

A G E N D A
City Council Meeting
Monday, June 7, 2021 – 6:00 p.m.

➤ **OPENING**

- **Call to Order**
- **Invocation:** Dr. Delores Thompson from Redeem Fellowship International
- **Pledge of Allegiance**
- **Roll Call**

➤ **FORMAL PUBLIC COMMENT – *No formal requests***

Formal Public Comment – City Council Agenda Protocol

The City of Garden City has identified this portion of the meeting to allow individuals an opportunity to formally address the City Council on issues of importance. Garden City requires that individuals who desire to formally address the City Council submit a written request form outlining the subject matter that they intend to discuss so that they can be placed on the meeting agenda. Members of the public desiring to be placed on the agenda to present or address matters to the City Council must submit a formal ***“REQUEST TO BE PLACED ON THE CITY COUNCIL AGENDA”*** form to the Office of the City Manager at least 10 days prior to the requested City Council meeting date that you wish to speak. City Council meetings are held on the first and third Monday of each month so the request must be submitted no later than 5:00 pm on the Friday which constitutes 10 days prior. The request can be done in person, regular mail, fax or e-mail and the speaker should obtain acknowledgement of the request from the City to demonstrate that the 10-day requirement has been met. The request form may be obtained from the Office of the City Manager and on the City's website www.gardencity-ga.gov. The request should state the name of the individual(s) desiring to be heard and the subject matter to be presented to City Council. Requests may be referred at the discretion of the City Manager, to appropriate staff for mediation prior to being placed on the public agenda. Please be advised the completion of a request form does not entitle the speaker to be added to the agenda.

➤ **Public Hearings:** *No public hearings*

Speaking to a Public Hearing Item Protocol

In the interests of time and to ensure fairness of all persons who appear before the City Council to speak for or against a public hearing item, speakers will be limited to three (3) minutes each to address City Council except as described herein. One speaker for the Petitioner may address the City Council for no more than 10 minutes, unless extended by the Mayor. In an effort help the City Council and the general public to better understand the issues, the Mayor may request that a City staff member address the City Council from the podium. Speakers from the general public may only speak when recognized by the Mayor during the public hearing. Speakers will be asked to come to the podium to address the City Council for three (3) minutes and they shall state their name and resident address for the record.

Speakers addressing City Council on a public hearing item should coordinate comments to respect City Council's time limits. Groups should select a spokesperson to present the major points that summarize their position and opinions. Speakers are urged to be brief and non-repetitive with their comments. Comments shall specifically address the public hearing item before the City Council, and the speaker shall maintain appropriate tone and decorum when addressing the City Council. City Council may ask questions of the applicant, speakers, or staff during these proceedings only for the purpose of clarifying information. The speaker shall not direct derogatory comments to any individual, organization, or business. At the conclusion of the three (3) minute time period, the speaker will be notified that his/her time has elapsed and the next speaker will be recognized to come forward to the podium and address the City Council. Once the public hearing is closed on an item, there will be no further opportunity for formal or informal public input at a City Council meeting.

***PROCEDURES FOR CONDUCTING PUBLIC HEARINGS ON PROPOSED ZONING DECISIONS BEFORE
GARDEN CITY'S MAYOR AND COUNCIL AND STANDARDS GOVERNING THE EXERCISE OF
CITY COUNCIL'S ZONING POWER***

Procedures for Conducting Public Hearings on Proposed Zoning Decisions:

All public hearings conducted by the Mayor and Council on Garden City, Georgia, on proposed zoning decisions shall be conducted as follows:

- (1) All public hearings by the Mayor and Council on zoning amendments shall be chaired by the Mayor.
- (2) The Mayor shall open the hearing by stating the specific zoning amendment being considered at the public hearing and further stating that printed copies of the adopted standards governing the exercise of the Mayor and Council's zoning power and the procedures governing the hearing are available to the public.
- (3) The Director of the City's Planning and Zoning Department shall advise the Mayor and Council of the recommendation of the Planning Commission when applicable.
- (4) The Mayor shall determine the number of attendees who desire to testify or present evidence at the hearing.
- (5) When there is a large number of individuals wishing to testify at a hearing, the Mayor may invoke time limits on individual speakers. In such cases, these time limits shall apply to all speakers. Proponents, including the petitioner or the petitioner's agent requesting the zoning decision, shall have no less than ten (10) minutes for the presentation of data, evidence, and expert opinions; opponents of the proposed decision shall have an equal minimum period of time. The Mayor may grant additional time; provided, however, an equal period of time shall be granted both sides.
- (6) The petitioner requesting such zoning decision, or the applicant's agent, shall be recognized first and shall be permitted to present and explain the request for the zoning decision. Thereafter, all individuals who so desire shall be permitted to speak in favor of the zoning decision.
- (7) After all individuals have had an opportunity to speak in accordance with subparagraph (6) above, those individuals present at the public hearing who wish to speak in opposition to the requested zoning decision shall have an opportunity to speak.
- (8) The Mayor may limit repetitious comments in the interest of time and may call for a show of hands of those persons present in favor of or opposed to the proposed decision.
- (9) It shall be the duty of the Mayor to maintain decorum and to assure the public hearing on the proposed decision is conducted in a fair and orderly manner.
- (10) Once all parties have concluded their testimony, the Mayor shall adjourn the public hearing.

Standards Governing the Exercise of The Zoning Powers of Garden City's Mayor and Council:

Prior to making a zoning amendment, the Mayor and Council shall evaluate the merits of a proposed amendment according to the following criteria:

- (1) Is this request a logical extension of a zoning boundary which would improve the pattern of uses in the general area?
- (2) Is this spot zoning and generally unrelated to either existing zoning or the pattern of development of the area?
- (3) Could traffic created by the proposed use or other uses permissible under the zoning sought traverse established single-family neighborhoods on minor streets, leading to congestion, noise, and traffic hazards?
- (4) Will this request place irreversible limitations or cause material detriment on the area similarly zoned as it is or on future plans for it?
- (5) Is there an imminent need for the rezoning and is the property likely to be used for the use requested?
- (6) Would the proposed use precipitate similar requests which would generate or accelerate adverse land use changes in the zone or neighborhood?

➤ **APPROVAL OF CITY COUNCIL MINUTES**

- Consideration of the May 17, 2021 Pre-agenda Session Minutes and City Council Meeting Minutes

➤ **CITY MANAGER'S REPORT**

- Updates and/or announcements

➤ **ITEMS FOR CONSIDERATION**

- **Resolution, Oak Hill Subdivision Dedication:** A resolution authorizing Garden City, Georgia, to accept the dedication by Big Hill Properties, LLC, of the rights-of-way and water and sewer infrastructure located within Oak Hill Subdivision in return for adequate consideration and subject to certain terms and conditions; to authorize the City Manager to execute a development agreement with Big Hill Properties, LLC, setting forth the obligation of the developer and the City with respect to such dedication; and for other purposes.
- **Resolution, Compliance Engine Contract:** A resolution authorizing the execution of an agreement by and between Brycer, LLC, and Garden City, Georgia, for an internet-based service known as "The Compliance Engine" which shall be the sole approved method of transmitting records of fire inspections to the Garden City Fire Department, providing an effective date, and for other purposes.
- **Resolution, Surplus Equipment (Kubota Side Cutter):** A resolution to classify as surplus property a Kubota M185 Side Cutter owned by the City's Public Works Department and to authorize the Public Works Department to dispose of the equipment pursuant to State law.

➤ **RECEIPT OF INFORMAL PUBLIC COMMENT:**

➤ **Procedure:** In an effort to best manage this section of the meeting, any person that desires to address the City Council must sign up using the process outlined on the website where this meeting is advertised. Once recognized by the Mayor, the person will be allowed to speak in accordance with the Informal Public Comment – Speaker Protocols outlined below.

Informal Public Comment – Speaker Protocol

The City of Garden City believes that any member of the general public should be afforded the opportunity to address the City Council provided that designated rules are followed by the speaker. Any member of the public who wishes to address the City Council and offer public comment on items within the City Council's jurisdiction, may do so during the Informal Public Comment period of the meeting. However, no formal action will be taken on matters that are not part of the posted agenda. Informal Public Comments are scheduled for a total of fifteen (15) minutes and each person will be limited to three (3) minutes. In order to ensure the opportunity for all those desiring to speak before the Council, there is no yielding of time to another speaker. Speakers not heard during the limited fifteen (15) minute period will be first to present their comments at the next Council meeting. The opportunity to address City Council on a topic of his/her choice shall be used by an individual only one (1) time per month. It may not be used to continue discussion on an agenda item that has already been held as a public hearing. Matters under negotiation, litigation, or related to personnel will not be discussed. If a member of the general public would like to address the City Council during the Informal Public Comment portion of the meeting, please respectfully indicate your desire to address the City Council when the Mayor solicits members of the general public to come forward and speak. You will be recognized by the Mayor and asked to come forward to the podium so that you can address the City Council in accordance with the rules outlined herein. Once the speaker has been recognized to speak, he/she will be given three (3) minutes to address the City Council. The speaker should not attempt to engage the City Council and/or Staff in a discussion/dialogue and the speaker should not ask specific questions with the expectation that an immediate answer will be provided as part of the three (3) minute time frame since that is not the intent of the Informal Public Comment period. If the speaker poses a question or makes a request of the City, the Mayor may refer the issue or request to the City Manager for follow up. At the conclusion of the three (3) minute time period, the speaker will be notified that his/her time has elapsed and the next speaker will be recognized to come forward to the podium and address the City Council. The Mayor may rule out of order any Speaker who uses abusive or indecorous language, if the subject matter does not pertain to the City of Garden City, or if the Speaker(s) attempts to engage the City Council Members in a discussion or dialogue on issues. City Council shall not discuss non-agendized matters because it does not give the public adequate notice. Accordingly, City Council shall be limited to asking factual and clarifying questions of staff, and when appropriate, the Council may consider placing a matter on a future agenda. In addition, it is not reasonable to expect staff to respond to any of a variety of issues on which they may or may not be prepared to respond to on a moment's notice, so the City Manager may respond, or direct staff to respond at a later time.

➤ **ADJOURN**

M I N U T E S

City Council Meeting Monday, May 17, 2021 – 6:00 p.m.

Call to Order: Mayor Bethune called the meeting to order at approximately 6:00 p.m.

Opening: Pastor Dale Simmons from Jasper Springs Baptist Church gave the invocation and Mayor Bethune led City Council in the pledge of allegiance to the flag.

Roll Call

Council Members: Mayor Don Bethune, Mayor Pro-tem Bessie Kicklighter, Councilmember Marcia Daniel, Councilmember Richard Lassiter, Councilmember Natalyn Morris, Councilmember Debbie Ruiz and Councilmember Kim Tice.

Staff Members: Ron Feldner, City Manager; James P. Gerard, City Attorney; Rhonda Ferrell-Bowles, Finance Director/Clerk of Council; Scott Robider, Assistant City Manager; Pam Sweeney HR Director; Ben Brengman, IT Director; Gil Ballard, Chief of Police; Cliff Ducey, Recreation Director and Michelle Johnson, Interim Fire Chief. Absent: Jon Bayer, Public Works Director.

Public Hearing

Alcoholic Beverage License Application: A public hearing to receive comment on an alcoholic beverage license application made by Diana Lares-Ochoa to sell liquors (by the drink), beer and/or malt beverages at La Comarca Mexican Grocery Store, LLC, 4811 Ogeechee Road, Unit A, Garden City, Georgia.

Mayor Bethune opened the public hearing to receive public comment on the application. There being no speakers, Mayor Bethune closed the public hearing.

City Council Minutes: Councilmember Lassiter made a motion to approve the April 19, 2021 Executive Session Minutes, May 3, 2021 Pre-Agenda Session Minutes and City Council Minutes, and the May 10, 2021 City Council Workshop Minutes. The motion was seconded by Councilmember Kicklighter and passed without opposition.

City Manager's Report: City Manager stated that the monthly staff reports are included in the agenda packet.

Items for Consideration

First Reading - Ordinance, Garden City Retirement Plan Amendment: Clerk of Council read the first reading of the heading of an ordinance to amend and restate the Retirement Plan for the Elected Officials and Employees of the City of Garden City in accordance with and subject to the terms and conditions set forth in the Adoption Agreement, any Addendum to the Adoption Agreement, the Georgia Municipal Employees Benefit System (GMEBS) Master Plan Document, and the GMEBS Trust Agreement.

Councilmember Kicklighter made a motion to approve the ordinance on the first reading. The motion was seconded by Councilmember Ruiz and passed without opposition.

Councilmember Kicklighter made a motion to suspend the rules of council and hold the second reading of the ordinance. The motion was seconded by Councilmember Lassiter and passed without opposition.

Second Reading - Ordinance, Garden City Retirement Plan Amendment: Clerk of Council read the second reading of the heading of an ordinance to amend and restate the Retirement Plan for the Elected Officials and Employees of the City of Garden City in accordance with and subject to the terms and conditions set forth in the Adoption Agreement, any Addendum to the Adoption Agreement, the Georgia Municipal Employees Benefit System (GMEBS) Master Plan Document, and the GMEBS Trust Agreement.

Councilmember Kicklighter made a motion to adopt the ordinance on the second reading. The motion was seconded by Councilmember Ruiz and passed without opposition.

Resolution, City Manager's Employment Agreement: Clerk of Council read the heading of a resolution by the Mayor and City Council to approve the Third Amendment to the Employment Agreement between the City and City Manager regarding modification of the retirement plan provision, and to authorize the Mayor to enter into said Third Amendment on behalf of the City.

Councilmember Tice made a motion to adopt the resolution. The motion was seconded by Councilmember Kicklighter and passed without opposition.

Resolution, CNT Memorandum of Understanding: Clerk of Council read the heading of a resolution authorizing Garden City, Georgia, to enter into an intergovernmental agreement with Chatham County for the operation of a drug enforcement unit; to authorize the City Manager to execute said agreement and to otherwise perform all acts necessary to accomplish the intent of this resolution; to provide an effective date; and for other purposes.

Councilmember Kicklighter made a motion to adopt the resolution. The motion was seconded by Councilmember Daniel and passed without opposition.

Resolution, Roadside Maintenance Contract Award: Clerk of Council read the heading of a resolution to enter into an agreement with Tidewater Landscape Management, Inc., for roadside mowing and general maintenance of various segments of city streets and state routes; to authorize the City Manager to execute the agreement for such services and for other purposes.

Councilmember Tice made a motion to adopt the resolution. The motion was seconded by Councilmember Daniel and passed without opposition.

Alcoholic Beverage License Application: Consideration for approval by Mayor and Council an application for an alcoholic beverage license made by Diana Lares-Ochoa to sell liquors (by the drink), beer and/or malt beverages at La Comarca Mexican Grocery Store, LLC, 4811 Ogeechee Road, Unit A, Garden City, Georgia.

Councilmember Lassiter made a motion to adopt the resolution. The motion was seconded by Councilmember Kicklighter and passed without opposition.

Information Public Comment: Mayor Bethune stated that no speakers signed up to address City Council. City Manager introduced Interim Fire Chief Michelle Johnson.

Adjournment: There being no further items to discuss, Mayor Bethune called for a motion to adjourn the meeting. Councilmember Ruiz made a motion to adjourn the meeting at approximately 6:12 p.m. The motion was seconded by Councilmember Morris and passed without opposition.

Transcribed & submitted by: Clerk of Council

Accepted & approved by: City Council 6/7/21

SYNOPSIS

Pre-Agenda Session Monday, May 17, 2021 – 5:30 p.m.

Call to Order: Mayor Bethune called the pre-agenda session to order at approximately 5:30 p.m. and gave the invocation.

Attendees

Council Members: Mayor Don Bethune, Mayor Pro-tem Bessie Kicklighter, Councilmember Marcia Daniel, Councilmember Richard Lassiter, Councilmember Natalyn Morris, Councilmember Debbie Ruiz and Councilmember Kim Tice.

Staff Members: Ron Feldner, City Manager; James P. Gerard, City Attorney; Rhonda Ferrell-Bowles, Finance Director/Clerk of Council; Scott Robider, Assistant City Manager; Pam Sweeney HR Director; Ben Brengman, IT Director; Gil Ballard, Chief of Police; Cliff Ducey, Recreation Director and Michelle Johnson, Interim Fire Chief. Absent: Jon Bayer, Public Works Director.

Garden City Retirement Plan Amendment: City Manager gave an overview of the retirement plan amendments. He stated that the amendments provide for an increase in benefit level for elected officials from \$25 to \$35 per month for each year of service as an elected official and also adds an alternative normal retirement at the rule of 66 for the current City Manager.

Roadside Maintenance Contract Award: Assistant City Manager gave an overview of the request for proposals to perform the roadside mowing and maintenance for state routes in targeted areas of the City. He stated that the FY2021 budget allocated funds for the procurement of roadside services related to seasonal grass maintenance in the amount of \$140,000. We received three proposals with Tidewater Landscaping Services coming in as the low bidder at \$16,087.50 per month for a total annual cost of \$128,700.

Revenue & Expenditures Report as of April 30, 2021: Finance Director gave an overview of the Revenue & Expenditures Report for the month of April. She stated that all of the funds are performing as expected and the available cash is showing a positive trend at the start of the second quarter. There were no questions or comments regarding the report.

Review of City Council Meeting Agenda Items: City Manager gave an overview of the items listed on the council meeting agenda.

There being no further items to discuss, City Council adjourned the pre-agenda session at approximately 5:58 p.m.

*Transcribed & submitted by: Clerk of Council
Accepted & approved by: City Council 6/7/21*



MEMORANDUM

To: Mayor and City Council
From: Ron Feldner
Date: June 4, 2021
Re: The Oaks Subdivision Development Agreement – Roads and Utilities

The purpose of this memorandum is to provide the City Council an overview of the proposed Development Agreement (DA) between the City of Garden City and The Oaks Subdivision Homeowners Association (HOA) via Big Hill Properties LLC. The City and Big Hill Properties LLC have been in discussions over an extended period of time that has now come to the point of executing a DA between the two parties.

The proposed DA generally addresses the following issues: (1) City acceptance of the private roads and associated utilities within the right of way (ROW) and easements; (2) future road maintenance; and (3) future maintenance of designated water and sewer utilities.

The City staff has coordinated with multiple road paving contractors to establish the likely cost to repair the existing roads within the subdivision as well as a utility contractor to establish the likely cost to address the identified utility system repairs and maintenance. Based on the information provided by these contractors and the assessment work performed by City staff, the following information is provided:

- The future road maintenance work will consist of near future repair of the most heavily damaged road section (i.e. White Oak Way between the two intersections with Live Oak Lane) within the next several months followed by repaving of the other less damaged sections in the future as conditions warrant.
 - The area in need of near term repair will likely cost on the order of \$150,000 with the City being able to utilize about \$95,000 from GDOT which will be made available to the City in the coming months via the annual LMIG Program. The City will combine the aforementioned LMIG funds (\$95,000) with the \$41,000 contribution from Big Hill Properties LLC to pay for the repair work and to cover a majority of the \$150,000 estimated cost to address the area designated as “the most heavily damaged section”.
- The City staff has run a camera through the sanitary sewer lines within The Oaks to identify necessary repairs, etc. Based on the camera assessment, a local utility contractor has estimated that approximately \$96,480 should be budgeted to address the highest priority utility issues.
 - The City could utilize water sewer repair funds in the FY21 budget to address the \$96,480 budget estimate provided that the Finance Department concurs.

In closing, it is my opinion that the City has negotiated acceptable terms with Big Hill Properties LLC regarding The Oaks Subdivision road ownership and pavement maintenance needs. The City Council Resolution outlines the actions to be taken with regard to acceptance of the road ROW and utilities and it authorizes the City Manager to execute the final DA document with input from the City Attorney as to any pertinent issues.

Requested City Council Action: Approve the Resolution and the associated DA document signed by the HOA representative as well as authorize the City Manager to execute the DA on behalf of the City.

Please contact me with any questions regarding the information contained in this memo.

Attachment: Development Agreement – Big Hill Properties LLC

R E S O L U T I O N

A RESOLUTION AUTHORIZING GARDEN CITY, GEORGIA, TO ACCEPT THE DEDICATION BY BIG HILL PROPERTIES, LLC, OF THE RIGHTS-OF-WAY AND WATER AND SEWER INFRASTRUCTURE LOCATED WITHIN OAK HILL SUBDIVISION IN RETURN FOR ADEQUATE CONSIDERATION AND SUBJECT TO CERTAIN TERMS AND CONDITIONS; TO AUTHORIZE THE CITY'S CITY MANAGER TO EXECUTE A DEVELOPMENT AGREEMENT WITH BIG HILL PROPERTIES, LLC, SETTING FORTH THE OBLIGATIONS OF THE DEVELOPER AND THE CITY WITH RESPECT TO SUCH DEDICATION; AND FOR OTHER PURPOSES.

WHEREAS, Big Hill Properties, LLC, as the developer of Oak Hill Subdivision (the "Developer"), formerly a portion of Happy Discovery Plantation, in Garden City, Georgia, comprised of four phases more particularly shown on subdivision maps recorded in the Office of the Clerk of the Superior Court of Chatham County, Georgia, in Subdivision Map Book 35-S, Page 12 (Phase 1), Subdivision Map Book 35-S, Page 47 (Phase 2), Subdivision Map Book 38-S, Page 41 (Phase 3), and Subdivision Map Book 38-S, Page 42 (Phase 4) (the "Subdivision"), has requested the City to accept its dedication of the rights-of-way and the water and sewer mains within the Subdivision, and to maintain same in the future for public use; and,

WHEREAS, the Developer maintains unencumbered fee simple ownership of the rights-of-way in the Subdivision as shown on the above-mentioned subdivision maps, as well as the water and sewer mains within the Subdivision which mostly lie within said rights-of-way with the exception of those which encroach onto Lot Number Twenty-Four (24) of Oak Hill Subdivision, Phase 1, for which the Developer holds an assignable access easement for maintenance purposes; and,

WHEREAS, in consideration for the City's acceptance of the rights-of-way and the water/sewer mains within the Subdivision, the Developer has agreed to (1) pay the City the sum of \$41,000.00 which, together with the City's own budgeted and appropriated funds, shall be used to convert the rights-of-way to municipal roads in compliance with city street standards, and (2) convey full unencumbered fee simple title to the City for Lot 1 of the Oaks Subdivision, Phase 4, which the City may use for any public purpose including, but not limited to, maintaining a temporary driveway running from the end of the cul-de-sac on Water Oak Way to Hawkinsville Road for emergency use in accessing properties within the Subdivision if the Subdivision's regular entrance at Big Hill Road were to flood; and,

WHEREAS, the City has determined through recent inspections of the rights-of-way and

utility lines that immediate road repairs costing approximately \$150,000.00 are necessary, and that approximately \$95,000.00 is needed to repair the Subdivision's sanitary sewer lines; and,

WHEREAS, the City's Finance Department has determined that funding for the above-mentioned road repairs could be derived from the Developer's above-mentioned \$41,000.00 contribution plus the funds which the City will be receiving from the Georgia Department of Transportation (GDOT) as its 2021 annual allocation under the Department's Local Maintenance & Improvement Grant (LMIG) Program, and that funding for the above-mentioned repairs to the Subdivision's sanitary sewer lines could be derived from water/sewer repair funds available in the FY21 City budget; and,

WHEREAS, based on the Developer's offered consideration, and the availability of City funds to upgrade and maintain the roads and utility infrastructure within the Subdivision so as to meet the established standards for municipal road and utility systems, the City is now willing to accept the Developer's dedication subject to the terms and conditions set forth in the Development Agreement attached hereto as Exhibit "A" including, but not limited to, a release given by the Developer discharging the City from any and all liability arising from or in any manner related to the City's previous unwillingness to accept dedication of the rights-of-way and/or to maintain and repair the rights-of-way; and,

WHEREAS, the Mayor and Council deem it in the best interest of the City to accept the dedication of the Subdivision's rights-of-way and water and sewer mains by approving the attached Development Agreement, and to authorize the City Manager to execute and administer the performance of same on the City's behalf;

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF GARDEN CITY, GEORGIA, AND IT IS HEREBY RESOLVED that the City accept the dedication of the rights-of-way in the Oak Hill Subdivision as shown on the above-mentioned subdivision maps as well as the water and sewer mains within the Subdivision for public use in accordance with the terms and conditions set forth in the Development Agreement attached hereto as Exhibit "A" which is hereby approved.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to (a) execute the Development Agreement attached hereto as Exhibit "A" on behalf of the City; (b) execute and deliver any and all documents or agreements reasonably required to consummate the transactions outlined in the Agreement; and, (c) do and perform any and all further acts and things which the City Manager shall deem necessary or appropriate in his discretion to effectuate the terms thereof.

BE IT FURTHER RESOLVED that funding for the road repairs in immediate need of being performed within the Subdivision shall be derived from the Developer's above-mentioned \$41,000.00 contribution plus the funds which the City will be receiving from GDOT as its 2021 annual allocation under the Department's LMIG Program, and that funding for the repairs to the sanitary sewer lines within the Subdivision be derived from water/sewer repair funds available in the FY21 City budget.

BE IT FURTHER RESOLVED that effective date of this Resolution shall be when approved by the Mayor and Council.

SO RESOLVED this 7th day of June, 2021.

RHONDA FERRELL-BOWLES,
Clerk of Council

Received and approved this 7th day of June, 2021.

DON BETHUNE, Mayor

EXHIBIT "A"

State of Georgia)
County of Chatham)

Development Agreement Regarding Street Dedication, Improvement and Maintenance

This Development Regarding Street Dedication and Maintenance (this “**Agreement**”) is entered into this ____ day of June, 2021 between **BIG HILL PROPERTIES, LLC**, a Georgia limited liability company with its principal place of business at 3 Bloomsbury Place in Savannah, Georgia 31411 (the “**Developer**”), and **GARDEN CITY, GEORGIA**, a municipality chartered and existing under the laws of the State of Georgia (the “**City**”).

WHEREAS, Big Hill Properties, LLC, is the developer of Oak Hill Subdivision, formerly a portion of Happy Discovery Plantation, in Garden City, Georgia, comprised of four phases more particularly shown on subdivision maps recorded in the Office of the Clerk of the Superior Court of Chatham County, Georgia, in Subdivision Map Book 35-S, Page 12 (Phase 1), Subdivision Map Book 35-S, Page 47 (Phase 2), Subdivision Map Book 38-S, Page 41 (Phase 3), and Subdivision Map Book 38-S, Page 42 (Phase 4) (the “**Subdivision**”); and,

WHEREAS, the Developer maintains unencumbered fee simple ownership of the rights of way in the Subdivision as shown on the above-mentioned subdivision maps which are incorporated herein by reference and made a part hereof for better determining the metes and bounds of the rights of way (the "Rights of Way"); and,

WHEREAS, the Developer has requested the City to accept its dedication of the Rights of Way and to maintain same in the future; and,

WHEREAS, in preparing the roads for dedication, the Developer, on or about March 8, 2021, retained the services of Complete Site Prep LLC in Savannah, Georgia, to patch, on a temporary basis, those Rights of Way within the Subdivision which posed a risk of damage to car traffic, at the approximate cost of \$6,500.00, said road areas being shown on the attached Exhibit "B;" and,

WHEREAS, the City is now willing to accept dedication of the Rights of Way and to the convert same to municipal rights of way for roadway purposes subject to the terms and conditions set forth herein; and,

WHEREAS, the Parties are desirous of confirming herein their respective obligations to each other with respect to the Rights of Way within the Subdivision.

NOW, THEREFORE, for the mutual covenants and promises contained in this Agreement, the receipt and sufficiency of which are mutually acknowledged, the City and the Developer agree as follows:

1. Recitals. The above-stated recitals are hereby restated and incorporated into this Section 1 as though fully set forth herein.
2. Deed of Dedication. The Developer shall execute a Right of Way Deed prepared by the City (the “Dedication Deed”) dedicating unencumbered fee simple title to the Rights of Way within the Subdivision. The appropriate officers of the Developer, as the sole owner of the Rights of Way, shall sign the Dedication Deed, and the City shall approve same by resolution and sign and record it against the title to the Subdivision. The City shall pay all expenses in connection with the preparation and approval of the Dedication Deed.
3. Road Improvements. Upon the recording of the Dedication Deed, the City shall be responsible for patching and resurfacing, as needed, the dedicated Rights of Way subject to the following conditions:
 - a) Within thirty (30) days of the execution of this Agreement, the Developer shall pay the City the sum of \$41,000.00 which, together with the City’s own budgeted and appropriated funds, shall be used to convert the Rights of Way to municipal rights of ways in compliance with city street standards.
 - b) Within thirty (30) days of the execution of this Agreement, the Developer shall convey full unencumbered fee simple title to the City for Lot 1 of the Oaks Subdivision, Phase 4, as shown on that certain subdivision map recorded in the Office of the Clerk of the Superior Court of Chatham County, Georgia, in Subdivision Map Book 38-S, Page 42, which the City may use for any public purpose including, but not limited to, maintaining a temporary driveway running from the end of the cul-de-sac on Water Oak Way (which borders said Lot 1) to Hawkinsville Road for emergency use in accessing properties within the Subdivision when the Subdivision’s regular entrance at Big Hill Road is flooded.
 - c) The City shall bundle the right of way dedication project for the Subdivision with other road improvement projects to be performed in the second half of 2021 or the first quarter of 2022 to obtain maximum cost savings for its taxpayers. All road improvement work shall be subject to the public bidding requirements of O.C.G.A. Section 32-4-110 et seq., and to the budgetary constraints of the City. Nonetheless, the City shall perform the road improvement work defined herein within one (1) year from the effective date of this Agreement, unless the parties agree otherwise.

4. Utilities within Rights-of-Way. Within thirty (30) days from the execution of this Agreement, Developer shall execute a warranty bill of sale transferring, assigning and delivering to the City all of its right, title, and interest in and to all portions of any connecting sewer lines and all portions of any connecting water lines constructed within the Rights of Way, with the exception of any and all service laterals. Such transfer shall be conditioned upon the City's satisfactory inspection of the infrastructure which shall be recited in the conveyance instrument and acknowledged by the City through its execution of same. Developer shall warrant to the City that the utility infrastructure is free and clear of all liens, charges and encumbrances, and that it has full right, power, and authority to transfer title to the utility infrastructure. With respect to the water and/or sewer lines which have been constructed on Lot Number Twenty-Four (24) of Oak Hill Subdivision, Phase 1, as shown on the above-mentioned subdivision map recorded in the Office of the Clerk of the Superior Court of Chatham County, Georgia, in Subdivision Map Book 35-S, Page 12, Developer shall assign to the City, in the Dedication Deed, that certain fifteen (15') foot wide utility easement located on said Lot as shown on the subdivision map for the purpose of maintaining, repairing, and replacing same.
5. Future Road Maintenance. Upon recording of the Dedication Deed, the City shall thereafter be solely responsible for the maintenance of the dedicated Rights of Way.
6. Release. Developer does forever release and discharge the City and each of its officials, employees, and contractors of and from any and all liability, claims, demands, actions, causes of action, suits, damages, charges, and obligations of every kind and nature whatsoever, whether in law, equity, or otherwise, whether based upon contract or otherwise, whether presently known or unknown and whether or not presently accrued, which Developer now has or may at any time hereafter have for, based upon, or by reason of any matter, cause, thing, circumstances, acts or omissions whatsoever arising from or in any manner related to the City's previous unwillingness to accept dedication of the Rights of Way and/or to maintain and repair the Rights of Way prior to the filing of the Dedication Deed pursuant to the terms of this Agreement.
7. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto. There are no other written or oral agreements or understandings concerning the subject matter of this Agreement which are not expressly written herein.
8. Authorized Signature. The City represents and warrants that this Agreement was authorized by a duly passed resolution of Garden City's Mayor and Council, and that the City's City Manager has the requisite authority to sign this Agreement on behalf of the City and to bind the City.

9. **Choice of Laws; Venue.** Any dispute between the Parties hereto pertaining to this Agreement shall be governed by the laws of the State of Georgia. Venue for any litigation pertaining to this Agreement shall be in the Superior Court of Chatham County, Georgia.

WHEREFORE, the parties hereto have executed this Agreement under seal on the date first above written.

Big Hill Properties, LLC

Signed, sealed, and delivered this _____
day of May, 2021, in the presence of:

Witness

Notary Public

Signed, sealed, and delivered this _____
day of May, 2021, in the presence of:

Witness

Notary Public

Garden City, Georgia

By: _____
Ron Feldner, City Manager

Attest: _____
Rhonda Ferrell-Bowles

R E S O L U T I O N

A RESOLUTION AUTHORIZING GARDEN CITY, GEORGIA, TO ACCEPT THE DEDICATION BY BIG HILL PROPERTIES, LLC, OF THE RIGHTS-OF-WAY AND WATER AND SEWER INFRASTRUCTURE LOCATED WITHIN OAK HILL SUBDIVISION IN RETURN FOR ADEQUATE CONSIDERATION AND SUBJECT TO CERTAIN TERMS AND CONDITIONS; TO AUTHORIZE THE CITY'S CITY MANAGER TO EXECUTE A DEVELOPMENT AGREEMENT WITH BIG HILL PROPERTIES, LLC, SETTING FORTH THE OBLIGATIONS OF THE DEVELOPER AND THE CITY WITH RESPECT TO SUCH DEDICATION; AND FOR OTHER PURPOSES.

WHEREAS, Big Hill Properties, LLC, as the developer of Oak Hill Subdivision (the "Developer"), formerly a portion of Happy Discovery Plantation, in Garden City, Georgia, comprised of four phases more particularly shown on subdivision maps recorded in the Office of the Clerk of the Superior Court of Chatham County, Georgia, in Subdivision Map Book 35-S, Page 12 (Phase 1), Subdivision Map Book 35-S, Page 47 (Phase 2), Subdivision Map Book 38-S, Page 41 (Phase 3), and Subdivision Map Book 38-S, Page 42 (Phase 4) (the "Subdivision"), has requested the City to accept its dedication of the rights-of-way and the water and sewer mains within the Subdivision, and to maintain same in the future for public use; and,

WHEREAS, the Developer maintains unencumbered fee simple ownership of the rights-of-way in the Subdivision as shown on the above-mentioned subdivision maps, as well as the water and sewer mains within the Subdivision which mostly lie within said rights-of-way with the exception of those which encroach onto Lot Number Twenty-Four (24) of Oak Hill Subdivision, Phase 1, for which the Developer holds an assignable access easement for maintenance purposes; and,

WHEREAS, in consideration for the City's acceptance of the rights-of-way and the water/sewer mains within the Subdivision, the Developer has agreed to (1) pay the City the sum of \$41,000.00 which, together with the City's own budgeted and appropriated funds, shall be used to convert the rights-of-way to municipal roads in compliance with city street standards, and (2) convey full unencumbered fee simple title to the City for Lot 1 of the Oaks Subdivision, Phase 4, which the City may use for any public purpose including, but not limited to, maintaining a temporary driveway running from the end of the cul-de-sac on Water Oak Way to Hawkinsville Road for emergency use in accessing properties within the Subdivision if the Subdivision's regular entrance at Big Hill Road were to flood; and,

WHEREAS, the City has determined through recent inspections of the rights-of-way and

utility lines that immediate road repairs costing approximately \$150,000.00 are necessary, and that approximately \$95,000.00 is needed to repair the Subdivision's sanitary sewer lines; and,

WHEREAS, the City's Finance Department has determined that funding for the above-mentioned road repairs could be derived from the Developer's above-mentioned \$41,000.00 contribution plus the funds which the City will be receiving from the Georgia Department of Transportation (GDOT) as its 2021 annual allocation under the Department's Local Maintenance & Improvement Grant (LMIG) Program, and that funding for the above-mentioned repairs to the Subdivision's sanitary sewer lines could be derived from water/sewer repair funds available in the FY21 City budget; and,

WHEREAS, based on the Developer's offered consideration, and the availability of City funds to upgrade and maintain the roads and utility infrastructure within the Subdivision so as to meet the established standards for municipal road and utility systems, the City is now willing to accept the Developer's dedication subject to the terms and conditions set forth in the Development Agreement attached hereto as Exhibit "A" including, but not limited to, a release given by the Developer discharging the City from any and all liability arising from or in any manner related to the City's previous unwillingness to accept dedication of the rights-of-way and/or to maintain and repair the rights-of-way; and,

WHEREAS, the Mayor and Council deem it in the best interest of the City to accept the dedication of the Subdivision's rights-of-way and water and sewer mains by approving the attached Development Agreement, and to authorize the City Manager to execute and administer the performance of same on the City's behalf;

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF GARDEN CITY, GEORGIA, AND IT IS HEREBY RESOLVED that the City accept the dedication of the rights-of-way in the Oak Hill Subdivision as shown on the above-mentioned subdivision maps as well as the water and sewer mains within the Subdivision for public use in accordance with the terms and conditions set forth in the Development Agreement attached hereto as Exhibit "A" which is hereby approved.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to (a) execute the Development Agreement attached hereto as Exhibit "A" on behalf of the City; (b) execute and deliver any and all documents or agreements reasonably required to consummate the transactions outlined in the Agreement; and, (c) do and perform any and all further acts and things which the City Manager shall deem necessary or appropriate in his discretion to effectuate the terms thereof.

BE IT FURTHER RESOLVED that funding for the road repairs in immediate need of being performed within the Subdivision shall be derived from the Developer's above-mentioned \$41,000.00 contribution plus the funds which the City will be receiving from GDOT as its 2021 annual allocation under the Department's LMIG Program, and that funding for the repairs to the sanitary sewer lines within the Subdivision be derived from water/sewer repair funds available in the FY21 City budget.

BE IT FURTHER RESOLVED that effective date of this Resolution shall be when approved by the Mayor and Council.

SO RESOLVED this 7th day of June, 2021.

RHONDA FERRELL-BOWLES,
Clerk of Council

Received and approved this 7th day of June, 2021.

DON BETHUNE, Mayor

EXHIBIT "A"

State of Georgia)
County of Chatham)

Development Agreement Regarding Street Dedication, Improvement and Maintenance

This Development Regarding Street Dedication and Maintenance (this “**Agreement**”) is entered into this ____ day of June, 2021 between **BIG HILL PROPERTIES, LLC**, a Georgia limited liability company with its principal place of business at 3 Bloomsbury Place in Savannah, Georgia 31411 (the “**Developer**”), and **GARDEN CITY, GEORGIA**, a municipality chartered and existing under the laws of the State of Georgia (the “**City**”).

WHEREAS, Big Hill Properties, LLC, is the developer of Oak Hill Subdivision, formerly a portion of Happy Discovery Plantation, in Garden City, Georgia, comprised of four phases more particularly shown on subdivision maps recorded in the Office of the Clerk of the Superior Court of Chatham County, Georgia, in Subdivision Map Book 35-S, Page 12 (Phase 1), Subdivision Map Book 35-S, Page 47 (Phase 2), Subdivision Map Book 38-S, Page 41 (Phase 3), and Subdivision Map Book 38-S, Page 42 (Phase 4) (the “**Subdivision**”); and,

WHEREAS, the Developer maintains unencumbered fee simple ownership of the rights of way in the Subdivision as shown on the above-mentioned subdivision maps which are incorporated herein by reference and made a part hereof for better determining the metes and bounds of the rights of way (the "Rights of Way"); and,

WHEREAS, the Developer has requested the City to accept its dedication of the Rights of Way and to maintain same in the future; and,

WHEREAS, in preparing the roads for dedication, the Developer, on or about March 8, 2021, retained the services of Complete Site Prep LLC in Savannah, Georgia, to patch, on a temporary basis, those Rights of Way within the Subdivision which posed a risk of damage to car traffic, at the approximate cost of \$6,500.00, said road areas being shown on the attached Exhibit "B;" and,

WHEREAS, the City is now willing to accept dedication of the Rights of Way and to the convert same to municipal rights of way for roadway purposes subject to the terms and conditions set forth herein; and,

WHEREAS, the Parties are desirous of confirming herein their respective obligations to each other with respect to the Rights of Way within the Subdivision.

NOW, THEREFORE, for the mutual covenants and promises contained in this Agreement, the receipt and sufficiency of which are mutually acknowledged, the City and the Developer agree as follows:

1. Recitals. The above-stated recitals are hereby restated and incorporated into this Section 1 as though fully set forth herein.
2. Deed of Dedication. The Developer shall execute a Right of Way Deed prepared by the City (the “Dedication Deed”) dedicating unencumbered fee simple title to the Rights of Way within the Subdivision. The appropriate officers of the Developer, as the sole owner of the Rights of Way, shall sign the Dedication Deed, and the City shall approve same by resolution and sign and record it against the title to the Subdivision. The City shall pay all expenses in connection with the preparation and approval of the Dedication Deed.
3. Road Improvements. Upon the recording of the Dedication Deed, the City shall be responsible for patching and resurfacing, as needed, the dedicated Rights of Way subject to the following conditions:
 - a) Within thirty (30) days of the execution of this Agreement, the Developer shall pay the City the sum of \$41,000.00 which, together with the City’s own budgeted and appropriated funds, shall be used to convert the Rights of Way to municipal rights of ways in compliance with city street standards.
 - b) Within thirty (30) days of the execution of this Agreement, the Developer shall convey full unencumbered fee simple title to the City for Lot 1 of the Oaks Subdivision, Phase 4, as shown on that certain subdivision map recorded in the Office of the Clerk of the Superior Court of Chatham County, Georgia, in Subdivision Map Book 38-S, Page 42, which the City may use for any public purpose including, but not limited to, maintaining a temporary driveway running from the end of the cul-de-sac on Water Oak Way (which borders said Lot 1) to Hawkinsville Road for emergency use in accessing properties within the Subdivision when the Subdivision’s regular entrance at Big Hill Road is flooded.
 - c) The City shall bundle the right of way dedication project for the Subdivision with other road improvement projects to be performed in the second half of 2021 or the first quarter of 2022 to obtain maximum cost savings for its taxpayers. All road improvement work shall be subject to the public bidding requirements of O.C.G.A. Section 32-4-110 et seq., and to the budgetary constraints of the City. Nonetheless, the City shall perform the road improvement work defined herein within one (1) year from the effective date of this Agreement, unless the parties agree otherwise.

9. **Choice of Laws; Venue.** Any dispute between the Parties hereto pertaining to this Agreement shall be governed by the laws of the State of Georgia. Venue for any litigation pertaining to this Agreement shall be in the Superior Court of Chatham County, Georgia.

WHEREFORE, the parties hereto have executed this Agreement under seal on the date first above written.

Big Hill Properties, LLC

Signed, sealed, and delivered this _____
day of May, 2021, in the presence of:

Witness

Notary Public

Signed, sealed, and delivered this _____
day of May, 2021, in the presence of:

Witness

Notary Public

Garden City, Georgia

By: _____
Ron Feldner, City Manager

Attest: _____
Rhonda Ferrell-Bowles

RESOLUTION

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BY AND BETWEEN BRYCER, LLC, AND GARDEN CITY, GEORGIA, FOR AN INTERNET-BASED SERVICE KNOWN AS “THE COMPLIANCE ENGINE” WHICH SHALL BE THE SOLE APPROVED METHOD OF TRANSMITTING RECORDS OF FIRE INSPECTIONS TO THE GARDEN CITY FIRE DEPARTMENT, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, pursuant to the International Fire Code (“IFC”) Section 108.2, as adopted by Garden City Code Section 18.1(a)6, the Garden City Fire Chief requires that records of required tests, inspections, and reinspections be filed with the Garden City Fire Department; and,

WHEREAS, the Garden City Fire Chief is authorized by IFC Section 104.1 to adopt procedures to facilitate the application of the provisions of the IFC; and,

WHEREAS, the Garden City Fire Chief has determined that Brycer, LLC, provides a simple internet-based tool known as “The Compliance Engine” (“TCE”) which the City’s Fire Department can use, without charge, to track and drive code compliance by providing a secure cloud environment into which third-party contractors who inspect, test, and maintain fire prevention systems, electronically submit all of their compliant and non-compliant reports performed on businesses in the City on standard uniform forms via Brycer, LLC’s web portal (the “TCE System”) directly to the Fire Department; and,

WHEREAS, systems requiring submittal include fire alarm systems, sprinkler systems, standpipes, commercial kitchen hood suppression systems, special suppression systems, private hydrants, fire pumps, and spray booths; and,

WHEREAS, the Fire Department’s use of the TCE System would relieve the Department from having to spend a significant amount of time reviewing inspection reports submitted through various methods and on different forms, and would enable the Department to instead spend time being proactive and following-up on those businesses in violation of the City Code and/or IFC as reported by Brycer, LCC, based on the responsiveness of businesses to notices sent by the contractor concerning the need for inspections, past due inspections, and need to cure deficiencies found in prior inspections; and,

WHEREAS, Brycer, LLC, possesses specialized technical skills, knowledge and expertise not found within Chatham County, much less within the City’s work force; and,

WHEREAS, the City’s Fire Chief finds the TCE System to be a reliable, secure, easy to use, and cost effective internet-based service that will facilitate compliance by both inspectors and

property owners with the Chapter 34 of the Garden City Code, and the IFC relating to fire prevention and protection; and,

WHEREAS, the City's Fire Chief, having found that the TCE System is an effective and cost effective resource, has requested that the City enter into a renewable agreement with Brycer, LLC, for the use of the System, without any charge to the City, for a term of three (3) years which may be terminated at any time by the City with ninety (90) days advance written notice;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of Garden City, Georgia, as follows:

Section 1. That an agreement by and between the City of Garden City, Georgia, and Brycer, LLC, for use of Brycer LLC's internet-based service known as "The Compliance Engine" in a form similar to the agreement which is attached hereto as Exhibit "A" and incorporated herein by reference (said agreement being for a renewable three (3) year term and terminable by the City at any time with at least 90 days advance written notice) be, and the same is hereby approved as to form and content.

Section 2. That the City Manager is hereby authorized to execute the above-mentioned agreement for and on behalf of the City after the terms and provisions thereof have been fine-tuned to meet the individual needs of the City.

Section 3. That upon the execution of the above-mentioned agreement, any and all contractors who perform required inspection, testing, and/or maintenance services on fire protection and life safety systems within the City shall be required to electronically submit all compliant and noncompliant reports to the City via the TCE System operated by Brycer, LLC, in accordance with the requirements of the City's Fire Chief and Brycer, LLC, unless otherwise permitted by the City's Fire Marshal for good cause.

Section 4. That during the term of the above-mentioned agreement, Brycer, LLC, may charge a fee to any and all contractors who perform inspection, testing, and/or maintenance services on fire protection and life safety systems within the City, any such charge being paid directly to Brycer, LLC, at the time of filing any and all required reports and being in addition to any other fee charge established by the City's Fire Department in accordance with its fee schedule. Such charge shall approximate the reasonable cost of the activities performed by Brycer, LLC, in connection with the operation the TCE System.

Section 5. That this Resolution shall be in full force and effect immediately upon its adoption and approval.

EXECUTION PAGE FOLLOWS

ADOPTED, this ____ day of June, 2021.

RHONDA FERRELL-BOWLES, Clerk of Council

RECEIVED AND APPROVED, this ____ day of June, 2021.

DON BETHUNE, Mayor

EXHIBIT "A"

BRYCER, LLC
4355 Weaver Parkway
Suite 230
Warrenville, IL 60555

April 13th, 2021

Garden City Fire Department
160 Main St
Garden City, GA 31408

Re: "The Compliance Engine"

Dear Garden City Fire Department:

We look forward to providing you with "The Compliance Engine" (the "Solution"). This proposal letter provides the basic terms by which Brycer, LLC ("Brycer") will provide you, the Garden City Fire Department ("Client"), with the Solution. The use of the Solution and all matters between Brycer and Client will be subject to the standard "Terms and Conditions" attached to this proposal as Exhibit A. The basic terms are as follows:

1. Term: Brycer will provide Client with the Solution for three years, commencing _____ (the "Initial Term"). Thereafter, the Term shall automatically renew for successive three year periods unless terminated by Brycer or Client in writing at least 90 days prior to the expiration of the then current Term (each, a "Renewal Term" and together with the Initial Term, the "Term"). Following the expiration or termination of the Term (as provided in the Terms and Conditions), Client shall stop using the Solution; provided, however, Brycer shall make available, and Client shall have the right to download, Client's data from the Solution for a period of 60 days after the expiration or termination of the Term. Client shall have the right to terminate this agreement upon giving 90 days written notice to Brycer.

2. Fees: Client shall not pay any fees for use of the Solution. Brycer will collect all fees due and payable by third party inspectors in connection with activities relating to the Solution.

3. Brycer Responsibilities: During the Term, Brycer shall be responsible for the following in connection with Client's use of the Solution:

- Availability. Brycer shall make the Solution available to Client as set forth on Exhibit B. The maintenance schedule and minimum service levels for the Solution are set forth on Exhibit B.
- Service Level. Brycer shall provide commercially reasonable levels of customer service with respect to the Solution to all third parties who transact business with Client and access the Solution.
- Backup. Brycer shall backup the database used in connection with the Solution to a separate server located within the same web hosting firm which the Solution is being hosted on a real time basis. Upon request by Client (which can be no more than once a month) or made prior to or within 60 days after the effective date of termination of the Term, Brycer will make available to Client a complete and secure (i.e. encrypted and appropriately authenticated) download file of Client data in XML format including all schema and attachments in their native format. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and

- integrity of Client data. Brycer shall not (a) modify Client data or (b) disclose Client data except as required by law.
- **Retention of Information.** Brycer will maintain all information entered into the database by third party inspectors for at least five years from the time such information is entered into the database.
- **Notices.** Brycer will be responsible for generating and delivering the following notices to third parties in connection with the Solution: (a) reminders of upcoming inspections that are due; (b) notices that an inspection is past due; and (c) notices of completed inspection reports which contain one or more deficiencies.
- **Call Center** Phone calls by Brycer on behalf of the Client to the property for EACH life-safety system overdue for service based on dates automatically tracked within the TCE database. Brycer is not an agent of the Client and all scripts for the overdue calls will be approved by the Client.
- **Updates and Enhancements.** In the event Brycer releases any updates, corrections, or enhancements to the Solution during the Term, Brycer shall promptly provide such updates or corrections to Client free of any charge or fee.

4. **Client Responsibilities:** During the Term, Client shall be responsible for the following in connection with Client's use of the Solution:

- **Operating System.** Client shall be solely responsible for providing a proper operating environment, including computer hardware or other equipment and software, for any portion of the Solution installed on the Client's equipment (the "Client Access Software") and for the installation of network connections to the Internet. In addition to any other Client Access Software requirements, Client must use version Edge, Firefox version 76, Chrome 60 or Safari (or more recent versions), in addition to having a .pdf reader installed on machines to view attachments.
- **Training.** Client shall allow Brycer at Client's facilities to train all applicable personnel of Client on the use of the Solution.
- **Information.** Client shall promptly provide Brycer with all appropriate information necessary for Brycer to create the database for the Solution, including without limitation: (a) all commercial building addresses within [jurisdiction] for Brycer's initial upload; and (b) quarterly updates to in a format acceptable to Brycer in its discretion.
- **Enforcement.** Client shall take all actions necessary to require (e.g. resolution, ordinance, fire policy, code amendment) the use of the Solution by third party inspection companies.
- **Reports.** Client will require all compliant and deficient test results to be submitted.

5. **Ownership of Data.** Client owns all the data provided by Client and received from third party contractors for Client. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Client's data.

Please acknowledge your acceptance of this proposal and our standard Terms and Conditions by counter-signing this proposal below. We look forward to a long-term and mutually beneficial relationship with you.

Brycer, LLC

By: _____
Its: _____

Acknowledged and Agreed to this
____ day of _____, 20____:

[CLIENT]

By: _____
Its: _____

Exhibit A

Terms and Conditions

Any capitalized terms not defined in these Terms and Conditions shall have the meaning assigned to it in that certain Letter Agreement attached hereto by and between Brycer, LLC and Client (the "Agreement").

1. **Restrictions on Use.** Client shall not copy, distribute, create derivative works of or modify the Solution in any way. Client agrees that: (a) it shall only permit its officers and employees (collectively, the "Authorized Users") to use the Solution for the benefit of Client; (b) it shall use commercially reasonable efforts to prevent the unauthorized use or disclosure of the Solution; (c) it shall not sell, resell, rent or lease the Solution; (d) it shall not use the Solution to store or transmit infringing or otherwise unlawful or tortious material, or to store or transmit material in violation of third party rights; (e) it shall not interfere with or disrupt the integrity or performance of the Solution or third-party data contained therein; (f) it shall not reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code which is derived from the Solution (g) it shall not permit anyone other than the Authorized Users to view or use the Solution and any screen shots of the Solution and (h) it shall not disclose the features of the Solution to anyone other than the Authorized Users. Client is responsible for all actions taken by the Authorized Users in connection with the Solution.
2. **Proprietary Rights.** All right, title and interest in and to the Solution, the features of the Solution and images of the Solution as well any and all derivative works or modifications thereof (the "Derivative Works"), and any accompanying documentation, manuals or other materials used or supplied under this Agreement or with respect to the Solution or Derivative Works (the "Documentation"), and any reproductions works made thereof, remain with Brycer. Client shall not remove any product identification or notices of such proprietary rights from the Solution. Client acknowledges and agrees that, except for the limited use rights established hereunder, Client has no right, title or interest in the Solution, the Derivative Works or the Documentation.
3. **Independent Contractor.** Nothing in the Agreement may be construed or interpreted as constituting either party hereto as the agent, principal, employee or joint venturer of the other. Each of Client and Brycer is an independent contractor. Neither may assume, either directly or indirectly, any liability of or for the other party. Neither party has the authority to bind or obligate the other party and neither party may represent that it has such authority.
4. **Reservation of Rights.** Brycer reserves the right, in its sole discretion and with prior notice to Client, to discontinue, add, adapt, or otherwise modify any design or specification of the Solution and/or Brycer's policies, procedures, and requirements specified or related hereto. All rights not expressly granted to Client are reserved to Brycer, including the right to provide all or any part of the Solution to other parties.
5. **Use of Logos.** During the term of this Agreement, Brycer shall have the right to use Client's logos for the purpose of providing the Solution to Client.
6. **Confidential Information.** Brycer and Client acknowledge and agree that in providing the Solution, Brycer and Client, as the case may be, may disclose to the other party certain confidential, proprietary trade secret information ("Confidential Information"). Confidential Information may include, but is not limited to, the Solution, computer programs, flowcharts, diagrams, manuals, schematics, development tools, specifications, design documents, marketing information, financial information or business plans. Each party agrees that it will not, without the express prior written consent of the other party, disclose any Confidential Information or any part thereof to any third party. Notwithstanding the foregoing, the parties acknowledge that Client and Brycer shall be permitted to comply with any all federal and state laws concerning disclosure provided that any such required disclosure will not include any of Brycer's screen shots. The disclosing party shall provide prior written notice of any required disclosure of the nondisclosing party's Confidential Information to the nondisclosing party and shall disclose only the information that is required to be disclosed by law. In the event that Client requests from Brycer any reports or other information for purposes of complying with federal and state disclosure laws, Brycer shall provide such information within five business day following such request. Confidential Information excludes information: (a) that is or becomes generally available to the public through no fault of the receiving party; (b) that is rightfully received by the receiving party from a third party without limitation as to its use; or (c) that is independently developed by receiving party without use of any Confidential Information. At the termination of this Agreement, each party will return the other party all Confidential Information of the other party. Each party also agrees that it shall not duplicate, translate, modify, copy, printout, disassemble, decompile or otherwise tamper with any Confidential Information of the other party or any firmware, circuit board or software provided therewith.
7. **Brycer Warranty.** Brycer represents and warrants to Client that Brycer has all rights necessary in and to any patent, copyright, trademark, service mark or other intellectual property right used in, or associated with, the Solution, and that Brycer is duly authorized to enter into this Agreement and provide the Solution to Client pursuant to this Agreement.
8. **Disclaimer.** All information entered into Brycer's database is produced by third party inspectors and their agents. THEREFORE, BRYCER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION ENTERED INTO BRYCER'S DATABASE BY EITHER CLIENT OR THIRD PARTY INSPECTORS. EXCEPT AS SET FORTH IN SECTION 7, BRYCER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOLUTION OR ANY OTHER INFORMATION AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BRYCER'S SOLE LIABILITY FOR BREACH OF THE REPRESENTATION AND WARRANTY SET FORTH IN SECTION 7, AND CLIENT'S SOLE REMEDY, SHALL BE THAT BRYCER SHALL INDEMNIFY AND HOLD RECIPIENT HARMLESS FROM AND AGAINST ANY LOSS, SUIT, DAMAGE, CLAIM OR DEFENSE ARISING OUT OF BREACH OF THE REPRESENTATION AND WARRANTY.
9. **LIMITATION ON DAMAGES.** BRYCER SHALL ONLY BE LIABLE TO CLIENT FOR DIRECT DAMAGES PURSUANT TO THE AGREEMENT. EXCEPT AS OTHERWISE PROVIDED IN SECTION 7, IN NO EVENT SHALL BRYCER BE LIABLE FOR OR OBLIGATED IN ANY MANNER FOR SPECIAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF PROFITS OR SYSTEM DOWNTIME. CLIENT ACKNOWLEDGES AND AGREES THAT IN NO CASE SHALL BRYCER'S LIABILITY FOR ANY LOSS OF DATA OR DATA INTEGRITY EXCEED THE REPLACEMENT COST OF THE MEDIA ON WHICH THE DATA WAS STORED.
10. **Risks Inherent to Internet.** Client acknowledges that: (a) the Internet is a worldwide network of computers, (b) communication on the Internet may not be secure, (c) the Internet is beyond the control of Brycer, and (d) Brycer does not own, operate or manage the Internet. Client also acknowledges that there are inherent risks associated with using the Solution, including but not limited to the risk of breach of security, the risk of exposure to computer viruses and the risk of interception, distortion, or loss of communications. Client assumes these risks knowingly and voluntarily releases Brycer from all liability from all

such risks. Not in limitation of the foregoing, Client hereby assumes the risk, and Brycer shall have no responsibility or liability of any kind hereunder, for: (1) errors in the Solution resulting from misuse, negligence, revision, modification, or improper use of all or any part of the Solution by any entity other than Brycer or its authorized representatives; (2) any version of the Solution other than the then-current unmodified version provided to Client; (3) Client's failure to timely or correctly install any updates to the Client Access Software; (4) problems caused by connecting or failure to connect to the Internet; (5) failure to provide and maintain the technical and connectivity configurations for the use and operation of the Solution that meet Brycer's recommended requirements; (6) nonconformities resulting from or problems to or caused by non-Brycer products or services; or (7) data or data input, output, accuracy, and suitability, which shall be deemed under Client's exclusive control.

11. **Indemnity.** Brycer (the "Indemnifying Party") will defend and indemnify Client against any damages, losses, liabilities, causes of action, costs or expenses arising from Brycer's breach of this Agreement, gross negligence or intentional misconduct. Client will defend and indemnify Brycer against any damages, losses, liabilities, costs or expenses (including reasonable attorneys' fees) arising from Client's breach of this Agreement, gross negligence or intentional misconduct. Client acknowledges that Brycer does not create any of the data and information included in the Solution and is not responsible for and does not assess or make any suggestions or recommendations with respect to any such data or information. Client will defend and indemnify Brycer against any damages, losses, liabilities, costs or expenses (including reasonable attorneys' fees), claims, demands, suits or proceedings made or brought against Brycer by a third party in connection with Client's or an Authorized User's use of the Solution, or any action or inaction taken by a third party, including, but not limited to, third party inspectors, in connection with such third party providing services for Client or otherwise at Client's or an Authorized User's request or direction.
12. **Breach.** Brycer shall have the right to terminate or suspend this Agreement, and all of Client's rights hereunder, immediately upon delivering written notice to Client detailing Client's breach of any provision of this Agreement. If Client cures such breach within 5 days of receiving written notice thereof, Brycer shall restore the Solution and Client shall pay any fees or costs incurred by Brycer in connection with the restoration of the Solution.
13. **Illegal Payments.** Client acknowledges and agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift or anything of value from any employee or agent of Brycer in connection with the Agreement.
14. **Beneficiaries.** There are no third party beneficiaries to the Agreement.
15. **Force Majeure.** Neither party shall be responsible for any failure to perform due to unforeseen, non-commercial circumstances beyond its reasonable control, including but not limited to acts of God, war, riot, embargos, acts of civil or military authorities, fire, floods, earthquakes, blackouts, accidents, or strikes. In the event of any such delay, any applicable period of time for action by said party may be deferred for a period of time equal to the time of such delay, except that a party's failure to make any payment when due hereunder shall not be so excused.
16. **Notices.** All notices required in the Agreement shall be effective: (a) if given personally, upon receipt; (b) if given by facsimile or electronic mail, when such notice is transmitted and confirmation of receipt obtained; (c) if mailed by certified mail, postage prepaid, to the last known address of each party, three business days after mailing; or (d) if delivered to a nationally recognized overnight courier service, one business day after delivery.
17. **JURISDICTION AND VENUE.** THE AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, AND ENFORCEABLE UNDER, THE LAWS OF THE STATE IN WHICH CLIENT EXISTS APPLICABLE TO CONTRACTS MADE IN SUCH STATE AND THAT ARE TO BE WHOLLY PERFORMED IN SUCH STATE WITHOUT REFERENCE TO THE CHOICE-OF-LAW PRINCIPLES OF SUCH STATE. THE PARTIES IRREVOCABLY AGREE THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR FROM OR RELATED TO THE AGREEMENT SHALL BE LITIGATED ONLY IN COURTS LOCATED WITHIN THE STATE IN WHICH CLIENT EXISTS. THE PARTIES HEREBY CONSENT AND SUBMIT TO THE EXCLUSIVE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID STATE. THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRANSFER OR CHANGE VENUE OF ANY SUCH ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THE AGREEMENT, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.
18. **Attorneys' Fees.** The prevailing party in any proceeding in connection with the Agreement shall be entitled to recover from the non-prevailing party all costs and expenses, including without limitation, reasonable attorneys' and paralegals' fees and costs incurred by such party in connection with any such proceeding.
19. **Entire Agreement.** The Agreement sets out the entire agreement between the parties relative to the subject matter hereof and supersedes all prior or contemporaneous agreements or representations, oral or written.
20. **Amendment.** The Agreement may not be altered or modified, except by written amendment which expressly refers to the Agreement and which is duly executed by authorized representatives of both parties. The waiver or failure by either party to exercise or enforce any right provided for in the Agreement shall not be deemed a waiver of any further right under the Agreement. Any provision of the Agreement held to be invalid under applicable law shall not render the Agreement invalid as a whole, and in such an event, such provision shall be interpreted so as to best accomplish the intent of the parties within the limits of applicable law. The Agreement may be executed by facsimile and in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.
21. **Expiration.** The rights and obligations contained in these Terms and Conditions shall survive any expiration or termination of the Agreement.

Exhibit B

Maintenance Schedule and Minimum Service Levels

1. **Uptime and Maintenance.**

The Solution shall be available 24 hours per day during the term of this Agreement. The Solution shall be fully functional, timely and accessible by Client at least 99.5% of the time or better and Brycer shall use reasonable efforts to provide Client with advance notice of any unscheduled downtime.

2. **Response Time.**

Brycer shall respond to telephone calls from Client within two hours of the call and/or message and all emails from Client within two hours of the receipt of the email.

3. **Customer Support**

Customer support hours are 24/7/365. The toll free number is 1-855-279-2371

Brycer will assign client a dedicated customer representative with direct access to their email and work number.



MEMORANDUM

To: Scott Robider – Assistant City Manager
From: John Bayer – Public Works Director
CC: Ron Feldner – City Manager
Date: June 3, 2021
Re: Request for Surplus Equipment Sale – Kubota Tractor

The Public Works Department Staff is seeking to sell the Kubota tractor as surplus equipment. The machine has had a myriad of mechanical, electrical and attachment problems which started in 2015. The machine in question has spent the majority of its time in the Public Works Department in a nonfunctional state and has been repaired and by numerous service centers with little improvement in performance.

As a result of the machine being functionally unreliable the Public Works Maintenance Crews have had to utilize a smaller machine from the Water Department which impacts project efficiency as the attachments must be changed prior to each use. Based on the work that must be performed by Public Works it is essential that the department have a fully functional machine that is properly toolled for City maintenance and dedicated to the Public Works. Staff I am requesting to take the following action with approval from you and the City Council:

- Have Council approve a declaration for sale of the tractor as surplus
- Place the tractor on GovDeals.com (government auction site)
- The estimated market valuation for the Kubota tractor is around \$75,000.00
- The minimum reserve amount will be \$60,000.00

Upon successful sale of the machine at auction the Public Works Staff will identify the proper replacement tractor and obtain the necessary quotations which will then be presented to you for your review and consideration.

GARDEN CITY RESOLUTION

WHEREAS, the Mayor and Council of Garden City, Georgia, are desirous of classifying as surplus property that certain Kubota M185 Side Cutter (Serial No. 75268) owned by the City for use by the Public Works Department by reason of said equipment no longer serving any public purpose by reason of its multiple mechanical issues necessitating excessive repair costs;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of Garden City, Georgia, as follows:

1. That certain Kubota M185 Side Cutter (Serial No. 75268) owned by the City for use by the Public Works Department is hereby classified as surplus property by reason of its no longer serving any public purpose and because no future public use for the property can be reasonably anticipated.
2. The Public Works Department is hereby authorized to dispose of the equipment by arranging for same to be sold pursuant to State law.
3. The proceeds from the sale of the equipment shall be placed in the City's general operating fund and earmarked for the Public Works Department's vehicle maintenance and operations.

ADOPTED this 7th day of June, 2021.

RHONDA FERRELL-BOWLES,
Clerk of Council

Received and approved this 7th day of June, 2021.

DON BETHUNE, Mayor