Sureties as may be satisfactory to the Owner. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the Owner.

### 0337 LIEN

Neither the final payment nor any part of the retained percentage will become due until the Contractor, if required, shall furnish the Owner a complete release from any liens which may arise out of this contract, or receipts in full in lieu thereof, and if required in either case, an affidavit that insofar as he has knowledge or information, the release and receipts include all materials, for which a lien might be filed. The Contractor may, if any Subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Owner to indemnify it against any lien. If a lien shall remain unsatisfied after all payments are made, then the Contractor shall refund to the Owner all monies which the latter may be compelled to pay in discharging such lien, including all incidental costs and attorney's fees.

### 0338 ASSIGNMENTS

The Contractor shall not assign the whole or any part of this contract or any money due to or to become due hereunder without written consent of the Owner. In case the Contractor assigns all or part of any money due or to become due under this contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assigned in and to any money due or to become due to the Contractor shall be subject to prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this contract.

### 0339 MUTUAL RESPONSIBILITY OF CONTRACTORS

If through acts of neglect on the part of the Contractor, any other Contractor or subcontractor, shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or subcontractor by agreement or arbitration, if such other contractor or subcontractor will so settle. If such other Contractor or subcontractor shall assert any claim against the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor, who shall indemnify and save harmless the Owner against any such claim.

#### 0340 COORDINATION WITH OTHER CONTRACTORS

The Contractor shall coordinate his operations with those of other contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including his Subcontractors shall keep informed of the progress and the detail work of other Contractors and shall notify the Owner immediately of lack of progress or defective workmanship on the part of other contractors. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by him of the status of the work as being satisfactory for proper coordination with his own work.

#### 0341 SUBCONTRACTING

The Contractor shall utilize the service of specialty subcontractor on those parts of the work which, under normal contracting practices, are performed by specialty Subcontractors. Provided - that if the Owner shall determine that the specialty work in question has been customarily performed by the Contractor's own organization and that such organization is presently competent to perform such work, the Contractor shall be permitted to do so. Provided, further - that if the Owner shall determine that the performance of any specialty work by specialty Subcontractors will result in materially increased costs or inordinate delays, the requirements of this paragraph shall not apply.

- 0341.01 The Contractor shall not be allowed to award work to any subcontractor prior to written approval of the Owner, which approval will not be given until the Contractor submits to the Owner, a written statement concerning the proposed award to the subcontractor, which statement shall contain such information as the Owner may require.
- 0341.02 The Contractor shall be as fully responsible to the Owner for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.
- 0341.03 The Contractor shall cause appropriate provisions to be inserted in all Subcontracts relative to the work to bind subcontractors to the Contractor by the terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the Contract Documents.
- 0341.04 Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the Owner.

#### 0342 USE OF PREMISES AND REMOVAL OF DEBRIS

The Contractor expressly undertakes at his own expense:

- 0342.01 To take every precaution against injuries to persons or damage to property;
- 0342.02 To store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work of any other Contractors;
- 0342.03 To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work.
- 0342.04 To clean up frequently all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;
- 0342.05 Before final payment to remove all surplus material, false work, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from his operations, and to put the site in a neat orderly condition;

#### 0343 QUANTITIES OF ESTIMATE

Wherever the estimated quantities of work to be done and materials to be furnished under this contract are shown in any of the documents including the proposal, they are given for use in comparing bids and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the Owner to complete the work contemplated by this Contract, and such increase or diminution shall in no way vitiate this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

#### 0344 RIGHTS-OF-WAY AND SUSPENSION OF WORK

The Owner shall furnish all land and rights-of-way necessary for the carrying out of this Contract and the completion of the work herein contemplated and will use due diligence in acquiring said land and rights-of-way as speedily as possible. But it is possible that all lands and rights-of-way may not be obtained as herein contemplated before construction begins, in which event the Contractor shall begin his work upon such land and rights-of-way as the Owner may have previously acquired, and no claim for damages whatsoever will be allowed by reason of the

delay in obtaining the remaining lands and rights-of-way. Should the Owner be prevented or enjoined from proceeding with the work, or from authorizing its prosecution, either before or after the commencement, by reason of any litigation, or by reason of its inability to procure any lands or rights-of-way for the said work, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay, or, to withdraw from the contract except by consent of the Owner, but time for completion of the work will be extended to such time as the Owner determines will compensate for the time lost by such delay, such determination to be set forth in writing.

#### 0345 GUARANTY

0345.01 All work constructed under this contract shall be fully guaranteed by the Contractor for a period of one year from the date of final inspection and acceptance by the Owner. This guarantee shall cover any and all defects in workmanship or materials that may develop in this specified time, and any failure in such workmanship or materials shall be repaired or replaced to the satisfaction of the Owner by the Contractor at his own expense.

0345.02 Neither the final certificate of payment nor any provision in the contract documents nor partial or entire occupancy of the premises by the Owner shall constitute an acceptance of work not done in accordance with the contract documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship.

#### 0346 CONFLICTING CONDITIONS

Any provisions in any of the contract documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

#### 0347 NOTICE AND SERVICE THEREOF

Any notice to any Contractor from the Owner relative to any part of this contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said Contractor at his last given address, or delivered in person to the said Contractor or his authorized representative on the work.

**0348 PROVISIONS REQUIRED BY LAW DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

**0349 SUSPENSION OF WORK**

Should the Owner be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine will compensate for time lost by such delay with such determination to be set forth in writing.

**0350 PROTECTION AND RESTORATION OF PROPERTY**

0350.01 The Contractor shall not enter upon private property for any purpose without first obtaining permission, and he shall use every precaution necessary to prevent damage or injury to any public or private property, trees, fences, monuments, underground structures, etc., on and adjacent to the site of the work. He shall protect carefully, from disturbance or damage, all land monuments and property marks until an authorized agent has witnessed or otherwise referenced their location, and shall not remove them until directed.

0350.02 Except as specifically provided in the Contract Documents, the Contractor shall not do any work that would affect any railway track, pipeline, telephone, telegraph, or electric or transmission line, or other structure nor enter upon the right-of-way or other lands appurtenant thereto, until authority therefore has been secured from the proper parties. The Contractor shall not be entitled to any extension of time or any extra compensation on account of any postponement, interference, or delay resulting from his requirement, except as specifically provided in the contract.

0350.03 The Contractor shall be responsible for all damage or injury to property of any character resulting from any act, omission, neglect, or misconduct in his manner or method of executing said work, or due to his nonexecution of said work, or at any time due to defective work or materials, and he shall

not be released from said responsibility until the work shall have been completed and accepted.

0350.04 When or where any direct or indirect damage or injury is done to public or private property by, or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence of the non-execution thereof on the part of the Contractor, he shall restore at his own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring, as may be directed, or he shall make good such damage or injury in an acceptable manner.

#### 0351 RESPONSIBILITY FOR DAMAGE CLAIMS

The Contractor shall be responsible for all injury or damage of any kind resulting from his work, to persons or property. The Contractor hereby assumes the obligation to indemnify and save harmless the Owner including associates, agents and representatives, from every expense, liability, or payment arising out of or through injury to any person or persons including death and loss of services, or damage to property, regardless of who may be the Owner of the property, suffered through any cause whatsoever in the construction work involved in the contract and to defend on their behalf any suit brought against them arising from any such cause.

#### 0352 INTEREST OF FEDERAL, STATE OR LOCAL OFFICIALS

No Federal, State or Local official shall be admitted to any share or part of this contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

#### 0353 OTHER PROHIBITED INTERESTS

No official of the Owner who is authorized in such capacity and on behalf of the Owner to negotiate, make, accept or approve or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the Owner who is authorized in such capacity and on behalf of the Owner to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining

to the project.

0354 USE OF CHEMICALS

All chemicals used during project construction or furnished for project operation, whether herbicide, pesticide, disinfectant, polymer, reactant or of other classification, must show approval of either E.P.A., or U.S.D.A. Use of all such chemicals and disposal of residues shall be in strict conformance with instructions.

0355 MAINTENANCE OF TRAFFIC

0355.01 The Contractor shall notify the Owner and the appropriate department of transportation prior to performing any work which disrupts normal flow of traffic, and shall utilize appropriate warning signs, flagmen and other procedures necessary to ensure safety and minimize inconvenience to the public.

0356 ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the Owner and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or his sureties from any obligations under this contract or the Construction Performance and Payment Bond.

0357 OWNER'S RIGHT TO SUSPEND WORK

The Owner shall have the authority to suspend the work, wholly or in part as he may deem necessary because of conditions unsuitable for proper prosecution of the work or failure on the part of the Contractor to carry out the provisions or to meet the specified requirements. The Contractor shall not suspend operations without the Owner's permission.

0358 TIME FOR COMPLETION AND LIQUIDATED DAMAGES

0358.01 It is hereby understood and mutually agreed, by and between the Contractor and the Owner, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are ESSENTIAL CONDITIONS of this contract; and it is further mutually understood and agreed that the work embraced in this contract shall be commenced on a date to be specified in the "NOTICE TO PROCEED."

- 0358.02 The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the Owner, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.
- 0358.03 If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the Owner the amount specified in the contract, not as a penalty but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the contract for completing the work.
- 0358.04 The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount shall be retained from time to time by the Owner from current periodical estimates.
- 0358.05 It is further agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where, under the contract, an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the Owner determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the Owner; provided, further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:
- 0358.05.1 To any preference, priority or allocation order duly issued by the Government;
- 0358.05.2 To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another contractor in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes,



and severe weather; and

0358.05.3 To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections 0369.05.1 and 0369.05.2 of this article.

0358.06 Provided, further, that the Contractor shall, within ten (10) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the date of final settlement of the contract, notify the Owner, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay, and notify the Contractor within a reasonable time of its decision in this matter.

..... END OF SECTION .....

SECTION 0300: APPENDIX A

AFFIDAVIT FOR FINAL PAYMENT AND RELEASE OF LIENS

STATE OF: \_\_\_\_\_

COUNTY OF: \_\_\_\_\_

FROM: \_\_\_\_\_ (Contractor)

TO: CITY OF DALTON, GEORGIA (Owner)

RE: Contract entered into the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ between the above mentioned parties for the construction of the project entitled DALTON PROJ. NO. PW-2020-LMIG.

KNOW ALL MEN BY THESE PRESENTS:

1. The undersigned hereby certifies that all work required under the above Contract has been performed in accordance with the terms thereof, that all material-men, sub-contractors, mechanics, and laborers have been paid and satisfied in full and that there are not outstanding claims of any character arising out of the performance of the Contract which have been paid and satisfied in full.
2. The undersigned further certifies that to the best of their knowledge and belief there are not unsatisfied claims for damages resulting from injury or death to any employees, sub-contractors, or the public at large arising out of the performance of the Contract or any suits or claims for any other damage of any kind, nature or description on which might constitute a lien upon the property of the Owner.
3. The undersigned makes this final affidavit as provided by the Contract and agrees that acceptance of final payment shall constitute full settlement of all claims against the Owner arising under or by virtue of the Contract.
4. IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument this day of \_\_\_\_\_, \_\_\_\_\_.

SIGNED: \_\_\_\_\_ (SEAL)

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

Personally appeared before the undersigned who after being duly sworn, deposes and says that the facts stated in the above affidavit are true.

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public: \_\_\_\_\_ SEAL

My Commission Expires: \_\_\_\_\_,

\_\_\_\_\_ County,

## SECTION 0400 – GENERAL NOTES

1. THE DATA, TOGETHER WITH ALL OTHER INFORMATION SHOWN ON THESE PLANS, OR IN ANY WAY INDICATED THEREBY, WHETHER BY DRAWINGS OR NOTES, OR IN ANY OTHER MANNER, ARE BASED UPON FIELD INVESTIGATIONS AND ARE BELIEVED TO BE INDICATIVE OF ACTUAL CONDITIONS. HOWEVER, THE SAME ARE SHOWN AS INFORMATION ONLY, ARE NOT GUARANTEED AND DO NOT BIND THE CITY OF DALTON IN ANY WAY. THE ATTENTION OF THE BIDDER IS SPECIFICALLY DIRECTED TO GEORGIA DEPARTMENT OF TRANSPORTATION SPECIFICATION SECTIONS 102.04, 102.05, AND 104.03 OF THE SPECIFICATIONS.
2. ALL WORK ASSOCIATED WITH THIS CONTRACT SHALL BE DONE IN ACCORDANCE WITH THE MOST CURRENT GEORGIA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS, SPECIAL PROVISIONS, AND CONSTRUCTION DETAILS.
3. **THE BEGINNING AND ENDING TERMINI FOR EACH RESURFACING PROJECT ARE SHOWN ON THE LOCATION MAPS AND PROJECT SUMMARY REPORT INCLUDED IN THE GENERAL NOTES (SECTION 0400).**
4. QUANTITIES FOR MILLING AND RESURFACING OF DECELERATION LANES, FLARES (WIDTH TRANSITIONS), ETC., ARE INCLUDED WITHIN THE DETAILED ESTIMATE.
5. MILLING AND PAVING OF TURNOUTS FOR SIDEROADS SHALL BE REQUIRED ON **THORNTON AVENUE** AND OTHER STREETS **WHEN DIRECTED BY THE PROJECT ENGINEER** TO PROVIDE A SMOOTH AND WELL DRAINED TRANSITION TO AND FROM THE MAINLINE BEING RESURFACED. UNLESS OTHERWISE DIRECTED BY THE PROJECT ENGINEER, THE MILLING AND PAVING OF TURNOUTS FOR SIDE ROADS SHALL BE TO THE BACK OF RADIUS FOR EACH SIDE STREET. QUANTITIES FOR THESE AREAS ARE INCLUDED ON THE DETAILED ESTIMATE.
6. THE CONTRACTOR SHALL PROVIDE POSITIVE DRAINAGE IN THE MILLING OPERATION SUCH THAT WATER DOES NOT POND ON THE ROADWAY. **MILLED AREAS SHALL BE COVERED WITH FINAL SURFACE COURSE WITHIN FOURTEEN (14) CALENDAR DAYS OF BEING MILLED.**
7. FAILURE BY THE CONTRACTOR TO COVER MILLED SURFACES WITHIN FOURTEEN (14) CALENDAR DAYS WILL RESULT IN LIQUIDATED DAMAGES TO BE ASSESSED AT A RATE OF \$200 PER DAY LEFT EXPOSED.
8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING ALL DRAINAGE STRUCTURES WITHIN THE LIMITS OF THE PROJECT THROUGHOUT THE DURATION OF THE PROJECT. ANY DEBRIS THAT GOES IN DRAINAGE STRUCTURES AS A RESULT OF THE MILLING OPERATION SHALL BE CLEANED OUT BY THE CONTRACTOR AT NO ADDITIONAL COST TO THE CITY.
9. PERMANENT STRIPING: THE CONTRACTOR SHALL RESTRIPE ALL EXISTING ROADWAY MARKINGS AT EXISTING LOCATIONS ON ROADWAY AND AS CURRENTLY MARKED. THE CONTRACTOR SHALL RESTRIPE ALL EXISTING ROADWAY MARKINGS

ON SIDE ROADS TO THE END OF THE NEW RESURFACED SECTION ONLY WHEN APPLICABLE. REFERENCE PAVEMENT MARKING DETAILS AND NOTES IN GDOT SPECIFICATIONS FOR LOCATING EDGE LINES. THE COST OF RESTRIPING INCLUDING REQUIRED STOP BARS AND PROVIDING CONSTRUCTION LAYOUT WILL BE PAID FOR UNDER 653 PAY ITEMS.

10. EDGELINES – EDGELINES SHALL **ONLY** BE INSTALLED AS DIRECTED ON THE PROJECT SUMMARY SHEET SHOWN IN THIS SECTION.
11. RPMS- RPMS SHALL BE INSTALLED AS SHOWN IN GDOT CONSTRUCTION DETAIL T-15A. **HOWEVER, CONTRACTOR SHALL USE OLD SPACING REQUIREMENT OF 80'.**
12. THIS PROJECT DOES NOT REQUIRE A NOI.
13. TRAFFIC CONTROL SHALL MEET THE REQUIREMENTS OF THE 2009 MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS AND SPECIAL PROVISION SECTION 150-TRAFFIC CONTROL OF GDOT SPECIFICATIONS.
14. THIS PROJECT IS A GDOT LMIG PROJECT. THE CONTRACTOR SHALL USE THE SPECIFIED DESIGN MIX AND APPLICATION RATE SPECIFIED ON THE PROJECT SUMMARY SHEET FOR ALL STREETS WHICH WILL BE RESURFACED. **DESIGN MIXES FOR THESE LMIG STREETS SHALL BE SUBMITTED TO AND APPROVED BY THE OWNER IN ADVANCE.** PLEASE SUBMIT MIX DESIGNS TO THE OWNER FOR APPROVAL UPON NOTICE OF AWARD. FAILURE TO MEET THESE SPECIFICATIONS CAN RESULT IN GDOT NOT REIMBURSING THE CITY FOR THE MATERIALS USED.
15. ASPHALT PATCHING IS NOT PART OF THE CONTRACTOR'S SCOPE OF WORK FOR THIS PROJECT. THE CITY OF DALTON PUBLIC WORKS DEPARTMENT WILL COMPLETE ASPHALT PATCHING USING IN-HOUSE FORCES. ASPHALT PATCHING WILL BE COMPLETED PRIOR TO THE ISSUANCE OF A NOTICE TO PROCEED TO THE CONTRACTOR.
16. THE REPLACEMENT OF TRAFFIC SIGNAL LOOPS IS NOT PART OF THE CONTRACTOR'S SCOPE OF WORK FOR THIS PROJECT. THE CITY OF DALTON PUBLIC WORKS DEPARTMENT WILL COMPLETE THIS WORK USING IN-HOUSE FORCES.
17. THE CONTRACTOR SHALL BEGIN MILLING THE FULL WIDTH OF THE ROADWAY ONE HUNDRED (100) FEET AT THE BEGINNING AND ENDING OF THE PROJECT AT EACH PROJECT TERMINI (ONLY FOR STREETS THAT REQUIRE MILLING). THE CONTRACTOR SHALL COMPLETE THIS MILLING SUCH THAT AT THE POINT THAT FULL WIDTH MILLING BEGINS, THE ROADWAY SHALL BE MILLED FROM 0" DEPTH AND TAPER (FADE) TO 1 ½" DEPTH BUTT JOINT TO PROVIDE A SMOOTH TIE IN DURING PAVING OPERATIONS. QUANTITIES FOR THE FULL WIDTH MILLING ARE INCLUDED IN THE DETAILED ESTIMATE PAY ITEM.
18. **LESLEY DRIVE VARIABLE DEPTH MILLING DETAIL-** 1.5" FULL WIDTH MILL FROM ABUTMENT ROAD TO ANDREA COURT. FROM ANDREA COURT TO THE DEAD END, MILL 1.5" AT GUTTERLINE AND TAPER TO 0" AT CENTERLINE.

19. **BIDDERS SHOULD REFER TO THE PROJECT SUMMARY SHEET INCLUDED IN THE GENERAL NOTES (0400) SECTION FOR SPECIFIC MILLING REQUIREMENTS/DETAILS FOR EACH STREET INCLUDED IN THIS PROJECT.**

UPON COMPLETION OF THE MILLING OPERATIONS, THE CONTRACTOR SHALL REMOVE ANY REMAINING ASPHALT "STRIP/SLIVER" CREATED IN THE GUTTER AS A RESULT OF MILLING OPERATIONS (IF APPLICABLE). THIS "STRIP" SHALL BE REMOVED PRIOR TO PLACEMENT OF ASPHALT RESURFACING IF PAVING IN THE GUTTER IS REQUIRED BECAUSE OF PRE-EXISTING CONDITIONS.

20. MATERIALS TRANSFER VEHICLE (MTV, SHUTTLE BUGGY) – THE CONTRACTOR SHALL UTILIZE A MATERIALS TRANSFER VEHICLE WHEN PLACING ASPHALTIC CONCRETE MIXTURES ON THIS PROJECT ONLY AS REQUIRED BY THE APPLICABLE GDOT STANDARD SPECIFICATION. **HOWEVER, THE MTV/SHUTTLE BUGGY SHALL BE USED ON THORNTON AVENUE.**

21. BUMP SIGNAGE – BUMP SIGNAGE SHALL BE INSTALLED ON ALL TRANSVERSE "BUTT" JOINTS CREATED AS A RESULT OF MILLING OPERATIONS. CONTRACTOR SHALL PLACE A WEDGE OF COLD MIX ASPHALT ON TRANSVERSE JOINTS AS A TEMPORARY MEASURE OF PROVIDING A SMOOTH TRANSITION TO PROJECT TIE-INS. THIS COLD MIX WEDGE SHALL BE REMOVED BY THE CONTRACTOR PRIOR TO COMMENCING RESURFACING. THE OWNER IS NOT RESPONSIBLE FOR DAMAGED VEHICLES CAUSED BY TRANSVERSE "BUTT" JOINTS.

22. LEVELING – LEVELING SHALL ONLY BE PLACED ON THE PROJECT AS DIRECTED BY THE PROJECT ENGINEER.

23. TIME OF WORK RESTRICTIONS – NO WORK SHALL BE COMPLETED BY THE CONTRACTOR ON **RESIDENTIAL STREETS BETWEEN THE HOURS OF 9:01PM THROUGH 7:59AM (I.E. NO NIGHTTIME WORK ON RESIDENTIAL STREETS).** FOR STREETS IN **COMMERCIAL AND INDUSTRIAL DISTRICTS, NO WORK SHALL BE COMPLETED BETWEEN THE HOURS OF 7:01AM THROUGH 8:00AM (I.E. NO WORK ON COMMERCIAL DISTRICT STREETS DURING THE AM RUSH).** THE CONTRACTOR SHALL KEEP AT LEAST ONE TRAVEL LANE OPEN IN EACH DIRECTION OF TRAVEL AT ALL TIMES. LIQUIDATED DAMAGES FOR FAILURE TO OBSERVE TIME OF WORK RESTRICTIONS SHALL BE ASSESSED TO THE CONTRACTOR AT THE RATE OF \$200 PER HOUR.

24. THE CONTRACTOR WILL BE PERMITTED TO USE ADVANCED WARNING SIGNS ON TRIPODS THROUGHOUT THE PROJECT AS LONG AS THE SIGNS AND TRIPODS CONFORM TO THE REQUIREMENTS ESTABLISHED BY PART 6 OF THE MUTCD AND SPECIAL PROVISION SECTION 150-TRAFFIC CONTROL OF THE GEORGIA DOT STANDARD SPECIFICATIONS.

25. THE CONTRACTOR WILL NOT BE REQUIRED TO PERFORM ANY SHOULDER BUILDING/GRASSING NOR PLACE WORK ZONE BARRELS OR LOW/SOFT SHOULDER SIGNS AFTER PLACING ASPHALT TOPPING ON STREETS WITHOUT CURB AND

GUTTER. THE CITY OF DALTON PUBLIC WORKS DEPARTMENT WILL COMPLETE THE PREVIOUSLY MENTIONED WORK ITEMS USING IN-HOUSE FORCES.

26. **MILLING/REMOVAL OF ASPHALT AROUND MANHOLE, GAS VALVE, OR WATER VALVE TO PREPARE FOR RESURFACING** – CONTRACTOR SHALL PROVIDE UNIT PRICING TO PERFORM THE NECESSARY MILLING AROUND IN-PAVEMENT UTILITY MANHOLES AND VALVES. THIS MILLING WILL REQUIRE A SMALL MILLING MACHINE TO APPROPRIATELY MILL AROUND THE UTILITY INFRASTRUCTURE AT THE SAME MILLING DEPTH SPECIFIED FOR THIS STREET TO PREPARE FOR RESURFACING. THE UNIT PRICE FOR THIS WORK SHOULD INCLUDE ALL LABOR, EQUIPMENT, AND MATERIALS NECESSARY TO PERFORM THE WORK. DALTON UTILITIES WILL BE LOWERING ALL IN-PAVEMENT UTILITIES AND PERMANENTLY RAISING THEM FOLLOWING RESURFACING ON THE FOLLOWING STREET: THORNTON AVENUE. ON THIS ONE (1) STREET, CONTRACTOR WILL NOT BE REQUIRED TO PERFORM MILLING AROUND THE IN-PAVEMENT UTILITIES.

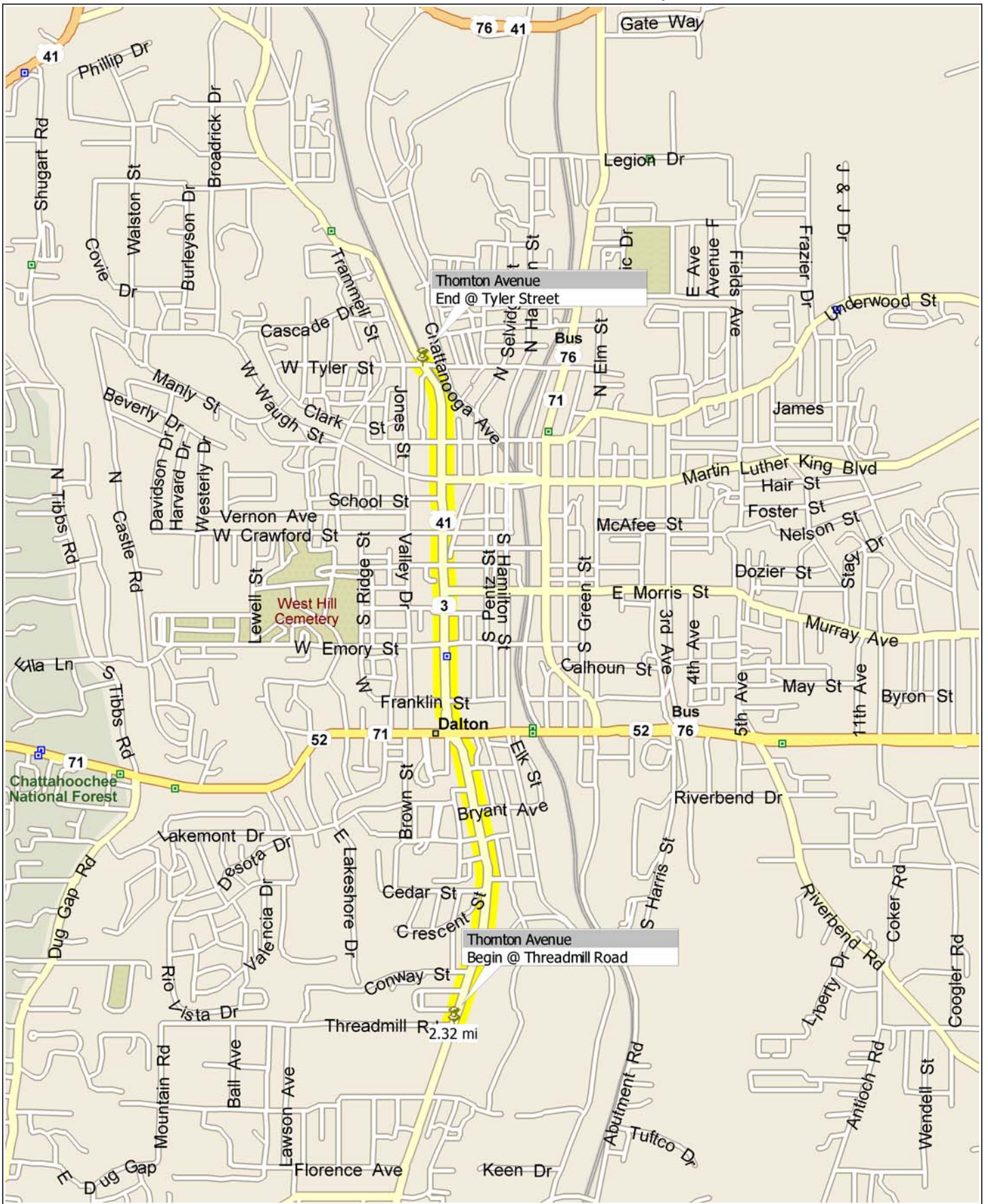
**2020 Milling and Resurfacing - Project Summary Sheet - Dalton Public Works Department**  
**Various City Streets - Dalton Project No PW-2020-LMIG**

No.	Road Name	Beginning	Ending	Total Length (Miles)	Street Width (+/-)	Milling Required?	Required Asphalt Topping Mix Design Code	Approx Tonnage	Required Asphalt Topping Spread Rate	Thermoplastic Striping?	RPMS?
1	Thornton Avenue	Threadmill Road	Tyler Street	2.320	Varies from 24' to 65'	Yes; 1.5" full width mill	402-3130	5640	165 lbs/square yard	Stop Bar, Centerline, Edgelines, Arrows, Skip White, Skip Yellow, Island, and Crosswalk	Yes
2	Fifth Avenue	Walnut Avenue	E Morris Street	0.615	26'	Yes; 1.5" full width mill	402-3102	775	165 lbs/square yard	Stop Bar, Centerline, and Words	Yes
3	Lesley Drive	Abutment Road	Dead End	0.389	32'	Yes; Varies	402-3100	530	165 lbs/square yard	Stop Bar	No
4	Brookwood Lane	Cedar Street	Cul-de-sac	0.134	28'	Yes; 1.5" at gutterline taper to 0" at centerline	402-3100	185	165 lbs/square yard	Stop Bar	No
5	Maney Lane	Trammell Street	Cul-de-sac	0.089	22'	Yes; 1.5" at gutterline taper to 0" at centerline	402-3100	100	165 lbs/square yard	Stop Bar	No
<b>Total =</b>				<b>3.547</b>							

Blue Shading Represents Streets included in GDOT LMIG 2020 Project Report

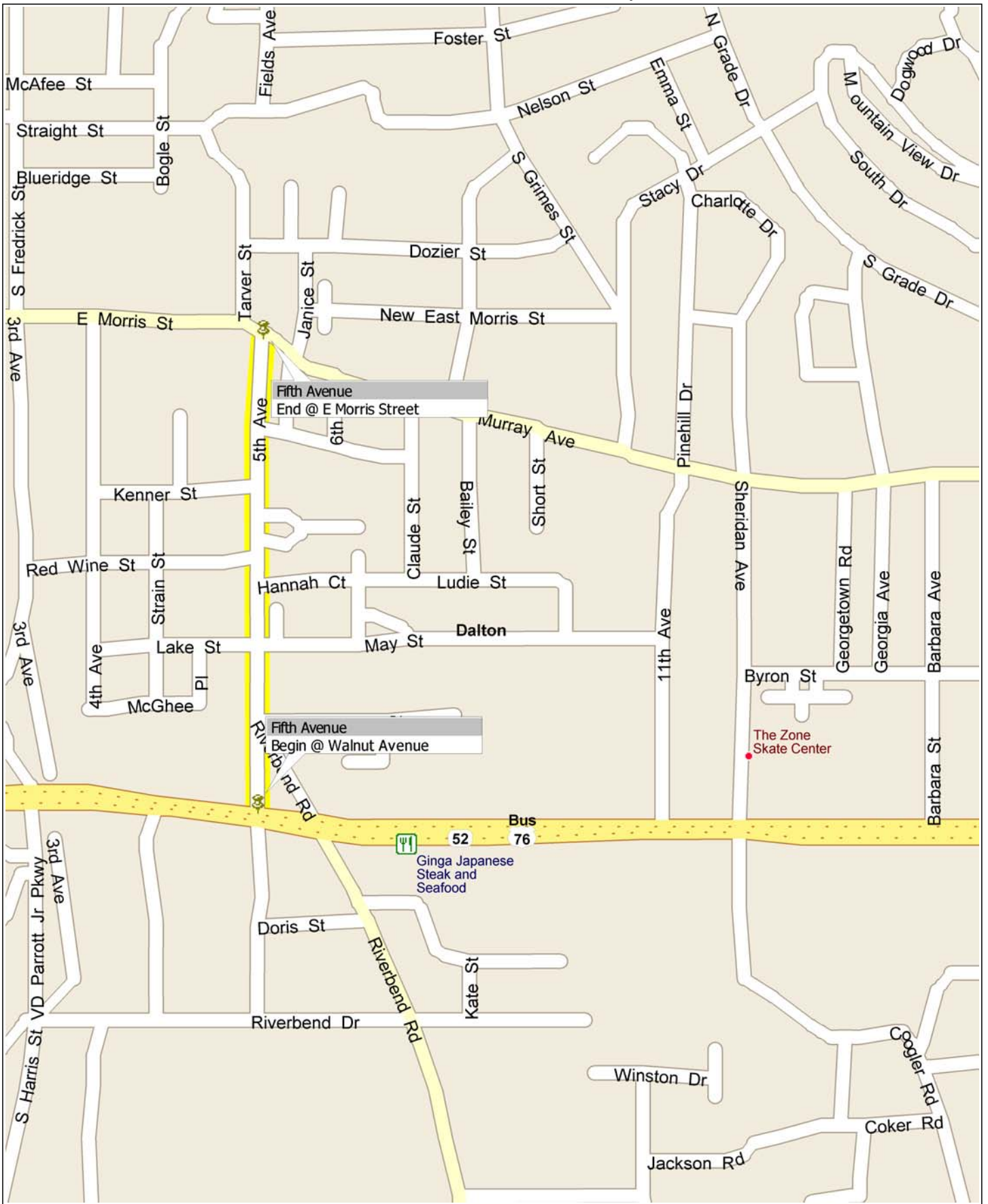


# Thornton Avenue- Location Map



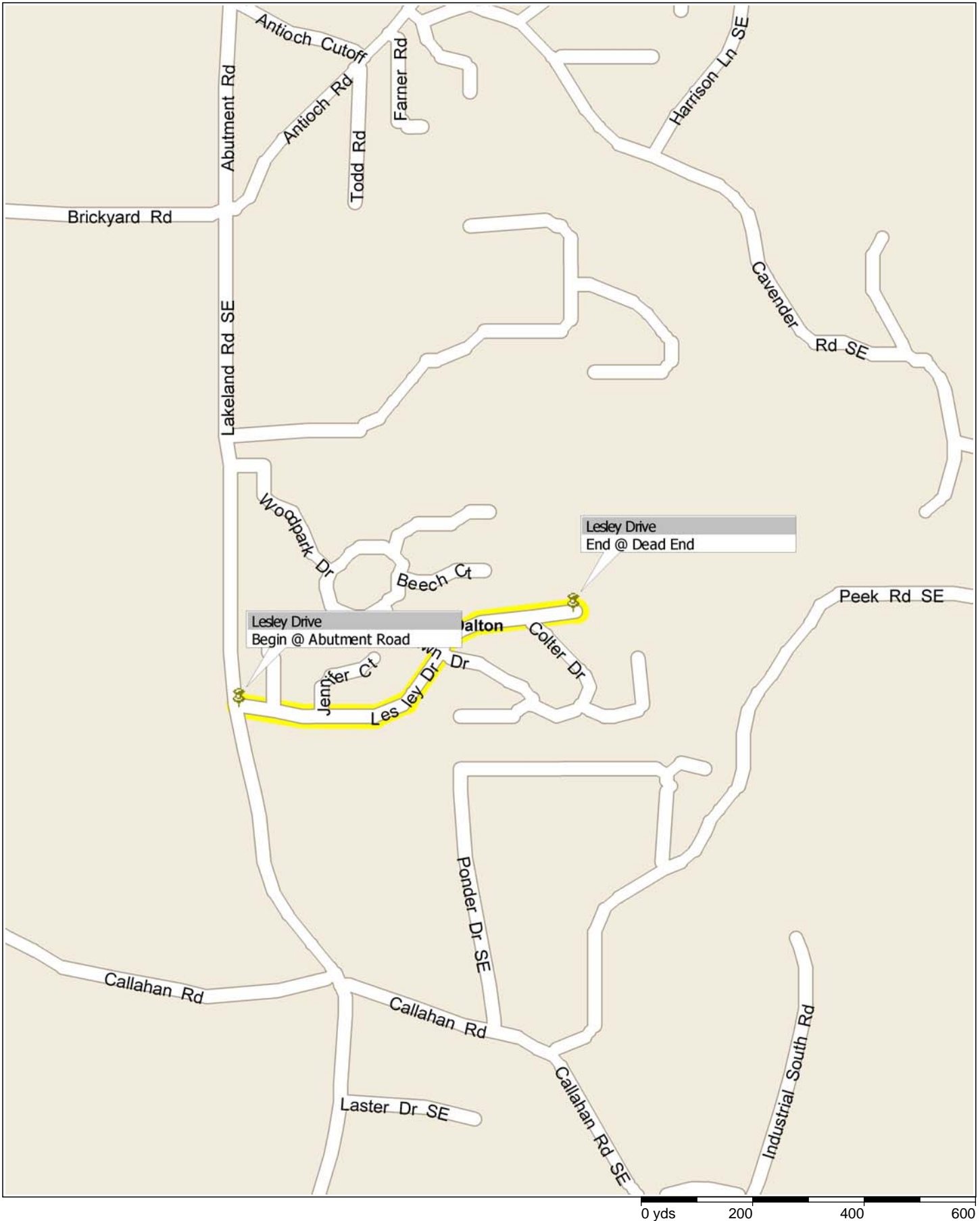
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# Fifth Avenue- Location Map



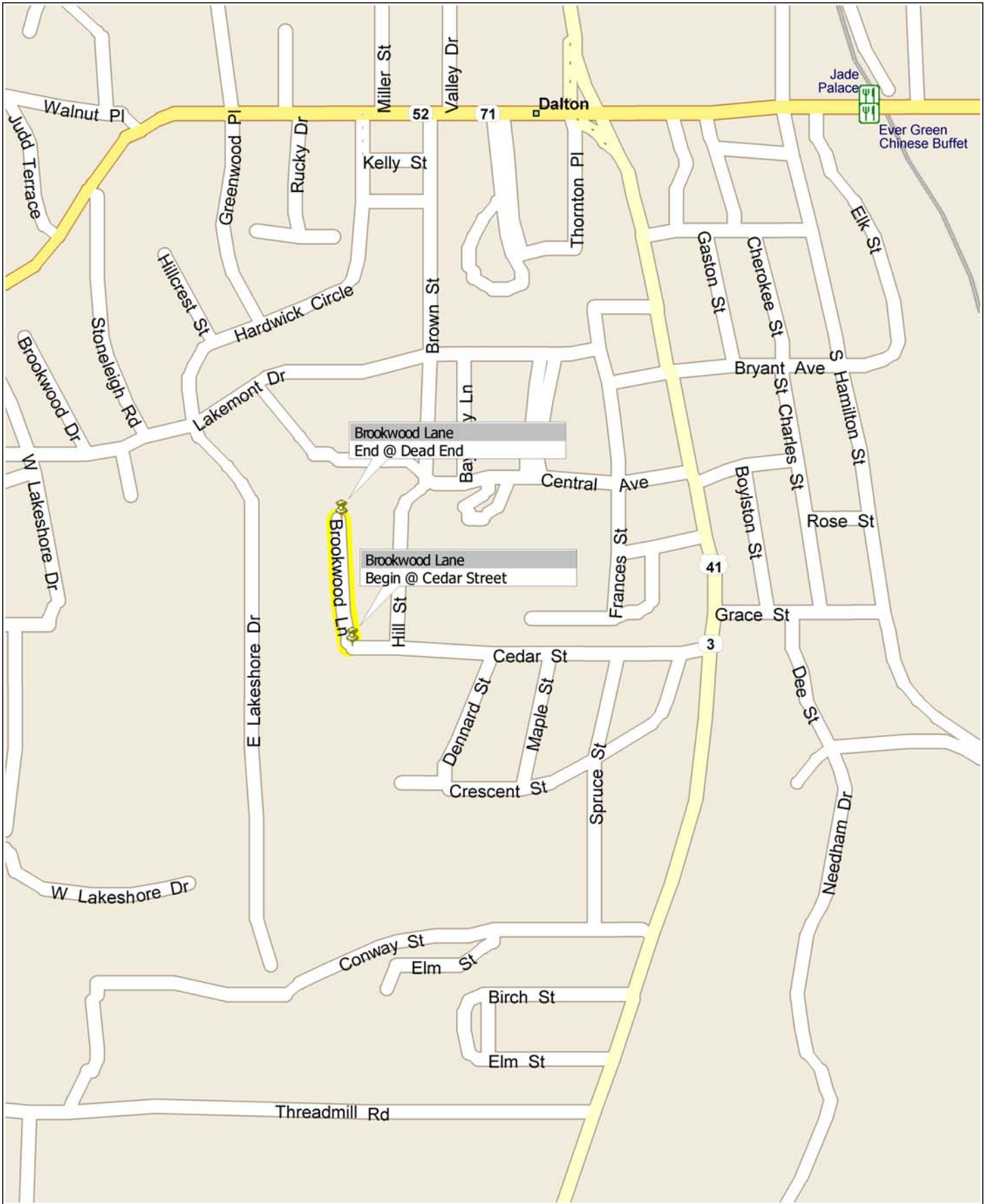
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# Lesley Drive- Location Map



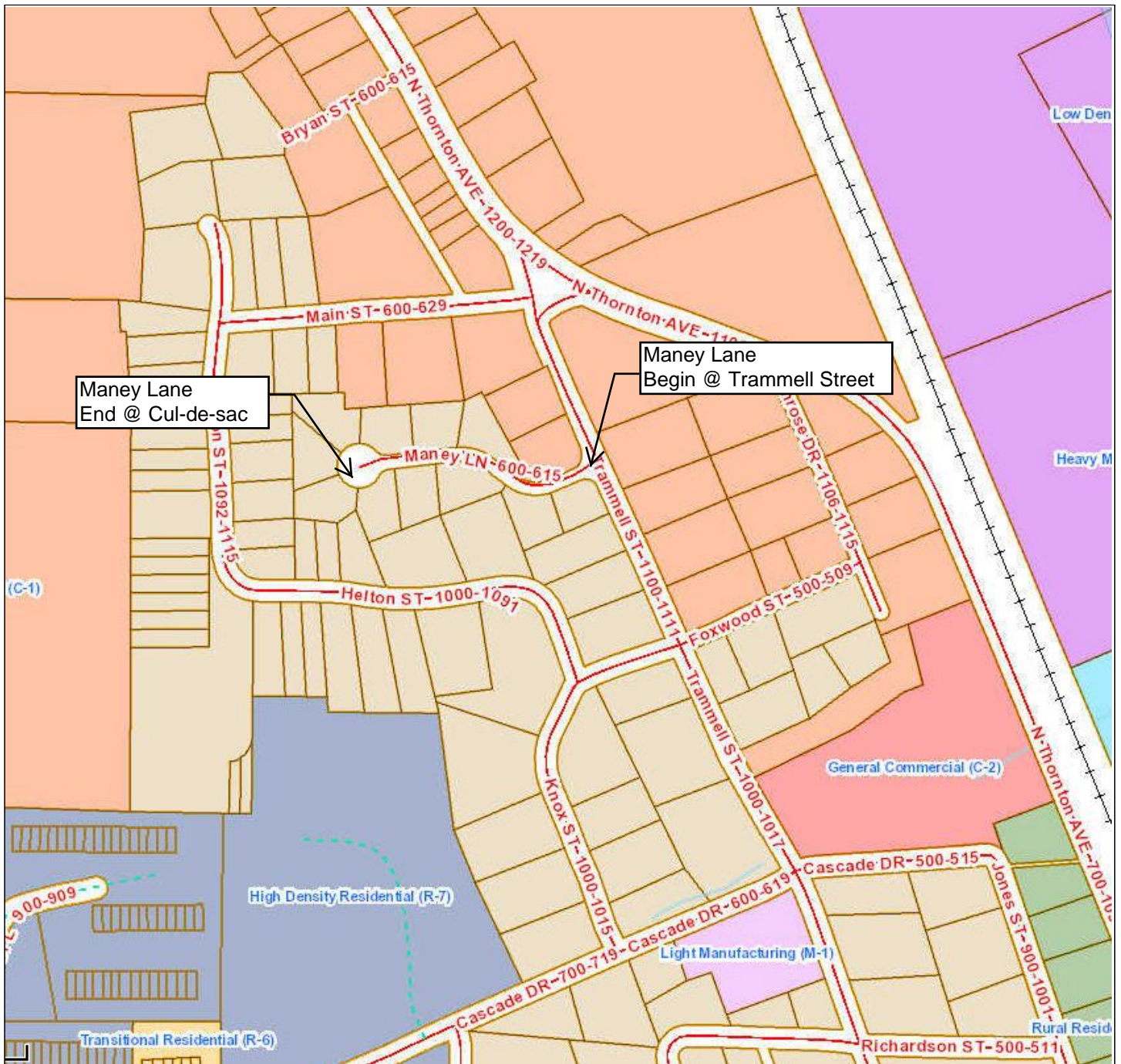
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# Brookwood Lane- Location Map



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# Maney Lane- Location Map





March 9, 2018

**CERTIFICATE OF QUALIFICATION**  
**Vendor ID: 2NO820**

Northwest Georgia Paving, Inc.  
P. O. Box 578  
Calhoun, GA 30703

In accordance with The Rules and Regulations governing the Prequalification of Prospective Bidders, the Georgia Department of Transportation has assigned the following Rating. This Certificate of Qualification is effective on the date of issue and cancels and supersedes any Certificates previously issued:

**MAXIMUM CAPACITY RATING: \$303,700,000**

**CERTIFICATE EXPIRES: February 28, 2022**

**PRIMARY WORK CLASS/CODE: 400**

**SECONDARY WORK CLASS(ES)/CODE(S): 550,310,424,201,205,208,209,702**

The total amount of incomplete work, regardless of its location and with whom it is contracted, whether in progress or awarded but not yet begun, shall not exceed the Maximum Capacity Rating. If dissatisfied with the Rating, we direct you to the Appeals Procedures in §672-5-.08 (1) & (2) and §672-1-.05, Rules of the State Department of Transportation.

In order to be continuously eligible to bid with this Department, your next application for prequalification must be submitted before the expiration date. If you desire to submit an application some intermediate period before the expiration date, your Rating will be reviewed on the basis of the new application.

This Prequalification Certificate is issued for contractors to be eligible for work with the Georgia Department of Transportation (GDOT) only. GDOT does not certify contractors as eligible to do business with entities other than GDOT.

Sincerely,

Digitally signed by Marc  
Mastronardi, P.E.  
DN: C=US,  
E=mmmastronardi@dot.ga.gov,  
O=Georgia Department of  
Transportation, OU=Division of  
Construction - Director,  
CN=Marc Mastronardi, P.E.\*  
Date: 2020.03.27 15:27:02-04'00

Marc Mastronardi, P.E.  
Chairman, Prequalification Committee/Contractors

MM:ASB



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 7/20/2020

**Agenda Item:** The request of the City of Dalton Mayor and Council to amend the Unified Zoning Ordinance to create clearer definitions, make inserts or omissions (including definitions as well as permitted uses), and otherwise improve the context and readability of the zoning text. The proposed amendments will affect Group Homes, Personal Care Homes, and Boutique Hotels, but other definitions and permitted uses may also be added/amended in this process.

**Department:** Planning and Zoning

**Requested By:** Ethan Calhoun

**Reviewed/Approved by City Attorney?** Sent for Review

**Cost:** N/A

**Funding Source if Not in Budget** N/A

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

See the attached staff analysis.

CITY OF DALTON  
ORDINANCE  
Ordinance No. 20-11

An Ordinance Of The City Of Dalton To Amend The “Unified Zoning Ordinance of Whitfield County, Georgia” As Adopted By The City On January 6, 2020, By Deleting, Within Article II, Definitions, The Definition Of “Boutique Hotel,” “Group day care home,” “Child care learning center,” “Adult day care/day health,” “Group Home,” “Health Department,” And “Personal Care Home, And By Inserting Alphabetically Therein New Definitions Of Each Such Term; By Inserting Alphabetically New Definitions Of “Community Living Arrangement” And “Child Caring Institution, also known as Group Home;” By Amending The Permitted Use Table With Respect To Several Uses; To Provide An Effective Date; To Repeal All Ordinances Conflicting Therewith; To Provide For Severability; And For Other Purposes.

**WHEREAS**, the Whitfield County Board of Commissioners adopted the *Unified Zoning Ordinance* on or about August 15, 2015; and

**WHEREAS**, the Whitfield County Board of Commissioners has, from time to time, amended said ordinance in order to protect the health, welfare, and safety of the public; and

**WHEREAS**, the Mayor and Council finds such amendments to be useful, necessary, and proper, and protective of the health, welfare, and safety of the public; and

**WHEREAS**, it is the desire of the Mayor and Council to promote the goals, objectives, and policies of the *Joint Comprehensive Plan for Whitfield County and the Cities of Cohutta, Dalton, Tunnel Hill and Varnell*; and

**WHEREAS**, it is the belief of the Mayor and Council that in so doing, it protects the health, welfare, and safety of the public;

**WHEREAS**, the City desires to maintain the Unified Zoning Ordinance of Whitfield County, Georgia as amended;

**BE IT ORDAINED** by the Mayor and Council of the City of Dalton in regular meeting assembled and by authority of the same it is hereby ordained as follows:

-1-

The recitals contained herein above are incorporated herein by reference and are adopted as findings and determinations of the Mayor and Council.

-2-

The Unified Zoning Ordinance of Whitfield County, Georgia as adopted by the City of Dalton on January 6, 2020, as amended, is hereby amended as follows:



1. Amend Article II, Definitions, by deleting existing definitions of “Boutique Hotel,” “Group Day Care Home,” “Child Care Learning Center,” “Adult Day Care/Day Health,” “Group Home,” “Health Department,” and “Personal Care Home.”
2. Amend Article II, Definitions, by adding, in alphabetical order therein, the definitions of “Boutique Hotel,” “Group Day Care Home,” “Child Care Learning Center,” “Adult Day Center,” “Community Living Arrangement,” “Group Home,” “Child Caring Institution,” “Health Department,” and “Personal Care Home” such that the new definitions shall read as follows:
  - a. ***Boutique Hotel.*** A small lodging facility with fifty (50) or fewer guest rooms that are rented to occupants on a daily basis for not more than fourteen (14) consecutive days. Access to each guest room shall be through an inside lobby supervised at all times.
  - b. ***Group Day Care Home.*** An establishment regulated by the Georgia Department of Family and Children’s Services (DFCS) and operated by any person, firm, partnership, association, proprietorship, company, or corporation which, for a fee, supervises and/or cares for not less than seven (7) and not more than eighteen (18) children under eighteen (18) years of age who remain at such establishment for not more than sixteen (16) hours per day.
  - c. ***Child Care Learning Center.*** An establishment regulated by the Georgia Department of Family and Children’s Services (DFCS) and operated by any person, firm, partnership, association, proprietorship, company, or corporation which, for a fee, supervises and/or cares for not less than nineteen (19) children under eighteen (18) years of age who remain at such establishment for not more than sixteen (16) hours per day.
  - d. ***Adult Day Center.*** An establishment regulated by the Georgia Department of Community Health and operated by any person, firm, partnership, association, proprietorship, company, or corporation which, for a fee, supervises, cares for, provides recreational and social services and/or health and rehabilitative services for three (3) or more persons eighteen (18) years of age or older who, because of some mental or physical impairment, which either limits the person’s major life activities or has a record of impairing such activities, remain at such establishment for not more than sixteen (16) hours per day.
  - e. ***Community Living Arrangement.*** An establishment regulated by the Georgia Department of Community Health and operated by any person, firm, partnership, association, proprietorship, company or corporation, which, for a fee, provides or arranges for the provision of daily personal services, supports, care, or treatment exclusively for two (2) or more adults who are not related to the owner or administrator by blood or marriage and whose residential services are financially supported, in whole or in part, by funds designated through the Department of

Behavioral Health and Developmental Disabilities (DBHDD.)

- f. **Group Home, (also known as Child Caring Institution.)** A child-welfare facility licensed by the Georgia State Department of Human Services, which either primarily or incidentally provides full-time room, board, and watchful oversight to six (6) or more children through eighteen (18) years of age outside their own homes.
  - g. **Child Caring Institution, (also known as Group Home.)** A child-welfare facility licensed by the Georgia State Department of Human Services, which either primarily or incidentally provides full-time room, board and watchful oversight to six (6) or more children through eighteen (18) years of age outside their own homes.
  - h. **Health Department.** Depending upon the proper context, either the Georgia Department of Community Health, and/or the Whitfield County Health Department, and/or the Whitfield County Board of Health.
  - i. **Personal Care Home.** Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one (1) or more personal services for two (2) or more adults who are not related to the owner or administrator by blood or marriage.
3. Amend the Permitted Use Table with respect to “Assisted Living Facility/Community” to denote by the letter “X” thereon that such use shall be permitted outright in the C-2 and M-1 zoning districts.
  4. Amend the Permitted Use Table by adding “Community Living Arrangement” and denoting by the letter “X” thereon that such use shall be permitted outright in the R-1, R-2, R-5, R-6, and R-7 zoning districts.
  5. Amend the Permitted Use Table with respect to “Day Care Home, Group” to denote by the letter “X” thereon that such use shall be permitted outright in the C-1, C-2, and C-4 zoning districts, and denoted by the letter “S” thereon that such use shall be permitted only after Special Use review and approval within the MU and PUD zoning districts.
  6. Amend the Permitted Use Table with respect to “Child Care Learning Center” to denote by the letter “X” thereon that such use shall be permitted outright in the C-2 zoning district, and denoted by the letter “S” thereon that such use shall be permitted only after Special Use review and approval within the MU and PUD zoning districts.
  7. Amend the Permitted Use Table with respect to “Adult Day Center” to denote by the letter “X” thereon that such use shall be permitted outright in the C-2 zoning district, and denoted by the letter “S” thereon that such use shall be permitted only after Special Use review and approval within the R-7, C-1, and PUD zoning districts.

8. Amend the Permitted Use Table with respect to “Group Home” to denote by the letter “X” thereon that such use shall be permitted outright in the R-6, R-7, and C-2 zoning districts, and denoted by the letter “S” thereon that such use shall be permitted only after Special Use review and approval within the SA, R-1, R-2, R-5, MU, and PUD zoning districts.
9. Amend the Permitted Use Table with respect to “Child Caring Institution” to denote by the letter “X” thereon that such use shall be permitted outright in the R-6, R-7, and C-2 zoning districts, and denoted by the letter “S” thereon that such use shall be permitted only after Special Use review and approval within the SA, R-1, R-2, R-5, MU, and PUD zoning districts.
10. Amend the Permitted Use Table with respect to “Personal Care Home, Family” to denote by the letter “X” thereon that such use shall be permitted outright in the GA, SA, R-1, R-2, R-5, R-6, and R-7 zoning districts, and denoted by the letter “S” thereon that such use shall be permitted only after Special Use review and approval within the MU and PUD zoning districts.
11. Amend the Permitted Use Table with respect to “Personal Care Home, Group” to denote by the letter “X” thereon that such use shall be permitted outright in the R-6 and R-7 zoning districts, and denoted by the letter “S” thereon that such use shall be permitted only after Special Use review and approval within the SA, R-1, R-2, R-5, MU, and PUD zoning districts.
12. Amend the Permitted Use Table with respect to “Personal Care Home, Congregate” to denote by the letter “X” thereon that such use shall be permitted outright in the R-7 zoning district, and denoted by the letter “S” thereon that such use shall be permitted only after Special Use review and approval within the R-6, MU, and PUD zoning districts.

-3-

Should any section or provision of this Ordinance be declared by a Court of competent jurisdiction to be unconstitutional, invalid or unlawful, such declaration shall not affect the validity of the remaining portions of the ordinance not so declared to be unconstitutional, invalid, or unlawful.

-4-

All resolutions and ordinances of the City of Dalton or parts thereof in conflict herewith are hereby repealed.

-5-

This Ordinance shall take effect and be in force from and after its adoption and publication in two public places within the City of Dalton for five (5) consecutive days, the public welfare of the City of Dalton requiring it.

ADOPTED AND APPROVED on the \_\_\_ day of \_\_\_\_\_, 20\_\_, at the regular meeting of the Mayor and Council of the City of Dalton.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Council person \_\_\_\_\_, second by Council person \_\_\_\_\_ and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays and the Ordinance is adopted.

CITY OF DALTON, GEORGIA

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
CITY CLERK

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
CITY CLERK  
CITY OF DALTON

**DALTON-VARNELL-WHITFIELD COUNTY PLANNING COMMISSION  
503 WEST WAUGH STREET  
DALTON, GA 30720**

**MEMORANDUM**

**TO:** Whitfield County Board of Commissioners  
Mark Gibson  
Robert Smalley  
Jean Price-Garland

**FROM:** Jim Lidderdale  
Chairman

**DATE:** June 25, 2020

**SUBJECT: The request of the City of Dalton Mayor and Council to amend the Unified Zoning Ordinance to create clearer definitions, make inserts or omissions (including definitions as well as permitted uses), and otherwise improve the context and readability of the zoning text. The proposed amendments will affect Group Homes, Personal Care Homes, and Boutique Hotels, but other definitions and permitted uses may also be added/amended in this process.**

The most recent meeting of the Dalton-Varnell-Whitfield County Planning Commission was held on June 22, 2020 at 6:00 p.m. at the Edwards Park Complex at 115 Edwards Park Entrance, Dalton, Georgia. A portion of the agenda included a public hearing concerning the above matter. A quorum of four members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met.

The petition was represented by Ethan Calhoun.

**Public Hearing Summary:**

Mr. Calhoun summarized the staff analysis which proposed several amendments to the UZO. Chairman Laughter asked several questions in regard to the existing senior care facilities in the community and stated that she wanted to ensure that none of those facilities would be impacted negatively. Unable to pinpoint those facilities and confirm their zoning, Calhoun and Price-Garland stated that they would confirm and report prior to any final action to ensure that the existing facilities were zoned appropriately. Price-Garland stated that even in the case that the existing uses weren't zoned accordingly, those properties would be able to continue their operations unphased by way of the UZO's non-conformity clause. Laughter also pointed out that some facilities offered care to both minors and seniors and pointed out that none of the proposed definitions described such a combination. Price-Garland stated that there are instances where one facility may obtain licenses for multiple programs through the state and operate multiple programs on a single property. Ms. McClurg requested an existing example of some of the proposed definitions, but Calhoun and Price-Garland were unable to give certain examples of facilities already established in the community.

With no other comments heard for or against this hearing closed.

**Recommendation:**

Chairman Lidderdale sought a motion on the requested text amendments. **Mr. DeLay then made a motion to recommend the proposed text amendments based on his agreement with the content of the staff analysis. Ms. McClurg then seconded the motion and a unanimous recommendation to approve the proposed text amendments followed, 3-0.**

**STAFF ANALYSIS**  
**TEXT AMENDMENTS FOR**  
***UNIFIED ZONING ORDINANCE***

**June 2020**

*The Unified Zoning Ordinance was adopted by Dalton, Varnell, and Whitfield County in July and August of 2015. Since that time the staff, who works to administer the Ordinance on a daily basis, identified needed corrections or clarifications, and identified oversights, all for the purpose of improving the context and readability of the zoning text.*

*The resulting text changes, as proposed, are listed in excerpts (attached) that identifies the current text or current zoning, then proposes the corrected text or new zoning. The legal advertisement ran on Friday, June 5, 2020; copies of the proposed amendments were made available to the public in the Office of the Whitfield County Board of Commissioners, and in the Clerk's Office at Varnell and Dalton City Halls as of Tuesday June 16, 2020.*

**Proposed Text Amendments:** The proposed text amendments are listed as they appear within the UZO's current text. The current text recommended to be omitted will be stricken through, while the language recommended to replace the omitted text will be highlighted. For the staff, the proposed amendments are considered clean-up and clarification of past ordinances in the new format of the Unified Zoning Ordinance. It remains possible that more amendments may be found and a new list will be started by the staff as we move forward with administration. Maintaining an effective ordinance is part of the process.

Just as a note, the advertisement and the availability of the proposed amendments for public review is part of the process. Simultaneously, consideration of additions all the way through the public hearing is possible. If a citizen presents a proposed change at the public hearing, then consideration of that proposal, yea or nay, is part of the process. Any such additions will be highlighted and the paperwork following the public hearing will be thorough in identifying the proposed amendments in their final form in readiness for final action by each government participating in the Unified Zoning Ordinance.

*Staff Recommendation: The proposed text amendments are recommended for adoption to modify the ordinance text in order to address issues and allow for up-to-date definitions. The first text amendment is to allow for more flexibility in regard to the number of rooms permitted for boutique hotels, while limiting the number of rooms from that of conventional hotels. This amendment will only affect the Article II--Definitions section of the ordinance.*

*The other amendments are in regard to Group Homes and Personal Care Homes. It was discovered that the current definitions of these uses may not be in alignment with Georgia State regulatory language, and it was decided that thorough research would help to correct those definitions. Upon*

*discussing the definitions of those uses, it was discovered that some changes to the Permitted Use Table would be necessary as well. The amendments to the Permitted Use Table are in order to ensure that the various uses in discussion would be in alignment with the density and characteristics of the various residential zone districts within the UZO.*

## **Proposed Text Amendments**

EXAMPLE Unmarked text indicates existing text for context

~~EXAMPLE~~ Strikethrough indicates existing text to be omitted

EXAMPLE Yellow highlighted text indicates the proposed new definitions to replace stricken text

EXAMPLE Green highlighted text indicates the permitted zone districts for the new definitions

1. **Boutique Hotel.** A small lodging facility with ~~35~~ 50 or fewer guest rooms that are rented to occupants on a daily basis for not more than 14 consecutive days. Access to each guest room shall be through an inside lobby supervised at all times.
2. ~~Assisted Living Home. Synonymous with Personal Care Home.~~  
**Assisted Living Facility/Community.** A personal care facility serving twenty-five (25) or more residents that is licensed by the Georgia Department of Community Health to provide assisted living care. This includes the provision of personal services, the administration of medications by a certified medication aide and the provision of assisted self-preservation.

### **Permitted Outright in Zones: C-2 and M-1**

3. **Community Living Arrangement.** An establishment regulated by the Georgia Department of Community Health and operated by any person, firm, partnership, association, proprietorship, company or corporation, which, for a fee, provides or arranges for the provision of daily personal services, supports, care, or treatment exclusively for two (2) or more adults who are not related to the owner or administrator by blood or marriage and whose residential services are financially supported, in whole or in part, by funds designated through the Department of Behavioral Health and Developmental Disabilities (DBHDD.)

Permitted Outright in Zones: **R-1, R-2, R-5, R-6, and R-7**

- ~~4. Day Care Home, Group. An establishment regulated by the State of Georgia Department of Human Resources and operated by any person, firm, partnership, association, proprietorship, company, or corporation which, for a fee, supervises and/or cares for not less than seven (7) and not more than eighteen (18) children under eighteen (18) years of age who remain at such establishment for not more than sixteen (16) hours per day.~~

An establishment regulated by the Georgia Department of Family and Children's Services (DFCS) and operated by any person, firm, partnership, association, proprietorship, company, or corporation which, for a fee, supervises and/or cares for not less than seven (7) and not more than eighteen (18) children under eighteen (18) years of age who remain at such establishment for not more than sixteen (16) hours per day.

Permitted Outright in Zones: **C-1, C-2, and C-4**

Permitted Via Special Use Permit in Zones: **MUand PUD**

- ~~5. Child Care Learning Center. An establishment regulated by the State of Georgia Department of Human Resources and operated by any person, society, agency, firm, partnership, proprietorship, company, or corporation, which, for a fee, supervises and/or cares for not less than nineteen (19) children under eighteen (18) years of age, who remain at such establishment for not more than sixteen (16) hours per day.~~

An establishment regulated by the Georgia Department of Family and Children's Services (DFCS) and operated by any person, firm, partnership, association, proprietorship, company, or corporation which, for a fee, supervises and/or cares for not less than nineteen (19) children under eighteen (18) years of age who remain at such establishment for not more than sixteen (16) hours per day.

Permitted Outright in Zones: **C-2**

Permitted Via Special Use Permit in Zones: **MUand PUD**

- ~~6. Adult Day Care/Day Health. An establishment regulated by the State of Georgia Department of Human Resources and operated by any person, society, agency, firm, partnership,~~



proprietorship, company, or corporation which, for a fee, supervises, cares for, provides recreational and social services, and/or health and rehabilitative services for persons eighteen (18) years of age or older who, because of some mental or physical impairment which limits either the person's major life activities or has a record of impairing such activities, remain at such establishment for not more than sixteen (16) hours per day.

**Adult Day Center.** An establishment regulated by the Georgia Department of Community Health and operated by any person, firm, partnership, association, proprietorship, company, or corporation which, for a fee, supervises, cares for, provides recreational and social services and/or health and rehabilitative services for three (3) or more persons eighteen (18) years of age or older who, because of some mental or physical impairment, which either limits the person's major life activities or has a record of impairing such activities, remain at such establishment for not more than sixteen (16) hours per day.

**Permitted Outright in Zones:** C-2

**Permitted Via Special Use Permit in Zones:** R-7, C-1, and PUD

- 7. Group Home.** A single family dwelling, approved and licensed by the State of Georgia Department of Human Resources, housing who are mentally /physically handicapped, elderly, terminally ill, AIDS/HIV victims, Alzheimer's patients, or children and teens with emotional problems, operating as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing the organization and stability of a home environment.

Also known as a Child Caring Institution (CCI) A child-welfare facility licensed by the Georgia State Department of Human Services which either primarily or incidentally provides full-time room, board and watchful oversight to six or more children through 18 years of age outside their own homes.

**Permitted Outright in Zones:** R-6, R-7, and C-2

**Permitted Via Special Use Permit in Zones:** SA, R-1, R-2, R-5, MU, and PUD

- 8. Health Department.** The State Department of Human Resources and/or the Whitfield County Health Department and/or the Whitfield County Board of Health.

Depending upon the context, either the Georgia Department of Community Health, and/or the Whitfield County Health Department, and/or the Whitfield County Board of Health.

9. **Personal Care Home.** ~~An intermediate care facility licensed or approved to provide full-time assistance as necessary, including, but not limited to rooms, meals, and attention to personal needs, to non-family ambulatory individuals who, by reason of advanced age or infirmity, are unable to care completely for themselves, but who remain largely self-sufficient. Synonymous with “Assisted Living Home.”~~

Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one (1) or more personal services for two (2) or more adults who are not related to the owner or administrator by blood or marriage. This includes, but is not limited to, individual assistance with or supervision of self-administered medication, assistance with ambulation and transfer, and essential activities of daily living such as eating, bathing, grooming, dressing, and toileting.

For purposes of this Ordinance, Personal Care Homes are sub-classified, as follows:

**Family Personal Care Home.** A home for adults in a family type residence, non-institutional in character, which offers care to two (2) to six (6) persons.

**Permitted Outright in Zones:** GA, SA, R-1, R-2, R-5, R-6, and R-7

**Permitted Via Special Use Permit in Zones:** MU and PUD

**Group Personal Care Home.** A home for adults in a residential setting, non-institutional in character, which offers care to seven (7) to fifteen (15) persons.

**Permitted Outright in Zones:** R-6 and R-7

**Permitted Via Special Use Permit in Zones:** SA, R-1, R-2, R-5, MU, and PUD

**Congregate Personal Care Home.** A home for adults which offers care to sixteen (16) or more persons.

**Permitted Outright in Zones:** R-7

**Permitted Via Special Use Permit in Zones:** R-6, MU, and PUD