



**MAYOR AND COUNCIL MEETING
MONDAY, AUGUST 15, 2022
6:00 PM
DALTON CITY HALL**

A G E N D A

Call to Order

Pledge of Allegiance

Approval of Agenda

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

Proclamation:

1. Constitution Week - September 17-23, 2022 - Dell Bailey & Kathryn Sellers, DAR

Minutes:

2. Mayor & Council Minutes of August 1, 2022
3. LOST - Public Hearing Notes of August 5, 2022

Old Business:

4. Ordinance 22-22 The Request Of ECM (Crawford Mcdonald) To Rezone From General Commercial (C-2) To High Density Residential (R-7) A Tract Of Land Totaling 0.74 Acres Located At 501 N. Hamilton Street, Dalton, Georgia. Parcel (12-200-24-000).

New Business:

5. Resolution 22-09 To Approve An Agreement Summary and LOST Distribution Certificate Between The City Of Dalton And Whitfield County Concerning The Reallocation Of Local Option Sales Tax Revenue.
6. Resolution 22-10 Of Mayor And Council To Approve The Bond Resolution Of The City Of Dalton Building Authority Authorizing The Issuance Of Series 2022 Revenue Bonds For Dalton Public School System Projects In The Principal Amount Of \$15,930,000; To Authorize The Execution Of A Contract Between The City And The Authority; To Authorize The Mayor And Other Officers And Officials Of The City To Take Such Further Actions As Necessary To Provide For The Issuance And Delivery Of The Revenue Bonds Described Herein; And For Other Purposes.
7. Intergovernmental Contract between the City of Dalton and the City of Dalton Building Authority relating to the City of Dalton Building Authority Series 2022 Revenue Bond (Dalton Public School System Project) in the amount of \$15,930,000.
8. Intergovernmental Contract between the City of Dalton and the City of Dalton Board of Education relating to the City of Dalton Building Authority Series 2022 Revenue Bond (Dalton Public School System Project) in the amount of \$15,930,000.

MAYOR AND COUNCIL MEETING AGENDA
AUGUST 15, 2022

9. Professional Services Agreement with Goodwyn Mills Cawood (GMC) for Pentz & Cuyler Streetscape Improvements
10. Contract Change Order with Northwest Georgia Paving, Inc. for Heritage Point Soccer Complex Project
11. KRH Architects Contract Amendment #2 for New Aquatic Center

Supplemental Business

Announcements:

12. City Government offices will be closed Monday, September 5, 2022 in observance of Labor Day. The next Mayor and Council Meeting will be held Tuesday, September 6, 2022.

Adjournment

PROCLAMATION



“CONSTITUTION WEEK” SEPTEMBER 17 - 23, 2022

WHEREAS, September 17, 2022 marks the 235th anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, every anniversary of the Constitution provides an historic opportunity for all Americans to learn about and to reflect upon the rights and privileges of citizenship and its responsibilities; and

WHEREAS, it is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate it; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 - 23 as Constitution Week.

NOW, THEREFORE, BE IT RESOLVED, I, David Pennington, Mayor of the City of Dalton, Georgia hereby proclaim the week of September 17 - 23, 2022 as “**CONSTITUTION WEEK**” and urge all citizens to study the Constitution, and reflect on the privilege of being an American with all the rights and responsibilities which that privilege involves.

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

Mayor _____

Date _____ August 15, 2022 _____

THE CITY OF DALTON
MAYOR AND COUNCIL MINUTES
AUGUST 1, 2022

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

CALL TO ORDER

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

APPROVAL OF AGENDA

On the motion of Council member Sams, second Council member Goodlett, the Council approved the agenda. The vote was unanimous in favor.

PUBLIC COMMENTARY

There were no public comments.

MINUTES

The Mayor and Council reviewed the Regular Meeting Minutes of July 18, 2022. On the motion of Council member Farrow, second Council member Sams, the minutes were approved. The vote was unanimous in favor.

FEDERAL AND STATE GRANTS FOR FY23 FOR DALTON MUNICIPAL AIRPORT

Airport Director Andrew Weirsma presented the FY23 Federal and State Tentative Allocation of funds to the Dalton Municipal Airport. Weirsma stated the federal and state grants have been tentatively allocated to the Dalton Municipal Airport for FY23 in the amount of \$1,863,778. Weirsma stated the acceptance of these funds requires a local match funding of \$24,139. On the motion of Council member Sams, second Council member Goodlett, the Mayor and Council accepted the funds. A list of projects is outlined in the agenda item. The vote was unanimous in favor.

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF DALTON AND
DOWNTOWN DALTON DEVELOPMENT AUTHORITY FOR BURR PERFORMANCE
ARTS PARK

Recreation Director Caitlin Sharpe presented the Memorandum of Understanding between The City of Dalton and Downtown Dalton Development Authority for Burr Performance Arts Park. Sharpe stated the purpose of this MOU is to establish a general framework for collaboration between the City and Dalton Downtown Development Authority for the management of Burr Performance Arts Park. On the motion of Council member Sams, second Council member Goodlett, the Mayor and Council approved the MOU. The vote was unanimous in favor.

Mayor and Council
Minutes
Page 2
August 1, 2022

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was Adjourned at 6:03 p.m.

Bernadette Chattam
City Clerk

David Pennington, Mayor

Recorded
Approved: _____
Post: _____

WHITFIELD COUNTY BOARD OF COMMISSIONERS AND MAYORS OF WHITFIELD
COUNTY MUNICIPALITIES
PUBLIC HEARING - WORK SESSION
LOST – LOCAL OPTION SALES TAX
AUGUST 5, 2022

A Work Session between the Whitfield County Board of Commissioners and Mayors of Whitfield County Municipalities to discuss the LOST – LOCAL OPTION SALES TAX. Constituents of Whitfield County, City of Dalton, Cohutta, Varnell and Tunnel Hill were present.

Whitfield County Chairman Jevin Jensen opened the meeting stating State Law requires Cities and Counties renegotiate the L.O.S.T. Agreement every (10) years and must hold one public meeting. Jensen called on each Municipality to state their acceptance/rejection of their percentage of the LOST and any partnership request.

Mayor David Pennington stated the City of Dalton accepts its percentage of the LOST at 36.0%.

Tunnel Hill City Administrator Blake Griffin accepted its percentage of the LOST at .929%

Mayor Tom Dickson stated the City of Varnell accepts its percentage of the LOST at 1.894% and is hoping for increased cooperation between Varnell and the County since Varnell has grown substantially.

Mayor Ron Shinnick of Cohutta accepted its percentage of the LOST at .720% and hopes for increased cooperation to work together to provide services as the community grows.

Chairman of Whitfield County Jevin Jensen accepted its percentage of the LOST at the 60.457%.

All agreed to the current 2022 LOST percentage. Whitfield County and each municipality will have to vote on this agreement to make it official. A copy of the 2022 LOST Agreement Summary is a part of these notes.

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was Adjourned at 12:09 p.m.

Bernadette Chattam
City Clerk

David Pennington, Mayor

Recorded
Approved: _____
Post: _____



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 8/15/2022

Agenda Item: The request of ECM (Crawford McDonald) to rezone from General Commercial (C-2) to High Density Residential (R-7) a tract of land totaling 0.74 acres located at 501 N. Hamilton Street, Dalton, Georgia. Parcel (12-200-24-000)

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. 22-22

An Ordinance Of The City Of Dalton To Rezone Certain Property Within The City Of Dalton From General Commercial (C-2) To High-Density Residential (R-7) Being A Tract of Land Totaling 0.74 Acre Located At 501 North Hamilton Street (Parcel Nos. 12-200-24-000); To Provide An Effective Date; And For Other Purposes.

WHEREAS, E. Crawford McDonald (Owner) has filed an application with the City to rezone property located at 501 North Hamilton Street (Parcel Nos. 12-200-24-000);

WHEREAS, the Property is currently zoned General Commercial (C-2);

WHEREAS, the Owner is requesting the Property be rezoned to High-Density Residential (R-7);

WHEREAS, the application for rezoning appears to be in proper form and made by all owners of the Property sought to be rezoned;

WHEREAS, the rezoning is in conformity with the City of Dalton Joint Comprehensive Plan;

WHEREAS, the Dalton-Whitfield Planning Commission considered the proposed rezoning of the Property at a duly noticed public hearing held on July 26, 2021 and subsequently forwarded its favorable recommendation to the Mayor and Council for rezoning the property to R-7;

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 Property located at 501 North Hamilton Street identified as Parcel No. 12-200-24-000 is hereby rezoned from General Commercial (C-2) to High-Density Residential (R-7).

-3-

The Unified Zoning Map of the City of Dalton shall be amended to conform to and reflect the rezoning of the Property as approved herein. City Staff is authorized and directed to take all

actions necessary to effectuate the rezoning of the Property as approved herein.

-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 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 member _____, second by Council Member _____ 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: City of Dalton Mayor and Council
Jason Parker
Terry Miller
Jean Garland

FROM: Jim Lidderdale
Chairman

DATE: July 27, 2021

SUBJECT: The request of ECM (Crawford McDonald) to rezone from General Commercial (C-2) to High Density Residential (R-7) a tract of land totaling 0.74 acres located at 501 N. Hamilton Street, Dalton, Georgia. Parcel (12-200-24-000)

The most recent meeting of the Dalton-Varnell-Whitfield County Planning Commission was held on July 26, 2021 at 6:00 p.m. at the Edwards Park community center. A portion of the agenda included a public hearing concerning the above matter. A quorum of six members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met. The petition was represented by Crawford McDonald.

Public Hearing Summary:

Mr. Calhoun summarized the staff analysis which was in favor of the proposed R-7 rezoning. There were no further questions for Calhoun.

Crawford McDonald stated that he believed the proposed multi-family redevelopment would be an improvement for the adjacent neighborhood. McDonald then stated that the subject property had seen many light commercial uses over the recent years as well as lying vacant for some time. Mr. Shiflett confirmed with McDonald the subject property had been examined to ensure that it was suited for multi-family use. Chairman Lidderdale confirmed with McDonald that the existing structure would be remodeled for the apartment units.

With no other comments heard for or against, this hearing closed at approximately 7:04pm.

Recommendation:

Chairman Lidderdale sought a motion on the proposed R-7 rezoning. **Eric Barr then made a motion to recommend the proposed R-7 rezoning. Chris Shiflett then seconded the motion and a unanimous recommendation to approve the R-7 rezoning followed, 5-0.**

**STAFF ANALYSIS
REZONING REQUEST
*Unified Zoning Ordinance***

ZONING CASE: ECM (Crawford McDonald) is seeking to rezone a tract of land from General Commercial (C-2) to High-Density Residential (R-7) (parcel 12-200-24-000) containing a total of 0.74-acre located at 501 N. Hamilton St. The tract is currently developed with a commercial building. The rezoning request to (R-7) is sought to serve the purpose of allowing the petitioner to convert the existing commercial building into 11 apartment units:

The surrounding uses and zoning are as follows: 1) to the north, is a single tract of land containing a single-family detached dwelling zoned R-3; 2) to the east, there are four adjacent tracts across N. Hamilton St that each contain commercial/industrial buildings that are all zoned Light Manufacturing M-1; 3) to the south, is a single adjacent tract of land zoned M-1 that contains an aging commercial building; 4) To the west, are three adjacent tracts of land that each contain a single-family detached dwelling and are zoned M-1.

The subject property is within the jurisdiction of the City of Dalton Mayor and Council.

<u>Administrative Matters</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>
A. Is an administrative procedure, like a variance, available and preferable to annexation?		<u>X</u>	
B. Have all procedural requirements been met? 1. Legal ad July 9, 2021 (16 days notice) 2. Property posted July 9, 2021 (Yes -- one sign on the lot frontage; 16 days notice.)	<u>X</u>		
C. Has a plat been submitted showing a subdivision of land?			<u>X</u>
D. The following special requirements have an impact on this request: 100-year flood plain Site Plan (none required) Buffer Zones (none required) Soil Erosion/Sedimentation Plan Storm Water Requirements	<u>X</u>	<u>X</u> <u>X</u> <u>X</u> <u>X</u> <u>X</u>	

CONSIDERING FACTORS FOR A REZONING/ANNEXATION ANALYSIS

(A) Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and whether the proposed change is consistent with the established land use pattern and zoning of adjacent and nearby properties.

The area surrounding the subject property is one of great diversity from a land use perspective. In this area there is a mix of single-family, multi-family, commercial, and manufacturing zoning and land use. The subject property itself has also seen multiple uses within the existing building since it was constructed in 1959 ranging from a grocery store to a funeral home. The subject property appears to have been vacant for some time now. Based on the size of the subject property's existing structure and existing parking area, there is sufficient space for the proposed 11 apartment units. The proposed rezoning would create a softer transition from the existing residential properties to the manufacturing properties in this area.

(B) Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties.

No impact to the economic value of adjacent property is expected if this rezoning is approved based on the fact that the intensity of the subject property will be reduced greatly if this request is approved. Since the roads separate the subject property from the adjacent commercial and manufacturing properties, none of the adjacent manufacturing or commercial properties would be required to create a buffer. While the subject property should have a buffer along the northern and western boundaries of the property, a proper buffer area does not exist based on the property's existing structure and parking lot.

(C) Whether the subject property has a reasonable economic use as currently zoned, considering the suitability of the subject property for the proposed zoned uses.

The subject property has been host to several different commercial businesses since it was first developed over a half-century ago. The subject property is certainly developed for a commercial use as is, but it is likely feasible for the existing structure to be redeveloped into the proposed apartment units. All building and fire codes will be followed since this redevelopment will require significant interior construction and permitting.

(D) Whether there is relative gain to the health, safety, morals, or general welfare of the public as compared to any hardship imposed upon the individual owner under the existing zoning.

N/A

(E) Whether the proposed (R-7) amendment, if adopted or approved, would result in a use which would or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities, as contrasted with the impact under the existing zoning.

No impact is expected based upon the existing development character of this area along with the reduction in potential development intensity as compared to the existing C-2 zone district. Public utilities are abundant throughout this area.

(F) Whether the property sought to be rezoned (or annexed) is in conformity with the policy and intent of the adopted joint comprehensive plan or equivalent. If not, has the plan already been amended, officially or unofficially, by the development of uses which are contrary to the plan recommendation, and if the plan has been amended, does this rezoning or annexation request allow uses which are compatible to the existing uses in the vicinity.

The Comprehensive Plan and Future Development Map show the subject property to be within the Town Neighborhood Revitalization character area. This character area is intended to focus on aging neighborhoods within the city that have seen a decline in residential investment and that have been impacted by the encroachment of commercial and industrial developments. The goals for this character area are to restore the residential integrity to these areas by phasing out the aging commercial and industrial developments. While the existing development pattern throughout most of this area is single-family detached residential, the subject property lies at the point of convergence of the residential and manufacturing zones. The transition from medium-density to high-density is not an unusual one when compared to the current transition from commercial to medium-density

(G) Whether there are any other conditions or transitional patterns affecting the use and development of the property to be rezoned or annexed, which give grounds for approval or disapproval of the proposed zoning proposal. Whether the proposed zoning change constitutes an “entering wedge” and is a deterrent to the use, improvement, or development of adjacent property within the surrounding zone districts or would create an isolated, unrelated district (spot zone) as interpreted by current Georgia law.

While the proposed rezoning would, if approved, create an island of R-7 “sandwiched” between the R-3 and M-1 zone districts. Since this would be a reduction in land use intensity and adjacent to residential property, the concern for an entering wedge is not of concern.

(H) Whether the subject property, as currently zoned, is vacant and undeveloped for a long period of time, considered in the context of land development in the vicinity or whether there are environmental or cultural factors, like steep slopes, flood plain, storm water, or historical issues that influence the development of the subject property under any zoning designation.

N/A

CONCLUSION:

The staff can recommend the subject property be rezoned R-7 based on the following factors:

1. The R-7 rezoning would create a more appropriate transition from single-family residential to the adjacent manufacturing developments.
2. Anticipation for adverse impact to property values surrounding the subject property is not an expected issue based on the existing development in the area and reduction in the land use intensity potential for the subject property if rezoned R-7.
3. The requested R-7 rezoning would be a much better fit for the Comprehensive Plan and Future Development Map than the existing C-2 zoning on the subject property.

ECM Rezoning Request C-2, General Commercial to R-7, High Density Residential CITY OF DALTON JURISDICTION



ZONING

-  Low Density Single Family Residential (R-2)
-  Medium Density Single Family Residential (R-3)
-  Transitional Residential (R-6)
-  High Density Residential (R-7)
-  General Commercial (C-2)
-  Light Manufacturing (M-1)
-  Heavy Manufacturing (M-2)

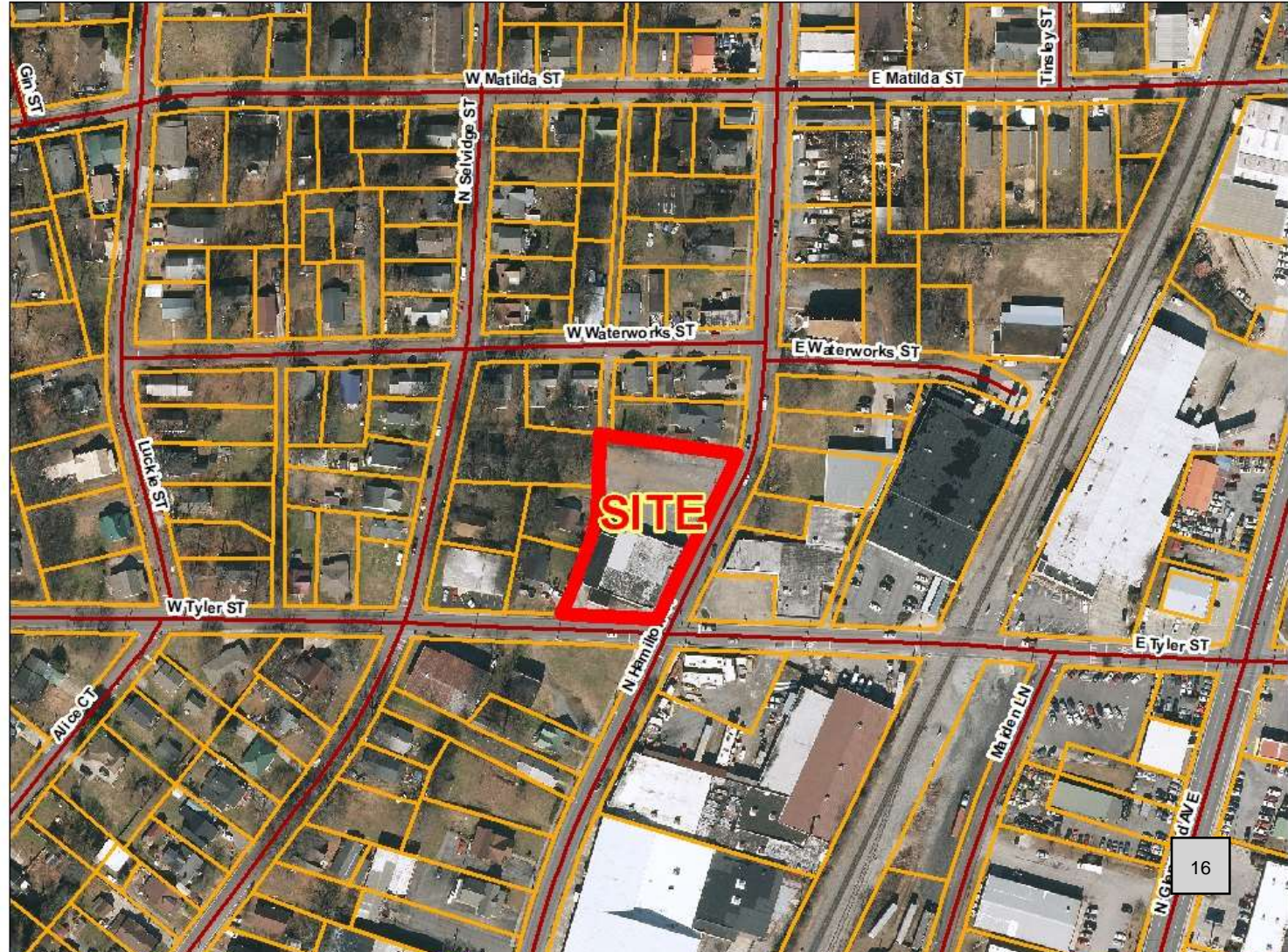
FEET
200



**ECM Rezoning Request
C-2, General Commercial
to
R-7, High Density Residential
CITY OF DALTON JURISDICTION**



**FEET
200**

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**ECM Rezoning Request
C-2, General Commercial
to
R-7, High Density Residential
CITY OF DALTON JURISDICTION**



**FEET
100**





ECM Rezoning C-2 to R-7
View facing northwest along N. Hamilton St.



ECM Rezoning C-2 to R-7
View facing southwest along N. Hamilton St.

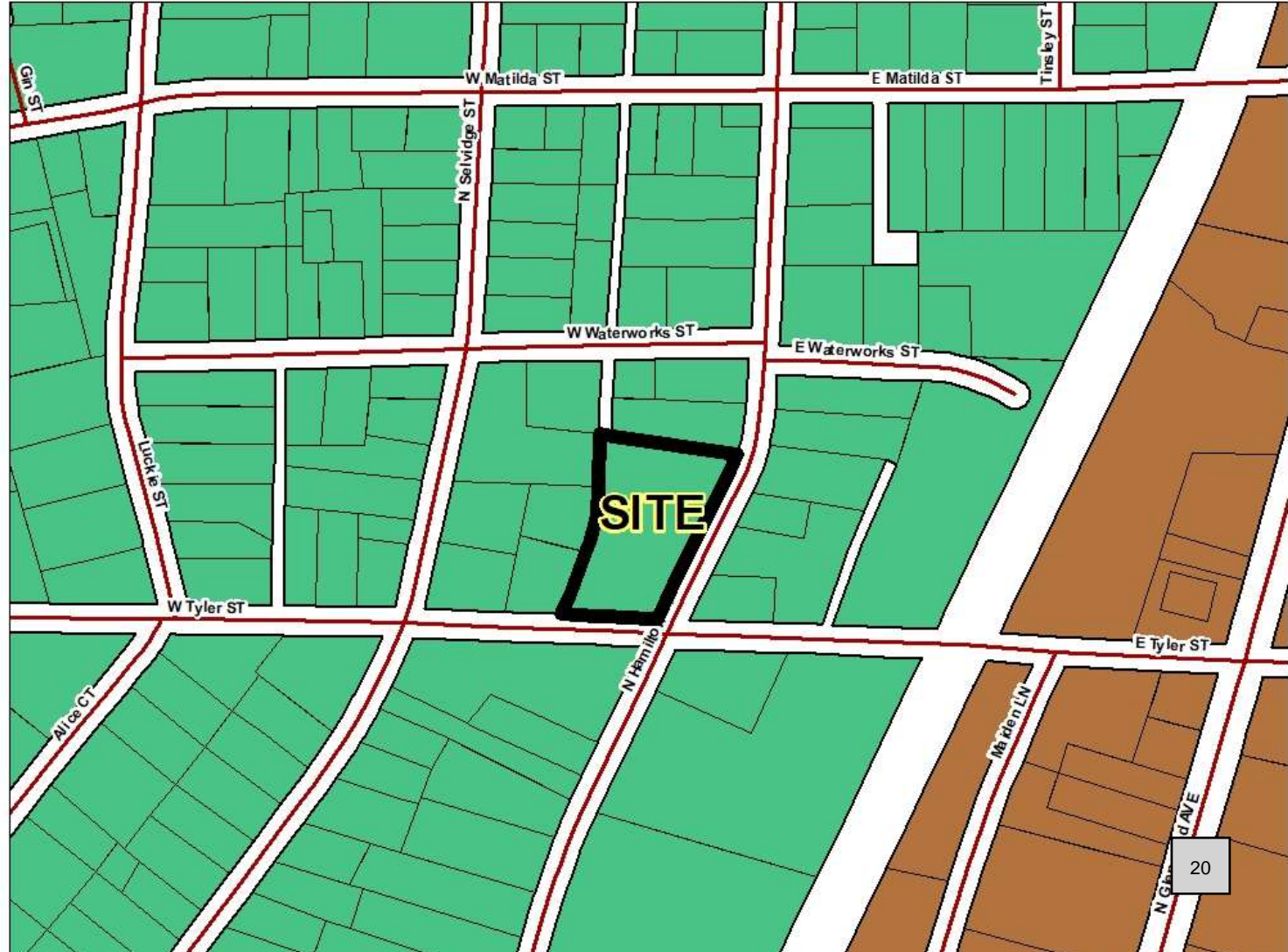
**ECM Rezoning Request
C-2, General Commercial
to
R-7, High Density Residential
CITY OF DALTON JURISDICTION**



FUTURE DEVELOPMENT MAP

-  Commercial
-  Town Neighborhood Revitalization

**FEET
200**





CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 8/15/22

Agenda Item: Resolution 22-09 LOST

Department: Administration

Requested By: Andrew Parker

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

Cost:

**Funding Source if Not
in Budget**

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

RESOLUTION 22-09 TO APPROVE AN AGREEMENT SUMMARY BETWEEN THE CITY OF DALTON AND WHITFIELD COUNTY CONCERNING THE REALLOCATION OF LOCAL OPTION SALES TAX REVENUE (LOST).

**CITY OF DALTON
RESOLUTION
Resolution No. 22-09**

RESOLUTION TO APPROVE AN AGREEMENT SUMMARY BETWEEN THE CITY OF DALTON AND WHITFIELD COUNTY CONCERNING THE REALLOCATION OF LOCAL OPTION SALES TAX REVENUE

WHEREAS, Georgia law requires the City and the County to file a renegotiated tax certificate that sets out the distribution percentages of local option sales tax revenues to Whitfield County and the qualified municipalities therein for the ensuing ten years with the Georgia Revenue Commissioner no later than December 30 of the second year following the decennial census; and

WHEREAS, the Mayor and Council of the City of Dalton have met with the Whitfield County Board of Commissioners and remaining municipalities in Whitfield County as required by law to renegotiate the distribution of local option sales tax revenues; and

WHEREAS, an agreement was reached by the City and the Whitfield County Board of Commissioners on distribution of local option sales tax revenues and said agreement is memorialized in that Agreement Summary, a copy of which is attached to this Resolution; and

WHEREAS, the Mayor and Council desire to approve the Agreement Summary as its Memorandum of Understanding and to authorize and direct the Mayor to enter into such formalized Agreement as the law and parties may desire.

THEREFORE, BE IT RESOLVED, that the Agreement Summary concerning the reallocation of local option sales tax revenues for the ensuing ten years, a copy of which is attached to this resolution, is hereby approved;

BE IT FURTHER RESOLVED, that the Mayor be and hereby is authorized to enter into such formalized Agreement on behalf of the City and to execute all tax certificates required to be filed with the Georgia Revenue Commissioner with respect to the distribution percentages of local option sales tax revenues to Whitfield County and the qualified municipalities therein;

BE IT FURTHER RESOLVED that the City Clerk is authorized and directed to record this approved Resolution in the minutes of the City Council; and

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately upon its approval by the Mayor and Council of the City of Dalton.

ADOPTED AND APPROVED on the 15th day of August, 2022, at the regular meeting of the Mayor and Council of the City of Dalton.

The foregoing Resolution was read on _____. A motion for passage of the Resolution was made by Council member _____, second by Council member _____ and upon the question the vote is _____ ayes, _____ nays and the Resolution is adopted.

Attest:

CITY OF DALTON, GEORGIA

CITY CLERK

MAYOR

2022 LOST Agreement Summary

- **Maintain 2022 LOST Distribution Schedule for 2023-2032**

City of	<u> Dalton </u>	shall receive	<u> 36.000 </u>	%
City of	<u> Varnell </u>	shall receive	<u> 1.894 </u>	%
City of	<u> Tunnel Hill </u>	shall receive	<u> .929 </u>	%
City of	<u> Cohutta </u>	shall receive	<u> .720 </u>	%
City of	<u> </u>	shall receive	<u> </u>	%
County of	<u> Whitfield </u>	shall receive	<u> 60.457 </u>	%

- **Dalton – Whitfield to amend Roads/Bridges SDS Agreement**
 - County to continue providing \$200,000 cash payment annually for City paving projects. Payment will be due by January 31st each year.
 - Parties agree to remove SDS references to in-kind work (City will no longer be required to provide a list of roads to the County, since revised agreements calls for annual payment due by January 31st.)

- **Dalton – Whitfield to amend Stormwater/Soil Erosion SDS Agreement**
 - Parties agree to reduce City’s annual payment for stormwater/soil erosion/engineering services to \$87,500 annually (to be paid in monthly installments) and remove references to the City purchasing vehicles for the County.

- **Dalton – Whitfield and other Municipalities (Cohutta, Varnell, and Tunnel Hill) to Update Various SDS Agreements set to expire on October 31, 2022.**
 - Many SDS agreements are out of date and do not match current operating practices.
 - Parties agree to evaluate streamlining other services through SDS where opportunities present themselves.

- **Parties agree to dissolve Jointly-Funded Services Special Tax District**
 - County Agrees to take over ownership, operation, and funding of the Senior Center beginning January 1, 2023
 - City will reimburse County \$425,000 in SPLOST funding for Senior Center renovations
 - County will increase fund balance of JDA and both Dalton-Whitfield will be able to reduce annual JDA operating budget funding.



CERTIFICATE OF DISTRIBUTION

TO: State Revenue Commissioner

Pursuant to an Act of the Georgia General Assembly, effective January 1, 1980, relating to Local Sales & Use Taxes, the governing authorities for the qualifying municipalities and the county located within the special district coterminous with the boundaries of Whitfield County hereby certify that the proceeds of the combination city/county local sales and use tax generated in such district shall be distributed by the State Revenue Commissioner as follows:

City of <u>Dalton</u>	shall receive	<u>36.000</u>	%
City of <u>Varnell</u>	shall receive	<u>1.894</u>	%
City of <u>Tunnel Hill</u>	shall receive	<u>.929</u>	%
City of <u>Cohutta</u>	shall receive	<u>.72</u>	%
City of _____	shall receive	_____	%
City of _____	shall receive	_____	%
County of <u>Whitfield</u>	shall receive	<u>60.457</u>	%

This certificate shall continue in effect until such time as a new certificate shall be executed as provided in said Act.

By executing this schedule, the county and cities, acting through their respective officers, represent that all municipalities lying wholly or partly in the tax jurisdiction have been given an opportunity to show that they are 'qualified municipalities,' as that term is used in the Act, and that all municipalities listed herein as recipients are 'qualified' and so may receive distribution from the proceeds of the tax.

Executed on behalf of the governing authorities of the qualifying municipalities representing not less than a majority of the aggregate population of all qualifying municipalities located within the special district and the governing authority of the county, this 8TH day of AUGUST 2022.

MAYOR OF THE CITY OF Dalton

MAYOR OF THE CITY OF Varnell

MAYOR OF THE CITY OF Tunnel Hill

MAYOR OF THE CITY OF Cohutta

MAYOR OF THE CITY OF _____

MAYOR OF THE CITY OF _____

Jerry S. Jensen

CHAIRMAN BOARD OF COMMISSIONERS OF
Whitfield COUNTY



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 8-15-22
Agenda Item: Resolution to Approve Bond Resolution
Department: Finance
Requested By: Cindy Jackson
Reviewed/Approved by City Attorney? Jim Woodward (Bond Attorney)
Cost: \$0

Funding Source if Not in Budget

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

Resolution of Mayor and Council to approve the bond resolution of the City of Dalton Building Authority authorizing the issuance of Series 2022 Revenue Bonds for Dalton Public School System Projects in the principal amount of \$15,930,000; to authorize the execution of a contract between the City and the Authority; to authorize the mayor and other officers and officials of the City to take such further actions as necessary to provide for the issuance and delivery of the revenue bonds described herein; and for other purposes.

**CITY OF DALTON
RESOLUTION 22-10**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF DALTON, GEORGIA TO APPROVE THE BOND RESOLUTION OF THE CITY OF DALTON BUILDING AUTHORITY AUTHORIZING THE ISSUANCE OF THE CITY OF DALTON BUILDING AUTHORITY REVENUES BOND (DALTON PUBLIC SCHOOL SYSTEM PROJECT), SERIES 2022 IN THE PRINCIPAL AMOUNT OF \$15,930,000; TO AUTHORIZE THE EXECUTION OF A CONTRACT BETWEEN THE CITY AND THE AUTHORITY; TO AUTHORIZE THE MAYOR AND OTHER OFFICERS AND OFFICIALS OF THE CITY TO TAKE SUCH FURTHER ACTIONS AS ARE NECESSARY TO PROVIDE FOR THE ISSUANCE AND DELIVERY OF THE REVENUE BONDS DESCRIBED HEREIN; AND FOR OTHER PURPOSES

WHEREAS, the City of Dalton Building Authority (the “Authority”) is a public body corporate and politic duly created and existing pursuant to an amendment to the Constitution of the State of Georgia (Ga. Laws 1968, pages 1466-1482), duly ratified and proclaimed (the “Amendment”) for the purpose of acquiring, constructing, equipping, maintaining and operating projects embracing buildings and facilities for use by the City of Dalton, Georgia (the “City”), including the Dalton Public School System (the “Dalton School System”), for its governmental, proprietary and administrative functions; and the Authority is now existing and operating and its members have been duly appointed and entered into their duties; and

WHEREAS, the Dalton School System exists pursuant to the charter of the City and is governed by the City of Dalton Board of Education (the “Board of Education”) pursuant to the City’s charter; and

WHEREAS, under the Amendment and the Revenue Bond Law (O.C.G.A. § 36-82-60 *et seq.*, as amended), the Authority has the power (a) to issue revenue bonds and use the proceeds thereof for the purpose of paying all or part of the cost of any “project” or “undertaking” (as authorized by the Amendment or the Revenue Bond Law), including the acquisition, construction and improvement of buildings and facilities for use by the Dalton School System; and (b) to make and execute contracts and other instruments necessary to exercise the powers of the Authority; and

WHEREAS, under its charter, the City has the power to acquire, construct and improve buildings and facilities for use by the Dalton School System; and

WHEREAS, pursuant to the Amendment, the Authority and the City are authorized to enter into contracts pertaining to public facilities for use by the City, including the Dalton School System, for terms not exceeding fifty (50) years for its governmental, proprietary or administrative functions; and

WHEREAS, the Authority proposes to issue its Revenue Bond (Dalton Public School System Project), Series 2022, in the principal amount of \$15,930,000 (the “Series 2022 Bond”) for the purposes of (i) providing funds to finance certain capital outlay projects for the Dalton School System consisting of the following: adding to, renovating, repairing, improving,

equipping, acquiring, and furnishing existing school buildings or other buildings or facilities useful or desirable in connection therewith, including, but not limited to, Roan School, Westwood School, Park Creek School and Fort Hill; acquiring land; acquiring new technology, safety and security equipment and other school equipment, including band instruments; acquiring, constructing and equipping new school buildings and facilities, including but not limited to educational/athletic facilities; acquiring any property necessary or desirable therefor, both real and personal; and purchasing school buses and service vehicles(collectively, the “Projects”) and (ii) paying the costs of issuing the Series 2022 Bond; and

WHEREAS, the Series 2022 Bond will be issued pursuant to the Amendment, the Revenue Bond Law, and a resolution of the Authority adopted on August 15, 2022 (the “Bond Resolution”); and

WHEREAS, it is proposed that the Authority and the City should authorize the execution and delivery of an Intergovernmental Contract, to be dated the date of its execution and delivery (the “Contract”), between the City and the Authority, pursuant to which the Authority will agree to issue the Series 2022 Bond to provide funds to finance the Projects, and the City, in consideration of the Authority’s doing so, will agree to make payments to the Authority as called for pursuant to the Contract in amounts sufficient to pay the principal of and interest on the Series 2022 Bond; and

WHEREAS, it is proposed that the City and the Board of Education should authorize the execution and delivery of an Intergovernmental Contract, to be dated the date of its execution and delivery (the “BOE Contract”), between the City and the Board of Education, pursuant to which, among other items, the City will request that the Authority issue the Series 2022 Bond to provide funds to finance the Projects, and the Board of Education, in consideration of the City’s and the Authority’s doing so, will agree to make the payments to the Sinking Fund (as defined in the Bond Resolution) in amounts sufficient to pay the principal of, redemption premium, if any, and interest on the Series 2022 Bond; and

WHEREAS, the Authority, the City and the Board of Education have made a finding of fact that the Projects are in the public interest and are projects in furtherance of the Authority’s purpose and mission under the Amendment and the Revenue Bond Law; and

WHEREAS, the Series 2022 Bond shall contain such terms and provisions as provided in the Bond Resolution; and

WHEREAS, the Series 2022 Bond will be secured by a first lien on the Contract and the Contract Payments; and

WHEREAS, it is necessary and proper that the Mayor and Council of the City approve the form of the Bond Resolution and the Contract, and authorize the Mayor of the City to execute the Contract.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Dalton, Georgia (the “Council”), as follows:

The City has made a finding of fact that:

(a) the issuance of the Series 2022 Bond is hereby found and declared to be within the public purposes intended to be served by the Authority; and

(b) the Projects consist of buildings and facilities for use by the Dalton School System for its governmental, proprietary and administrative functions and is in furtherance of the Authority's purpose and mission and constitutes projects which may be undertaken by the Authority pursuant to the Amendment; and

(c) By entering into the Contract, the City will be furthering the public purposes for which it was created.

BE IT FURTHER RESOLVED, as follows:

Section 1. The Council hereby approves the form of the Bond Resolution, in substantially the form attached hereto as Exhibit A, together with such supplements and amendments which may be made thereto with the consent of the Mayor of the City (the "Mayor").

Section 2. The execution, delivery and performance of the Contract are hereby authorized. The Mayor is hereby authorized to execute and deliver the Contract on behalf of the City, which Contract shall be in substantially the form attached hereto as Exhibit B with such minor changes, insertions or omissions as may be approved by the Mayor, and the execution of the Contract by the Mayor as hereby authorized shall be conclusive evidence of any such approval.

Section 3. The execution, delivery and performance of the BOE Contract are hereby authorized. The Mayor is hereby authorized to execute and deliver the BOE Contract on behalf of the City, which BOE Contract shall be in substantially the form attached hereto as Exhibit C with such minor changes, insertions or omissions as may be approved by the Mayor, and the execution of the BOE Contract by the Mayor as hereby authorized shall be conclusive evidence of any such approval.

Section 5. The City is authorized and directed to cause to be prepared an answer to be filed in validation proceedings requesting that the Series 2022 Bond and the security therefor be declared valid in all respects.

Section 6. From and after the execution and delivery of the documents herein authorized, the proper officers, agents and employees of the City are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents and certificates as may be necessary to carry out and comply with the provisions of the documents herein authorized and are further authorized to take any and all further actions and to execute and deliver any and all further documents and certificates as may be necessary or desirable in connection with the issuance of the Series 2022 Bond and the execution, delivery and performance of the documents herein authorized. Without limiting the foregoing, if the Mayor is

not available to execute the documents herein authorized, the Mayor Pro Tem shall execute such documents on the Mayor's behalf.

Section 7. The Mayor and such other officials as may be required are directed to take such actions and to complete such transfers as are necessary to provide security for payment of the Series 2022 Bond in accordance with the Bond Resolution and any amendments or supplemental resolutions of the Authority and to fulfill the obligations of the City pursuant to the Contract, as the same may be hereafter amended, and to take such other actions as may be required in accordance with the intents and purposes of this resolution.

Section 8. All acts and doings of the officers, agents and employees of the City which are in conformity with the purposes and intents of this resolution and in furtherance of the issuance of the Series 2022 Bond and the execution, delivery and performance of the Contract shall be, and the same hereby are, in all respects, approved and confirmed.

Section 9. No stipulation, obligation or agreement herein contained or contained in the Contract shall be deemed to be a stipulation, obligation or agreement of the Mayor or the Clerk of the City in their individual capacity, and neither the Mayor nor the Clerk of the City shall be personally liable under the Contract or on the Series 2022 Bond or be subject to personal liability or accountability by reason of the issuance thereof.

Section 10. This resolution shall take effect immediately upon its adoption. All resolutions or parts thereof in conflict with this resolution are hereby repealed.

Adopted this 15th day of August, 2022.

CITY OF DALTON, GEORGIA

By: _____
Mayor

(SEAL)

Attest:

Clerk

EXHIBIT A

BOND RESOLUTION

EXHIBIT B

INTERGOVERNMENTAL CONTRACT

EXHIBIT C

BOE CONTRACT

CLERK'S CERTIFICATE

The undersigned Clerk of the City of Dalton, Georgia (the "City") DOES HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of a resolution adopted by the Mayor and Council of the City, at a meeting open to the public which was duly called and assembled on the 15th day of August, 2022, at which meeting a quorum was present and acting throughout, and that the original of the resolution appears in the minute book of the Mayor and Council of the City which is in my custody and control.

WITNESS my hand this 15th day of August, 2022.

Clerk

BOND RESOLUTION

RESOLUTION OF THE CITY OF DALTON BUILDING AUTHORITY PROVIDING FOR THE ISSUANCE OF ITS REVENUE BOND (DALTON SCHOOL SYSTEM PROJECT), SERIES 2022, IN THE PRINCIPAL AMOUNT OF \$15,930,000, IN ORDER TO PROVIDE FUNDS TO (A) FINANCE CERTAIN CAPITAL OUTLAY PROJECTS FOR THE DALTON PUBLIC SCHOOL SYSTEM AND (B) PAY THE COSTS OF ISSUING THE SERIES 2022 BOND ISSUED HEREUNDER; TO PROVIDE FOR THE CREATION OF CERTAIN FUNDS; TO PROVIDE FOR THE CREATION OF REMEDIES OF THE HOLDER OF THE SERIES 2022 BOND ISSUED HEREUNDER; TO AUTHORIZE THE EXECUTION OF A CONTRACT WITH THE CITY OF DALTON, GEORGIA; AND FOR OTHER RELATED PURPOSES.

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Exhibit A - Form of Contract

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BOND RESOLUTION

RESOLUTION OF THE CITY OF DALTON BUILDING AUTHORITY PROVIDING FOR THE ISSUANCE OF ITS REVENUE BOND (DALTON PUBLIC SCHOOL SYSTEM PROJECT), SERIES 2022, IN THE PRINCIPAL AMOUNT OF \$15,930,000, IN ORDER TO PROVIDE FUNDS TO (A) FINANCE CERTAIN CAPITAL OUTLAY PROJECTS FOR THE DALTON PUBLIC SCHOOL SYSTEM AND (B) PAY THE COSTS OF ISSUING THE SERIES 2022 BOND ISSUED HEREUNDER; TO PROVIDE FOR THE CREATION OF CERTAIN FUNDS; TO PROVIDE FOR THE CREATION OF REMEDIES OF THE HOLDER OF THE SERIES 2022 BOND ISSUED HEREUNDER; TO AUTHORIZE THE EXECUTION OF A CONTRACT WITH THE CITY OF DALTON, GEORGIA; AND FOR OTHER RELATED PURPOSES.

WHEREAS, the City of Dalton Building Authority (the “Authority”) is a public body corporate and politic duly created and existing pursuant to an amendment to the Constitution of the State of Georgia (Ga. Laws 1968, pages 1466-1482), duly ratified and proclaimed (the “Amendment”) for the purpose of acquiring, constructing, equipping, maintaining and operating projects embracing buildings and facilities for use by the City of Dalton, Georgia (the “City”), including the Dalton Public School System (the “Dalton School System”), for its governmental, proprietary and administrative functions; and the Authority is now existing and operating and its members have been duly appointed and entered into their duties; and

WHEREAS, the Dalton School System exists pursuant to the charter of the City and is governed by the City of Dalton Board of Education (the “Board of Education”) pursuant to the City’s charter; and

WHEREAS, under the Amendment and the Revenue Bond Law (O.C.G.A. § 36-82-60 *et seq.*, as amended), the Authority has the power (a) to issue revenue bonds and use the proceeds thereof for the purpose of paying all or part of the cost of any “project” or “undertaking” (as authorized by the Amendment or the Revenue Bond Law), including the acquisition, construction and improvement of buildings and facilities for use by the Dalton School System; and (b) to make and execute contracts and other instruments necessary to exercise the powers of the Authority; and

WHEREAS, under its charter, the City has the power to acquire, construct and improve buildings and facilities for use by the Dalton School System; and

WHEREAS, pursuant to the Amendment, the Authority and the City are authorized to enter into contracts pertaining to public facilities and related equipment for use by the City , including the Dalton School System, for terms not exceeding fifty (50) years for their governmental, proprietary or administrative functions; and

WHEREAS, the Authority proposes to issue its Revenue Bond (Dalton Public School System Project), Series 2022, in the principal amount not to exceed \$15,930,000 (the “Series 2022 Bond”) for the purposes of (i) providing funds to finance certain capital outlay projects for the

Dalton School System consisting of the following: adding to, renovating, repairing, improving, equipping, acquiring, and furnishing existing school buildings or other buildings or facilities useful or desirable in connection therewith, including, but not limited to, Roan School, Westwood School, Park Creek School and Fort Hill; acquiring land; acquiring new technology, safety and security equipment and other school equipment, including band instruments; acquiring, constructing and equipping new school buildings and facilities, including but not limited to educational/athletic facilities; acquiring any property necessary or desirable therefor, both real and personal; and purchasing school buses and service vehicles (collectively, the “Projects”) and (ii) paying the costs of issuing the Series 2022 Bond; and

WHEREAS, it is proposed that the Authority and the City should authorize the execution and delivery of an Intergovernmental Contract, to be dated the date of execution and delivery thereof (the “Contract”), between the City and the Authority, pursuant to which the Authority will agree to issue the Series 2022 Bond to provide funds to finance the Projects, and the City, in consideration of the Authority’s doing so, will agree to make the payments to the Authority in amounts sufficient to pay the principal of, redemption premium, if any, and interest on the Series 2022 Bond; and

WHEREAS, the Authority, the City and the Board of Education have made a finding of fact that the Projects are in the public interest and are projects in furtherance of the Authority’s purpose and mission under the Amendment and the Revenue Bond Law; and

WHEREAS, the Series 2022 Bond will be issued pursuant to the Amendment, the Revenue Bond Law, and this resolution (the “Bond Resolution”); and

WHEREAS, the Series 2022 Bond shall contain such terms and provisions as provided in the Bond Resolution.

NOW, THEREFORE, BE IT RESOLVED, by The City of Dalton Building Authority, and it is hereby resolved by authority of same, as follows:

ARTICLE I.

DEFINITIONS AND FINDINGS

Section 1.1. Definitions of Certain Terms.

In addition to the terms hereinabove defined, whenever the following terms are used in this Bond Resolution, the same, unless the context shall clearly indicate another or different meaning or intent, shall be construed or used and are intended to have the meaning set forth in the Contract or set forth below:

“Amendment” means the amendment to the Constitution of the State of Georgia of 1983 (Ga. Laws 1968, pages 1466-1482), which created the Authority.

“Authority” means The City of Dalton Building Authority, a body corporate and politic, created pursuant to the Amendment.

“Bond Registrar” means the bond registrar appointed by the Authority in a closing certificate to be delivered at the time of issuance of the Series 2022 Bond or any successor bond registrar hereafter appointed by the Authority and approved by the City.

“Bond Resolution” means this Bond Resolution, as the same may be supplemented from time to time.

“Bondholder” and **“owner”** means the registered owner of the Series 2022 Bond.

“Business Day” means a day which is not (a) a Saturday, and Sunday, or a legal holiday on which banking institutions in the State of Georgia are authorized by law or executive order to close or (b) a day on which the New York Stock Exchange is authorized or obligated by law or executive order to close.

“City” means the City of Dalton, Georgia and its successors and assigns.

“Code” means the Internal Revenue Code of 1986, as amended and any applicable regulations thereunder.

“Contract” means the Intergovernmental Contract, dated as of September 1, 2022 between the Authority and the City, with respect to the Series 2022 Bond, as the same from time to time may be amended.

“Contract Payments” mean the payments which are to be received by the Authority pursuant to Section 4.2 of the Contract, which are equal to the amounts sufficient to enable the Authority to pay the principal of and interest on the Series 2022 Bond as the same become due, whether at maturity or by proceedings for mandatory redemption; provided, however, the City shall receive a credit against any required Contract Payment to the extent moneys are on deposit in the Sinking Fund and available to pay the principal of and interest on the Series 2022 Bond coming due on the next succeeding February 1 or August 1, as the case may be.

“Installment Date” means each February 1 and August 1, beginning August 1, 2023 on which installments or principal and interest installments on the Series 2022 Bond shall be paid.

“Paying Agent” means the paying agent appointed by the Authority in a closing certificate to be delivered at the time of issuance of the Series 2022 Bond or any successor paying agent hereafter appointed by the Authority and approved by the City.

“Permitted Investments” means and includes any of the following securities, if and to the extent the same are at the time legal for investment of Authority funds:

(1) the local government investment pool created in Chapter 83 of Title 36 of the Official Code of Georgia Annotated, as amended;

(2) Bonds or obligations of such county, municipal corporation, school district, political subdivision, authority, or body or bonds or obligations of the State of Georgia or other states or of other counties, municipal corporations, and political subdivisions of the State of Georgia;

(3) Bonds or other obligations of the United States or of subsidiary corporations of the United States government which are fully guaranteed by such government;

(4) Obligations of and obligations guaranteed by agencies or instrumentalities of the United States government, including those issued by the Federal Land Bank, Federal Home Loan Bank, Federal Intermediate Credit Bank, Bank for Cooperatives, and any other such agency or instrumentality now or hereafter in existence; provided, however, that all such obligations shall have a current credit rating from a nationally recognized rating service of at least one of the three highest rating categories available and have a nationally recognized market;

(5) Bonds or other obligations issued by any public housing agency or municipal corporation in the United States, which such bonds or obligations are fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States government, or project notes issued by any public housing agency, urban renewal agency, or municipal corporation in the United States which are fully secured as to payment of both principal and interest by a requisition, loan, or payment agreement with the United States government;

(6) Certificates of deposit of national or state banks located within this state which have deposits insured by the Federal Deposit Insurance Corporation and certificates of deposit of federal savings and loan associations and state building and loan or savings and loan associations located within this state which have deposits insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation or the Georgia Credit Union Deposit Insurance Corporation, including the certificates of deposit of any bank, savings and loan association, or building and loan association acting as depository, custodian, or trustee for any such bond proceeds. The portion of such certificates of deposit in excess of the amount insured by the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation, or the Georgia

Credit Union Deposit Insurance Corporation, if any, shall be secured by deposit, with the Federal Reserve Bank of Atlanta, Georgia, or with any national or state bank or federal savings and loan association or state building and loan or savings and loan association located within this state or with a trust office within this state, of one or more of the following securities in an aggregate principal amount equal at least to the amount of such excess: direct and general obligations of the State of Georgia or other states or of any county or municipal corporation in the State of Georgia, obligations of the United States or subsidiary corporations described in (3) above, obligations of the agencies and instrumentalities of the United States government described in (4) above, or bonds, obligations, or project notes of public housing agencies, urban renewal agencies, or municipalities described in (5) above;

(7) Securities of or other interests in any no-load, open-end management type investment company or investment trust registered under the Investment Company Act of 1940, as from time to time amended, or any common trust fund maintained by any bank or trust company which holds such proceeds as trustee or by an affiliate thereof so long as:

(A) The portfolio of such investment company or investment trust or common trust fund is limited to the obligations referenced in paragraphs (3) and (4) above and repurchase agreements fully collateralized by any such obligations;

(B) Such investment company or investment trust or common trust fund takes delivery of such collateral either directly or through an authorized custodian;

(C) Such investment company or investment trust or common trust fund is managed so as to maintain its shares at a constant net asset value; and

(D) Securities of or other interests in such investment company or investment trust or common trust fund are purchased and redeemed only through the use of national or state banks having corporate trust powers and located within the State of Georgia; and

(8) Interest-bearing time deposits, repurchase agreements, reverse repurchase agreements, rate guarantee agreements, or other similar banking arrangements with a bank or trust company having capital and surplus aggregating at least \$50 million or with any government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York having capital aggregating at least \$50 million or with any corporation which is subject to registration with the Board of Governors of the Federal Reserve System pursuant to the requirements of the Bank Holding Company Act of 1956, provided that each such interest-bearing time deposit, repurchase agreement, reverse repurchase agreement, rate guarantee agreement, or other similar banking arrangement shall permit the moneys so placed to be available for use at the time provided with respect to the investment or reinvestment of such moneys.

(9) any other investments authorized by the laws of the State of Georgia.

“Project Fund” shall mean The City of Dalton Building Authority Project Fund, Series 2022 created in Section 3.3 of this Bond Resolution.

“Project Fund Depository” means initially Bank OZK, Dalton, Georgia, its successors and assigns, or any successor project fund custodian hereafter appointed by the Authority and approved by the City; provided, however, the Project Fund Depository shall at all times be a commercial bank or trust company.

“Projects” mean capital outlay projects as more fully described in the whereas clauses hereto.

“Series 2022 Bond” means The City of Dalton Building Authority Revenue Bond (Dalton Public School System Project), Series 2022, in principal amount of \$15,930,000, authorized to be issued pursuant to Article II of this Bond Resolution.

“Sinking Fund” shall mean The City of Dalton Building Authority Sinking Fund, Series 2022 created in Section 5.1 of this Bond Resolution.

“Sinking Fund Custodian” means the sinking fund custodian appointed by the Authority in a closing certificate to be delivered at the time of issuance of the Series 2022 Bond or any successor sinking fund custodian hereafter appointed by the Authority and approved by the City.

“Sinking Fund Investments” shall mean (a) obligations of the United States and its agencies and instrumentalities, (b) certificates of deposit of banks which have deposits insured by the Federal Deposit Insurance Corporation, provided, however, that the portion of such certificates of deposit in excess of the amount insured by the Federal Deposit Insurance Corporation must be secured by direct obligations of the State of Georgia or the United States which are of a par value equal to that portion of such certificates of deposit which would be uninsured, and (c) the local government investment pool established by Section 36-83-8 of the Official Code of Georgia Annotated.

“Sinking Fund Year” shall mean the period commencing on the 2nd day of February in each year and extending through the 1st day of February in the next year.

Whenever used in this Bond Resolution, the singular shall include the plural and the plural shall include the singular, unless the context otherwise indicates.

Section 1.2. Findings

In connection with the financing of the Projects, the members of the Authority hereby make the following findings and determinations:

(a) the issuance of the Series 2022 Bond is hereby found and declared to be within the public purposes intended to be served by the Authority; and

(b) the Projects consist of buildings and facilities for us by the Dalton School System for its governmental, proprietary and administrative functions and are in furtherance of the Authority’s purpose and mission and constitute projects which may be undertaken by the Authority pursuant to the Amendment; and

(c) the execution and delivery of the Contract are authorized under the Amendment

and by entering into the Contract, the Authority will be furthering the public purposes for which it was created.

[END OF ARTICLE I]

ARTICLE II.

AUTHORIZATION, TERMS, FORM AND REGISTRATION OF SERIES 2022 BOND

Section 2.1. Authorization and Designation of the Series 2022 Bond.

There is hereby authorized to be issued the Series 2022 Bond designated as the “The City of Dalton Building Authority Revenue Bond (Dalton Public School System Project), Series 2022” in the principal amount of \$15,930,000 for the purpose of providing funds to finance, in whole or in part, the cost of (1) financing the Projects and (2) issuing the Series 2022 Bond.

Section 2.2. Date, Denomination, Maturities, Installment Dates, and Other Particulars of the Series 2022 Bond.

(a) The Series 2022 Bond shall be issued in the original principal amount of \$15,930,000, shall bear interest at a rate of 2.77% per annum, calculated on the basis of a 360-day year of twelve 30-day months, payable on February 1 and August 1 (each and “Installment Date”) of each year, commencing August 1, 2023, and shall be paid in principal installments on February 1 of each year, commencing February 1, 2024, as described in Schedule 1 attached hereto.

(b) The principal and interest on the Series 2022 Bond shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

(c) Principal and interest installments other than the final principal and interest installment on the Series 2022 Bond shall be paid by check or draft mailed by first class mail to the Bondholder at such owner’s address as it shall appear on the bond register kept by the Bond Registrar (or by wire transfer to a wire transfer address which the Bondholder has provided to the Paying Agent not less than five days prior to an Installment Date, which wire instructions shall remain in effect until the Paying Agent is notified to the contrary). The final principal and interest installment of the Series 2022 Bond shall be payable upon the presentation and surrender of the same at the office of the Paying Agent.

Section 2.3. Execution of Series 2022 Bond.

The Series 2022 Bond shall be executed in the name of the Authority by the manual or facsimile signature of the Chairman or Vice Chairman and attested by the Secretary or Assistant Secretary of the Authority, and the official seal of the Authority shall be imprinted or impressed thereon. The validation certificate to appear on the Series 2022 Bond shall be executed by the manual or the facsimile signature of the Clerk of the Superior Court of Whitfield County, and the official seal of said court shall be imprinted or impressed thereon. In case any officer whose signature shall appear on the Series 2022 Bond shall cease to be such officer before delivery of the Series 2022 Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 2.4. Proof of Ownership.

The person in whose name the Series 2022 Bond shall be registered shall be deemed and regarded as the absolute holder thereof for all purposes and the payment of the principal and

interest installments. The principal and interest installments shall be made only to or upon the order of the registered holder thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Series 2022 Bond, including the interest thereon to the extent of the sums so paid.

Section 2.5. Bond Registrar; Transfer of Series 2022 Bond.

The Bond Registrar shall keep the bond registration book for the registration of the Series 2022 Bond and for the registration of transfers of the Series 2022 Bond as herein provided. Subject to transfer restrictions as described in the Series 2022 Bond, the transfer of the Series 2022 Bond shall be registered upon the bond registration book upon the surrender and presentation of the Series 2022 Bond to the Bond Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the registered holder or attorney authorized in writing in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Authority shall execute and the Bond Registrar shall deliver in exchange for such Bonds so surrendered, a new Bonds registered in the name of the transferee.

Section 2.6. Replacement of the Series 2022 Bond.

Upon receipt by the Authority of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction, or mutilation of the Series 2022 Bond, and

- (a) in the case of loss, theft, or destruction, of indemnity reasonably satisfactory to it, or
- (b) in the case of mutilation, upon surrender and cancellation thereof,

the Authority at its own expense shall execute and deliver, in lieu thereof, a new single, fully registered Series 2022 Bond, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed, or mutilated Series 2022 Bond or dated the date of such lost, stolen, destroyed, or mutilated Series 2022 Bond if no interest shall have been paid thereon.

Section 2.7. No Additional Bonds.

The Authority covenants that, other than the Series 2022 Bond, no other bonds or obligations of any kind or nature will hereafter be issued which are payable from or enjoy a lien on the Contract Payments.

Section 2.8. Form of Series 2022 Bond.

The Series 2022 Bond and the certificate of validation to be endorsed thereon will be in substantially the following terms and form, with such variations, omissions, substitutions and insertions as may be required, in accordance with this Bond Resolution, to complete properly the Series 2022 Bond and as may be approved by the officer or officers executing the Series 2022 Bond, which approval shall be conclusively evidenced by such execution:

[FORM OF SERIES 2022 BOND]

This Bond shall not be sold or transferred if such sale or transfer would void the exemption, contained in U.S. Securities and Exchange Commission Rule 15c2-12(d)(1)(i), from the disclosure requirements of Securities and Exchange Commission Rule 15c2-12(b)(5) or any similar rules or statutes in effect at the time of such sale or transfer.

No. R – 1

UNITED STATES OF AMERICA
STATE OF GEORGIA
THE CITY OF DALTON BUILDING AUTHORITY
REVENUE BOND (DALTON PUBLIC SCHOOL SYSTEM PROJECT), SERIES 2022

Bond Date: September __, 2022
Registered Owner: ZMFU II, Inc.

Interest Rate: 2.77%
Principal Amount: \$15,930,000

The City of Dalton Building Authority (the “Authority”), a public body corporate and politic, duly created and existing pursuant to a local act of the General Assembly (Ga. L. 1968, pages 1466 *et seq.*, as continued by Ga. L. 1986, p. 5547 *et seq.*) (the “Amendment”), for value received hereby promises to pay to or cause to be paid to the registered owner specified above or to payee’s registered assigns (the “owner”), the principal sum specified above, in annual installments due on February 1 of each year beginning February 1, 2024, and to pay interest on the outstanding principal amount due (calculated on the basis of a 360-day year of twelve 30-day months), on February 1 and August 1 of each year beginning August 1, 2023 (each an “Installment Date”) as set forth in Exhibit A, which is attached hereto and made a part hereof, by check or draft mailed by first class mail to such owner at such owner’s address as it shall appear on the bond register kept by the Bond Registrar (or by wire transfer to the registered owner at a wire transfer address which said registered owner has provided to the Paying Agent not less than five days prior to an Installment Date, which wire instructions shall remain in effect until the Paying Agent is notified to the contrary). Both the principal of and interest on this Bond are payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is the duly authorized bond designated CITY OF DALTON BUILDING AUTHORITY REVENUE BOND (DALTON PUBLIC SCHOOL SYSTEM PROJECT), SERIES 2022 (the “Series 2022 Bond”), in the principal amount of \$15,930,000, issued under authority of the Constitution of the State of Georgia, the Revenue Bond Law (O.C.G.A. Section 36-82-60 *et seq.*, as amended) and the Amendment and was duly authorized and secured by a Bond Resolution adopted by the Authority on August 15, 2022 (the “Bond Resolution”), for the purpose of providing funds to finance, in whole or in part, the cost of (a) acquiring, constructing, extending and improving certain capital outlay projects as described in the Bond Resolution (the “Projects”) and (b) issuing the Series 2022 Bond, in furtherance of the purposes for which the Authority has been created. The Series 2022 Bond is a limited obligation of the Authority secured and payable from the Contract Payments (hereinafter defined).

The Authority and the City have entered into an Intergovernmental Contract, dated as of September 1, 2022 (the “Contract”), pursuant to which the Authority has agreed to issue the Series 2022 Bond, and to perform certain other services in connection therewith so as to provide facilities for the City to carry out its governmental, proprietary and administrative functions and to achieve

other public purposes and benefits, and the City has agreed to pay to the Authority for its facilities and services under said Contract, amounts which will be sufficient to enable the Authority to pay the principal of and interest on the Series 2022 Bond as same become due (the "Contract Payments"), said payments to be made into a special fund designated as "The City of Dalton Building Authority Sinking Fund, Series 2022". The City has also agreed in said Contract to levy as part of the taxes levied at the request of the Board of Education for the Dalton School System an annual tax on all taxable property located in said City at such rate or rates, limited to fourteen mills, as may be necessary to produce funds sufficient to enable the City to pay to the Authority the Contract Payments.

Reference to the Bond Resolution is hereby made for a complete description of the fund charged with, and pledged to, the payment of the principal installments of and the interest on the Series 2022 Bond, the nature and extent of the security for the payment of the Series 2022 Bond, a statement of the rights duties and obligations of the Authority, the terms under which the Bond Resolution may be supplemented, and the rights of the owner of the Series 2022 Bond, to all the provisions of which Bond Resolution the owner hereof, by acceptance of this Series 2022 Bond, assents.

THE SERIES 2022 BOND WILL NOT CONSTITUTE A GENERAL OBLIGATION OF THE STATE OF GEORGIA, THE CITY, OR ANY OTHER POLITICAL SUBDIVISION OR MUNICIPAL CORPORATION OF THE STATE OF GEORGIA WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION UPON INDEBTEDNESS. NEITHER THE STATE OF GEORGIA, THE CITY NOR ANY OTHER POLITICAL SUBDIVISION OR MUNICIPAL CORPORATION OF THE STATE OF GEORGIA SHALL BE SUBJECT TO ANY PECUNIARY LIABILITY THEREON. NO OWNER OF THE SERIES 2022 BOND SHALL EVER HAVE THE RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE STATE OF GEORGIA, THE CITY OR ANY OTHER POLITICAL SUBDIVISION OF THE STATE OF GEORGIA TO PAY THE SAME OR THE INTEREST THEREON. HOWEVER, IN ACCORDANCE WITH THE PROVISIONS OF THE CONSTITUTION AND LAWS OF THE STATE OF GEORGIA INCLUDING SPECIFICALLY, THE AMENDMENT, THE OBLIGATION OF THE CITY TO MAKE THE PAYMENTS IT HAS CONTRACTED TO MAKE BY THE PROVISIONS OF THE CONTRACT SHALL BE MADE FROM TAXES TO BE LEVIED AND COLLECTED FOR THAT PURPOSE, SUBJECT TO THE FOURTEEN MILL LIMITATION, TO THE EXTENT NECESSARY TO PAY THE OBLIGATIONS OF THE CITY CONTRACTUALLY INCURRED, AND THE OBLIGATION TO MAKE SUCH PAYMENTS SHALL CONSTITUTE A GENERAL OBLIGATION, BUT SHALL NOT CONSTITUTE A DEBT OF THE CITY WITHIN THE MEANING OF THE CONSTITUTION OF THE STATE OF GEORGIA, ARTICLE IX, SECTION V, PARAGRAPH I. NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL OF OR THE INTEREST ON THIS SERIES 2022 BOND AGAINST ANY OFFICER, DIRECTOR OR MEMBER OF THE AUTHORITY. THE AUTHORITY HAS NO TAXING POWER. THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON THE SERIES 2022 BOND ARE PAYABLE SOLELY FROM THE CONTRACT PAYMENTS.

NO RECOURSE SHALL BE HAD FOR THE PAYMENT OF THE PRINCIPAL INSTALLMENTS OF OR THE INTEREST ON THIS SERIES 2022 BOND AGAINST ANY

OFFICER, DIRECTOR OR MEMBER OF THE AUTHORITY OR THE CITY, PAST, PRESENT OR FUTURE, IN HIS OR HER INDIVIDUAL CAPACITY.

Terms defined in the Bond Resolution and used but not defined herein, shall, unless the context otherwise requires, have the meanings ascribed to such terms in the Bond Resolution.

This Series 2022 Bond is transferable only upon the registration book kept by the Bond Registrar for that purpose at the principal office of the Bond Registrar by the registered owner hereof in person, or by such owner's attorney duly authorized in writing, upon the surrender and presentation to the Bond Registrar of this Series 2022 Bond accompanied by a written instrument of transfer duly executed by the registered owner or such owner's attorney duly authorized in writing, and thereupon a new registered Series 2022 Bond, in the same principal amount and of the same maturity and interest rate, shall be issued to the transferee in exchange therefor.

Principal on this Series 2022 Bond may be prepaid at the option of the Authority, at the direction of the City, in whole or in part, at any time, after thirty (30) days written notice, upon payment of the principal amount to be prepaid, together with accrued interest thereon.

In certain events, on the conditions, in the manner and with the effect set forth in the Bond Resolution, the principal of the Series 2022 Bond then outstanding together with the interest thereon may become or may be declared to be due and payable.

To the extent permitted by the Bond Resolution, modifications or alterations of the Bond Resolution or of any resolution supplemental thereto may be made by the Authority. As provided in the Bond Resolution, certain modifications may only be made with the consent of the registered owner.

No covenant or agreement contained in this Series 2022 Bond or the Bond Resolution shall be deemed to be a covenant or agreement of any member, official, officer, agent or employee of the Authority in his or her individual capacity, and neither the members of the Authority nor any official executing this Series 2022 Bond shall be liable personally on this Series 2022 Bond or be subject to any personal liability or accountability by reason of the issuance of this Series 2022 Bond.

It is hereby certified and recited that all conditions, acts, and things required by law and the Bond Resolution to exist, to have happened, and to have been performed precedent to and in connection with the issuance of this Series 2022 Bond, do exist, have happened, and have been performed and that this Series 2022 Bond complies in all respects with the Amendment and with all applicable laws of the State of Georgia.

This Series 2022 Bond is issued, executed, and delivered to the registered owner in the State of Georgia with the intent that the laws of the State of Georgia shall govern its construction, and the Authority certifies that this Series 2022 Bond has been executed and delivered to the registered owner in the State of Georgia. In case of default, the owner of this Series 2022 Bond shall be entitled to the remedies provided by the Bond Resolution, the Amendment, and the Revenue Bond Law.

VALIDATION CERTIFICATE

STATE OF GEORGIA

COUNTY OF WHITFIELD

The undersigned Clerk of the Superior Court of Whitfield County, Georgia, HEREBY CERTIFIES that the within Bond was confirmed and validated by judgment of the Superior Court of Whitfield County, Georgia, rendered on the ____ day of _____, 2022, that no intervention or objection was filed thereto and that no appeal has been taken therefrom.

WITNESS my signature and the seal of said Court.

(SEAL)

Clerk, Superior Court,
Whitfield County, Georgia

CERTIFICATE OF REGISTRATION

The transfer of this Bond shall be registered on books kept by the Bond Registrar, such registration being noted hereon by the Bond Registrar in the registration blanks below, and no transfer shall be valid unless made on said books at the request of the registered holder or attorney duly authorized, and such transfer is similarly noted in the registration blank below.

Date of
Registration

In Whose
Name Registered

Authority Signature

(Form of Assignment and Transfer)

FOR VALUE RECEIVED, _____ the undersigned, hereby sells, assigns and transfers unto _____ (Tax Identification or Social Security No. _____) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guarantee:

(Authorized Officer)

Signature must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program.

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

EXHIBIT A

DEBT SERVICE SCHEDULE

Bond Debt Service
 The City of Dalton Building Authority (Georgia)
 Revenue Bond (Dalton Public School System Project), Series 2022
 Final Numbers

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
8/1/2023			\$389,780.55	\$389,780.55	
2/1/2024	\$2,880,000	2.770%	220,630.50	3,100,630.50	\$3,490,411.05
8/1/2024			180,742.50	180,742.50	
2/1/2025	3,130,000	2.770%	180,742.50	3,310,742.50	3,491,485.00
8/1/2025			137,392.00	137,392.00	
2/1/2026	3,215,000	2.770%	137,392.00	3,352,392.00	3,489,784.00
8/1/2026			92,864.25	92,864.25	
2/1/2027	3,305,000	2.770%	92,864.25	3,397,864.25	3,490,728.50
8/1/2027			47,090.00	47,090.00	
2/1/2028	3,400,000	2.770%	47,090.00	3,447,090.00	3,494,180.00
	\$15,930,000		\$1,526,588.55	\$17,456,588.55	\$17,456,588.55

* * *

[END OF SERIES 2022 BOND FORM]

[END OF ARTICLE II]

ARTICLE III.

PREPAYMENT AND APPLICATION OF BOND PROCEEDS

Section 3.1. Prepayment of Series 2022 Bond

Principal on the Series 2022 Bond may be prepaid at the option of the Authority, at the direction of the City, in whole or in part, at any time, after thirty (30) days written notice, upon payment of the principal amount to be prepaid, together with accrued interest thereon.

Section 3.2. Application of Bond Proceeds.

The proceeds of the sale of the Series 2022 Bond shall be used and applied as follows:

- (a) \$15,740,000 shall be deposited into the Project Fund and used to pay the costs of the Projects; and
- (b) \$190,000 shall be used to pay the costs of issuance of the Series 2022 Bond as directed in a closing memorandum to be delivered at the time of issuance for the Series 2022 Bond.

Notwithstanding the foregoing, if the Chairman of the Authority shall determine that a different application of funds is required to carry out the intent of this resolution, the Chairman may provide for such different application of funds in a closing certificate to be delivered at the time of issuance of the Series 2022 Bond.

Section 3.3. Project Fund.

(a) A special trust fund is hereby created for the benefit of the Bondholder and designated “The City of Dalton Building Authority Project Fund, Series 2022” (the “Project Fund”). Moneys in the Project Fund shall be held and kept separate and apart from all other funds of the Authority, the City and the Dalton School System and shall not in any manner be commingled with other funds of the Authority, the City or the Dalton School System. There shall be deposited with the Project Fund Depository, the amounts specified in Section 3.2 hereof.

(b) The moneys in the Project Fund shall be held by the Project Fund Depository and withdrawn and applied to pay costs of issuance and costs of the Projects. Any moneys in the Project Fund not presently needed for the payment of current obligations during the course of construction may be invested in Permitted Investments upon the written direction of an authorized representative of the Dalton School System, and proper evidence of the same being delivered to the Project Fund Depository. Any such securities shall be held by the Project Fund Depository for the account of the Project Fund until maturity or until sold, and at maturity or upon such sale, the proceeds received therefrom, including interest income and premium, if any, shall be immediately deposited into the Project Fund and shall be disbursed in the manner and for the purposes hereinafter set forth.

(c) Withdrawals from the Project Fund may be made for the purpose of paying the cost of the undertaking herein contemplated or contemplated by a supplemental resolution, including the purchase of such property and equipment as may be useful in connection therewith,

including, but not limited to, (i) the cost of indemnity and fidelity bonds either to secure deposits in the Project Fund or to insure the faithful completion of any contract pertaining to said improvements; (ii) any taxes or any charges lawfully levied or assessed against the undertaking; (iii) fees and expenses of consulting engineers for engineering studies, surveys and estimates, and the preparation of plans and supervising the construction; (iv) legal expenses and fees and all other items of expense not elsewhere in this Section specified incident to said undertaking or in connection with the issuance of the Series 2022 Bond; (v) payments made for labor, contractors, builders and materialmen in connection with the improvements contemplated by the undertaking and payment for machinery and equipment and for the restoration of property damaged or destroyed in connection therewith and the repayment of advances or loans made for the purpose of paying any of the aforementioned costs; (vi) the cost of acquiring by purchase, and the amount of any award or final judgment in any proceeding to acquire by condemnation, lands and rights of way necessary for the improvements and appurtenances in connection therewith, and options and payments thereon, and any easements or rights or any damages incident to or resulting from the making of such improvements; and (vii) to reimburse the Authority, the City or the Dalton School System for the advance payment of costs pertaining to the undertaking prior to the receipt of the proceeds derived from the sale of the Series 2022 Bonds.

(d) Before any moneys are disbursed, there shall be filed with the Project Fund Depository: (i) a requisition for such payment stating each amount to be paid, the circumstances of such obligation and the name of the person, firm or corporation to whom payment thereof is due; and (ii) a certificate attached to the requisition and certifying: (1) that an obligation in the stated amount has been incurred, is a proper charge against the Project Fund and has not been paid; (2) a bill or statement of account for such obligation, or a copy thereof, is attached to the requisition or is on file in the office of the Finance Officer of the Dalton School System; (3) that they have no notice of any vendor's, mechanic's or other liens or rights to liens, security interests, chattel mortgages or conditional sales contracts, which should be satisfied or discharged before such payment is made; (4) that such requisition contains no item representing payment on account or any retained percentages which the Authority, the City or the Dalton School System is, at the date of such certificates, entitled to retain; and (5) that insofar as such obligation was incurred for work, materials, supplies or equipment in connection with the undertaking, such work was actually performed or such materials, supplies or equipment were actually installed in or about the construction or delivered at the site of the work for that purpose. The requisition shall be signed by a duly authorized representative of the Dalton School System, on behalf of the Authority. A form of such requisition is attached hereto as Exhibit B.

Section 3.4. Availability of Requisitions and Certificates.

All requisitions and certificates required by this Article shall be retained by the Project Fund Depository, subject at all times to inspection by an officer of the Authority, the City, or the Dalton School System or any Bondholder.

Section 3.5. Completion of Projects.

If upon the Completion Date, as established pursuant to Section 3.7 of the Contract, any moneys remain in the Project Fund, such remaining moneys shall be transferred to the Sinking Fund created in Article V hereof and shall be used to pay the next occurring principal amount due on the Series 2022 Bond.

Section 3.6. Transfer Upon Event of Default of Final Bond Payment.

Upon the occurrence of an Event of Default, no further moneys shall be disbursed from the Project Fund, except that all moneys in the Project Fund shall be transferred, as soon as practicable, to the Sinking Fund.

Section 3.7. Designation of Project Fund Depository.

Bank OZK, Dalton, Georgia is hereby designated as the Project Fund Depository. The Authority may, from time to time, designate a successor Project Fund Depository, at the direction of the City, provided said Project Fund Depository shall at all times be a commercial bank or trust company and shall comply with all of the provisions of this Article and the applicable provisions of this Bond Resolution.

[END OF ARTICLE III]

ARTICLE IV.

GENERAL AUTHORIZATIONS AND AGREEMENTS

Section 4.1. Payment of Principal and Interest; Limited Obligation.

The Authority agrees that it will promptly pay the principal installments of and the interest on the Series 2022 Bond at the places, on the dates, and in the manner provided herein and in the Series 2022 Bond according to the true intent and meaning hereof and thereof. The Series 2022 Bond shall be a special or limited obligation of the Authority and not constitute a debt or a loan or pledge of the faith and credit of the State of Georgia or of any political subdivision or municipal corporation thereof, including the City, but shall be payable from moneys held in the Sinking Fund as provided in Section 5.1 herein. The issuance of the Series 2022 Bond shall not obligate the State of Georgia or any political subdivision or municipal corporation thereof, including the, to levy or pledge any form of taxation whatever for the payment thereof. No holder of the Series 2022 Bond or receiver or trustee in connection therewith shall have the right to enforce payment thereof against any property of the State of Georgia or any political subdivision or municipal corporation thereof, including the City, or against any property of the Authority, the City (other than the funds specifically pledged therefor pursuant to this Bond Resolution), nor shall the Series 2022 Bond constitute a charge, lien or encumbrance, legal or equitable, upon any such property. No recourse shall be had for the payment of the principal of or interest on the Series 2022 Bond against any officer, director or member of the Authority, the City. The Authority has no taxing power.

Section 4.2. Performance of Covenants; Authority.

The Authority covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Bond Resolution, in the Contract, and in the Series 2022 Bond executed and delivered hereunder and in all of its proceedings pertaining hereto. The Authority covenants that it is duly authorized under the Constitution and laws of the State, including particularly and without limitation the Amendment and the Revenue Bond Law, to issue the Series 2022 Bond authorized hereby and to execute this Bond Resolution and the Contract, that all action on its part for the issuance of the Series 2022 Bond and the execution and delivery of this Bond Resolution and the Contract has been duly and effectively taken, and that the Series 2022 Bond in the hands of the owner thereof are and will be a valid and enforceable obligation of the Authority according to the terms thereof and hereof.

Section 4.3. Instruments of Further Assurance.

The Authority will execute, acknowledge, and deliver or cause to be executed, acknowledged and delivered, such resolutions supplemental hereto and such further acts and instruments for the better assuring, pledging and confirming the amounts pledged hereby to the payment of the principal of and interest on the Series 2022 Bond. The Authority, except as herein and in the Contract provided, will not encumber any part of its interest in the Contract Payments or its rights under the Contract.

Section 4.4. Priority of Pledge.

The pledge made in Section 4.1 hereof of the Contract Payments payable under the Contract constitutes a first and prior pledge of and lien on said Contract Payments for the purpose

of paying the principal installments of and interest on the Series 2022 Bond. Said pledge shall at no time be impaired by the Authority and said Contract Payments shall not otherwise be pledged.

Section 4.5. Authorization of Contract.

The execution, delivery, and performance of the Contract between and among the Authority and the City be and the same are hereby authorized. The Contract shall be in substantially the form attached hereto as Exhibit A, subject to such changes, insertions or omissions as may be approved by the Chairman or Vice-Chairman of the Authority and the execution and delivery by the Chairman or Vice-Chairman of the Authority and the attestation of the same by the Secretary of the Authority, as hereby authorized, shall be conclusive evidence of the approval of any such changes, insertions or omissions.

Section 4.6. Authorization for Validation of Series 2022 Bond.

In order to carry out the issuance of the Series 2022 Bond, and pursuant to the Constitution and laws of the State of Georgia, the Chairman, Vice-Chairman or Secretary of the Authority is hereby authorized and directed to immediately notify the District Attorney of the Conasauga Judicial District of Georgia of the adoption of this Bond Resolution by the Authority, to request said District Attorney to file a petition and complaint to confirm and validate the Series 2022 Bond and to pass upon the security therefor, and said Chairman, Vice- Chairman or Secretary is further authorized to acknowledge service and make answer in such proceeding.

Section 4.7. General Authorization.

The proper officers of the Authority are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of this Bond Resolution and the Contract and are further authorized to take any and all further actions and execute and deliver any and all other documents as may be necessary in the issuance of the Series 2022 Bond and the execution and delivery of the Contract and all other documents authorized hereby.

Section 4.8. Exemption from Disclosure Requirements.

The Authority covenants that the disclosure requirements of U.S. Securities and Exchange Commission Rule 15c2-12 do not apply to the Series 2022 Bond because the issuance and delivery of the Series 2022 Bond to the purchaser thereof comply with the exemption contained in Section 15c2-12(d)(1)(i) of said rule.

[END OF ARTICLE IV]

ARTICLE V.

SINKING FUND AND REVENUES

Section 5.1. Creation of Sinking Fund.

(a) The Contract and the Contract Payments are hereby pledged to the payment of the Series 2022 Bond, and the Contract and the Contract Payments so pledged shall immediately be subject to the lien of this pledge without any physical delivery thereof or further acts, and the lien of this pledge shall be valid and binding against the Authority and the City and against all parties having claims of any kind against them, whether such claims shall have arisen in contract, tort or otherwise and irrespective of whether or not such parties have notice hereof.

(b) There is hereby created a special trust fund for the benefit of the owner of the Series 2022 Bond designated as “The City of Dalton Building Authority Sinking Fund, Series 2022” (the “Sinking Fund”).

(c) There shall be paid into the Sinking Fund, on or prior to February 1 and August 1 each year, commencing August 1, 2023, the amount required to pay the Contract Payments. The Contract Payments made by the City pursuant to the Contract shall be deposited directly into the Sinking Fund. Moneys deposited in the Sinking Fund shall be used to pay the principal of and interest on the Series 2022 Bond when due. If there are insufficient funds in the Sinking Fund to pay the Contract Payments twenty (20) days prior to an Installment Date, the Sinking Fund Custodian shall notify the City and the Dalton School System.

(d) The Sinking Fund Custodian shall give notice to the Authority and the City of any deficiency in the Sinking Fund to pay amounts due or to become due on the Series 2022 Bond, such notice to be given for receipt on the business day preceding the date established for such payment on the Series 2022 Bond.

(e) If for any reason the full amount herein required to be paid for any payment shall not be paid into the Sinking Fund, any deficiency shall be added to and shall become a part of the amount required to be paid into the Sinking Fund on the next payment date.

Section 5.2. Custody and Application of Sinking Fund.

The Sinking Fund shall be in the custody of the Sinking Fund Custodian but in the name of the Authority. In the event the Sinking Fund Custodian and the Paying Agent are the same bank acting in both capacities, then the Authority hereby authorizes and directs the Sinking Fund Custodian to withdraw sufficient funds from the Sinking Fund to pay the principal installments of and interest on the Series 2022 Bond as the same shall become due and payable, whether at maturity, by prepayment, or otherwise. If the Sinking Fund Custodian and the Paying Agent are not the same bank, the Sinking Fund Custodian shall transfer to the Paying Agent from moneys held in the Sinking Fund, in immediately available funds, moneys in amount and at or before such times as shall be required to pay the principal installments of and interest on the Series 2022 Bond as and when the same are due and payable. Any moneys held as a part of the Sinking Fund shall be invested and reinvested in accordance with the provisions of Section 5.3 hereof.

Section 5.3. Sinking Fund as a Trust Fund; Investment of Moneys.

The Sinking Fund shall be kept as a trust account for the benefit of the Bondholder separate from other deposits of the Authority and the City. Moneys on deposit in the Sinking Fund shall be invested only in Sinking Fund Investments upon the written direction of the City. Any such securities shall be held by the Sinking Fund Custodian for the account of the Sinking Fund until maturity or until sold. At the maturity or upon such sale, the proceeds received therefrom, including interest income and premium, if any, shall be immediately deposited into the Sinking Fund and shall be disbursed in the manner and for the purposes herein set forth. No moneys belonging to the Sinking Fund shall be deposited or remain on deposit with the Sinking Fund Custodian in an amount in excess of the amount guaranteed by the Federal Deposit Insurance Corporation, unless such institution shall have pledged for the benefit of the Authority and the Bondholder as collateral security for the moneys deposited, direct obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America, or other marketable securities eligible as security for the deposit of trust funds under regulations of the Board of Governors of the Federal Reserve Bank and having a market value (exclusive of accrued interest) at least equal to the amount of such deposits.

Section 5.4. Designation of Sinking Fund Custodian, Paying Agent and Bond Registrar.

The Authority shall designate the Sinking Fund Custodian, the Paying Agent and the Bond Registrar in a closing certificate to be delivered at the time of issuance of the Series 2022 Bond. The Authority may, from time to time, at the direction of the City, designate a successor Sinking Fund Custodian, Paying Agent or Bond Registrar, provided said Sinking Fund Custodian, Paying Agent or Bond Registrar complies with all of the provisions of this Article and the applicable provisions of this Bond Resolution.

[END OF ARTICLE V]

ARTICLE VI.

NON-ARBITRAGE AND TAX COVENANTS

Section 6.1. Non-Arbitrage and Tax Covenants.

(a) The Authority covenants and agrees for the benefit of the owner of the Series 2022 Bond that so long as the Series 2022 Bond remains outstanding, it will not intentionally cause any proceeds of the Series 2022 Bond to be used to acquire higher yielding investments, except as may be otherwise permitted by Section 148 of the Code, and that it will comply with, and take such action and make such payments as may be permitted or required by Section 148(f) of the Code, to insure that the Series 2022 Bond does not constitute an “arbitrage bond” within the meaning of Section 148(a) of the Code.

(b) The Authority hereby covenants and agrees that it will expend the proceeds from the sale of the Series 2022 Bond and will take such action as may be necessary so that the interest on the Series 2022 Bond will be and will remain excluded from the gross income of the owner thereof for federal income tax purposes, including, without limitation, compliance with provisions of Sections 141- 149 of the Code, as applicable.

Section 6.2. Authorization of Execution of 8038-G, Tax and Non-Arbitrage Certificate, and Other Documents.

The Chairman of the Authority is hereby authorized to execute and file with the Internal Revenue Service an Information Return for Tax-Exempt Governmental Obligations, Form 8038-G. The Chairman and/or Secretary of the Authority are hereby authorized to execute and deliver a certification, based upon facts, estimates and circumstances, as to reasonable expectations regarding the amount, expenditure and use of the proceeds of the Series 2022 Bond, as well as such other documents as may be necessary or desirable in connection with the issuance and delivery of the Series 2022 Bond.

[END OF ARTICLE VI]

ARTICLE VII.

DEFEASANCE

Section 7.1. Defeasance.

(a) The Series 2022 Bond shall be deemed to have been paid in full and the lien of this Bond Resolution shall be discharged, (A) after there shall have been irrevocably deposited in a special fund to be created by the Authority for that purpose, either (i) sufficient moneys, or (ii) obligations of, or guaranteed as to principal and interest by, the United States of America, or certificates of an ownership interest in the principal or interest of obligations of or guaranteed as to principal and interest by the United States of America (“Escrow Obligations”), which shall not contain provisions permitting the redemption thereof prior to its stated maturity, the principal of and the interest on which when due, will be sufficient, without further investment or reinvestment of either the principal amount thereof or the interest earnings thereon (said earnings to be held in trust also), together with any moneys deposited therewith, for the payment at the respective maturity or prepayment dates of the Series 2022 Bond, of the principal thereof and the interest to accrue thereon to such maturity or prepayment dates, as the case may be; (B) there shall have been paid to the Bond Registrar and Paying Agent all fees and expenses due or to become due in connection with the payment or prepayment of the Series 2022 Bond or satisfactory arrangements have been made with the Bond Registrar and Paying Agent to make said payments; (C) if the Series 2022 Bond is to be prepaid on any date prior to its maturity, the Authority shall have given to the Bond Registrar and Paying Agent in form satisfactory to the Bond Registrar and Paying Agent irrevocable instructions to prepay such Series 2022 Bond on such date and either evidence satisfactory to the Bond Registrar and Paying Agent that all prepayment notices, if any, required by this Bond Resolution have been given or irrevocable power authorizing the Bond Registrar and Paying Agent to give such prepayment notices; and (D) unless the Series 2022 Bond is to mature or be prepaid within the next 60 days, the Authority shall have given the Bond Registrar and Paying Agent irrevocable instructions to give notice, as soon as practicable, to the owner of the Series 2022 Bond, by first class mail, postage prepaid, at its last address appearing upon the books of registration, that the deposit required by (A) above has been made with the Bond Registrar and Paying Agent and that the Series 2022 Bond is deemed to have been paid in accordance with this Section 7.1 and stating such maturity or prepayment date upon which moneys are to be available for the payment of the principal on the Series 2022 Bond.

(b) In addition to the foregoing provisions of this Article VII, the lien of this Bond Resolution shall only be discharged pursuant to this Article VII if the Authority delivers an opinion of Bond Counsel providing that all conditions precedent to the discharge of the lien of this Bond Resolution pursuant to this Article VII have been satisfied and, with respect to the Series 2022 Bond, such deposit and discharge will not adversely affect the exclusion of the interest on the Series 2022 Bond from federal income taxation.

(c) Whenever the Series 2022 Bond shall be deemed to have been paid pursuant to this Section 7.1, any balances remaining in the Sinking Fund shall be retained by the City and used for any lawful purpose.

[END OF ARTICLE VII]

ARTICLE VIII.

DEFAULT PROVISIONS AND REMEDIES OF BONDHOLDER

Section 8.1. Defaults; Events of Default.

If any of the following events occur, it is hereby declared to constitute an “Event of Default”:

(a) default in the due and punctual payment of the principal installments of the Series 2022 Bond when and as the same shall become due and payable, whether at maturity, call for prepayment, or otherwise; or

(b) default in the due and punctual payment of any installment of interest on the Series 2022 Bond when and as such interest installment shall become due and payable; or

(c) default in the performance or observance of any other of the covenants, agreements or conditions on the part of the Authority in this Bond Resolution or in the Series 2022 Bond and failure to remedy the same within 30 days after written notice specifying such default and requiring the same to be remedied shall have been received by the Authority and the City from the Bondholder; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, within a greater number of days if corrective action is instituted by the Authority or the City within the applicable period and diligently pursued until the default is corrected; or

(d) the occurrence and continuance of any event of default as described in Section 7.1(a) of the Contract; or

(e) the occurrence and continuance of any event of default as described in Section 7.1(b) of the Contract; or

Section 8.2. Remedies; Rights of Bondholder.

Upon the occurrence of an Event of Default, the Bondholder may pursue any available remedy provided by the Contract as well as any available remedy at law or in equity to enforce the payment of the principal installments of and interest on the Series 2022 Bond.

If an Event of Default shall have occurred, the Bondholder may exercise such one or more of the rights and powers conferred by this Section 8.2, including the right to secure specific performance by the Authority of any covenant or agreement herein contained; the right to protect and enforce the rights of the owner of the Series 2022 Bond by suit, action or special proceedings in equity or at law in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy deemed most effectual to protect and enforce such rights; and the right to enforce remedies afforded to the Bondholder, as a third party beneficiary, under the Contract.

No remedy by the terms of this Bond Resolution conferred upon or reserved to the Bondholder is intended to be exclusive of any other remedy, but each and every such remedy shall

be cumulative and shall be in addition to any other remedy given to the Bondholder hereunder or now or hereafter existing at law or in equity.

Section 8.3. Right of Bondholder to Direct Proceedings.

The Bondholder shall have the right to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Bond Resolution, or any other proceedings hereunder, provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Bond Resolution.

Section 8.4. Waiver by Authority.

Upon the occurrence of an Event of Default, to the extent that such rights may then lawfully be waived, neither the Authority, nor anyone claiming through or under it, shall set up, claim or seek to take advantage of any appraisement, valuation, stay, extension or redemption laws of any jurisdiction now or hereafter in force, in order to prevent or hinder the enforcement of this Bond Resolution, and the Authority, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws.

Section 8.5. Application of Moneys.

After payment of the costs and expenses of the proceedings resulting in the collection of moneys and of the expenses, liabilities and advances incurred or made pursuant to any right given or action taken under the provisions of this Article, all moneys received shall be deposited in the Sinking Fund and all moneys in the Sinking Fund shall be applied to or in connection with the payment to the Bondholder in respect of all accrued and unpaid interest, unpaid principal which has become due on the Series 2022 Bond.

Section 8.6. Limitation on Rights and Remedies of Bondholder.

The Bondholder shall not have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Bond Resolution, for the execution of any trust thereof or to enforce any other right or remedy hereunder, unless a default has occurred nor unless also such default shall have become an Event of Default and the Bondholder shall have instituted an action, suit or proceeding in its own name, it being understood and intended that the Bondholder shall not have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Bond Resolution by its action or to enforce any right or remedy hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had, and maintained in the manner herein provided. Nothing in this Bond Resolution contained, however, shall affect or impair the right of the Bondholder to enforce the payment of the principal of and interest on the Series 2022 Bond at and after the maturity thereof, or the obligation of the Authority to pay the principal of and interest on the Series 2022 Bond to the owner thereof at the time, place, from the source and in the manner expressed in the Series 2022 Bond.

Section 8.7. Termination of Proceedings.

In case any proceedings taken by the owner of the Series 2022 Bond on account of any default shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Authority and the owner of the Series 2022 Bond shall

be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the owner of the Series 2022 Bond shall continue as if no such proceedings had been taken.

Section 8.8. No Waiver

No delay or omission of the Bondholder to exercise any right or power accruing upon any default occurring and continuing as aforesaid, shall impair any such default or be construed as an acquiescence therein and every power and remedy given by this Article to the Bondholder may be exercised from time to time and as often as may be deemed expedient.

[END OF ARTICLE VIII]

ARTICLE IX.

SUPPLEMENTAL RESOLUTION; AMENDMENTS TO CONTRACT

Section 9.1. Supplemental Resolutions Not Requiring Consent of Bondholder.

The Authority, without the consent of, or notice to, the Bondholder, may adopt such resolution or resolutions supplemental to this Bond Resolution, as shall be consistent with the terms and provisions hereof, for any one or more of the following purposes: (a) to cure any ambiguity or formal defect or omission or inconsistent provision in this Bond Resolution; (b) to grant to or confer upon the Bondholder any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondholder; and (c) to subject to the lien and pledge of this Bond Resolution additional revenues, properties or collateral.

Section 9.2. Supplemental Resolutions Requiring Consent of Bondholder.

(a) Exclusive of supplemental resolutions covered by this Section 9.1 hereof, and subject to the terms and provisions contained in this Section 9.2, and not otherwise, the Bondholder shall have the right, from time to time, anything contained in this Bond Resolution to the contrary notwithstanding, to consent to and approve, in writing, the adoption by the Authority of such other resolution or resolutions supplemental hereto as shall be deemed necessary and desirable by the Authority for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Bond Resolution or in any supplemental resolution, provided, that without the written consent of the Bondholder the Authority may not adopt any supplemental resolution that has the effect of permitting:

(1) a change in the terms of maturity of the principal installments of the Series 2022 Bond or of any installment of interest thereon;

(2) a reduction in the principal amount or in the rate of interest thereon;
or

(3) the creation of a lien or charge on the Contract Payments ranking prior to or, on a parity with the lien or charge thereon contained in this Bond Resolution.

(b) If at any time the Authority shall seek to adopt any such supplemental resolution for any purposes of this Section, it shall notify the Bond Registrar, and the Bond Registrar shall cause notice of the proposed execution of such supplemental resolution to be mailed by first class mail to the Bondholder, but no failure to mail any such notice nor any defect in any notice shall affect the right of the Authority to effect the validity of such supplemental resolution if all necessary consents are obtained. Such notice shall briefly set forth the nature of the proposed supplemental resolution and shall state that a copy of the same is on file with the Bond Registrar. Upon the adoption of any such supplemental resolution as in this Section 9.2 permitted and provided, this Bond Resolution shall be deemed to be modified and amended in accordance therewith.

(c) Anything herein to the contrary notwithstanding, a supplemental resolution adopted under this Article IX shall not become effective unless and until the City shall have

consented in writing to the adoption and delivery of such supplemental resolution. In this regard, the Authority shall cause notice of the proposed adoption and delivery of any such supplemental resolution to which the City has not already consented, together with a copy of the proposed supplemental resolution and a written consent form to be signed by the City to be hand delivered to the City at least 30 days prior to the proposed date of adoption and delivery of any such supplemental resolution.

Section 9.3. Amendments to Contract Not Requiring Consent of Bondholder.

The Authority and the City without the consent of or prior notice to the Bondholder, may amend the Contract to cure any ambiguity or formal defect or omission or inconsistent provisions of the Contract.

Section 9.4. Amendments to Contract Requiring Consent of Bondholder.

Except for the amendments as provided in Section 9.3 hereof, neither the Authority nor the City may amend the Contract whereby such amendment would operate to affect adversely the interest of the Bondholder unless written consent is obtained of the Bondholder. No such amendment shall ever affect the obligations of the City to make Contract Payments under the Contract.

Section 9.5. Notice of Supplemental Resolutions and Amendments.

To the extent herein not otherwise required, a copy of each supplemental resolution or Contract amendment made or entered into in accordance with the preceding Sections of this Article IX shall be furnished to each of the Authority, the City, and the Bondholder.

Section 9.6. No Notation on Series 2022 Bond Required.

Any supplemental resolution adopted and becoming effective in accordance with the provisions of this Article shall thereafter form a part of this Bond Resolution, and all the terms and conditions contained in any such supplemental resolution as to any provision authorized to be contained therein shall be a part of the terms and conditions of this Bond Resolution and shall be effective as to the Bondholder, and no notation or legend of such modifications and amendments shall be required to be made on the Series 2022 Bond. Any request or consent of the Bondholder shall bind every future Bondholder.

[END OF ARTICLE IX]

ARTICLE X.

MISCELLANEOUS

Section 10.1. Consent of Bondholder.

Any consent, request, direction, approval, objection or other instrument required by this Bond Resolution to be signed and executed by the Bondholder may be in any number of concurrent documents and may be executed by such Bondholder in person or by agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the written appointment of any such agent or the ownership of Series 2022 Bond, if made in the following manner, shall be sufficient for any of the purposes of this Bond Resolution, and shall be conclusive with regard to any action taken under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution; and

(b) The fact of ownership of the Series 2022 Bond and the date of holding the same shall be provided by the registration books of the Authority maintained by the Bond Registrar pursuant to Section 2.5.

Section 10.2. Board of Education.

The Dalton School System exists pursuant to the charter of the City. Pursuant to the Contract, the City has covenanted that the Board of Education shall act on behalf of and shall discharge all obligations of and shall exercise all rights, powers and benefits of the City under this Bond Resolution and the Contract unless otherwise provided by an ordinance of the City.

Section 10.3. Title to Projects.

As provided in the Contract, title to the Projects shall be in the name of the Board of Education.

Section 10.4. Limitation of Rights.

With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Bond Resolution or the Series 2022 Bond is intended or shall be construed to give to any person or company other than the parties hereto and the Bondholder any legal or equitable right, remedy or claim under or with respect to this Bond Resolution or any covenants, conditions and provisions herein contained; this Bond Resolution and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Bondholder as herein provided.

Section 10.5. Sale and Delivery of Series 2022 Bond.

The Series 2022 Bond shall be initially sold to ZMFU II, Inc. (the “Bondholder”) at a purchase price equal to 100% of the par amount of the Series 2022 Bond. There shall be delivered to the Bondholder a properly executed Series 2022 Bond in the original principal amount, maturing and bearing interest as set forth in Section 2.2 hereof and in the form of the Series 2022 Bond in Section 2.8 hereof.

Upon receipt of the purchase price for the Series 2022 Bond, the Chairman of the Authority or his designee is authorized to physically deliver the Series 2022 Bond to the Bondholder, and the Chairman of the Authority or his designee is authorized to execute for and on behalf of the Authority such receipt for the proceeds of the Series 2022 Bond and such other closing certificates and proofs as may be necessary and proper.

Section 10.6. Severability.

In case any one or more of the provisions of this Bond Resolution, or the Series 2022 Bond issued hereunder, shall for any reason be held illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Bond Resolution or the Series 2022 Bond, but this Bond Resolution and the Series 2022 Bond shall be construed and enforced as if such illegal or invalid provisions had not been contained therein.

Section 10.7. Bond Resolution as Contract.

The provisions of this Bond Resolution shall constitute a contract by and among the Authority, the City and the Bondholder, and after the issuance of the Series 2022 Bond this Bond Resolution shall not be repealed or amended in any respect which will adversely affect the rights and interest of the Bondholder, nor shall the Authority pass any proceedings in any way adversely affecting the rights of the Bondholder, so long as the Series 2022 Bond authorized by this Bond Resolution, or the interest thereon, shall remain unpaid; provided, however, that this covenant shall not be construed as prohibiting modifications hereof or amendments hereto to the extent and in the manner as provided in Article IX hereof.

Section 10.8. No Performance Audits or Reviews.

The Authority has determined that the costs of independent performance audits or performance reviews with respect to the Series 2022 Bond and the application of the proceeds thereof are unwarranted, and that no such performance audits or reviews are to be required. Notice to the public of the waiver of such performance audits or reviews is to contain an appropriate statement of such waiver.

Section 10.9. Notice.

All communications provided for herein shall be in writing and shall be sufficiently given and served upon the Authority, the City or the Dalton School System if sent by facsimile with the original to follow by United States registered mail, return receipt requested, postage prepaid (unless otherwise required by the specific provisions hereof in respect of any matter) and addressed as follows:

If to the Authority:

The City of Dalton Building Authority
300 W. Waugh Street
Dalton, Georgia 30722
Attention: Chairman
Facsimile: (706) 529-2491

cc:

Mitchell & Mitchell, PC
108 S. Thornton Ave.
Dalton, Georgia 30720
Attention: Terry L. Miller, Esq.

If to the City:

City of Dalton, Georgia
300 W. Waugh Street
Dalton, Georgia 30722
Attention: Mayor
Facsimile: (706) 529-2491

cc:

Mitchell & Mitchell, PC
108 S. Thornton Ave.
Dalton, Georgia 30720
Attention: Terry L. Miller, Esq.

If to the Board of Education:

City of Dalton Board of Education
300 W. Waugh Street
Dalton, Georgia 30722
Attention: Chairman

cc:

Harben, Hartley & Hawkins LLP
340 Jesse Jewell Parkway SE, Suite 750
Gainesville, Georgia 30501
Attention: Cory Kirby, Esq.

Any party, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 10.10. Payments Due on Saturdays, Sundays, and Holidays.

When the date on which any payment is due hereunder shall not be a Business Day, then such payment may be made on the next succeeding Business Day with the same force and effect as if made on the date fixed for such payment and no additional interest shall accrue because of such payment occurring on said next Business Day.

Section 10.11. Laws Governing Resolution.

The effect and meaning of this Bond Resolution and the rights of all parties hereunder shall be governed by, and construed according to, the laws of the State.

Section 10.12. Captions.

The captions and headings in this Bond Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Bond Resolution.

Section 10.13. Immunity of Members, Officers, and Employees of Authority.

No recourse shall be had for the enforcement of any obligation, covenant, promise or agreement of the Authority contained in this Bond Resolution or in the Series 2022 Bond or for any claim based hereon or otherwise in respect hereof or upon any obligation, covenant, promise or agreement of the Authority contained in the Contract, against any member, officer or employee, as such, in his or her individual capacity, past, present or future, of the Authority or of any successor corporation, either directly or through the Authority or any successor corporation, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly agreed and understood that this Bond Resolution, the Series 2022 Bond, and the Contract are solely corporation obligations, and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer or employee as such, past, present or future, of the Authority or of any successor corporation, either directly or by reason of the obligations, covenants, promises or agreements entered into between and among the Authority and the City to be implied therefrom as being supplemental hereto or thereto, and that all personal liability of that character against every such member, officer and employee is, by the adoption of this Bond Resolution and the Series 2022 Bond, and as a condition of, and as a part of the consideration for, the adoption of this Bond Resolution and execution of the Series 2022 Bond, expressly waived and released. The immunity of members, officers and employees of the Authority under the provisions contained in this Section 10.11 shall survive the termination of this Bond Resolution.

Section 10.14. Repealer.

Any and all ordinances or resolutions or parts of ordinances or resolutions in conflict with this Bond Resolution shall be and the same hereby are repealed, and this Bond Resolution shall be in full force and effect from and after its adoption.

Section 10.15. Actions Approved and Confirmed.

All prior findings and determinations of the Authority with respect to the Series 2022 Bond, and all acts and doings of the officers, agents and employees of the Authority, which are in

conformity with the purposes and intents of this Bond Resolution and in the furtherance of the issuance of the Series 2022 Bond and the execution, delivery and performance of the agreements authorized by this Bond Resolution are, in all respects, approved and confirmed.

[END OF ARTICLE X]

This Bond Resolution adopted by the Authority on the 15th day of August, 2022.

**THE CITY OF DALTON BUILDING
AUTHORITY**

By: _____
Chairman

(SEAL)

Attest:

Secretary

SCHEDULE 1

DEBT SERVICE

Exhibit A

FORM OF CONTRACT

[Attached.]

Exhibit B

FORM OF REQUISITION

Requisition No. _____

_____, 20__

Bank OZK
Dalton, Georgia

Re: Disbursement From Project Fund Relating to City of Dalton Building Authority Revenue Bonds (Dalton Public School System Project), Series 2022

To the Addressee:

The undersigned authorized representative (the “Authorized Representative”) of the Dalton Public School System, on behalf of the City of Dalton Building Authority (the “Authority”) does hereby submit a requisition for a disbursement from the Project Fund established under the Resolution adopted by the Authority on August 15, 2022 (the “Resolution”), relating to the captioned bonds. The amount to be paid, the circumstances of such obligation and the name of the person, firm or corporation to whom payment is due is shown on Schedule 1 attached hereto. In connection with this requisition, the undersigned hereby certifies, as follows:

1. An obligation in the stated amount has been incurred, is a proper charge against the Project Fund and has not been paid.
2. A bill or statement of account for such obligation, or a copy thereof, is attached hereto or is on file in the office of the Finance Officer of the Dalton Public School System or the director of the Authority.
3. The undersigned has no notice of any vendor’s, mechanic’s or other liens or rights to liens, security interests, chattel mortgages, or conditional sales contracts which should be satisfied or discharge before such payment is made.
4. This requisition contains no item representing payment on account or any retained percentages which the Authority, the Dalton Public School System or the City of Dalton, Georgia, is, as of the date of this certification, entitled to retain.
5. Insofar as such obligation was incurred for work, materials, supplies or equipment, such work was actually performed or such materials, supplies or equipment

were actually installed in or about the construction or delivered at the site of the work for that purpose.

This _____ day of _____, 20__.

AUTHORIZED REPRESENTATIVE

By: _____
Authorized Representative

SCHEDULE "1"

Payee

Amount

Purpose

SECRETARY’S CERTIFICATE

The undersigned Secretary of The City of Dalton Building Authority, DOES HEREBY CERTIFY that the foregoing pages constitute a true and correct copy of the resolution adopted by the Authority at an open public meeting duly called and lawfully assembled, on the 15th day of August, 2022, authorizing the issuance of The City of Dalton Building Authority Revenue Bond (Dalton Public School System Project), Series 2022 in the principal amount of \$15,930,000, the original of said resolution being duly recorded in the Minute Book of said Authority, which Minute Book is in my custody and control.

WITNESS my hand and the official seal of The City of Dalton Building Authority, this the 15th day of August, 2022.

Secretary



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 8-15-22
Agenda Item: Intergovernmental Contract
Department: Finance
Requested By: Cindy Jackson
Reviewed/Approved by City Attorney? Jim Woodward (Bond Attorney)
Cost: \$0

Funding Source if Not in Budget

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

Intergovernmental Contract between the City of Dalton and the City of Dalton Building Authority relating to the City of Dalton Building Authority Series 2022 Revenue Bond (Dalton Public School System Project) in the amount of \$15,930,000.

INTERGOVERNMENTAL CONTRACT

by and between

THE CITY OF DALTON BUILDING AUTHORITY

and

CITY OF DALTON, GEORGIA

Dated as of September 1, 2022

Relating to the
\$15,930,000 The City of Dalton Building Authority
Revenue Bond (Dalton Public School System Project),
Series 2022

The rights and interest of The City of Dalton Building Authority (the “Authority”) in the revenues and receipts derived from this Intergovernmental Contract have been assigned and pledged under a Bond Resolution, adopted by the Authority on August 15, 2022.

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INTERGOVERNMENTAL CONTRACT

THIS INTERGOVERNMENTAL CONTRACT (this “Contract”) is entered into as of September 1, 2022, by and between **THE CITY OF DALTON BUILDING AUTHORITY** (the “Authority”), a public body corporate and politic, and the **CITY OF DALTON, GEORGIA** (the “City”), a municipal corporation of the State of Georgia.

WITNESSETH:

WHEREAS, The City of Dalton Building Authority (the “Authority”) is a public body corporate and politic duly created and existing pursuant to an amendment to the Constitution of the State of Georgia (Ga. L. 1968, pages 1466 *et seq.*, as continued by Ga. L. 1986, p. 5547 *et seq.*), duly ratified and proclaimed (the “Amendment”) for the purpose of acquiring, constructing, equipping, maintaining and operating projects embracing buildings and facilities for use by the City of Dalton, Georgia (the “City”), including the Dalton Public School System (the “Dalton School System”), for its governmental, proprietary and administrative functions; and the Authority is now existing and operating and its members have been duly appointed and entered into their duties; and

WHEREAS, the Dalton School System exists pursuant to the charter of the City and is governed by the City of Dalton Board of Education (the “Board of Education”) pursuant to the City’s charter; and

WHEREAS, under the Amendment and the Revenue Bond Law (O.C.G.A. § 36-82-60 *et seq.*, as amended), the Authority has the power (a) to issue revenue bonds and use the proceeds thereof for the purpose of paying all or part of the cost of any “project” or “undertaking” (as authorized by the Amendment or the Revenue Bond Law), including the acquisition, construction and improvement of buildings and facilities for use by the Dalton School System; and (b) to make and execute contracts and other instruments necessary to exercise the powers of the Authority; and

WHEREAS, pursuant to the Amendment, the Authority and the City are authorized to enter into contracts pertaining to public facilities and related equipment for use by the City, for terms not exceeding fifty (50) years for their governmental, proprietary or administrative functions; and

WHEREAS, the Authority proposes to issue its Revenue Bonds (Dalton Public School System Project), Series 2022, in the principal amount of \$15,930,000 (the “Series 2022 Bond”) for the purposes of (i) providing funds to finance certain capital outlay projects for the Dalton School System consisting of the following: adding to, renovating, repairing, improving, equipping, acquiring, and furnishing existing school buildings or other buildings or facilities useful or desirable in connection therewith, including, but not limited to, Roan School, Westwood School, Park Creek School and Fort Hill; acquiring land; acquiring new technology, safety and security equipment and other school equipment, including band instruments; acquiring, constructing and equipping new school buildings and facilities, including but not limited to educational/athletic facilities; acquiring any property necessary or desirable therefor, both real and personal; and purchasing school buses and service vehicles (collectively, the “Projects”) and (ii) paying the costs

of issuing the Series 2022 Bond; and

WHEREAS, the Series 2022 Bond will be issued pursuant to the Amendment, the Revenue Bond Law, and a resolution of the Authority adopted on August 15, 2022 (the “Bond Resolution”); and

WHEREAS, it is proposed that the Authority and the City should enter into this Contract, pursuant to which the Authority will agree to issue the Series 2022 Bond to provide funds to finance the Projects, and the City, in consideration of the Authority’s doing so, will agree to make payments to the Authority in amounts sufficient to pay the principal of and interest on the Series 2022 Bond (the “Contract Payments”); and

WHEREAS, the Authority, the City and the Dalton School System have made a finding of fact that the Projects are in the public interest and are projects in furtherance of the Authority’s purpose and mission under the Amendment and the Revenue Bond Law; and

WHEREAS, the Series 2022 Bond shall contain such terms and provisions as provided in the Bond Resolution.

NOW, THEREFORE, in consideration of the premises and undertakings as hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1.

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1. Definitions

In addition to the words and terms elsewhere defined in this Contract and the Bond Resolution, the following words and terms as used in this Contract shall have the following meanings unless the context or use indicates another or different meaning or intent and such definitions shall be equally applicable to both the singular and plural forms of the words and terms herein defined:

“State” shall mean the State of Georgia.

“Term” shall have the meaning specified in Section 4.1 hereof.

Section 1.2. Rules of Construction.

The definitions referred to in Section 1.1 shall be equally applicable to both the singular and the plural forms of the terms therein defined and shall cover all genders. “Herein,” “hereby,” “hereunder,” “hereof,” “hereinbefore,” “hereinafter,” “this Contract” and other equivalent words refer to this Contract and not solely to the particular portion thereof in which any such word is used. All references herein to particular Articles or Sections are references to Articles or Sections of this Contract unless otherwise specified.

[END OF ARTICLE I]

ARTICLE 2.

REPRESENTATIONS, WARRANTIES AND AGREEMENTS

Section 2.1. Representations, Warranties and Agreements of the Authority.

The Authority makes the following representations, warranties and agreements as the basis for the undertakings on its part herein contained:

(a) The Authority is a public body corporate and politic duly created, organized and existing under the Constitution and laws of the State, including the Amendment, and, unless otherwise required by law, shall maintain its corporate existence so long as the Series 2022 Bond is outstanding. Under the provisions of the Amendment, the Authority is authorized to (i) adopt the Bond Resolution, (ii) issue, execute, deliver and perform its obligations under the Series 2022 Bond, and (iii) execute, deliver and perform its obligations under this Contract. The Bond Resolution has been duly adopted and has not been modified or repealed. The Authority has duly authorized (i) the issuance, execution, delivery and performance of the Series 2022 Bond and (ii) the execution, delivery and performance of this Contract. The Bond Resolution, the Series 2022 Bond and this Contract are valid, binding and enforceable obligations of the Authority.

(b) The Authority has determined that the Projects are projects in furtherance of the Authority's purpose and mission under the Amendment.

(c) No approval or other action by any governmental authority or agency or other person is required in connection with the (i) issuance of the Series 2022 Bond, (ii) financing of the Projects, or (iii) execution, delivery and performance of this Contract by the Authority, except as shall have been obtained as of the date hereof; provided, however, no representation is given with respect to any "blue sky" laws.

(d) The adoption of the Bond Resolution, the issuance of the Series 2022 Bond and the authorization, execution, delivery and performance by the Authority of this Contract do not violate the Amendment, the Authority's bylaws, any resolutions or ordinances of the City, or the laws or Constitution of the State and do not constitute a breach of or a default under any existing court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(e) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the Authority, threatened against or affecting the Authority (or, to the knowledge of the Authority, any meritorious basis therefor) (i) attempting to limit, enjoin or otherwise restrict or prevent the Authority from issuing the Series 2022 Bond, pledging the Contract Payments and this Contract to the payment of the Series 2022 Bond, or financing the Projects, (ii) contesting or questioning the existence of the Authority or the titles of the present officers of the Authority to their offices or (iii) wherein an unfavorable decision, ruling or finding would (A) adversely affect the enforceability of the Series 2022 Bond, the

Bond Resolution or this Contract or (B) materially adversely affect the transactions contemplated by this Contract.

(f) The Authority is not in violation of the Amendment, its bylaws, any resolutions or ordinances of the City or the laws or Constitution of the State and is not in default under any existing court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(g) The Authority has not made, done, executed or suffered, and warrants that it will not make, do, execute or suffer any act or thing whereby the City's interest in the Projects will or may be, impaired or encumbered in any manner except as permitted herein and the Bond Resolution and except for acts or things done or permitted by the City.

(h) Except as herein and in the Bond Resolution provided, the Authority will not encumber any part of its interest in the Contract Payments or its rights under this Contract. The pledge made of the Contract Payments constitutes a first and prior pledge of and lien on said Contract Payments and said pledge shall at no time be impaired by the Authority and the Contract Payments shall not otherwise be pledged.

Section 2.2. Representations, Warranties and Agreements of the City.

The City makes the following representations, warranties and agreements as the basis for the undertaking on its part herein contained:

(a) The City is a municipal corporation duly created and organized under the Constitution and laws of the State. Under the Constitution and laws of the State, including the Amendment, the City is authorized to execute, deliver and perform its obligations under this Contract. The City has duly authorized the execution, delivery and performance of this Contract. This Contract is a valid, binding and enforceable obligation of the City.

(b) There exists a need in the City to promote and expand for the public good and general welfare certain facilities for the Dalton School System, so as to serve the public purposes for which the Dalton School System was created.

(c) The City has determined that the Projects are in the public interest.

(d) Pursuant to the Amendment, the Authority and the City are authorized to enter into contracts pertaining to public facilities owned and operated by the City on behalf of the Dalton School System for terms not exceeding fifty (50) years.

(e) The City has determined that it is willing to enter into this Contract and, to the extent necessary, make payments from the proceeds of an ad valorem tax, up to fourteen mills, levied as a part of the taxes requested by the Board of Education for the Dalton School System against all taxable property within the City to achieve the public purposes provided herein.

(f) No approval or other action by any governmental authority or agency or other person is required in connection with the (i) acquisition, construction and equipping of the Projects or (ii) execution, delivery and performance of this Contract by the City, except as shall have been obtained as of the date hereof.

(g) The authorization, execution, delivery and performance by the City of this Contract do not violate the laws or Constitution of the State and do not constitute a breach of or a default under any existing resolution or ordinance, court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(h) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the City, threatened against or affecting the City (or, to the knowledge of the City, any meritorious basis therefor) (i) attempting to limit, enjoin or otherwise restrict or prevent the City from (A) collecting ad valorem taxes and using it to make the Contract Payments or (B) acquiring, constructing and equipping the Projects, (ii) contesting or questioning the existence of the City or the titles of the present officers of the City to their offices or (iii) wherein an unfavorable decision, ruling or finding would (A) adversely affect the enforceability of this Contract or (B) materially adversely affect (1) the financial condition or results of operations of the City or (2) the transactions contemplated by this Contract.

(i) The City is not in violation of the laws or the Constitution of the State and is not in default under any existing resolution or ordinance, court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

[END OF ARTICLE II]

ARTICLE 3.

ISSUANCE OF SERIES 2022 BOND; APPLICATION OF BOND PROCEEDS; CONSTRUCTION

Section 3.1. Agreement to Issue the Series 2022 Bond.

In order to provide funds, as provided in the Bond Resolution to finance the Projects and pay the costs incident thereto, the Authority, in accordance with the Amendment, will issue the Series 2022 Bond, and all of the covenants, agreements and provisions hereof shall, to the extent provided herein and in the Bond Resolution, be for the benefit and security of the Bondholder. The Authority has delivered a certified copy of the Bond Resolution to the City.

Section 3.2. Date, Denomination, and Maturities.

The Series 2022 Bond will be issued in fully registered form and will mature and be paid pursuant to the provisions of Article II of the Bond Resolution. Interest on the Series 2022 Bond will be paid to the person or persons and in the manner stated in the Series 2022 Bond and in the Bond Resolution, until the obligation of the Authority with respect to the payment of the principal of and interest on the Series 2022 Bond shall be discharged in accordance therewith.

Section 3.3. Obligations Relating to the Series 2022 Bond.

The City agrees to perform all such obligations as are contemplated by the Bond Resolution to be performed by the City.

Section 3.4. Application of Bond Proceeds.

At and upon the delivery of and payment for the Series 2022 Bond, the proceeds received therefrom shall be applied in the manner set forth in Section 3.2 of the Bond Resolution.

Section 3.5. Agreement to Acquire, Construct and Equip the Projects.

Subject to Section 3.7 hereof, the Authority hereby appoints the City as its sole and exclusive agent to proceed forthwith with acquiring, constructing and equipping the Projects. The City shall obtain or cause to be obtained all necessary approvals from any and all governmental agencies requisite to undertaking the acquisition, construction and equipping of the Projects. The Projects shall be acquired, constructed and equipped in compliance with all federal, state and local laws, ordinances and regulations applicable thereto. The City will take or cause to be taken such action and institute or cause to be instituted such proceedings as it shall deem appropriate to cause and require all contractors and suppliers of materials to complete their contracts, including the correcting of any defective work. Any amounts recovered by way of damages, refunds, adjustments or otherwise in connection with the foregoing shall (i) if the City has corrected at its own expense the matter which gave rise to such default or breach, be paid to the City or (ii) if the City has not corrected at its own expense the matter which gave rise to such default or breach, be paid into the Project Fund.

Section 3.6. Disbursements from the Project Fund.

The moneys credited to the Project Fund from the sale of the Series 2022 Bond shall be used and applied only for the purpose of paying the cost of the Projects. All payments from the Project Fund shall be made upon the terms and conditions set forth in the Bond Resolution. The Dalton School System shall prepare the requisitions and certificates required by the Bond Resolution, a form of such requisition being attached as Exhibit B to the Bond Resolution.

Section 3.7. Establishment of Completion Date.

At such time the Projects are completed (the “Completion Date”), a duly authorized representative of the Dalton School System shall provide a signed certificate to the Project Fund Depository stating that, except for amounts retained by the Project Fund Depository at the City’s direction to pay any cost of the Projects not then due and payable, (a) the Projects have been completed and all costs of labor, services, materials and supplies have been paid, and (b) all other facilities necessary in connection with the Projects have been acquired, constructed and equipped and all costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate shall state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. Upon receipt of such certificate, the Project Fund Depository shall retain in the Project Fund a sum equal to the amounts necessary for payment of the costs of the Projects not then due and payable according to such certificate. If any such amounts so retained are not subsequently used, prior to any transfer of such amounts to the Sinking Fund, the Project Fund Depository shall give notice to the Authority and the City of the failure to apply such funds for payment of the costs of the Projects. Any amount not to be retained in the Project Fund for payment of the costs of the Projects, and all amounts so retained but not subsequently used, shall be transferred by the Project Fund Depository into the Sinking Fund and shall be used to pay principal of and interest on the Series 2022 Bond.

Section 3.8. Completion of Projects if Project Fund Insufficient.

In the event moneys in the Project Fund available for payment of the costs of the Projects are not sufficient to pay the costs of the Projects in full, the City shall use its best efforts to cause the Projects to be completed and the City shall pay that portion of the cost of the Projects in excess of the moneys available therefor in the Project Fund.

Section 3.9. Investment of Moneys.

Any moneys held as a part of the Project Fund shall be invested or reinvested as directed by the City in accordance with Article III of the Bond Resolution. Any moneys held as a part of the Sinking Fund shall be invested or reinvested as directed by the City in accordance with Article V of the Bond Resolution.

Section 3.10. Board of Education.

The Dalton School System exists pursuant to the charter of the City. The City hereby covenants that the Board of Education shall act on behalf of and shall discharge all obligations of and shall exercise all rights, powers and benefits of the City under this Contract and the Bond Resolution unless otherwise provided by an ordinance of the City.

[END OF ARTICLE III]

ARTICLE 4.

EFFECTIVE DATE OF THIS CONTRACT; DURATION OF TERM; CONTRACT PAYMENT PROVISIONS

Section 4.1. Effective Date of this Contract; Duration of Term.

This Contract shall become effective as of September 1, 2022 and the interests created by this Contract shall then begin, and, subject to the other provisions of this Contract, shall expire on the later of (a) February 1, 2028, or if at said time and on said date the Series 2022 Bond have not been paid in full as to principal and interest, then on such date as such payment shall have been made or (b) the date the Series 2022 Bond have been paid in full, but in no event in excess of fifty (50) years from the date hereof. Notwithstanding the foregoing, the provisions of Sections 8.1 and 8.2 hereof shall expire fifty (50) years from the date hereof.

Section 4.2. Contract Payments.

At least twenty-five (25) days prior to each February 1 and August 1 of each year (each a “Contract Payment Date”), commencing August 1, 2023, the City shall make the Contract Payments with respect to the Series 2022 Bond to the Authority as set forth on Schedule 1 attached hereto. Notwithstanding anything in the Bond Resolution or herein to the contrary, if such date is on or prior to February 1, the City shall pay an amount sufficient to enable the Authority to pay in full the principal and interest on the Series 2022 Bond coming due on February 1, and if such date is on or prior to August 1, the City shall pay an amount sufficient to enable the Authority to pay in full the interest on the Bond coming due on August 1, and such Contract Payments shall continue and recontinue until provision has been made for the payment in full of the Series 2022 Bond as to principal and interest. The Contract Payments provided for herein shall be made by payment directly to the Sinking Fund Custodian for deposit into the Sinking Fund.

Section 4.3. Optional Prepayment of Series 2022 Bond and Optional Prepayment of Contract Payments.

(a) The Series 2022 Bond shall be subject to optional redemption, in whole or in part, as provided in the Bond Resolution, and the Contract Payments due under Section 4.2 shall be subject to prepayment, both at the option of the City.

(b) No prepayment of any Contract Payment in accordance with the provisions of the preceding sentence shall relieve the City to any extent from its obligations thereafter to make Contract Payments required by the provisions hereof until the Series 2022 Bond and interest thereon have been paid in full. Upon the prepayment of the Contract Payments in whole, the amount of such prepayment shall be used to retire the Series 2022 Bond, in the manner provided in, and subject to, the Bond Resolution.

Section 4.4. Budget and Tax Levy to Pay Contract Payments.

(a) The obligations of the City to make the Contract Payments when due under Section 4.2 hereof, and to perform its other obligations hereunder, are absolute and unconditional general obligations of the City as herein provided, and the City hereby pledges its full faith and credit and taxing power to such payment and performance, subject to the millage limitation

discussed below. In the event the amount of funds lawfully available to the City is not sufficient to pay the Contract Payments when due in any year, the City shall levy as part of the taxes levied at the request of the Board of Education for the Dalton School System an annual tax on all taxable property located within the boundaries of the City, at such rates or rates, limited to fourteen mills, as may be necessary to produce in each calendar year revenues which shall be sufficient to fulfill the City's obligations hereunder, from which revenues there shall be appropriated, prior to any other appropriations with respect to the Projects, sums sufficient to pay in full when due the obligations herein contracted to be paid by the City including specifically the obligation to make the Contract Payments as provided herein. The City hereby creates a lien on any and all revenues realized by it pursuant to the provisions of this subparagraph to enable it to make the Contract Payments required pursuant to Section 4.2 hereof and such lien is superior to any that can hereafter be made.

(b) The City further covenants and agrees that in order to make funds available for such purpose, it will, in its general revenue, appropriation and budgetary measures whereby its tax funds or revenues and the allocation thereof are controlled or provided for, include sums sufficient to satisfy any such Contract Payments that may be required to be made, whether or not any other sums are included in such measure, until all payments so required to be made shall have been made in full. The obligation of the City to make the Contract Payments shall constitute a general obligation of the City, and nothing herein contained, shall be construed as limiting the right of the City to make the payments called for by this Contract out of any funds lawfully available to it for such purposes, from whatever source derived (including general funds).

(c) In the event for any reason any such provision or appropriation is not made as provided in the preceding subsection (b), then the fiscal officers of the City are hereby authorized and directed to set up as an appropriation on their accounts in the appropriate fiscal year the amounts required to pay the obligations which may be due from the general funds of the City. The amount of such appropriation shall be due and payable and shall be expended for the purpose of paying any such obligations, and such appropriation shall have the same legal status as if the City had included the amount of the appropriation in its general revenue, appropriation and budgetary measures, and the fiscal officers of the City shall make such Contract Payments to the Sinking Fund Custodian for deposit to the Sinking Fund if for any reason the payment of such obligations shall not otherwise have been made.

Section 4.5. Obligations of City Hereunder Absolute and Unconditional.

The obligations of the City to make the payments required in Section 4.2 hereof and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be absolute and unconditional irrespective of any defense or any rights of set off, recoupment, or counterclaim it may otherwise have against the Authority. Until such time as all amounts owing hereunder have been paid or provision for the payment thereof shall have been made in accordance with the Bond Resolution and hereof, the City (a) will not suspend, abate, reduce, abrogate, diminish, postpone, modify or discontinue the Contract Payments provided for herein, (b) will perform and observe all of its other agreements contained in this Contract, and (c) will not terminate the Term of this Contract or its obligations hereunder for any contingency, act of God, event, or cause whatsoever, including, without limiting the generality of the foregoing, failure of title in and to the Projects, or any part thereof, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to

the Projects, the taking by eminent domain of title to or the use of all or any part of the Projects, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either, any declaration or finding that the Series 2022 Bond is unenforceable or invalid, the invalidity of any provision of this Contract, or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Contract, or the Bond Resolution. Nothing contained in this Section shall be construed to release the Authority from the performance of any of the agreements on its part contained herein or in the Bond Resolution; and if the Authority should fail to perform any such agreement, the City may institute such action against the Authority as the City may deem necessary to compel performance or recover its damages for nonperformance as long as such action shall not do violence to or adversely affect the agreements on the part of the City contained in this Contract and to make the Contract Payments specified herein. The City may, however, at its own cost and expense and in its own name, prosecute or defend any action or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure or protect its rights hereunder, and in such event the Authority hereby agrees to cooperate to the extent required.

Section 4.6. Enforcement of Obligations.

The obligation of the City to make Contract Payments under this Article may be enforced by (a) the Authority, (b) the owner of the Series 2022 Bond, in accordance with the applicable provisions of the Bond Resolution and independently of the Authority or (c) such receiver or receivers as may be appointed pursuant to the Bond Resolution or applicable law. The covenants and agreements hereunder, including specifically the obligation to make the Contract Payments, shall be enforceable by specific performance; it being acknowledged and agreed by the Authority and the City that no other remedy at law is adequate to protect the interests of the parties hereto.

[END OF ARTICLE IV]

ARTICLE 5.

OWNERSHIP; AND COVENANTS OF THE CITY AND AUTHORITY

Section 5.1. Operation of the Projects and Operating Expenses.

Subject to Section 3.10 hereof, the Authority hereby appoints the City as its sole and exclusive agent during the Term hereof to operate the Projects. The City shall operate and maintain such Project or cause such Project to be operated and maintained economically, efficiently and in accordance with good business practices and in compliance with the terms of the laws, regulations and ordinances of any federal, state, county or municipal government having jurisdiction over the operation of such facilities. All compensation, salaries, fees and wages paid or caused to be paid by the City shall be reasonable, and no more persons will be employed to operate such Project than are necessary. The City shall at all times maintain such Project or cause such Project to be maintained in good condition and repair and shall promptly repair, replace or restore any damage to such Project or cause the proceeds from insurance from such damage or destruction to be applied in accordance with the terms hereof.

Neither the Authority nor the City shall receive any revenues from the operation of the Projects.

Section 5.2. Liens; Easements; Leases; Sale of Assets.

The City and the Authority shall not create or suffer to be created, any lien, security interest or charge on the Projects, or any part thereof, and they shall pay, or cause to be discharged, or they shall make adequate provisions to satisfy and discharge, within 60 days after the same shall accrue, all lawful claims and demands for labor, materials, supplies or other objects, which, if unpaid, might by law become a lien upon the Projects, or any part thereof; provided, however, that nothing contained in this Section shall require the City or the Authority to pay, or cause to be discharged, or make provision for, any such lien, security interest or charge, so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

At the direction of the Board of Education, the City and the Authority may grant or cause to be granted, whether to themselves or otherwise, easements, licenses, rights-of-way (temporary or perpetual and including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property included in the Projects, or the City may cause to be released existing easements, licenses, rights-of-way and other rights or privileges in the nature of easements, held with respect to any property included in the Projects with or without consideration. In connection with any such grant, the City agrees that its shall execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or assent.

The Authority or the City may sell, lease or give away all or a portion of the Projects at the direction of the Board of Education. Prior to such conveyance, the Authority shall obtain an opinion of nationally recognized bond counsel to the effect that such sale, lease or gift will not adversely affect the tax-exempt status of the Series 2022 Bond. If such sale, lease (or any amendment to any such lease) or gift adversely affects the tax-exempt status of the Series 2022 Bond, prior to such sale, lease or gift, the Series 2022 Bond shall be subject to mandatory

redemption pursuant to the terms of the Bond Resolution, and the proceeds from any such sale shall be used by the Authority and the City to redeem the Series 2022 Bond pursuant to Section 3.2 of the Bond Resolution.

Section 5.3. Use of Proceeds and Specific Tax Covenants.

The Series 2022 Bond is being issued by the Authority in compliance with the conditions necessary for interest income on the Series 2022 Bond to be excluded from gross income for federal income tax purposes pursuant to the provisions of Section 103(a) of the Code relating to obligations of the State or political subdivisions thereof. It is the intention of the Authority and the City that the interest on the Series 2022 Bond be and remain excludable from gross income for federal income tax purposes, and, to that end, the City hereby covenants with the holders of the Series 2022 Bond as follows:

(a) That it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the tax exempt status of interest on the Series 2022 Bond under Section 103 of the Code.

(b) That it will not directly or indirectly use or permit the use of any of the proceeds of the Series 2022 Bond or take or omit to take any action in a way that would cause the Series 2022 Bond to be (i) “private activity bonds” within the meaning of Section 141 of the Code or (ii) obligations which are “federally guaranteed” within the meaning of Section 149(b) of the Code.

(c) That it will not directly or indirectly use or permit the use of any proceeds of the Series 2022 Bond or any other funds of the City or take or omit to take any action that would cause the Series 2022 Bond to be “arbitrage bonds” within the meaning of Section 148 of the Code. To that end, the City will comply with all requirements of Section 148 of the Code and any regulations promulgated thereunder to the extent applicable to the City. In the event that at any time the City or the Authority is of the opinion that for purposes of this Section it is necessary to restrict or limit the yield on the investment of any moneys held under the Resolution, the Authority and the City shall take such action as may be necessary to effect the same.

Section 5.4. Arbitrage Covenants.

The City shall not, subsequent to the date of the issuance and delivery of the Series 2022 Bond, intentionally use any portions of the proceeds of the Series 2022 Bond to acquire higher yielding investments, or to replace funds which were used directly or indirectly to acquire higher yielding investments, except as may otherwise be permitted by the Code, including, but not limited to, complying with the requirements of Section 148(f) of the Code and the payment of rebate, if any, required to be made by the Authority, and that it will expend the proceeds of the Series 2022 Bond in compliance with the applicable provisions of Section 141 to 149, inclusive, of the Code.

Section 5.5. Records and Accounts.

The Authority and the City shall keep the funds and accounts of the Projects separate from all other funds and accounts of the Authority and the City. The City shall keep accurate records

and accounts of all items of cost and all expenditures relating to the Projects, and of the revenues collected and the application thereof. Such records and accounts shall be open to the inspection of the Authority and the Bondholders.

Section 5.6. Indemnification.

The City agrees that the Authority (including any person at any time serving as a commissioner, an agent or an employee of the Authority) shall not be liable for, and agrees to indemnify and hold the Authority (including any person at any time serving as an officer or member of the Authority) harmless (including attorneys' fees) from: (i) any liability for any loss or damage to property or any injury to, or death of, any person that may be occasioned by any cause whatsoever pertaining to the Projects, (ii) any liabilities, losses or damages, or claims therefor, arising out of the failure, or claimed failure, of the City to comply with its covenants contained in this Contract, (iii) the work done on the Projects or the operation of the Projects during the term of this Contract or at any other time, (iv) any willful act or act of negligence of the City or any of its agents, contractors, servants or employees in connection with the use, operation or occupancy of the Projects, (v) any violation of law, ordinance or regulation affecting the Projects or any part thereof or the ownership, occupancy or use thereof (including, without limitation, CERCLA, the Hazardous Materials Transportation Amendment, The Resource Conservation and Recovery Amendment, the Toxic Substances Control Amendment, the Clean Water Amendment or any so-called "Super Fund" or "Super Lien" legislation), (vi) any condition of the Projects, or (vii) any accident, injury or damage whatsoever caused to any person, firm or corporation, in or about the Projects. In addition, the City agrees to indemnify and hold the Authority (including any person at any time serving as a member, an agent or an employee of the Authority) harmless to the fullest extent permitted by law from any losses, costs, charges, expenses, judgments and liabilities incurred by it in connection with any action, suit or proceeding instituted or threatened in connection with the transactions contemplated by this Contract or the Series 2022 Bond. If any such claim is asserted, the Authority or any individual indemnified herein, as the case may be, will give prompt written notice to the City, and the City will promptly assume the defense thereof, including the employment of counsel and payment of all expenses of such defense, with full power to litigate, compromise or settle the same in its sole discretion; provided that the Authority shall have the right to approve in writing all counsel engaged by the City to conduct such defense, which approval shall not be unreasonably withheld.

The Authority shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the City shall not be required to pay the fees and expenses of such separate counsel unless the separate counsel is employed with the approval of the City. The City shall not unreasonably withhold its approval of such separate counsel.

[END OF ARTICLE V]

ARTICLE 6.

SPECIAL COVENANTS AND AGREEMENTS

Section 6.1. No Warranty of Condition or Suitability by the Authority

THE AUTHORITY MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE CONDITION OR WORKMANSHIP OF ANY PART OF THE PROJECTS OR THEIR SUITABILITY.

Section 6.2. Inspection of the Projects.

The City and the Dalton School System agree that the Authority, the Bondholder and their duly authorized agents who are acceptable to the Authority shall have the right at reasonable times during business hours, subject to the City's or the Dalton School System's usual safety and security requirements to examine and inspect the Projects without interference or prejudice to the City's or the Dalton School System's operations.

Section 6.3. Further Assurances and Corrective Instruments, Recordings and Filings.

The Authority and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required to facilitate the performance of this Contract.

Section 6.4. Limitations on Future Debt.

The Authority and the City covenant and agree that, other than the Series 2022 Bond, no other bonds or obligations of any kind or nature will be issued which are payable or enjoy a lien on the payments received under the Contract.

[END OF ARTICLE VI]

ARTICLE 7.

EVENTS OF DEFAULT AND REMEDIES

Section 7.1. Events of Default Defined.

The following shall be “events of default” under this Contract and the term “event of default” shall mean, whenever used in this Contract, any one of the following events:

(a) Failure by the City to pay when due any amount required to be paid under Section 4.2 hereof;

(b) The City shall fail to perform any of the other agreements, conditions, covenants or terms herein required to be performed by the City and such default shall continue for a period of 30 days after written notice has been given to the City by the Authority, the Paying Agent or the Bondholder specifying such default and requesting that it be remedied, or within a greater number of days if such remedy has been undertaken and is being diligently pursued and more than 30 days is required for its completion; provided, however, that if, by reason of force majeure, the City is unable, in whole or in part, to perform the obligations on its part herein undertaken (other than the obligations relating to the payments to be made under Section 4.2 hereof), the City shall not be deemed in default during the continuance of such inability to perform. The term force majeure shall mean, without limitation, acts of God; strikes; work stoppages or similar disturbances; acts of public enemies; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes, fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery or equipment; partial or entire failure of utilities, or any other cause or event not reasonably within the control of the City. The City will use its best efforts, however, to remedy, with all reasonable dispatch, the cause or causes preventing the City from carrying out such obligation; provided, that the settlement of strikes, work stoppages and similar disturbances shall be entirely within the discretion of the City and the City shall not be required to make settlement of such disturbances by acceding to the demands of the opposing party or parties when such course is, in the judgment of the City, unfavorable to the City; and

(c) An Event of Default shall have occurred under the Bond Resolution.

Section 7.2. Remedies on Default.

(a) If an event of default referred to in Section 7.1(a) hereof occurs and is continuing, then the Bondholder (i) by written notice to the City, may declare the payments to be made under Section 4.2 hereof to be immediately due and payable, and (ii) may take whatever action at law or in equity may appear necessary or desirable to collect said amounts payable by the City under Section 4.2 hereof. No remedy conferred upon or reserved to the Bondholder in this subsection (a) is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Contract or now or hereafter existing at law or in equity or by statute, subject to the provisions

of the Bond Resolution.

(b) If an event of default referred to in Section 7.1(b) hereof occurs and is continuing, then the Paying Agent or the Bondholder, by written notice to the City, may take whatever action at law or in equity may appear necessary or desirable to enforce the performance and observance of the obligation, agreement or covenant of the City then in default under this Contract, whether for specific performance of any covenant or agreement contained herein or therein or in aid of the execution of any power herein granted. No remedy conferred upon or reserved to the Bondholder in this subsection (b) is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Contract and now or hereafter existing at law or in equity or by statute, subject to the provisions of the Bond Resolution.

No delay or omission to exercise any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Bondholder to exercise any respective remedy reserved to them in this Article VII, it shall not be necessary to give any notice, other than any notice required herein.

Any amounts collected pursuant to action taken under subsection (a) of this Section 7.2 shall be applied in accordance with the Bond Resolution to the extent the provisions of the Bond Resolution relate to such amounts.

Section 7.3. No Waiver of Breach.

In the event any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 7.4. City Authorized to Cure Default of Authority.

With regard to any default on the part of the Authority under this Contract or under the Bond Resolution, the Authority hereby vests the City, with full power, for the account of the Authority, to perform any obligation in remedy of such default in the name and stead of the Authority with full power to do any and all things and acts to the same extent that the Authority could do and perform any such acts.

Section 7.5. Failure to Enforce Agreement Not a Waiver.

The failure of the Authority or the Bondholder to enforce any agreement, condition, covenant or term by reason of any default or breach by the City shall not be deemed to void or affect the right to enforce the same agreement, condition, covenant or term on the occasion of any subsequent default or breach.

[END OF ARTICLE VII]

ARTICLE 8.

MISCELLANEOUS

Section 8.1. Agreement to Pay Attorneys' Fees and Expenses.

If a party should default under any of the provisions of this Contract and either or both the nondefaulting party or the Bondholder should employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the City or the Authority herein contained, the defaulting party agrees that it shall on demand therefor pay to the nondefaulting party and the Bondholder the reasonable fee of such attorneys and such other reasonable expenses so incurred by the nondefaulting party and the Bondholder.

Section 8.2. Reporting Requirements.

The City shall furnish to the Bondholder its audited financial statements within 210 days of the end of each fiscal year.

Section 8.3. Notices.

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

If to the Authority:

The City of Dalton Building Authority
300 W. Waugh Street
Dalton, Georgia 30722
Attention: Chairman
Facsimile: (706) 529-2491

cc:

Mitchell & Mitchell, PC
108 S. Thornton Ave.
Dalton, Georgia 30720
Attention: Terry L. Miller, Esq.

If to the City:

City of Dalton, Georgia
300 W. Waugh Street
Dalton, Georgia 30722
Attention: Mayor
Facsimile: (706) 529-2491

cc:

Mitchell & Mitchell, PC
108 S. Thornton Ave.
Dalton, Georgia 30720
Attention: Terry L. Miller, Esq.

Any party, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 8.4. Binding Effect; Third-Party Beneficiaries.

This Contract shall inure to the benefit of and shall be binding upon the Authority, the City and their respective successors and assigns, subject, however, to the limitations contained in this Contract. The Bondholder is a third-party beneficiary of this Contract, and may enforce the terms and provisions hereof. There are no other third-party beneficiaries.

Section 8.5. Severability

If any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.6. Amounts Remaining in Sinking Fund.

It is agreed by the parties hereto that, subject to and in accordance with the terms and conditions of the Bond Resolution certain surplus moneys remaining in the Sinking Fund after payment of the Series 2022 Bond shall belong to and be paid to the City.

Section 8.7. Amendments, Changes and Modifications.

This Contract may be amended without the consent of the Bondholder in order to grant any additional rights, remedies, powers, authority or security that may be lawfully granted to or conferred upon the Bondholder or to make any other change that does not materially adversely affect the Bondholder. All other amendments shall require the consent of the Bondholder in accordance with Section 9.4 of the Bond Resolution. Notwithstanding the foregoing, this Contract shall not be amended if such amendment reduces the Contract Payments.

Section 8.8. Execution Counterparts.

This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8.9. Captions.

The captions and headings in this Contract are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Contract.

Section 8.10. Law Governing Contract.

This Contract shall be governed by, and construed in accordance with, the laws of the State of Georgia.

Section 8.11. City a Party to Validation.

The City hereby agrees to be a party defendant in the validation proceedings related to the Series 2022 Bond and covenants and agrees that it shall cooperate with the Authority in validating the Series 2022 Bond and in connection therewith, shall execute such certificates, consent to service of process and make sworn answers as may be necessary for the validation proceedings.

[END OF ARTICLE VIII]

IN WITNESS WHEREOF, the Authority and the City have caused this Contract to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers, all as of the date first above written.

**THE CITY OF DALTON BUILDING
AUTHORITY**

(SEAL)

By: _____
Chairman

Attest:

Secretary

CITY OF DALTON, GEORGIA

(SEAL)

By: _____
Mayor

Attest:

Clerk

SCHEDULE 1

SERIES 2022 BOND
CONTRACT PAYMENTS

Bond Debt Service
The City of Dalton Building Authority (Georgia)
Revenue Bond (Dalton Public School System Project), Series 2022
Final Numbers

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
8/1/2023			\$389,780.55	\$389,780.55	
2/1/2024	\$2,880,000	2.770%	220,630.50	3,100,630.50	\$3,490,411.05
8/1/2024			180,742.50	180,742.50	
2/1/2025	3,130,000	2.770%	180,742.50	3,310,742.50	3,491,485.00
8/1/2025			137,392.00	137,392.00	
2/1/2026	3,215,000	2.770%	137,392.00	3,352,392.00	3,489,784.00
8/1/2026			92,864.25	92,864.25	
2/1/2027	3,305,000	2.770%	92,864.25	3,397,864.25	3,490,728.50
8/1/2027			47,090.00	47,090.00	
2/1/2028	3,400,000	2.770%	47,090.00	3,447,090.00	3,494,180.00
	\$15,930,000		\$1,526,588.55	\$17,456,588.55	\$17,456,588.55



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 8-15-22
Agenda Item: Intergovernmental Contract
Department: Finance
Requested By: Cindy Jackson
Reviewed/Approved by City Attorney? Jim Woodward (Bond Attorney)
Cost: \$0

Funding Source if Not in Budget

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

Intergovernmental Contract between the City of Dalton and the City of Dalton Board of Education relating to the City of Dalton Building Authority Series 2022 Revenue Bond (Dalton Public School System Project) in the amount of \$15,930,000.

INTERGOVERNMENTAL CONTRACT

by and between

CITY OF DALTON, GEORGIA

and

CITY OF DALTON BOARD OF EDUCATION

Dated as of September 1, 2022

THIS INTERGOVERNMENTAL CONTRACT (the “Contract”), is entered into as of September 1, 2022, between the CITY OF DALTON, GEORGIA, a municipal corporation of the State of Georgia (the “City”), and the CITY OF DALTON BOARD OF EDUCATION, an agency of the City established under the charter of the City and independently elected by the voters (the “Board of Education”);

WITNESSETH:

WHEREAS, the City of Dalton Building Authority (the “Authority”) is a public body corporate and politic duly created and existing pursuant to an amendment to the Constitution of the State of Georgia (Ga. Laws 1968, pages 1466-1482), duly ratified and proclaimed (the “Amendment”) for the purpose of acquiring, constructing, equipping, maintaining and operating projects embracing buildings and facilities for use by the City, including the Dalton Public School System (the “Dalton School System”) for its governmental, proprietary and administrative functions; and the Authority is now existing and operating and its members have been duly appointed and entered into their duties; and

WHEREAS, the Dalton School System exists pursuant to the charter of the City and is governed by the Board of Education pursuant to the City’s charter; and

WHEREAS, under the Amendment and the Revenue Bond Law (O.C.G.A. § 36-82-60 *et seq.*, as amended), the Authority has the power (a) to issue revenue bonds and use the proceeds thereof for the purpose of paying all or part of the cost of any “project” or “undertaking” (as authorized by the Amendment or the Revenue Bond Law), including the acquisition, construction and improvement of buildings and facilities for use by the Dalton School System; and (b) to make and execute contracts and other instruments necessary to exercise the powers of the Authority; and

WHEREAS, under its charter, the City has the power to acquire, construct and improve buildings and facilities for use by the Dalton School System; and

WHEREAS, pursuant to the Amendment, the Authority and the City are authorized to enter into contracts pertaining to public facilities for use by the City, including the Dalton School System, for terms not exceeding fifty (50) years for its governmental, proprietary or administrative functions; and

WHEREAS, the Authority proposes to issue its Revenue Bond (Dalton Public School System Project), Series 2022, in the principal amount of \$15,930,000 (the “Series 2022 Bond”) for the purposes of (i) providing funds to finance certain capital outlay projects for the Dalton School System consisting of the following: adding to, renovating, repairing, improving, equipping, acquiring, and furnishing existing school buildings or other buildings or facilities useful or desirable in connection therewith, including, but not limited to, Roan School, Westwood School, Park Creek School and Fort Hill; acquiring land; acquiring new technology, safety and security equipment and other school equipment, including band instruments; acquiring, constructing and equipping new school buildings and facilities, including but not

limited to educational/athletic facilities; acquiring any property necessary or desirable therefor, both real and personal; and purchasing school buses and service vehicles (collectively, the “Projects”) and (ii) paying the costs of issuing the Series 2022 Bond; and

WHEREAS, the Series 2022 Bond will be issued pursuant to the Amendment, the Revenue Bond Law, and a resolution of the Authority adopted on August 15, 2022 (the “Bond Resolution”); and

WHEREAS, the Authority and the City propose to enter into an Intergovernmental Contract (the “Bond Contract”), pursuant to which the Authority will agree to issue the Series 2022 Bond to provide funds to finance the Projects, and the City, in consideration of the Authority’s doing so, will agree to make the payments to the Authority for its services as called for pursuant to the Bond Contract in amounts sufficient to pay the principal of, redemption premium, if any, and interest on the Series 2022 Bond; and

WHEREAS, the City and the Board of Education propose to enter into this Contract, pursuant to which, among other items, the City will request that the Authority issue the Series 2022 Bond to provide funds to finance the Projects, and the Board of Education, in consideration of the City’s and the Authority’s doing so, will agree to make the payments to the Sinking Fund (as defined in the Bond Resolution) in amounts sufficient to pay the principal of, redemption premium, if any, and interest on the Series 2022 Bond.

NOW, THEREFORE, in consideration of the premises and undertakings as hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I.

DEFINITIONS

Section 1.1 Definitions. In addition to the words and terms elsewhere defined in this Contract, the following words and terms as used herein shall have the following meanings unless the context or use indicates another or different meaning or intent:

“Amendment” means the constitutional amendment creating the Authority (Ga. Laws 1968, pages 1466-1482).

“Authority” means The City of Dalton Building Authority, created and existing under an amendment to the Constitution of the State of Georgia (Ga. Laws 1968, pages 1466-1482).

“Authorized Authority Representative” means the official of the Dalton School System at the time designated by a certificate of the Chairman or Vice Chairman of the City of Dalton Board of Education to act on behalf of the Authority.

“Board of Education” means the City of Dalton Board of Education, an agency of the City established under the Charter of the City and independently elected by the voters.

“Bond Contract” means the Intergovernmental Contract between the City and the Authority, dated as of September 1, 2022, pursuant to which the City agrees to pay (limited to fourteen mills) principal and interest on the Series 2022 Bond as the same becomes due and payable.

“Bond Resolution” means the resolution of the Authority adopted on August ____, 2022, pursuant to which the Series 2022 Bond are issued and secured, and any supplements or amendments thereto.

“City” means the City of Dalton, Georgia, a municipal corporation created and existing under the Constitution and laws of the State of Georgia.

“Code” means the Internal Revenue Code of 1986, as amended.

“Contract” means this Contract, dated as of September 1, 2022, by and between the City and the Board of Education.

“Projects” means those capital outlay projects for the City of Dalton Public School System, consisting of consisting of the following: adding to, renovating, repairing, improving, equipping, acquiring, and furnishing existing school buildings or other buildings or facilities useful or desirable in connection therewith, including, but not limited to, Roan School, Westwood School, Park Creek School and Fort Hill; acquiring land; acquiring new technology, safety and security equipment and other school equipment, including band instruments; acquiring, constructing and equipping new school buildings and facilities, including but not limited to educational/athletic facilities; acquiring any property necessary or desirable therefor, both real and personal; and purchasing school buses and service vehicles, all as approved in the referendum held in Whitfield County on May 24, 2022, with respect to the educational special one (1) per cent sales and use tax.

“Project Fund” means the City of Dalton Building Authority Project Fund created in Article IV, Section 2 of the Bond Resolution, into which proceeds of the Series 2022 Bond will be deposited.

“Sales and Use Tax Proceeds” means the proceeds of the special 1 percent sales and use tax received by the City pursuant to the referendum held in Whitfield County on May 24, 2022, with respect to the educational special one (1) per cent sales and use tax.

“Series 2022 Bond” means the \$15,930,000 The City of Dalton Building Authority Revenue Bond (Dalton Public Schools Project), Series 2022 to be issued pursuant to the Amendment, the Revenue Bond Law (O.C.G.A. Section 36-62-80 et seq., as amended) and the Bond Resolution.

“Sinking Fund” means the City of Dalton Building Authority Sinking Fund created in Article V, Section 1 of the Bond Resolution.

Section 1.2 Terms defined in Bond Resolution All words and terms defined in the Bond Resolution and not otherwise defined herein shall have the meaning set forth in the Bond Resolution unless the use or context clearly indicates another or different meaning or intent.

ARTICLE II.

REPRESENTATIONS

Section 2.1 Representations by the City.

The City makes the following representations as the basis for the undertaking on its part herein contained:

(a) The City is a municipal corporation duly created and organized under the Constitution and laws of the State. Under the Constitution and laws of the State, including the Amendment, the City is authorized to execute, deliver and perform its obligations under the Bond Contract and this Contract. The City has duly authorized the execution, delivery and performance of the Bond Contract and this Contract. The Bond Contract and this Contract are valid, binding and enforceable obligations of the City.

(b) There exists a need in the City to promote and expand for the public good and general welfare certain facilities for the Dalton School System, so as to serve the public purposes for which the Dalton School System was created.

(c) The City has determined that the Projects are in the public interest.

(d) Pursuant to the Amendment, the Authority and the City are authorized to enter into contracts pertaining to public facilities owned and operated by the City on behalf of the Dalton School System for terms not exceeding fifty (50) years.

(e) The City has determined that it is willing to enter into the Bond Contract and this Contract and, to the extent necessary, make payments from the proceeds of an ad valorem tax, up to fourteen mills, levied as a part of the taxes requested by the Board of Education for the Dalton School System against all taxable property within the City to achieve the public purposes provided therein and herein.

(f) No approval or other action by any governmental authority or agency or other person is required in connection with the (i) acquisition, construction and equipping of the Projects or (ii) execution, delivery and performance of the Bond Contract or this Contract by the City, except as shall have been obtained as of the date hereof.

(g) The authorization, execution, delivery and performance by the City of the Bond Contract and this Contract do not violate the laws or Constitution of the State and do not constitute a breach of or a default under any existing resolution or ordinance, court

order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(h) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the City, threatened against or affecting the City (or, to the knowledge of the City, any meritorious basis therefor) (i) attempting to limit, enjoin or otherwise restrict or prevent the City from (A) collecting ad valorem taxes and using them to make the Contract Payments (as defined in the Bond Resolution) or (B) acquiring, constructing and equipping the Projects, (ii) contesting or questioning the existence of the City or the titles of the present officers of the City to their offices or (iii) wherein an unfavorable decision, ruling or finding would (A) adversely affect the enforceability of the Bond Contract or this Contract or (B) materially adversely affect (1) the financial condition or results of operations of the City or (2) the transactions contemplated by the Bond Contract or this Contract.

(i) The City is not in violation of the laws or the Constitution of the State and is not in default under any existing resolution or ordinance, court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

Section 2.2 Representations by the Board of Education.

The Board of Education makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Board of Education is an agency of the City established under the charter of the City and independently elected by the voters.

(b) There exists a need for the Board of Education to acquire, construct and equip the Projects on a basis faster than would be possible if the Board of Education paid for the Projects from the Sales and Use Tax Proceeds as they become available.

(c) The Board of Education has determined that the issuance of the Series 2022 Bond by the Authority to finance the acquisition, construction and equipping of the Projects will achieve lawful and valid public purposes in that it will sooner fulfill the purposes of the May 24, 2022 referendum, all for the benefit of the educational purposes of the Dalton School System.

(d) Pursuant to the Article IX, Section III, Paragraph I of the Georgia Constitution, the City and the Board of Education are authorized to enter into a contract for a term not exceeding fifty (50) years for its governmental functions.

(e) The Board of Education has determined that it is willing to enter into the this Contract and, to the extent Sales and Use Tax Proceeds are insufficient, make payments from its general funds or from the proceeds of an ad valorem tax, up to fourteen mills, levied as a part of the taxes requested by the Board of Education for the

Dalton School System against all taxable property within the City to achieve the public purposes provided therein and herein to make the payments into the Sinking Fund for the principal of, premium, if any and interest on the Series 2022 Bond.

(f) No approval or other action by any governmental authority or agency or other person is required in connection with the (i) acquisition, construction and equipping of the Projects or (ii) execution, delivery and performance of this Contract by the Board of Education, except as shall have been obtained as of the date hereof.

(g) The authorization, execution, delivery and performance by the Board of Education of this Contract does not violate the laws or Constitution of the State and do not constitute a breach of or a default under any existing resolution or ordinance, court order, administrative regulation, or other legal decree, or any agreement, indenture, mortgage, lease, note or other instrument to which it is a party or by which it is bound.

(h) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, pending or, to the knowledge of the Board of Education, threatened against or affecting the Board of Education (or, to the knowledge of the Board of Education, any meritorious basis therefor) (i) attempting to limit, enjoin or otherwise restrict or prevent the Board of Education from (A) collecting ad valorem taxes and using it to make the Contract Payments or (B) acquiring, constructing and equipping the Projects, (ii) contesting or questioning the existence of the Board of Education or the titles of the present officers of the Board of Education to their offices or (iii) wherein an unfavorable decision, ruling or finding would (A) adversely affect the enforceability of this Contract or (B) materially adversely affect (1) the financial condition or results of operations of the Board of Education or (2) the transactions contemplated by this Contract.

ARTICLE III.

TERM OF AGREEMENT; CONSTRUCTION OF PROJECTS

Section 3.1 Term Hereof. The term of this Contract shall extend until February 1, 2028, or until such time as the principal and interest on the Series 2022 Bond have been paid or provision duly made therefor, but in no event shall the term of the Contract exceed fifty years from the date hereof.

Section 3.2 Issuance of Series 2022 Bond; Contract Payments. The City hereby covenants and agrees that it will promptly request the Authority to authorize, sell, issue, validate and deliver the Series 2022 Bond, and will cause the Authority to deposit the proceeds of the Series 2022 Bond in the Project Fund existing pursuant to Article IV of the Bond Resolution. In consideration of the deposit of proceeds of the Series 2022 Bond in the Project Fund, the Board of Education agrees to pay to the Custodian of the Sinking Fund created in Article V of the Bond Resolution, the amounts required to pay principal of, redemption premium, if any, and interest on the Series 2022 Bond as the same become due and payable.

Section 3.3 City Obligations under Bond Contract. The City and the Board of Education hereby agree that the Board of Education shall act on behalf of and shall discharge all obligations of and shall exercise all rights, powers and benefits of the City under the Bond Contract and the Bond Resolution unless otherwise provided by an ordinance of the City.

Section 3.4 Title to Projects. Title to the Projects shall be in the Board of Education.

Section 3.5 Disbursement of Project Fund Moneys. Under the Bond Resolution, moneys in the Project Fund shall be disbursed by the Custodian of the Project Fund upon receipt of a Requisition in the form set forth as Exhibit “A” to the Bond Resolution, appropriately, signed by the Authorized Authority Representative. The Authorized Authority Representative is defined in the Bond Resolution to mean the official of the Dalton School System at the time designated by the Chairman or Vice Chairman of the Authority to act on behalf of the Authority.

ARTICLE IV.

THE CITY'S AND THE BOARD OF EDUCATION'S OBLIGATIONS HEREUNDER; OTHER PROVISIONS

Section 4.1 Board of Education's Payment Obligations. The Board of Education covenants and agrees that it will, to the extent Sales and Use Tax Proceeds are insufficient, levy an annual tax on all taxable property located within the City, at such rate or rates, limited to fourteen mills, as may be necessary to make the principal, redemption premium and interest payments on the Series 2022 Bond into the Sinking Fund as called for by this Contract. Nothing herein shall be construed as limiting the right of the Board of Education to make the payments called for by this Contract out of its general funds or from other sources, including Sales and Use Tax Proceeds. In order to assure that payments of principal, redemption premium, if any, and interest on the Series 2022 Bond are made in a timely manner, the Board of Education shall deposit at least twenty-five (25) days prior to the 1st day of August, 2023, and the 1st day of each February and August thereafter, for the account of the Authority directly with the Custodian of the Sinking Fund for deposit into the Sinking Fund the amounts required to pay principal and interest on the Series 2022 Bond when due.

In addition to and over and above the sums set forth in the preceding paragraph, the Board of Education agrees to pay the amounts required to be paid by the City pursuant to Section 4.2(b) of the Bond Contract.

Section 4.2 Indemnification. The Board of Education agrees that the City (including any person at any time serving as a commissioner, an agent or an employee of the City) shall not be liable for, and agrees to indemnify and hold the City (including any person at any time serving as an officer or member of the City) harmless (including attorneys' fees) from: (i) any liability for any loss or damage to property or any injury to, or death of, any person that may be occasioned by any cause whatsoever pertaining to the Projects, (ii) any liabilities, losses or damages, or claims therefor, arising out of the failure, or claimed failure, of the Board of

Education to comply with its covenants contained in this Contract, (iii) the work done on the Projects or the operation of the Projects during the term of this Contract or at any other time, (iv) any willful act or act of negligence of the Board of Education or any of its agents, contractors, servants or employees in connection with the use, operation or occupancy of the Projects, (v) any violation of law, ordinance or regulation affecting the Projects or any part thereof or the ownership, occupancy or use thereof (including, without limitation, CERCLA, the Hazardous Materials Transportation Amendment, The Resource Conservation and Recovery Amendment, the Toxic Substances Control Amendment, the Clean Water Amendment or any so called “Super Fund” or “Super Lien” legislation), (vi) any condition of the Projects, or (vii) any accident, injury or damage whatsoever caused to any person, firm or corporation, in or about the Projects. In addition, the Board of Education agrees to indemnify and hold the City (including any person at any time serving as a member, an agent or an employee of the City) harmless to the fullest extent permitted by law from any losses, costs, charges, expenses, judgments and liabilities incurred by it in connection with any action, suit or proceeding instituted or threatened in connection with the transactions contemplated by this Contract or the Series 2022 Bond. If any such claim is asserted, the City or any individual indemnified herein, as the case may be, will give prompt written notice to the Board of Education, and the Board of Education will promptly assume the defense thereof, including the employment of counsel and payment of all expenses of such defense, with full power to litigate, compromise or settle the same in its sole discretion; provided that the City shall have the right to approve in writing all counsel engaged by the Board of Education to conduct such defense, which approval shall not be unreasonably withheld.

The City shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the Board of Education shall not be required to pay the fees and expenses of such separate counsel unless the separate counsel is employed with the approval of the Board of Education. The Board of Education shall not unreasonably withhold its approval of such separate counsel.

Section 4.3 Use of Bond Proceeds. The Board of Education agrees with the City that the Series 2022 Bond proceeds deposited in the Project Fund will be used for governmental purposes and in such manner so that the interest on the Series 2022 Bond shall be and remain exempt from federal income taxation. The Board of Education and the City each covenant and agree that the Series 2022 Bond proceeds deposited in the Project Fund will be applied solely to the payment of the costs to be incurred in completing Projects.

Section 4.4 Use of Sales and Use Tax Proceeds. The Board of Education covenants and agrees that the Sales and Use Tax Proceeds will be applied to the payment of the costs to be incurred in connection with the purposes approved in the referendum held in Whitfield County on May 24, 2022, through the payment of principal of and interest on the Series 2022 Bond issued in connection with such purposes.

Section 4.5 Severability. In the event any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 4.6 Execution in Counterparts. This Contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 4.7 Captions. The captions or headings in this Contract are for convenience only and in no way define, limit or describe the scope or intent of any provision hereof.

IN WITNESS WHEREOF, the City and the Board of Education have caused this Contract to be executed in their respective names and their respective seals to be hereunto affixed and attested by their duly authorized officials, all as of the date first above written.

CITY OF DALTON, GEORGIA

By: _____
Mayor

(SEAL)

Attest:

Clerk

CITY OF DALTON BOARD OF
EDUCATION

By: _____
Chairman, Board of Education

(SEAL)

Attest:

Secretary, City of Dalton Board of Education



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 08/15/22
Agenda Item: Professional Services Agreement with GMC
Department: Administration
Requested By: Andrew Parker
Reviewed/Approved by City Attorney? Yes
Cost: \$247,000

Funding Source if Not in Budget

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

Professional Services Agreement with Goodwyn Mills Cawood (GMC) for Pentz & Cuyler Streetscape Improvements.

**CITY OF DALTON
PUBLIC WORKS DEPARTMENT**

GENERAL PROFESSIONAL SERVICES AGREEMENT

THIS GENERAL PROFESSIONAL SERVICES AGREEMENT is made and entered into on this 15th day of August, 2022 by and between the City of Dalton, a Georgia Municipal Corporation, hereinafter referred to as "CITY", and Goodwyn Mills Cawood (GMC), hereinafter referred to as "CONSULTANT".

WHEREAS, the CITY desires to engage the CONSULTANT 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 CONSULTANT 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 CONSULTANT:** The CITY hereby engages the CONSULTANT and the CONSULTANT hereby agrees to perform the professional services hereinafter set forth.

2. **PROJECT/SCOPE OF SERVICES:** The CONSULTANT 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 in the CONSULTANT's proposal attached hereto as Exhibit "A".

3. **ADDITIONAL SERVICES:** The CONSULTANT shall provide additional services, not specifically provided for in Exhibit "A", upon written request and authorization by the CITY.

4. **DATE OF COMMENCEMENT:** The CONSULTANT shall commence work on the project on August 16, 2022. If no date is provided, then the date of commencement shall be five days from execution of this Agreement.

5. **DATE OF COMPLETION:** The CONSULTANT shall complete the project on or before December 31, 2022.

6. CONTRACT SUM: The CITY shall pay to CONSULTANT the total sum of \$ 247,000.00 Dollars for the complete performance of the project and terms of this Agreement. In addition, CITY shall pay to CONSULTANT for any authorized additional services performed at the rate or amount provided in the Compensation Schedule attached hereto as Attachment "A".

7. CONTRACT PENALTY: The CONSULTANT shall pay to the CITY the amount of \$ 100.00 Dollars per calendar day for unexcused delay in completion of the project past the date of completion.

8. PAYMENT: The CITY shall pay the contract sum to CONSULTANT upon complete performance of the project and terms of this Agreement. CONSULTANT shall provide to CITY an Affidavit from the CONSULTANT stating the CONSULTANT 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 CONSULTANT. 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 CONSULTANT to perform the scope of services provided for herein;

(b) to provide reasonable assistance and cooperation to CONSULTANT in obtaining any information or documentation which are necessary for CONSULTANT 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 CONSULTANT to complete the scope of services;

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

10. CONSULTANT COVENANTS: CONSULTANT 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 CONSULTANT's behalf with respect to the project.
 - (e) to use the subject property in a safe, careful and lawful manner;
 - (f) to promptly report in writing to CITY any unsafe or defective condition of the subject property and any adverse site condition, which shall include but not be limited to limited access, extremely dense vegetation, subsurface conditions, damaged property, or existing utilities, that may adversely affect CONSULTANT's ability to complete the scope of services or other terms of this Agreement;
 - (g) to promptly report in writing to CITY any damage to or injuries sustained on the subject property and to promptly repair any damage to the subject property which is made necessary by any act of CONSULTANT, 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 CONSULTANT 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 CONSULTANT'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: CONSULTANT 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 CONSULTANT'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 CONSULTANT, 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 CONSULTANT for any claims arising from the actions or omissions of CONSULTANT or any third party.

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

12. INSURANCE: CONSULTANT 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. CONSULTANT shall provide CITY with copies or evidence of such insurance coverage prior to the commencement date of the Agreement. Such insurance policies in subsections (a), (b), and (c) below shall name CITY as an additional insured and shall be issued by such insurance companies and on such forms as may be approved by CITY. Said insurance shall include the following:

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

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

- (c) Auto Liability Coverage – Auto Liability policy with a minimum of \$1,000,000.00 limit per occurrence for bodily injury and property damage, if motor vehicle is used in performance of scope of services. Comprehensive form covering all owned, non-owned, and hired vehicles.

(d) Professional Services Errors & Omissions Coverage – Professional Services E&O policy with a minimum of \$1,000,000.00 per claim.

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

15. SUBCONTRACTOR: The CONSULTANT shall provide written notice to CITY of CONSULTANT’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 CONSULTANT shall be mailed to: Goodwyn Mills Cawood (GMC)
6120 Powers Ferry Road NW
Suite 350
Atlanta, GA 30339

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 CONSULTANT’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 CONSULTANT 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 CONSULTANT. Any changes to the material terms of any document shall be clearly identified and noted to CITY.

19. VENDOR: CONSULTANT 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 CONSULTANT 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 CONSULTANT of any default and provide CONSULTANT 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. CONSULTANT 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 CONSULTANT, then CONSULTANT 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 CONSULTANT's services shall be maintained in confidence and shall not be disclosed to any third party by CONSULTANT, without CITY's written authorization, except as may be required by the Georgia Open Records Act. CONSULTANT 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 CONSULTANT 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.

CONSULTANT:

CONSULTANT:

By: _____

Title: _____

CITY:

CITY OF DALTON, GEORGIA

By: _____

MAYOR

Attest: _____

CITY CLERK



August 10, 2022

Mr. Andrew Parker
City Administrator
City of Dalton
300 W. Waugh Street
Dalton, Ga 30722

Goodwyn Mills Cawood

6120 Powers Ferry Road NW
Suite 200
Atlanta, GA 30339

T (770) 952-2481
F (770) 955-1064

www.gmcnetwork.com

RE: Pentz & Cuyler Streetscape Improvements | Dalton, GA via: e-mail

Dear Andrew:

Goodwyn Mills Cawood, LLC (GMC) appreciates the opportunity to submit a proposal for professional services for the proposed streetscape improvements located in downtown Dalton Georgia. We have prepared this proposal for your review and comment and we look forward to working with you throughout this project. This proposal will define the general scope of the work, our project team, and our proposed services along with the compensation structure therefore.

A> PROJECT SCOPE:

The proposed project is comprised of streetscape improvements along Pentz Street and Cuyler Street as shown in Attachment C and Attachment D of this document. It is assumed that no right of way acquisition is required at the time of this contract.

B> PROJECT TEAM:

The following group of Design and Consulting Professionals are being proposed as the design team:

Transportation Engineering:	Goodwyn Mills Cawood, LLC.
Survey Services:	Goodwyn Mills Cawood, LLC.
Geotechnical Services:	Goodwyn Mills Cawood, LLC.
Electrical Engineering:	Goodwyn Mills Cawood, LLC.
Landscape Architecture:	Goodwyn Mills Cawood, LLC

C> BASIC SERVICES:

We have included comprehensive consulting services associated with the above-described project scope. Provided consulting services include the following:

Following the approval of the concept design and subsequent survey, GMC shall prepare construction plans for the proposed project. The plans shall be designed in accordance with all applicable City of Dalton, GDOT, AASHTO, and MUTCD design specifications and details for the development of the project. The draft plans shall be submitted to the City for review and comment when approximately 75% complete. GMC shall prepare a complete set of contract documents and specifications suitable for bidding purposes for the project. Final plans shall be provided for review and final approval. GMC shall anticipate up to 2 reviews and revisions in order to finalize and approve the plans.

- GMC will perform a sufficient number of borings to prepare a corresponding report of findings/pavement design recommendations to be utilized in the project. The report shall include the laboratory tests of the soil samples as well as a soils survey report prepared by registered Georgia Professional Engineer.
- GMC shall perform an analysis of all onsite drainage and design the necessary structures and piping to convey storm water through the project limits. Evaluation of offsite drainage is not required except to the extent necessary to ensure that adequate capacity is provided within the project limits to handle the anticipated flows.
- A quantity take-off and construction cost estimate at both the 75% and final plan review phases shall be prepared and submitted for review.
- Technical specifications for the project shall be prepared in accordance with the latest City and GDOT specifications and guidelines. The contract for the project shall follow the City's guidelines at the direction of the City Engineer.



The construction plans (at a suitable scale) shall contain at a minimum the following:

- Cover Sheet with location plan and project information.
- General Notes Sheet with legends.
- Existing Conditions Sheets with existing utilities, boundary and topographic survey.
- Layout and Staking Plan Sheets.
- Plan and Profile Plan Sheets.
- Utility Relocation Plan Sheets, if necessary.
- Grading and Drainage Plan Sheets.
- Cross Sections Sheets at 50-foot intervals along each roadway
- Pavement Markings and Signage Plan Sheets.
- Landscaping Plan and Detail Sheets
- Staging Plan Sheets showing work areas and a narrative of the plan.
- Erosion Control Plan Sheets utilizing standard GDOT details, notes, and symbols. Plans shall be suitable for submission to outside agencies as needed for permitting purposes.
- Construction Details Sheets including standard GDOT details along with typical sections and special details as necessary for the project.

D> EXCLUDED SERVICES:

The following services are to be considered as specifically not included in this scope. Some of these items may be provided at a negotiated fee if desired by the Owner or as they become necessary for agency approval.

- Inspections/testing on existing infrastructure to ascertain its condition
- Right of Way Plat or Plats
- All fees and/or bonds required by jurisdictional agencies
- Ground-penetrating radar for identification of subsurface obstructions
- New 100-year flood determination
- Platting, subdividing and/or joining of parcels
- Rezoning of any property
- As-Built Services or Surveys
- Utility connection fees, impact fees, and/or tap fees or permit fees
- Traffic or Light Warrant Studies or Designs
- Structural designs
- Retaining wall designs
- Owner-requested changes following commencement of design efforts
- Construction survey staking/verification
- Construction Administration
- Any work outside of the limits shown in Attachment C and D
- Construction Materials testing

E> COMPENSATION & FORM OF CONTRACT:

BASIC & SPECIAL SERVICES FEES:

We propose performing the work illustrated above under the “Scope of Services” sections in accordance with the following schedule. We calculate services in one of three manners:

- *Percentage of Construction (%C)* fees which are calculated as a fee percentage times the Construction Cost.
- *Lump Sum (LS)* fees are fixed fees.
- *Hourly (H)* fees are calculated hourly based on the number of hours charged to the project times the hourly rate for that employee (See GMC Hourly Rate Schedule, updated annually in July).
- *Unit Price (EA)* fees for unit-based services are invoiced on a per-unit basis.
- *Allowances (Allow)* are occasionally included for anticipated work that is not yet quantifiable.



	FEE CALCULATION				TYPE
BASIC SERVICES:	Transportation Engineering				
	Survey Services				
	Geotechnical Services				
	Electrical Engineering				
	Landscape Architecture				
		Total	=	\$247,000	LS

REIMBURSABLE EXPENSES:

Reimbursable Expenses are project related expenses that accrue over the course of design and construction phases of the project. We do not consider telephone charges (including long distance), faxing, scanning, in-house small document copying, costs associated with e-mail correspondence or costs associated with maintaining our CAD software and systems as reimbursable expenses. GMC will communicate to Dalton any excessive expense outside of the normal course of business. If an expense situation occurs GMC will seek approval from the City of Dalton and pass-on the expense at occurred cost. The following expenses are reimbursable, and will be invoiced monthly as incurred:

- Automobile Miles: Mileage incurred by our employees and associated with the project for the meetings specified in this proposal will be a reimbursable expense.
- Travel Expenses: Costs incurred by our employees associated with the project for out of town travel, such as meals, hotels, car rentals, and flights are considered Owner reimbursable expenses and will be billed monthly. GMC doesn't expect any out of town travel associated with this project for its employees and if the situation occurs where travel of this nature is necessary, GMC will request approval from the client in advance of said travel.
- Consultant Expenses: The reimbursable expenses of our Consultants are Owner reimbursable expenses and include travel expenses, printing costs for drawings transmitted to GMC, mileage, lodging, out-of-town meals, and similar project related charges. GMC shall request approval from the client in advance of incurring said expenses.

ADDITIONAL SERVICES:

Additional services are services outside of the scope noted herein, or services that were not anticipated at the writing of this agreement, or are special services requested by the Owner. Should additional Services be required during this project, we will notify the Owner prior to commencing said work. Unless negotiated to the contrary, approved Additional Services shall be calculated as follows:

- GMC In-house design/ administration: Per hourly rate schedule absent a pre-determined LS
- Design Consultants: 1.2 times the invoice amount submitted to GMC

F> HOURLY RATES AND CONTRACT TERMS:

Please see "Attachment A" for the current GMC Standard Rates and Fee Schedule, "Attachment B" for the GMC Standard Contract Provisions, "Attachment C" for detailed cost estimate, and "Attachment D" for proposed limits of work. These attachments will be considered a part of this agreement.

We appreciate the opportunity to work with you over the course of this project, and trust our proposal is consistent with your expectations. Please feel free to contact me at your convenience to discuss the terms of this proposal and any questions or concerns you may have.

Sincerely:
GOODWYN MILLS CAWOOD, LLC.

Jim Teel
Regional VP Georgia

Accepted:
City of Dalton

Andrew Parker, City Administrator
Date: _____



ATTACHMENT A

2022
Standard Rate and Fee Schedule

Standard Hourly Rates

Table listing hourly rates for various roles: Principal (Architect/ Engineer/ Interior Designer/ Scientist) \$ 250.00, Executive VP/ Senior VP \$ 225.00, Vice President \$ 200.00, Senior Professional (Architect, Engineer, Interior Design, Scientist, Project Manager) \$ 200.00, Professional II (Architect, Engineer, Interior Design, Scientist, Project Manager) \$ 175.00, Professional I (Architect, Engineer, Interior Design, Scientist, Project Manager) \$ 150.00, Intern II (Architecture, Engineering, Interior Design, Environmental Sciences) \$ 130.00, Intern I (Architecture, Engineering, Interior Design, Environmental Sciences) \$ 110.00, Technical III (Contract Spec., CADD Tech., Designer, Drafting, CA, ROW, Field Tech., Inspector) \$ 140.00, Technical II (Contract Spec., CADD Tech., Designer, Drafting, CA, ROW, Field Tech., Inspector) \$ 110.00, Technical I (Contract Spec., CADD Tech., Designer, Drafting, CA, ROW, Field Tech., Inspector) \$ 80.00, Executive Administrative Assistant \$ 80.00, Administrative Assistant II \$ 70.00, Administrative Assistant I \$ 60.00, Surveying: Professional Land Surveyor \$ 170.00, Field Crew Supervisor \$ 150.00, Survey Crew (two-man survey crew) \$ 150.00, Survey Crew (three-man survey crew) \$ 185.00, Survey Crew (four-man survey crew) \$ 215.00

Reimbursable Expenses

Table listing reimbursable expenses: Travel Expenses: Vehicle Transport \$0.585 per mile, Travel/ Meals/ Lodging Cost plus twenty percent, Sub-Consultant/ Sub-Contractors Cost plus twenty percent, Sub-Consultant/Sub-Contractors reimbursable expenses Cost plus twenty percent, Printing & Shipping: Out of house reprographic services Cost plus twenty percent, In-House B&W reprographic services (small format) \$0.09/ sheet (8.5 x 11), \$0.15/ sheet (11 x 17), In-House Color reprographic services (small format) \$0.09/ sheet (8.5 x 11), \$0.15/ sheet (11 x 17), In-House B&W reprographic services (large format) \$0.15/ sf, In-House Color reprographic services (large format) \$0.20/ sf, GPS equipment \$250.00 per day

ATTACHMENT B

GOODWYN MILLS CAWOOD, LLC.

STANDARD CONTRACT PROVISIONS

ASSIGNMENT

Neither party to this Agreement shall assign, or transfer any rights under or interest in this Agreement without the prior written consent of the other party except that ENGINEER may retain sub-consultants as ENGINEER deems appropriate and ENGINEER may make a collateral assignment of this Agreement to its lenders.

DISPUTE RESOLUTION

OWNER and ENGINEER agree that they shall first submit any and all unsettled claims, counterclaims, disputes and other matters in question between them arising out of or relating to this Agreement or breach thereof to mediation unless the parties mutually agree otherwise. Within fifteen (15) days of receipt by one party of notice of a dispute and demand for mediation from the other party, the parties shall jointly select a mediator and shall conduct mediation within (30) days of receipt by one party of notice of a dispute and demand for mediation from the other party. The cost of mediation shall be paid equally by both parties. In the event a mediator is not selected within the fifteen (15) day period or if mediation has not occurred within said thirty (30) day period (or at such other time as agreed to in writing by the parties), then the parties shall mediate such dispute in accordance with the Commercial Arbitration Rules and Mediation of the American Arbitration Association. The OWNER and the ENGINEER further agree to require a similar mediation provision in all agreements with independent contractors and consultants, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

ALLOCATION OF RISKS - INDEMNIFICATION

To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, employees and agents from and against any and all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, agents and ENGINEER's services under this Agreement. The indemnification provision of the preceding sentence is subject to and limited by the provisions agreed to by OWNER and ENGINEER in "Allocation of Risks", if any.

To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, agents and ENGINEER's Consultants from any and all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused solely by OWNER, OWNER's officers, directors, partners, employees, agents and OWNER's consultants with respect to this Agreement or the Project.

If the OWNER requests drawings furnished by electronic media, the OWNER shall sign an agreement specifically excluding ENGINEER's liability from any use of such electronic media.

STANDARD OF CARE

The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar conditions at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's service.

This Agreement is based on applicable laws, regulations, standards, and requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to OWNER's responsibilities or to ENGINEER's scope of services, times of performance, and compensation.

FAILURE TO PAY

If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice, then amounts due ENGINEER will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until OWNER has paid in full all amounts due for services, expenses, and other related charges. OWNER waives any and all claims against ENGINEER for any such suspension.

TERMINATION

The obligation to provide further services under this Agreement may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than thirty days of receipt thereof, provided however, that if the failure is of such a nature that it cannot be cured within said thirty (30) day period, no right to terminate shall exist so long as the correcting party is diligently and in good faith pursuing the correction of the failure. The OWNER shall within thirty (30) calendar days of termination pay the ENGINEER for all services rendered and all costs incurred up to the date of termination, in accordance with the compensation provisions of this Agreement.

OPINIONS OF PROBABLE CONSTRUCTION COST

ENGINEER's opinions of probable construction cost are to be made on the basis of ENGINEER'S experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee that proposals, bids or actual construction cost will not vary from opinions of probable construction cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable construction cost, OWNER shall employ an independent cost estimator.

CONSTRUCTION PHASE SERVICES

Neither the professional activities of the ENGINEER, nor the presence of the ENGINEER or its employees, agents or sub-consultants at a construction site, shall relieve any contractor and any other entity of their obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending or coordinating all portions of the Work of construction in accordance with the contract documents or for the failure of any person or entity to carry out the work in accordance with any contract documents. Notwithstanding any inspections by ENGINEER or its employees, agents or sub-consultants, ENGINEER shall have no liability for the failure of any person or entity to carry out any work in accordance with any contract documents.

JOBSITE SAFETY

ENGINEER shall not at any time supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. The Engineer agrees to promptly notify the Client in writing of any observed defects or deficiencies in the Contractor's work.

The OWNER agrees that the Contractor is solely responsible for jobsite safety, and warrants that this intent shall be made evident in the OWNER's agreement with the Contractor. The OWNER also agrees that the OWNER, the ENGINEER and the ENGINEER's consultants shall be indemnified and shall be made additional insureds under the Contractor's general liability insurance policy. The ENGINEER and his personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions.

UNUSUAL OR CONCEALED PHYSICAL CONDITIONS

In the event ENGINEER encounters concealed or unknown conditions of an unusual nature, differing materially from those ordinarily encountered in similar work, the OWNER agrees the ENGINEER's scope of services, times of performance, and compensation shall be equitably adjusted.

MISCELLANEOUS PROVISIONS:

- a. **Notice:** All notices, requests, demands, tenders and other communications required or permitted hereunder shall be made in writing and shall be deemed to be duly given if delivered in person or mailed certified mail, return receipt requested, to the addresses set forth. Either party hereto may change the address to which notices, requests, demands, tenders and other communications to such party shall be delivered or mailed by giving notice to the other party hereto in the manner herein provided.
- b. **Waiver:** Any term or condition of this Agreement may be waived at any time by the party which is entitled to the benefit thereof, but such waiver shall only be effective if evidenced by a writing signed by such party. A waiver on one occasion shall not be deemed to be a waiver of the same or any other breach on another occasion.
- c. **Amendments:** This Agreement may be amended or modified only by a writing signed by both of the parties hereto.
- d. **Successors and Assigns:** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- e. **Governing Law:** The validity and effect of this Agreement shall be governed, construed and enforced under the laws of the State of Georgia.
- f. **Entire Agreement:** This Agreement contains all of the terms agreed upon by the parties with respect to the subject matter hereof and there are no representations or understandings between the parties except as provided herein.
- g. **Section Headings:** Section headings contained in this Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Agreement or of any term or provision hereof.
- h. **Time:** Time shall be of the essence in this Agreement.
- i. **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall be considered one and the same agreement.
- j. **Costs of Enforcement:** In the event that any party hereto defaults in the performance of its obligations hereunder, the non-defaulting party shall be entitled to recover from the defaulting party all fees, costs and expenses (including attorneys' fees and expenses) incurred in enforcing the provisions of this Agreement.
- k. **Construction of Agreement:** No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party hereto or thereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision.
- l. **No Third-Party Beneficiary:** This Agreement shall be binding upon, inure solely to the benefit of, and be enforceable by only the parties hereto, their respective successors and permitted assigns, and nothing in the Agreement, express or implied, is intended to or shall confer upon any person, other than the parties hereto, their respective successors and permitted assigns, any rights, remedies, obligations or liabilities of any nature whatsoever.

ATTACHMENT C



STREETSCAPE IMPROVEMENTS

ON SOUTH PENTZ STREET AND WEST CUYLER STREET

IN THE CITY OF DALTON, GEORGIA

Date: August 8, 2022

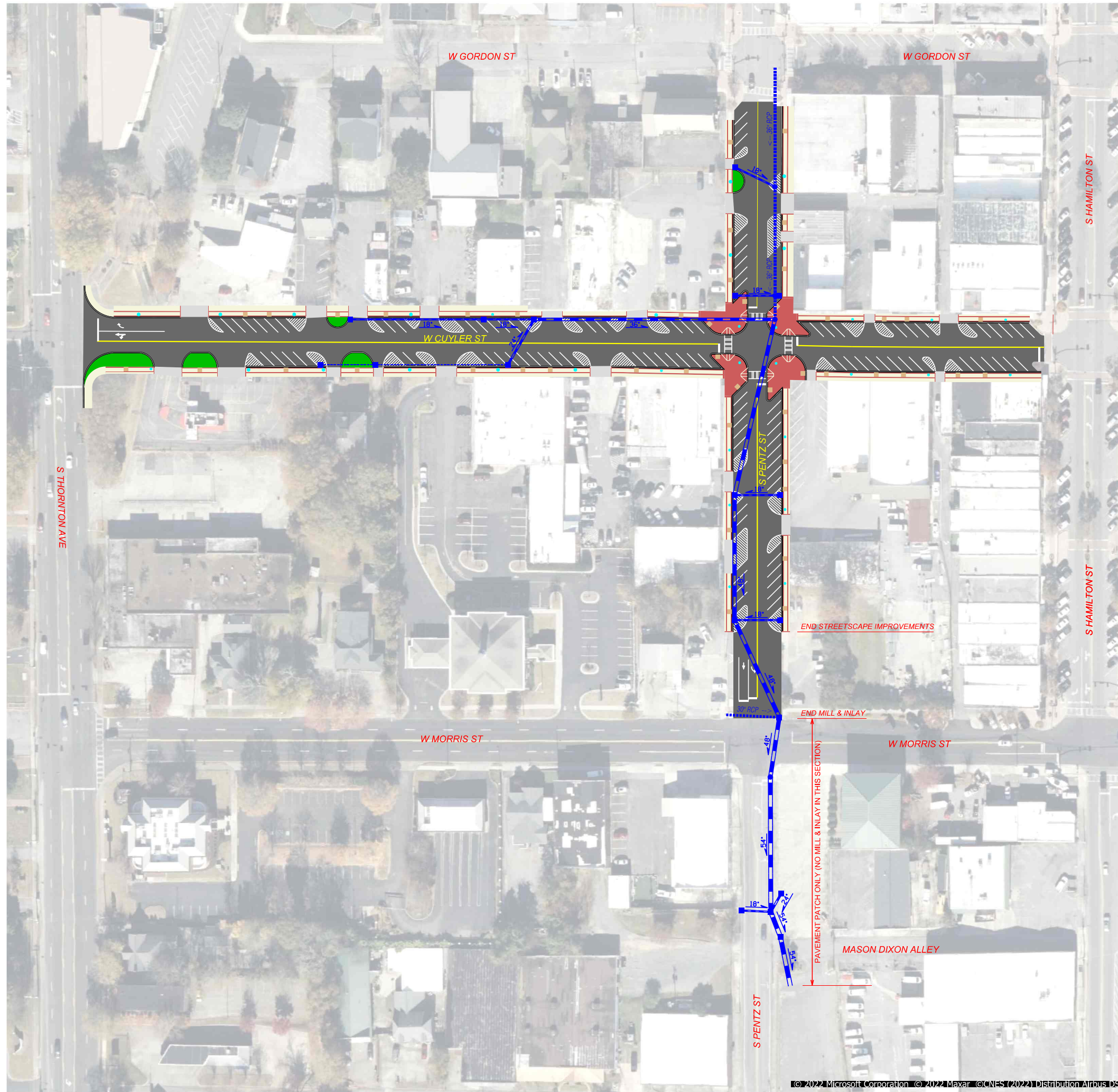
PRELIMINARY OPINION OF PROBABLE COSTS

ITEM	QTY	ITEM NO.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL COST
1	1	009-3500	LS	MISCELLANEOUS LANDSCAPE ITEMS (INCL BENCHES, TREES, GRATES, SHRUBS, SOD, ETC.)	\$ 100,000.00	\$ 100,000.00
2	1	150-1000	LS	TRAFFIC CONTROL	\$ 75,000.00	\$ 75,000.00
3	1	163-0240	LS	EROSION CONTROL MULCHING AND TEMPORARY GRASSING	\$ 2,500.00	\$ 2,500.00
4	20	163-0550	EA	CONSTRUCT AND REMOVE INLET SEDIMENT TRAP	\$ 500.00	\$ 10,000.00
5	1	167-1000	LS	NPDES PERMIT, WATER QUALITY INSPECTIONS, MONITORING, AND SAMPLING	\$ 12,500.00	\$ 12,500.00
6	250	171-0010	LF	TEMPORARY SILT FENCE, TYPE A	\$ 5.00	\$ 1,250.00
7	1500	207-0203	CY	FOUND BK FILL MATL, TP II	\$ 125.00	\$ 187,500.00
8	1	210-0100	LS	GRADING COMPLETE (INCLUDING ALL DEMOLITION REMOVAL ITEMS)	\$ 250,000.00	\$ 250,000.00
9	400	213-1000	CY	LOCAL SAND OR SAND-GRAVEL BACKFILL	\$ 50.00	\$ 20,000.00
10	700	310-1101	TN	GR AGGR BASE CRS, INCL MATL	\$ 60.00	\$ 42,000.00
11	125	402-1802	TN	RECYCLED ASPH CONC PATCHING, INCL BITUM MATL & H LIME	\$ 200.00	\$ 25,000.00
12	350	402-1812	TN	RECYCLED ASPH CONC LEVELING, INCL BITUM MATL & H LIME	\$ 175.00	\$ 61,250.00
13	850	402-3130	TN	RECYCLED ASPH CONC 12.5 MM SUPERPAVE, INCL BITUM MATL & H LIME	\$ 155.00	\$ 131,750.00
14	1000	413-0750	GL	TACK COAT	\$ 5.00	\$ 5,000.00
15	9600	432-5010	SY	MILL ASPH CONC PVMT, VARIABLE DEPTH	\$ 5.00	\$ 48,000.00
16	2950	441-0104	SY	CONC SIDEWALK, 4 IN (CLASS A CONC WITH ALL WHITE SAND)	\$ 65.00	\$ 191,750.00
17	500	441-4050	SY	CONC VALLEY GUTTER WITH CURB, 8 IN (CLASS A CONC WITH ALL WHITE SAND)	\$ 90.00	\$ 45,000.00
18	300	441-5002	LF	CONCRETE HEADER CURB, 6 IN, TP 2 (CLASS A CONC WITH ALL WHITE SAND)	\$ 35.00	\$ 10,500.00
19	3250	441-6012	LF	CONC CURB & GUTTER, 6 IN X 24 IN, TP 2 (CLASS A CONC WITH ALL WHITE SAND)	\$ 35.00	\$ 113,750.00
20	610	500-9999	CY	CLASS B CONC, BASE OR PVMT WIDENING	\$ 500.00	\$ 305,000.00
21	680	550-1180	LF	STORM DRAIN PIPE, 18 IN, H 1-10	\$ 85.00	\$ 57,800.00
22	88	550-1240	LF	STORM DRAIN PIPE, 24 IN, H 1-10	\$ 100.00	\$ 8,800.00
23	416	550-1360	LF	STORM DRAIN PIPE, 36 IN, H 1-10	\$ 150.00	\$ 62,400.00
24	520	550-1480	LF	STORM DRAIN PIPE, 48 IN, H 1-10	\$ 300.00	\$ 156,000.00
25	240	550-1540	LF	STORM DRAIN PIPE, 54 IN, H 1-10	\$ 450.00	\$ 108,000.00
26	300	573-2006	LF	UNDDR PIPE INCL DRAINAGE AGGR, 6 IN	\$ 40.00	\$ 12,000.00
27	50	600-0001	CY	FLOWABLE FILL	\$ 500.00	\$ 25,000.00
28	500	603-7000	SY	PLASTIC FILTER FABRIC	\$ 5.00	\$ 2,500.00
29	4	611-8050	EA	ADJUST MANHOLE TO GRADE	\$ 2,000.00	\$ 8,000.00
30	5	611-8120	EA	ADJUST WATER METER BOX TO GRADE	\$ 750.00	\$ 3,750.00
31	5	611-8150	EA	ADJUST SEWER LATERAL CLEANOUT TO GRADE	\$ 1,000.00	\$ 5,000.00
32	5	611-9000	EA	CAPPING MINOR STRUCTURE	\$ 1,500.00	\$ 7,500.00
33	100	636-1041	SF	HIGHWAY SIGNS, TP 2 MATL, REFL SHEETING, TP 9	\$ 35.00	\$ 3,500.00
34	4	653-0095	EA	THERMOPLASTIC PVMT MARKING, HANDICAP SYMBOL	\$ 400.00	\$ 1,600.00
35	2	653-0120	EA	THERMOPLASTIC PVMT MARKING, ARROW, TP 2	\$ 150.00	\$ 300.00
36	2	653-0130	EA	THERMOPLASTIC PVMT MARKING, ARROW, TP 3	\$ 200.00	\$ 400.00
37	4000	653-1501	LF	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN, WHITE	\$ 1.00	\$ 4,000.00
38	3200	653-1502	LF	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN, YELLOW	\$ 1.00	\$ 3,200.00
39	115	653-1704	LF	THERMOPLASTIC SOLID TRAF STRIPE, 24 IN, WHITE	\$ 15.00	\$ 1,725.00
40	100	653-6004	SY	THERMOPLASTIC TRAF STRIPING, WHITE	\$ 6.00	\$ 600.00
41	50	660-2050	LF	UTILITY CONFLICT ADJUSTMENT - SEWER LATERAL	\$ 250.00	\$ 12,500.00
42	100	665-000	LF	UTILITY CONFLICT ADJUSTMENT - GAS MAIN	\$ 150.00	\$ 15,000.00
43	20	668-1100	EA	CATCH BASIN, GP 1	\$ 5,000.00	\$ 100,000.00
44	10	668-1110	LF	CATCH BASIN, GP 1, ADDL DEPTH	\$ 500.00	\$ 5,000.00
45	5	668-4300	EA	STORM SEWER MANHOLE, TP 1	\$ 4,500.00	\$ 22,500.00
46	5	668-4311	LF	STORM SEWER MANHOLE, TP 1, ADDL DEPTH, CL 1	\$ 500.00	\$ 2,500.00
47	50	670-1080	LF	UTILITY CONFLICT ADJUSTMENT - WATER MAIN	\$ 200.00	\$ 10,000.00
48	100	670-5000	LF	UTILITY CONFLICT ADJUSTMENT - WATER SERVICE LINE	\$ 100.00	\$ 10,000.00
49	1	670-9710	EA	RELOCATE EXIST FIRE HYDRANT ASSEMBLY, INCL WATER VALVE	\$ 4,000.00	\$ 4,000.00
50	15	670-9730	EA	RELOCATE EXIST WATER METER, INCL BOX	\$ 2,000.00	\$ 30,000.00
51	2500	682-7065	LF	CONDUIT DUCT BANK - DIRECT BURIAL - COMPLETE INSTALLATION (NO WIRING) (TWO - 6 INCH ELECTRICAL CONDUITS & SIX - 2 INCH COMMUNICATION CONDUITS)	\$ 200.00	\$ 500,000.00
52	15	682-9022	EA	ELECTRICAL JUNCTION BOX, REINFORCED PLASTIC MORTAR	\$ 1,500.00	\$ 22,500.00
53	15	682-9027	EA	COMMUNICATIONS BOX	\$ 1,500.00	\$ 22,500.00
54	12400	900-0039	SF	BRICK PAVERS	\$ 25.00	\$ 310,000.00
Construction Total:					\$ 3,176,325.00	
Survey, Design Engineering, Construction Plans & Bidding Assistance:					\$ 247,000.00	
TOTAL PROJECT ESTIMATE					\$ 3,423,325.00	

ASSUMPTIONS AND LIMITATIONS:

- 1) The Design Engineering Cost Estimate is Based on Local Funding Sources for Construction Costs and Does Not Include Additional Costs Related to Outside Agency Requirements.
- 2) The Estimate Does Not Include any Lighting Improvements or Traffic Signal Improvements for the Construction Estimate or Design Estimate.
- 3) The Construction Estimate Does Not Include Primary Electrical Wiring or Fiber Optic Communication Wiring Costs. It is Assumed Dalton Utilities will Supply and Install All Primary Wiring and Transformers.
- 4) The Design Engineering Cost Estimate Does Not Include Right-of-Way or Easement Acquisition Costs. It is Assumed All Work will be Constructed Within Existing Rights-of-Way.
- 5) All Pipe Sizes and Routing will Generally Follow the Preliminary Drainage Layout Provided by the City, however it is assumed that a Stormwater Drainage Report will be Required for County Approval.
- 6) The Estimate Does Not Include Water Quality Devices. It is assumed this Project will be Exempt. The Design Engineering Estimate Does Not Include the Analysis or Design of Water Quality Structures.
- 7) The Estimate Does Not Include Full Replacement, Relocation or Rehabilitation of Existing Underground Utilities. The Estimate Includes Costs for Adjustments to Utilities at Conflict Locations Only.
- 8) The Design Engineering Cost Estimate Does Not Include an Extensive Sub-Surface Investigation for Locating Underground Utilities. Surveys will include standard 811 line locates to determine utility locations.
- 9) The Estimates Shown Above Do Not Include any Costs for Construction Engineering, Construction Inspection, Construction Administration, Construction Staking or any other Construction Related Services.

DOWNTOWN DALTON STREETSCAPE FOR PENTZ ST & CUYLER ST





CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 08/15/22

Agenda Item: SP210 Heritage Point Soccer Complex Project Northwest Georgia Paving Inc. Contract Change Order Request

Department: Public Works Department

Requested By: Chad Townsend

Reviewed/Approved by City Attorney? No

Cost: \$37,824.00

Funding Source if Not in Budget SP 210 HP Park Account (within Budget)

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

See attached Contract Change Order Request for Undercutting at Entrance Roadway.

Northwest Georgia Paving, Inc.
P.O. Box 578
Calhoun, GA 30703
Office: (706) 383-5306
Fax: (706) 383-5305
Cell: (770) 547-4028
Email: broberts@nwgpinc.com



Job Name: City of Dalton
Job Location: 21-2060 Northeast Community
Complex Soccer Fields
Proposal Dated: 7-28-22
Company:
Contact: Mr. Chad Townsend
Cell:
Office: 706-277-7254
Email: ctownsend@cityofdalton-ga.gov

Proposal

Description
Subtotal Description

Request for Additional cost on Undercutting at Entrance Roadway and back fill with Stone based on field topo.
Undercutting 404 CY Backfill with Stone 800 tons \$47.28 per ton Total Request \$37,824.00

Proposal Certification

NOTES:

- We thank you for the opportunity of quoting this work and if our proposal is found to be satisfactory, please sign the original of this letter as indicated, and return to us for our files so this project can be scheduled.

Submitted By: Bryan S Roberts
Estimator & Project Manager

Acceptance of Proposal – The above prices, specifications and conditions are satisfactory and are hereby accepted. I will be responsible for all attorney's fees incurred during collection. You are authorized to do the work as specified. Payment will be made as outlined above. This proposal may be withdrawn by us if not accepted within 15 days.

Authorized Signature: _____

Date of Acceptance _____



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 8/15/22
Agenda Item: Amendment #2 To KRH Contract for Aquatic Center
Department: Administration
Requested By: Andrew Parker
Reviewed/Approved by City Attorney? Yes
Cost: \$14,750

Funding Source if Not in Budget

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

Amendment #2 with KRH Architects for Aquatic Center Design Services Agreement. KRH Architects Inc. has retained the services of Councilman Hunsaker to perform a Business Model / Operations Study for the new Dalton Aquatic Center. These services are described in the attached proposal from Councilman - Hunsaker. The Consultant's fee shall be a lump sum of \$14,750.00 including two (2) site visits. Reimbursable travel expenses will not exceed \$2,400.00 and will be billed at cost.

Amendment No.2 to AIA Document B101 -2007

Original Document Dated the Twenty-first day of June in the year Two Thousand Twenty One.

Between:

City of Dalton
300 West Waugh Street
Dalton, GA 30722

and

KRH Architects Inc.
855 Abutment Road Suite 4
Dalton, GA 30721

For the Project: A New Aquatic Center for the City of Dalton

Please make the following changes to the Standard Form of Agreement Between the Owner and Architect dated 6/21/2021.

The Owner and Architect agree as follows:

1. Revise Article 1.1.2 to read:

§ 1.1.2 The building and site improvements will be constructed on City-Owned property adjacent to the Dalton Convention Center.

2. Revise Article 1.1.7 to read:

§ Andrew Parker, City Administrator, City of Dalton
Strike the following: ~~Megan Elliot, Project Manager, City of Dalton~~

3. Add the following: Article 4.1.1.31

§ As requested by the Client, KRH Architects Inc. has retained the services of Councilman – Hunsaker to perform a Business Model / Operations Study for the new Dalton Aquatic Center. These the services are described in the attached proposal from Councilman – Hunsaker.

4. Add the following to Article 11.2:

§ The Consultant’s fee shall be a lump sum of \$14,750.00 including two (2) site visits. Reimbursable travel expenses will not exceed \$2,400.00 and will be billed at cost

OWNER: City of Dalton, GA

ARCHITECT: KRH Architects Inc.

(Signature)

David Pennington, Mayor

(Printed name and title)



(Signature)

Kenneth R. Harless, President

(Printed name and title)



Counselman · Hunsaker

AQUATICS FOR LIFE

BUSINESS MODEL / OPERATIONS STUDY AGREEMENT

THIS AGREEMENT made and entered into at St. Louis, Missouri this 11th day of August 2022 by and between **KRH ARCHITECTS** hereinafter referred to as "the Client" and COUNCILMAN-HUNSAKER., a Missouri corporation, doing business at 10733 Sunset Office Drive, Suite 400, St. Louis, Missouri 63127-1018, hereinafter referred to as "the Consultant".

WHEREAS, the **Client**, is undertaking an Operational Cost Analysis for the proposed indoor 50-meter aquatic facility and multi-purpose swimming pool located in Dalton, Georgia and,

WHEREAS, the Consultant is a consultant in the field of aquatic facility complex planning and design, and

WHEREAS, the **Client**, is desirous of retaining the Consultant as its independent contractor for purposes of planning the aquatic facility.

NOW, THEREFORE, in consideration of the covenants and agreements herein contained, the parties hereto agree as follows:

I. SERVICES: The **Client**, hereby retains the Consultant as its aquatic facility planning and design consultant for the proposed project. The scope of the Consultant's services are:

1. **NEEDS ANALYSIS**:

- A. Meet with the steering committee to analyze needs and determine objectives. The Consultant will conduct individual interviews as necessary with, for example, local education administrators and/or athletic directors, chamber of commerce representatives, business leaders, private and public recreation providers, health professionals, competitive swim groups, swim coaches, instructors, activity programmers, youth and seniors groups, and others if requested in order to ascertain existing levels of service and the perceived needs of various user groups in the community. A matrix of programming priorities will be developed and discussed to prioritize programming and the operational model.
- B. Conduct research and compile demographic information necessary to appropriately evaluate the proposed facility, including population, age distribution, income, weather analysis and economic considerations.

2. **OPERATIONAL COST ANALYSIS**:

- A. The Consultant will prepare an Operational Cost Analysis that will develop an opinion of operations protocol for the proposed aquatic facility. The following will be researched and analyzed and a final presentation to the project committee outlining the methods and results of the study will be made.

1. Operational data including attendance levels and trends, visitor mix, per capita expenditures, revenue, operating expenses, net operating income and net income after capital costs.
2. Proposed marketing strategies, pricing policies and sponsorship efforts.
3. Analysis of market penetration and compilation of demographic trends in the market area, including population levels and trends, incomes, age distribution and ethnic composition based on the Consultant's demographic data bank.
4. A review of local school year schedules.
5. A review of competing aquatic facilities in the market area.
6. Partnership types and operating strategies
7. Projections of attendance potential.
8. Projections of design level attendance figures and required capacity requirements.
9. Projections of aquatic facility operational expenses including, personnel, chemical demand, operating supplies, maintenance and repair, utility demand, marketing, food and beverage and retail.
10. Projections of financial performance
11. Preliminary estimates of warranted investment levels based on projected net operating income.

II. DRAWINGS: All of the reports, drawings and specifications prepared by the Consultant as instruments of service are and shall be the property of the Consultant whether the project for which they are made is executed or not. The Client shall be permitted to retain copies, including reproducible copies of the reports, drawings and specifications.

III. DELIVERABLES:

1. Base Deliverables (included in lump sum listed under IV. FEES):
 - i. Copy of all presentations in PDF format and graphics for Owner use that detail the process and findings for the feasibility study.
 1. Kickoff Presentation
 2. Options Presentation
 3. Final Presentation
 4. Final report

IV. FEES: The Consultant's fee shall be a lump sum of \$14,750.00 including two (2) site visits. Reimbursable travel expenses will not exceed \$2,400.00 and will be billed at cost.

The Consultant shall submit monthly statements of basic and additional services and for reimbursable expenses incurred, based upon the Consultant's hourly rate schedule for services completed at the time of billing. Reimbursable expenses shall include qualifying travel expenses at cost (not to exceed \$1,200.00 per trip for up to two trips).

The Client shall make payment within thirty (30) days after receipt of invoice from Councilman-Hunsaker. Consultant may, after giving seven (7) days written notice to the Client, suspend services until payment is made in full of all past due invoices for this project.

To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Councilman-Hunsaker and Councilman-Hunsaker's officers, directors, partners, employees, agents and Councilman-Hunsaker's consultants, and any of them, to Client and

anyone claiming by, through or under Client for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the conclusions and recommendations expressed in the study shall not exceed the total compensation received by Counsilman-Hunsaker under this Agreement.

V. ADDITIONAL SERVICES: All additional services must be authorized in writing. The Consultant shall be paid for additional services according to the following fee schedule (if not listed as a lump sum):

Principal	\$285.00/hour
Director	\$250.00/hour
Project Manager	\$220.00/hour
Project Engineer/Architect	\$185.00/hour
Design Associate	\$155.00/hour
Administrative	\$90.00/hour
Site Visit	\$1,800.00 /day *

* Excluding travel expenses (to be billed at cost with a not to exceed of \$1,200.00 per trip)

VI. TERMINATION: Each party agrees that upon the occurrence of a material breach or default of the other under the terms of this Agreement, it shall provide written notice of such default to the other. Such written notification given by the party shall specifically state the material breach or default under the terms of this Agreement. The notified party shall have thirty (30) days after such notice is given to remedy the specific breach or default. Upon the failure by the defaulting party to cure the specified breach or default within the allotted time, or recurrence of the same breach within thirty (30) days after its initial cure, the other party shall have the right to terminate this Agreement except with respect to any liabilities or obligations which, under the terms of this Agreement are to survive its termination.

VII. SCHEDULE OF WORK: The Consultant shall execute all of the tasks listed above within 60 calendar days of receipt of a signed agreement and authorization to proceed. Review periods by the Client, or other extensions not caused by the Consultant, will be added to the 60 calendar days.

VIII. ENTIRE AGREEMENT: This agreement constitutes the entire understanding between the parties and cannot be modified except by their mutual written consent. In the event of a conflict between this Agreement and the terms of any other agreement or document pertaining to the Project, the terms and provisions of this Agreement will be controlling.

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

ACCEPTED:

COUNSILMAN-HUNSAKER

BY: _____
George Deines – Studio Director

KRH ARCHITECTS

BY: _____

Date: _____

Date: _____

Contact Information:

Kenneth R Harless, AIA
NCARB
706-529-5895 - office
855 Abutment Rd. Suite 4
Dalton GA, 30721