

## ***Pre-Agenda Session @ 5:30 p.m.***

### **A G E N D A**

***City Council Meeting***  
***Monday, March 4, 2024 – 6:00 p.m.***

#### **➤ OPENING**

- **Call to Order**
- **Invocation**
- **Pledge of Allegiance**
- **Roll Call**

#### **➤ FORMAL PUBLIC COMMENT**

##### **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](http://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.

## ➤ RECEIPT OF INFORMAL PUBLIC COMMENT

- **Procedure:** To best manage this meeting section, any person who 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.

## ➤ PUBLIC HEARINGS

- **Alcoholic Beverage License Application (Pump N Go):** Receipt of public comment on an application made by Harshkumar Chaudhari to sell wines, beer, and/or malt beverages at Pump N Go, 4820 Augusta Road, Garden City, Georgia.
- **Alcoholic Beverage License Application (Yogi):** Receipt of public comment on an application made by Kinjal Suthar to sell wines, beer, and/or malt beverages at Yogi, 1298 U.S. Highway 80, Garden City, Georgia.

### ***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 minutes from the February 20<sup>th</sup> Pre-Agenda Session and City Council Minutes.

## City Manager's Report

- Updates and announcements

## ➤ ITEMS FOR CONSIDERATION

- **Ordinance – Zoning Map Amendment:** An ordinance to amend the zoning ordinance and map of Garden City, Georgia, as amended, to rezone certain properties owned by Pro Land Investment, LLC, at 439 and 439A Telfair Road, Garden City, Georgia, from their present zoning classification of “R-2” to an “I-2” zoning classification.
- **Resolution - Lavender & Associates Gym Complex Construction Contract:** A resolution authorizing the Interim City Manager to execute a construction management services contract, including a cost budget and time schedule, with Lavender & Associates, Inc., for the construction of a new multi-purpose recreation complex on the city-owned Haynes Elementary School site off of US Highway 80 in Garden City.
- **Resolution, Chief Judge Agreement (Harmon):** A resolution by the City Council to authorize the Mayor to execute an agreement between the City and Crystal Harmon, which sets forth the terms of Ms. Harmon’s appointment as the Chief Judge of the Garden City Municipal Court.
- **Resolution, Associate Judge Agreement (Moody):** A resolution by the City Council to authorize the Mayor to execute an agreement between the City and Lindy Moody, which sets forth the terms of Ms. Moody’s appointment as the Associate Judge of the Garden City Municipal Court.
- **Resolution, Judge Pro-tem Agreement (Tomlison):** A resolution by the City Council to authorize the Mayor to execute an agreement between the City and Billy Tomlinson, which sets forth the terms of Mr. Tomlinson’s appointment as the Judge Pro-tem of the Garden City Municipal Court.
- **Resolution, Judge Pro-tem Agreement (Call):** A resolution by the City Council to authorize the Mayor to execute an agreement between the City and Craig Call, which sets forth the terms of Mr. Call’s appointment as the Judge Pro-tem of the Garden City Municipal Court.
- **Resolution, Prosecuting Attorney Agreement (Wilson):** A resolution by the City Council to authorize the Mayor to execute an agreement between the City and Ty Wilson, which sets forth the terms of Mr. Wilson’s appointment as the City’s Prosecuting Attorney.
- **Resolution, Pro-Tem Prosecuting Attorney Appointment (Beard):** A resolution to appoint Ashley Beard to serve as the City’s Pro-tem Prosecuting Attorney.
- **Resolution, Public Defender Agreement (Bradley):** A resolution by the City Council to authorize the Mayor to execute an agreement between the City and Caroline Bradley, which sets forth the terms of Ms. Bradley’s appointment as the City’s Public Defender.

- **Resolution, Public Defender Appointment (Tell):** A resolution by the Mayor and Council to appoint Lawrence Tell to serve as Public Defender if Public Defender Caroline Bradley is unavailable to perform her duties for court.
- **Resolution, Surplus Police Vehicles:** A resolution by the Mayor and Council to classify as surplus property and sell at public auction eleven (11) of its police vehicles that no longer serve any public purpose.
- **Resolution – Amendment to City Council Meeting Schedule:** A resolution to amend the regular meeting schedule of the Garden City City Council; to eliminate the March 18, 2024, regular city council meeting due to the St. Patrick's Day holiday; and to establish a meeting of the City Council on March 19, 2024.
- **Resolution – Withdrawal of Annexation Local Legislation:** A resolution of the Mayor and Council of the City of Garden City, Georgia, requesting the Local Legislative Delegation to withdraw the City's request for local legislation dealing with annexation.
- **Alcoholic Beverage License Application (Pump N Go):** Consideration of an application made by Harshkumar Chaudhari to sell wines, beer, and/or malt beverages at Pump N Go, 4820 August Road, Garden City, Georgia.
- **Alcoholic Beverage License Application (Yogi):** Consideration of an application made by Kinjal Suthar to sell wines, beer, and/or malt beverages at Yogi, 1298 U.S. Highway 80, Garden City, Georgia.

➤ **ADJOURN**



**City of Garden City**  
100 Central Avenue, Garden City, Georgia 31405  
Phone: 912.966.7777 Fax: 912.966.2735  
Email: Occtax@gardencity-ga.gov

**APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE**

Date Filed: 1/24/24

For the Year: 2024

Expires at December 31 of the above year.

**Type of License (check all that apply)**

<input type="checkbox"/> Spirituous Liquors (package)	\$2,722.00	<input checked="" type="checkbox"/> Beer and/or malt beverages	\$682.00
<input type="checkbox"/> Spirituous Liquors (by the drink)	\$2,722.00	<input checked="" type="checkbox"/> Wines	\$236.00
<input checked="" type="checkbox"/> Advertising Cost	\$95.00		

TOTAL: \$ 103

459  
+ 95  
554

**Business Information**

Business Name: Jay maverick inc

D/B/A (if applicable): Pump N Go

Business Address: 4820 Augusta Rd garden city 31408 S-101 Business Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Emergency Phone: \_\_\_\_\_  
(If different from Business Address)

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Business Email Address: Pump N Go 2023@gmail.com

What other kinds of business will be conducted at this location? None

List all persons with a financial interest in the business:

(For corporations, include all stockholders who own more than 10% of the outstanding stock of the corporation.)

Name	Address	% Ownership
<u>harsh Kumar. A. Chaudhari</u>	<u>4820 Augusta Rd S-101 garden city 31408</u>	<u>100%</u>

Has any person having an interest in said business been convicted of any violation of law other than a traffic violation? Served time in prison, or other correctional institution?  Yes  No

If Yes, describe circumstances: \_\_\_\_\_

*Charged  
b/c  
1/2  
renewal  
2024*

THIS PAGE FOR OFFICE USE ONLY

Application received by: Katie Draeger Date: 1/24/24

POLICE DEPARTMENT REVIEW

Fingerprinted by: OK for license SKD Date: 1/31/24

Separate report submitted to the City Administrator:

J. T. Drayton Date: 2/6/24  
Police Chief

Public Hearing held on: \_\_\_\_\_

Date advertised in Savannah Morning News: \_\_\_\_\_

Action of Council:  Approval  Denial

License(s) Issued: \_\_\_\_\_ Date: \_\_\_\_\_



**City of Garden City**  
100 Central Avenue, Garden City, Georgia 31405  
Phone: 912.966.7777 Fax: 912.966.2735  
Email: Occtax@gardencity-ga.gov

**APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE**

Date Filed: 12/15/2023

For the Year: 2024

Expires at December 31 of the above year.

**Type of License (check all that apply)**

<input type="checkbox"/> Spirituous Liquors (package)	\$2,722.00	<input checked="" type="checkbox"/> Beer and/or malt beverages	\$682.00
<input type="checkbox"/> Spirituous Liquors (by the drink)	\$2,722.00	<input checked="" type="checkbox"/> Wines	\$236.00
<input checked="" type="checkbox"/> Advertising Cost	\$95.00		

TOTAL: \$ 1013

459

+ 95

554

*changed  
1/2 b/c  
renewed  
2024*

**Business Information**

Business Name: Amber Inc

D/B/A (if applicable): Yogi

Business Address: 1298 US Hwy 80, garden city 31405 Business Phone: 706-459-5544

Mailing Address: \_\_\_\_\_ Emergency Phone: \_\_\_\_\_  
(If different from Business Address)

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Business Email Address: sunoco224@gmail.com

What other kinds of business will be conducted at this location? None

List all persons with a financial interest in the business:

(For corporations, include all stockholders who own more than 10% of the outstanding stock of the corporation.)

Name	Address	% Ownership
<u>Kingal Sithar</u>	<u>1298 US Hwy 80, garden city 31405</u>	<u>100%</u>

Has any person having an interest in said business been convicted of any violation of law other than a traffic violation? Served time in prison, or other correctional institution?  Yes  No

If Yes, describe circumstances: \_\_\_\_\_

**THIS PAGE FOR OFFICE USE ONLY**

Application received by: Katie Draeger Date: 1/24/24

**POLICE DEPARTMENT REVIEW**

Fingerprinted by: Ok for license SICD Date: 1/31/24

Separate report submitted to the City Administrator:

Fayee Date: 2/6/24  
Police Chief

Public Hearing held on: \_\_\_\_\_

Date advertised in Savannah Morning News: \_\_\_\_\_

Action of Council:  Approval  Denial

License(s) Issued: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## SYNOPSIS

### Pre-Agenda Session Tuesday, February 20, 2024 – 5:00 p.m.

**Call to Order:** Mayor Campbell called the pre-agenda session to order at approximately 5:00 p.m.

**Opening:** Councilmember Hall gave the invocation and led the City Council in the pledge of allegiance to the flag.

#### Attendees

**Council Members:** Mayor Bruce Campbell, Mayor Pro-tem Marcia Daniel, Councilmember Gwyn Hall, Councilmember Richard Lassiter, Councilmember Natalyn Morris, Councilmember Debbie Ruiz, and Councilmember Kim Tice.

**Staff Members:** James P. Gerard, City Attorney; Rhonda Ferrell-Bowles, Finance Director/Clerk of Council; Yoland Irizarry, HR Director; Cliff Ducey, Recreation Director; Marth Valada, Water Operations Manager; Virgil Moore, Public Works Manager; Dagny Pariani, WWTP Manager; Gil Ballard, Police Chief; Mike Dick, Fire Chief; Robert Wellmaker, Chief Building Inspector; Jonathan Trego, Code Enforcement, and Andrew Guzman, IT Technician.

**Review of the City Council Agenda:** The Interim City Manager gave an overview of the items on the agenda for consideration.

**Annexation:** A discussion ensued between the city council and staff regarding the proposed annexation.

Mayor Campbell stated that we have the debt service payments for the new gym complex and city hall, which come from our SPLOST money, so there is not a lot of money left over for capital. He said the timing was not right.

Councilmember Lassiter stated that annexation would be great, but timing is everything, and now is not the right time.

Councilmember Daniel stated that it would take a lot of time and money, and there is no guarantee that it would pass. She agreed that the timing was not right.

Councilmember Morris stated that there is no succession staff for the department heads. She said this is a big task and it would put a lot of strain on the staff. She said I agree with Councilmember Lassiter that the timing is not right.

Councilmember Ruiz expressed the concern that we may lose the opportunity to annex the area.

Councilmember Tice stated that she agreed with everyone that the timing wasn't right.

Councilmember Hall stated that he agreed that this might not be the perfect time to do it. He noted that the cost is also a concern.

The City Attorney stated that he would prepare a resolution to go before the City Council at the next council meeting to withdraw the City's request to the General Assembly for the proposed annexation.

A discussion ensued between the City Council and staff regarding the moratorium on outdoor advertising. The City Attorney said that he thought our current ordinance was sufficient, but some of the Planning Commission members wanted more outdoor advertising requirements.

**Adjournment:** Given no other items to discuss, the Mayor and City Council adjourned the pre-agenda session at approximately 5:55 p.m.

*Transcribed & submitted by: The Clerk of Council*

*Accepted & approved by: The City Council 3/4/24*

## M I N U T E S

### City Council Meeting Tuesday, February 20, 2024 – 6:00 p.m.

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

**Opening:** Mayor Campbell gave the invocation and led the City Council in the pledge of allegiance to the flag.

#### **Roll Call**

**Council Members:** Mayor Bruce Campbell, Mayor Pro-tem Marcia Daniel, Councilmember Gwyn Hall, Councilmember Richard Lassiter, Councilmember Natalyn Morris, Councilmember Debbie Ruiz, and Councilmember Kim Tice.

**Staff Members:** James P. Gerard, City Attorney; Rhonda Ferrell-Bowles, Finance Director/Clerk of Council; Yoland Irizarry, HR Director; Cliff Ducey, Recreation Director; Marth Valada, Water Operations Manager; Virgil Moore, Public Works Manager; Dagny Pariani, WWTP Manager; Gil Ballard, Police Chief; Mike Dick, Fire Chief; Robert Wellmaker, Chief Building Inspector; Jonathan Trego, Code Enforcement, and Andrew Guzman, IT Technician.

**Informal Public Comment:** Mayor Campbell opened the floor to receive public comment.

Michael Brunner, 110 Sunshine Avenue, asked the City Council to consider how extending the moratorium would affect businesses regarding their outdoor advertising. He said it was a lengthy process, and it could be almost a year for some of these businesses to get through it.

Given no other speakers, Mayor Campbell closed the public comment portion of the meeting.

#### **Public Hearing**

**PC-2-24-1073 – Rezoning Request:** Mayor Campbell opened the public hearing to receive public comment on a request by Pro Land Investments LLC, represented by agent Franklin McKinney to rezone 439 Telfair Road from R-2 to I-2.

Given there were no speakers, Mayor Campbell closed the public hearing.

**City Council Minutes:** Councilmember Lassiter motioned to approve the minutes from the February 5<sup>th</sup> pre-agenda session, the city council meeting, and the February 12<sup>th</sup> workshop. The motion was seconded by Councilmember Tice and passed without opposition.

**Mayor's Updates & Announcements:** Mayor Campbell announced that the Low-Income Home Energy Assistance Program administered by the Georgia Department of Human Services and operated by the Economic Opportunity for Savannah-Chatham County Area will be accepting appointments from low-income residents of the City of Garden City on Friday, February 23<sup>rd</sup> from 9:00 a.m. to 3:00 p.m. at City Hall.

**Resolution - Subdivision Request (4021 6<sup>th</sup> Street):** The Clerk of Council read the heading of a resolution approving a variance from the City's minimum lot width and square footage requirements for single-family residential lots as they apply to the subdivision by Global Investment Traders, LLC, of a 0.28-acre lot located at 4021 6<sup>th</sup> Street into two (2) single-family lots.

Councilmember Lassiter motioned to adopt the resolution. The motion was seconded by Councilmember Morris and passed without opposition.

**Resolution – Outdoor Advertising Moratorium Extension:** The Clerk of Council read the heading of a resolution to extend the moratorium barring the issuance of permits for new outdoor advertising or separate-use signs within the city limits for a period of fifty-six days from its original expiration date of February 19, 2024, until April 15, 2024, in order to allow the Planning Commission and City Council sufficient time to consider the proposed amendments to the City's Code of Ordinances relating to outdoor advertising or separate use signs.

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

**Resolution – Separation Agreement:** A resolution accepting the letter of resignation submitted by City Manager C. Scott Robider and approving the separation agreement between the City and Mr. Robider; authorizing the Mayor to execute all necessary documents and provide an effective date.

Councilmember Ruiz motioned to adopt the resolution. The motion was seconded by Councilmember Hall and passed without opposition.

**Adjournment:** Given no other items to discuss, Mayor Campbell called for a motion to adjourn the meeting. Councilmember Hall motioned to adjourn the meeting at approximately 615 p.m. The motion was seconded by Councilmember Ruiz and passed without opposition.

*Transcribed & submitted by: The Clerk of Council  
Accepted & approved by: The City Council 3/4/24*

ORDINANCE NO. 2024-

AN ORDINANCE TO AMEND THE ZONING ORDINANCE AND MAP OF GARDEN CITY, GEORGIA, AS AMENDED, TO REZONE CERTAIN PROPERTIES OWNED BY PRO LAND INVESTMENT, LLC, AT 439 AND 439A TELFAIR ROAD, GARDEN CITY, GEORGIA (CHATHAM COUNTY TAX PARCEL NUMBERS 60737 01013 & 60737 01003), FROM THEIR PRESENT ZONING CLASSIFICATION OF "R-2" TO A "I-2" ZONING CLASSIFICATION; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY The Mayor and Council of Garden City, Georgia, and it is hereby ordained by the authority of the same that:

Section 1. The zoning ordinance and zoning map of Garden City, Georgia, as amended, is amended so that the following described properties presently owned by Pro Land Investment, LLC, and located at 439 & 439A Telfair Road in Garden City, Georgia, are rezoned from their present "R-2" zoning classification to a zoning classification of "I-2":

PARCEL ONE:

All that certain lot, tract or parcel of land situate, lying and being in the City of Garden City, Chatham County, Georgia, known as LOT 2A on that certain map or plat entitled "Minor Recombination/Minor Subdivision of a portion of Lot 8, Block H, Sabine Fields Plantation and LOT 2 of a Recombination of Lots 1 & 2 and a portion of Block H, Sabine Fields known as 439 and 439A, Telfair Road, Garden City, Chatham County, Georgia," prepared for Erskine C. Kessler by Chatham Surveying Services, Inc., dated March 25, 2014, and recorded in the Office of the Clerk of the Superior Court of Chatham County, Georgia, in Plat Book 48-P, Page 143, said property being a portion of the property conveyed from J.S. Kessler to Mary Moore, Paul S. Kessler, Beth Humphries, Joseph Edward Kessler and Erskine C. Kessler by Deed of Gift, recorded on April 16, 1974, in the aforesaid Clerk's Office in Deed Book 103-Q, Page 589.

The above-described Parcel One and the improvements located thereon are commonly known as 439A Telfair Road, Garden City, Georgia 31407, and have been assigned a property identification number of 60737 01013 by the Board of Assessors for Chatham County, Georgia.

PARCEL TWO:

All that certain lot, tract or parcel of land situate, lying and being in the City of

Garden City, Chatham County, Georgia, known as LOT 2B on that certain map or plat entitled "Minor Recombination/Minor Subdivision of a portion of Lot 8, Block H, Sabine Fields Plantation and LOT 2 of a Recombination of Lots 1 & 2 and a portion of Block H, Sabine Fields known as 439 and 439A, Telfair Road, Garden City, Chatham County, Georgia," prepared for Erskine C. Kessler by Chatham Surveying Services, Inc., dated March 25, 2014, and recorded in the Office of the Clerk of the Superior Court of Chatham County, Georgia, in Plat Book 48-P, Page 143, this being the same property conveyed by Joseph Stewart Kessler to Erskine C. Kessler in that certain Gift Deed dated December 17, 1959, recorded in the aforesaid Clerk's Office in Deed Book 74-E, Page 26, and in that certain Warranty Deed from Virginia L. Kessler to Erskine C. Kessler, dated June 27, 1994, and recorded in the aforesaid Clerk's Office in Deed Book 168-D, Page 376.

The above-described Parcel Two and the improvements located thereon are more commonly known as 439 Telfair Road, Garden City, Georgia 31408, and have been assigned a property identification number of 60737 01003 by the Board of Assessors of Chatham County, Georgia.

The above-described Parcel One and Parcel Two are the same properties conveyed to Pro Land Investment, LLC, by Daniel Erskine Kessler, Richard Dennis Kessler, Denise K. Frazier, Donna Marie Kessler, and Virginia Dale Haldeman, in a Limited Warranty deed dated October 7, 2022, filed for record and recorded on October 7, 2020, in the Office of the Clerk of the Superior Court of Chatham County, Georgia in Deed Book 2933, Page 65.

Section 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall become effective on the date of passage.

ADOPTED this 4<sup>th</sup> day of March, 2024.

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RHONDA FERRELL-BOWLES,  
Clerk of Council

RECEIVED AND APPROVED this 4th day of March, 2024.

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BRUCE CAMPBELL, Mayor

Read first time:

Read second time and approved:

## **RESOLUTION**

### **RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION MANAGEMENT SERVICES CONTRACT INCLUDING A COST BUDGET AND TIME SCHEDULE, WITH LAVENDER & ASSOCIATES, INC, FOR THE CONSTRUCTION OF A NEW MULTI-PURPOSE RECREATION COMPLEX ON THE CITY-OWNED HAYNES ELEMENTARY SCHOOL SITE OFF OF US HIGHWAY 80 IN GARDEN CITY, GEORGIA, AND FOR OTHER PURPOSES.**

**WHEREAS**, on January 16, 2024, the Mayor and Council of Garden City, Georgia, in regular session assembled, passed a resolution designating Lavender & Associates, Inc., as the City's Construction Manager/General Contractor to provide pre-construction and construction services to complete the building of the multi-purpose recreation complex on the City's Haynes Elementary School site and to place the City in occupancy thereof in a "turnkey" fashion, and that the City Manager, with the advice and counselling of the City Attorney, be authorized to negotiate on behalf of the City a Standard Form of Agreement Between Owner and Construction Manager (AIA Document A133 or a form comparable to same) (the "Agreement") containing the terms and conditions which are set forth in the contractor's bid and financial proposals as well as in the City's Request for Proposal package, for final approval by the Mayor and Council; and,

**WHEREAS**, the AIA Document A133 Agreement (Cost of the Work Plus a Fee with a Guaranteed Maximum Price) attached hereto as Exhibit "A" is the product of negotiations between the City Manager and Lavender & Associates, Inc., providing for (1) pre-construction services at a flat fee of \$7,000.00 for such matters as design development, obtaining permits, and generating construction documents, with third-party costs and expenses associated therewith not exceeding \$126,000.00, and (2) construction services not exceeding a Guaranteed Maximum Contract Price to be fixed through the execution of an amendment to the Agreement on or about April 1, 2024, but not being greater than \$13,330,000.00 which includes a construction manager's fee of 5.5% of the cost of work with overhead costs and expenses not exceeding \$455,000.00; and,

**WHEREAS**, the Agreement provides for anticipated deadline dates of February 2, 2024, for the completion of first half of the development plans; April 1, 2024, for the setting of the Guaranteed Maximum Price not to exceed \$13,330,000.00; June/July 2024 for the completion of the second half of the development plans and the commencement of construction; and September/October 2025 for the substantial completion of construction; and,

**WHEREAS**, the Agreement sets forth adequate provisions for matters such as contractor standard of care, retainage (10% until payment of 50% of the construction contract sum), the timing of payments, liquidated damages (\$1,000.00 per day), change order procedures and billing, (contract termination for cause and for convenience (no unearned profits or consequential damages being owed), insurance, payment and performance bonds, indemnification for contractor negligence, the use of subconsultants, and dispute resolution (ultimately in the State or Superior Court of Chatham County, Georgia); and,

**WHEREAS**, the Mayor and Council have found the Agreement to best ensure that the contracted services will be of professional quality, technically accurate, and timely completed; and,

**WHEREAS**, the Mayor and Council are authorized to enter into the Agreement pursuant to the Constitution and laws of the State of Georgia;

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Council of Garden City, Georgia, and it is hereby resolved:

1. The City shall enter into the Agreement with Lavender & Associates, Inc., attached hereto as Exhibit "A" for the provision of pre-construction and construction services for the building of its multi-purpose recreation complex on the City's Haynes Elementary School site.

2. The City Manager is hereby authorized to execute, on behalf of the City, the Agreement in the name of the City, with the Clerk of Council's attestation to said Manager's signature.

SO RESOLVED this 4<sup>th</sup> day of March, 2024.

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RHONDA FERRELL-BOWLES, Clerk of Council

RECEIVED AND APPROVED this 4<sup>th</sup> day of March, 2024.

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BRUCE CAMPBELL, Mayor

# AIA® Document A133® – 2019

## **Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price**

**AGREEMENT** made as of the 8<sup>th</sup> day of January in the year 2024  
(*In words, indicate day, month, and year.*)

**BETWEEN** the Owner:  
(*Name, legal status, address, and other information*)

City of Garden City, Georgia  
100 Central Avenue  
Garden City, Georgia 31405

and the Construction Manager:  
(*Name, legal status, address, and other information*)

John E. Lavender & Associates, Inc.  
PO Box 1654 (300 Pulaski Hwy)  
Statesboro, Georgia 30459 (30458)

for the following Project:  
(*Name, location, and detailed description*)

### **Garden City Gymnasium and Multipurpose Recreational Complex Garden City, Georgia**

New gym/community center and multipurpose recreational complex to be built on city-owned 13.27-acre undeveloped lot. Complex will include approximately 32,000-sf gymnasium/community center building, multipurpose synthetic turf field with bleachers and sports lighting, concession/restroom building, outdoor pool, splash pad, pool pump house, six pickleball courts, picnic pavilion, playground and walking trail.

The Architect:  
(*Name, legal status, address, and other information*)

CHA Consulting, Inc.  
317 Tattnall Street  
Savannah, Georgia 31401

The Owner and Construction Manager agree as follows.

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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#### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

Garden City Gymnasium/Community Center Building Program, CHA, August 2023

Garden City Gym Complex Revised Site Layout Concept, CHA, August 2023

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

Complex will be constructed on a 13.27-acre undeveloped city-owned lot. The selected project site is the former Haynes School property located off of Fifth Street. The site is gently sloping and mostly cleared and grassed with an existing stand of hardwood and pine trees located in the southwestern one-third portion of the property. An extension of Alfred Street from US Hwy 80 has been proposed as a preferred permanent access route to the property. The Alfred Street extension will be constructed by other parties as part of a development agreement for adjacent property to the complex.

During construction, it is anticipated that the property will be accessed from the northwest side via the existing vehicle gate at the intersection of Oak Street and Fifth Street.

**§ 1.1.3** The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:  
*(Provide total and, if known, a line item breakdown.)*

\$13,330,000

**§ 1.1.4** The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Design Development (50%) Plans – February 2, 2024  
GMP Set – April 2024  
100% Construction Documents – June 2024

.2 Construction commencement date:

June/July 2024

.3 Substantial Completion date or dates:

September/October 2025

.4 Other milestone dates:

**§ 1.1.5** The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:  
*(Identify any requirements for fast-track scheduling or phased construction.)*

Early release packages for site clearing/sitework and potential long-lead items (e.g., structural steel, mechanical equipment, electrical equipment/transformers, etc.) are encouraged.

**§ 1.1.6** The Owner's anticipated Sustainable Objective for the Project:  
*(Identify and describe the Owner's Sustainable Objective for the Project, if any.)*

**§ 1.1.6.1** If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

**§ 1.1.7** Other Project information:  
*(Identify special characteristics or needs of the Project not provided elsewhere.)*

**§ 1.1.8** The Owner identifies the following representative in accordance with Section 4.2:  
*(List name, address, and other contact information.)*

Rhonda Ferrell, Interim City Manager  
100 Central Avenue  
Garden City, Georgia 31405

Init.

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User Notes:

(1399018315)

(912) 966-7770  
Rhonda@gardencity-ga.gov

**§ 1.1.9** The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:  
(*List name, address and other contact information.*)

Leon Davenport, Principal  
Thunderbolt Consultants, LLC  
(912) 644-0285  
tboltllc@gmail.com

**§ 1.1.10** The Owner shall retain the following consultants and contractors:  
(*List name, legal status, address, and other contact information.*)

**.1** Geotechnical Engineer:

Guoming Lin, PE, Ph.D., Principal Geotechnical Engineer  
Terracon  
2201 Rowland Avenue  
Savannah, Georgia 31404  
(912) 629-4000

**.2** Civil Engineer:

Patrick N. Graham, PE, Senior Project Manager  
CHA Consulting, Inc.  
317 Tattnall Street  
Savannah, Georgia 31401  
(912) 335-8366

**.3** Other, if any:

(*List any other consultants retained by the Owner, such as a Project or Program Manager.*)

**§ 1.1.11** The Architect's representative:  
(*List name, address, and other contact information.*)

Patrick N. Graham, PE, Senior Project Manager  
CHA Consulting, Inc.  
317 Tattnall Street  
Savannah, Georgia 31401  
(912) 335-8366  
pgraham@chasolutions.com

**§ 1.1.12** The Construction Manager identifies the following representative in accordance with Article 3:  
(*List name, address, and other contact information.*)

Eddie Potts, Senior Project Manager  
Lavender & Associates, Inc.  
PO Box 1654 (300 Pulaski Hwy)  
Statesboro, Georgia 30459 (30458)  
(912) 690-4300  
eddie@lavender.associates

**§ 1.1.13** The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

*(List any Owner-specific requirements to be included in the staffing plan.)*

Designate specific individuals for key roles of Project Executive, Project Manager, and Cost Estimator. Identify primary point of contact during Preconstruction phase.

**§ 1.1.14** The Owner's requirements for subcontractor procurement for the performance of the Work:

*(List any Owner-specific requirements for subcontractor procurement.)*

Use of local qualified subcontractors is encouraged. The goal for local qualified subcontractor involvement in the project is 20% of the Cost of the Work. Local shall be defined as the Savannah MSA (Chatham, Bryan, and Effingham counties).

**§ 1.1.15** Other Initial Information on which this Agreement is based:

Construction Manager's Part 2 – Proposal submittal.

**§ 1.2** The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

**§ 1.3** Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

## ARTICLE 2 GENERAL PROVISIONS

### § 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

### § 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

### § 2.3 General Conditions

**§ 2.3.1** For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

**§ 2.3.2** For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

### **ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES**

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

#### **§ 3.1 Preconstruction Phase**

##### **§ 3.1.1 Extent of Responsibility**

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

**§ 3.1.2** The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

##### **§ 3.1.3 Consultation**

**§ 3.1.3.1** The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

**§ 3.1.3.2** The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

**§ 3.1.3.3** The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

##### **§ 3.1.4 Project Schedule**

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

##### **§ 3.1.5 Phased Construction**

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into

consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

**§ 3.1.6 Cost Estimates**

**§ 3.1.6.1** Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

**§ 3.1.6.2** As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

**§ 3.1.6.3** If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

**§ 3.1.7** As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

**§ 3.1.8** The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

**§ 3.1.9** The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

**§ 3.1.10** If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

**§ 3.1.11 Subcontractors and Suppliers**

**§ 3.1.11.1** If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

**§ 3.1.11.2** The Construction Manager shall develop bidders' interest in the Project.

**§ 3.1.11.3** The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

**§ 3.1.12 Procurement**

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

### § 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

### § 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

*(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)*

| Providing cash flow projections for Construction phase payments

## § 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

**§ 3.2.7** The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

**§ 3.2.8** The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

**§ 3.2.9** The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

### **§ 3.3 Construction Phase**

#### **§ 3.3.1 General**

**§ 3.3.1.1** For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

**§ 3.3.1.2** The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

#### **§ 3.3.2 Administration**

**§ 3.3.2.1** The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

**§ 3.3.2.2** Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

#### **§ 3.3.2.3 Monthly Report**

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

#### **§ 3.3.2.4 Daily Logs**

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

#### **§ 3.3.2.5 Cost Control**

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

## **ARTICLE 4 OWNER'S RESPONSIBILITIES**

### **§ 4.1 Information and Services Required of the Owner**

**§ 4.1.1** The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

**§ 4.1.2** Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

**§ 4.1.3** The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

**§ 4.1.4 Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 4.1.4.1** The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

**§ 4.1.4.2** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including invert and depths. All the information on the survey shall be referenced to a Project benchmark.

**§ 4.1.4.3** The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

**§ 4.1.5** During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

**§ 4.1.6** If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

#### **§ 4.2 Owner's Designated Representative**

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

**§ 4.2.1 Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

#### **§ 4.3 Architect**

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the

Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

## ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

### § 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

*(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)*

Pre-Construction Fee: \$7,000.00 lump sum

Maximum Pre-Construction Costs and Expenses: \$126,000.00

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Not applicable

*(Table deleted)*

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within six ( 6 ) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

### § 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

*(Insert rate of monthly or annual interest agreed upon.)*

1% per month (12% per annum)

## ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

### § 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

*(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)*

5.5% of Cost of the Work

Maximum Construction Overhead Costs/Expenses: \$455,000.00

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

Not applicable

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Init.

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User Notes:

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For work performed by Subcontractor's own forces, a maximum of ten percent (10%) of the allowable direct costs

**§ 6.1.5** Rental rates for Construction Manager-owned equipment shall not exceed the standard rental rate paid at the place of the Project.

**§ 6.1.6** Liquidated damages, if any:

*(Insert terms and conditions for liquidated damages, if any.)*

\$1,000.00 per day

**§ 6.1.7** Other:

*(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)*

## **§ 6.2 Guaranteed Maximum Price**

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

## **§ 6.3 Changes in the Work**

**§ 6.3.1** The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

**§ 6.3.1.1** The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

**§ 6.3.2** Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

**§ 6.3.3** Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

**§ 6.3.4** In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

**§ 6.3.5** If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

## **ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE**

### **§ 7.1 Costs to Be Reimbursed**

**§ 7.1.1** The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

**§ 7.1.2** Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

**§ 7.1.3** Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

**§ 7.2 Labor Costs**

**§ 7.2.1** Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

**§ 7.2.2** Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

**§ 7.2.2.1** Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

*(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*

**§ 7.2.3** Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

**§ 7.2.4** Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

**§ 7.2.5** If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

**§ 7.3 Subcontract Costs**

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

**§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction**

**§ 7.4.1** Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

**§ 7.4.2** Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

**§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items**

**§ 7.5.1** Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

**§ 7.5.2** Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

**§ 7.5.3** Costs of removal of debris from the site of the Work and its proper and legal disposal.

**§ 7.5.4** Costs of the Construction Manager's site office, including general office equipment and supplies.

**§ 7.5.5** Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

**§ 7.6 Miscellaneous Costs**

**§ 7.6.1** Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

**§ 7.6.1.1** Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

**§ 7.6.1.2** Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

**§ 7.6.2** Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

**§ 7.6.3** Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

**§ 7.6.4** Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

**§ 7.6.5** Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

**§ 7.6.5.1** The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

**§ 7.6.6** Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

**§ 7.6.7** Costs of document reproductions and delivery charges.

**§ 7.6.8** Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

**§ 7.6.9** Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

**§ 7.6.10** Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

**§ 7.6.11** That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

## § 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

## § 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

## § 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

## ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts,

rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

**§ 8.2** Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

## **ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS**

**§ 9.1** Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

**§ 9.1.1** When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

**§ 9.2** Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

## **ARTICLE 10 ACCOUNTING RECORDS**

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

## **ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES**

### **§ 11.1 Progress Payments**

**§ 11.1.1** Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

**§ 11.1.2** The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

**§ 11.1.3** Provided that an Application for Payment is received by the Architect not later than the 25<sup>th</sup> day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 15th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above,

payment of the amount certified shall be made by the Owner not later than thirty ( 30 ) days after the Architect receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

**§ 11.1.4** With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

**§ 11.1.5** Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

**§ 11.1.5.1** The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

**§ 11.1.5.2** The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

**§ 11.1.5.3** When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

**§ 11.1.6** Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

**§ 11.1.7** In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

**§ 11.1.7.1** The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

**§ 11.1.7.2** The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;

- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

**§ 11.1.8 Retainage**

**§ 11.1.8.1** For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

Ten percent (10%)

**§ 11.1.8.1.1** The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

**§ 11.1.8.2** Reduction or limitation of retainage, if any, shall be as follows:

*(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)*

Upon payment of fifty (50%) percent of the Contract Sum, including change orders and other additions to the Contract Sum, and provided that the Project's progress is reasonably satisfactory to the Owner, no more retainage will be held. This will not affect the retained amounts of the first fifty (50%) percent of the Contract Sum which may continue to be held to ensure satisfactory completion of the Project. If, after discontinuing the retainage, the Owner determines that the work is unsatisfactory or has fallen behind schedule, retainage may be resumed at the initial level.

**§ 11.1.8.3** Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)*

**§ 11.1.9** If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

**§ 11.1.10** Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

**§ 11.1.11** The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

**§ 11.1.12** In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations,

audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

## § 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

## § 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

1% per month (12% per annum)

Init.

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User Notes:

(1399018315)

## ARTICLE 12 DISPUTE RESOLUTION

### § 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager’s Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

### § 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box.)*

- Arbitration pursuant to Article 15 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

Litigation in the State or Superior Court of Chatham County, Georgia.

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

## ARTICLE 13 TERMINATION OR SUSPENSION

### § 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

**§ 13.1.5** If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

**§ 13.1.6** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

**§ 13.1.6.1** If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

## **§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment**

### **§ 13.2.1 Termination**

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

#### **§ 13.2.2 Termination by the Owner for Cause**

**§ 13.2.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

**§ 13.2.2.2** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

#### **§ 13.2.3 Termination by the Owner for Convenience**

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

*(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)*

The Owner shall pay the Construction Manager pursuant to the calculations set forth in Sections 13.1.5, 13.1.6, and 13.1.6.1, plus costs incurred by the Construction Manager by reason of such termination, and such payment shall be Construction Manager's sole remedy under the Contract. Under no circumstances will the Construction Manager be entitled to any anticipatory or unearned profits, consequential damages, or other damages of any sort arising from the termination of the Contract under this Section 13.2.3. If at the date of such termination, the Contractor has prepared or fabricated off the Project site any materials for subsequent incorporation into the Work, and if the Contractor delivers such materials to the Project site or to such other place as the Owner shall reasonably direct, then the Construction Manager shall be paid for such materials.

### **§ 13.3 Suspension**

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

## **ARTICLE 14 MISCELLANEOUS PROVISIONS**

**§ 14.1** Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

### **§ 14.2 Successors and Assigns**

**§ 14.2.1** The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

**§ 14.2.2** The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

### **§ 14.3 Insurance and Bonds**

#### **§ 14.3.1 Preconstruction Phase**

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

**§ 14.3.1.1** Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000.00 ) for each occurrence and one million dollars (\$ 1,000,000.00 ) in the aggregate for bodily injury and property damage.

**§ 14.3.1.2** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles, along with any other statutorily required automobile coverage.

**§ 14.3.1.3** The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

**§ 14.3.1.4** Workers' Compensation at statutory limits and Employers Liability with policy limits not less than five hundred thousand dollars (\$ 500,000.00 ) each accident, five hundred thousand dollars (\$ 500,000.00 ) each employee, and five hundred thousand dollars (\$ 500,000.00 ) policy limit.

**§ 14.3.1.5** Not Used

**§ 14.3.1.6** Other Insurance

*(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)*

<b>Coverage</b>	<b>Limits</b>
Builders Risk	All-risk coverage equal to 100% contract value

**§ 14.3.1.7 Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

**§ 14.3.1.8** The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

**§ 14.3.2 Construction Phase**

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

**§ 14.3.2.1** The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.

**§ 14.4** Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

*(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*

**§ 14.5** Other provisions:

**ARTICLE 15 SCOPE OF THE AGREEMENT**

**§ 15.1** This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

**§ 15.2** The following documents comprise the Agreement:

- .1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™–2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™–2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .5 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

*(Insert the date of the E203-2013 incorporated into this Agreement.)*

**.6 Other Exhibits:**

*(Check all boxes that apply.)*

AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:  
*(Insert the date of the E234-2019 incorporated into this Agreement.)*

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

**.7 Other documents, if any, listed below:**

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)*

Lavender & Associates Labor Hourly Rates

Lavender & Associates Project Cost Matrix (from CM/GC proposal dated 12/5/2023)

This Agreement is entered into as of the day and year first written above.

---

**OWNER (Signature)**

*(Printed name and title)*

---

**CONSTRUCTION MANAGER (Signature)**

*(Printed name and title)*

Init.

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**User Notes:**

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## Additions and Deletions Report for AIA® Document A133® – 2019

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 08:27:57 ET on 02/21/2024.

**PAGE 1**

**AGREEMENT** made as of the 8<sup>th</sup> day of January in the year 2024

...

City of Garden City, Georgia  
100 Central Avenue  
Garden City, Georgia 31405

...

John E. Lavender & Associates, Inc.  
PO Box 1654 (300 Pulaski Hwy)  
Statesboro, Georgia 30459 (30458)

...

**Garden City Gymnasium and Multipurpose Recreational Complex**  
**Garden City, Georgia**

New gym/community center and multipurpose recreational complex to be built on city-owned 13.27-acre undeveloped lot. Complex will include approximately 32,000-sf gymnasium/community center building, multipurpose synthetic turf field with bleachers and sports lighting, concession/restroom building, outdoor pool, splash pad, pool pump house, six pickleball courts, picnic pavilion, playground and walking trail.

...

CHA Consulting, Inc.  
317 Tattnall Street  
Savannah, Georgia 31401

**PAGE 2**

Garden City Gymnasium/Community Center Building Program, CHA, August 2023  
Garden City Gym Complex Revised Site Layout Concept, CHA, August 2023

...

Complex will be constructed on a 13.27-acre undeveloped city-owned lot. The selected project site is the former Haynes School property located off of Fifth Street. The site is gently sloping and mostly cleared and grassed with an existing stand of hardwood and pine trees located in the southwestern one-third portion of the property. An extension of Alfred Street from US Hwy 80 has been proposed as a preferred permanent access route to the property. The Alfred Street extension will be constructed by other parties as part of a development agreement for adjacent property to the complex. During construction, it is anticipated that the property will be accessed from the northwest side via the existing vehicle gate at the intersection of Oak Street and Fifth Street.

**PAGE 3**

\$13,330,000

...

Design Development (50%) Plans – February 2, 2024  
GMP Set – April 2024  
100% Construction Documents – June 2024

June/July 2024

...

September/October 2025

...

Early release packages for site clearing/sitework and potential long-lead items (e.g., structural steel, mechanical equipment, electrical equipment/transformers, etc.) are encouraged.

...

Rhonda Ferrell, Interim City Manager  
100 Central Avenue  
Garden City, Georgia 31405  
(912) 966-7770  
Rhonda@gardencity-ga.gov  
**PAGE 4**

Leon Davenport, Principal  
Thunderbolt Consultants, LLC  
(912) 644-0285  
tboltllc@gmail.com

...

Guoming Lin, PE, Ph.D., Principal Geotechnical Engineer  
Terracon  
2201 Rowland Avenue  
Savannah, Georgia 31404  
(912) 629-4000

...

Patrick N. Graham, PE, Senior Project Manager  
CHA Consulting, Inc.  
317 Tattnall Street  
Savannah, Georgia 31401  
(912) 335-8366

...

Patrick N. Graham, PE, Senior Project Manager  
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317 Tattnall Street

Savannah, Georgia 31401  
(912) 335-8366  
pgraham@chasolutions.com

...

Eddie Potts, Senior Project Manager  
Lavender & Associates, Inc.  
PO Box 1654 (300 Pulaski Hwy)  
Statesboro, Georgia 30459 (30458)  
(912) 690-4300  
eddie@lavender.associates  
**PAGE 5**

Designate specific individuals for key roles of Project Executive, Project Manager, and Cost Estimator. Identify primary point of contact during Preconstruction phase.

...

Use of local qualified subcontractors is encouraged. The goal for local qualified subcontractor involvement in the project is 20% of the Cost of the Work. Local shall be defined as the Savannah MSA (Chatham, Bryan, and Effingham counties).

...

Construction Manager's Part 2 – Proposal submittal.  
**PAGE 8**

Providing cash flow projections for Construction phase payments  
**PAGE 11**

Pre-Construction Fee: \$7,000.00 lump sum  
Maximum Pre-Construction Costs and Expenses: \$126,000.00

...

Not applicable  
**Individual or Position**

**Rate**

...

**§ 5.1.3** If the Preconstruction Phase services covered by this Agreement have not been completed within six ( 6 ) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

...

**§ 5.2.2** Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

...

% – 1% per month (12% per annum)

...

5.5% of Cost of the Work

Maximum Construction Overhead Costs/Expenses: \$455,000.00

...

Not applicable

**PAGE 12**

For work performed by Subcontractor's own forces, a maximum of ten percent (10%) of the allowable direct costs

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed percent (—%) of the standard rental rate paid at the place of the Project.

...

\$1,000.00 per day

**PAGE 16**

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 25<sup>th</sup> day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 15<sup>th</sup> day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

**PAGE 18**

Ten percent (10%)

...

Upon payment of fifty (50%) percent of the Contract Sum, including change orders and other additions to the Contract Sum, and provided that the Project's progress is reasonably satisfactory to the Owner, no more retainage will be held. This will not affect the retained amounts of the first fifty (50%) percent of the Contract Sum which may continue to be held to ensure satisfactory completion of the Project. If, after discontinuing the retainage, the Owner determines that the work is unsatisfactory or has fallen behind schedule, retainage may be resumed at the initial level.

**PAGE 19**

%—1% per month (12% per annum)

**PAGE 20**

Other: (Specify)

Litigation in the State or Superior Court of Chatham County, Georgia.

**PAGE 22**

The Owner shall pay the Construction Manager pursuant to the calculations set forth in Sections 13.1.5, 13.1.6, and 13.1.6.1, plus costs incurred by the Construction Manager by reason of such termination, and such payment shall be Construction Manager's sole remedy under the Contract. Under no circumstances will the Construction Manager be entitled to any anticipatory or unearned profits, consequential damages, or other damages of any sort arising from the termination of the Contract under this Section 13.2.3. If at the date of such termination, the Contractor has prepared or fabricated off the Project site any materials for subsequent incorporation into the Work, and if the Contractor delivers such materials to the Project site or to such other place as the Owner shall reasonably direct, then the Construction Manager shall be paid for such materials.

**§ 14.3.1.1** Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000.00 ) for each occurrence and one million dollars (\$ 1,000,000.00 ) in the aggregate for bodily injury and property damage.

**§ 14.3.1.2** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance maintenance, and use of those motor vehicles, along with any other statutorily required automobile coverage.

**PAGE 23**

**§ 14.3.1.4** Workers' Compensation at statutory limits and Employers Liability with policy limits not less than five hundred thousand dollars (\$ 500,000.00 ) each accident, five hundred thousand dollars (\$ 500,000.00 ) each employee, and five hundred thousand dollars (\$ 500,000.00 ) policy limit.

**§ 14.3.1.5** Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than ( \$ ) per claim and ( \$ ) in the aggregate. Not Used

...

**Builders Risk** All-risk coverage equal to 100% contract value

**PAGE 24**

Lavender & Associates Labor Hourly Rates

Lavender & Associates Project Cost Matrix (from CM/GC proposal dated 12/5/2023)

## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 08:27:57 ET on 02/21/2024 under Order No. 4104240958 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, other than those additions and deletions shown in the associated Additions and Deletions Report.

*(Signed)*

*(Title)*

*(Dated)*

## GARDEN CITY RESOLUTION

BE IT RESOLVED by the Mayor and Council of Garden City, Georgia, in regular session assembled, that **CRYSTAL D. HARMON**, as a duly qualified member in good standing of the State Bar of Georgia, and admitted to practice before the appellate courts of this State, be appointed to serve as Chief Judge of the Garden City Municipal Court for the purpose of exercising all of the authority and duties of such position as are set forth in Article IV, Section 4.11 (a) of the Garden City, Georgia, Charter, in compliance with all applicable laws, statutes, and ordinances of Garden City, the State of Georgia, and the United States of America.

BE IT FURTHER RESOLVED that before Ms. Harmon commences performance of her duties and responsibilities as the Chief Judge of the Garden City Municipal Court, she be given his oath of office as required by Article IV, Section 4.11 (e), of the Garden City, Georgia, Charter, that the oath be entered upon the minutes of City Council, and that her name, contact information for business correspondence, and term of office be provided to the Georgia Administrative Office of the Courts.

BE IT FURTHER RESOLVED that the Mayor execute, with the Clerk of Council's attestation, that certain agreement between the City and Crystal D. Harmon attached hereto as Exhibit "A" which sets forth the terms of Ms. Harmon's appointment as the Chief Judge of the Garden City Municipal Court.

IN OPEN SESSION this \_\_\_\_ day of March, 2024.

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RHONDA FERRELL-BOWLES  
Clerk of Council

Received and approved this \_\_\_\_ day of March, 2024.

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BRUCE CAMPBELL, Mayor

EXHIBIT "A"

STATE OF GEORGIA )  
COUNTY OF CHATHAM )

THIS AGREEMENT is made this \_\_\_\_\_ day of March, 2023, by and between **GARDEN CITY, GEORGIA**, a municipal corporation organized and existing under the laws of the State of Georgia (hereinafter referred to as the "City"), and **CRYSTAL D. HARMON** of Chatham County, Georgia (hereinafter referred to as "Ms. Harmon").

WHEREAS, the City desires to appoint and engage Ms. Harmon to exercise the powers, and to perform the duties and responsibilities, as Chief Judge of the Municipal Court of Garden City, Georgia.

NOW, THEREFORE, in consideration of the forgoing and the mutual promises and covenants herein contained, the parties, intending to be legally bound, agree as follows:

**Section 1. Appointment and Services to be Rendered.** The City appoints Ms. Harmon as Chief Judge of the Garden City Municipal Court and authorizes her to exercise any and all powers associated with such position as set forth in the applicable provisions of State law as well as the City Charter and ordinances. As Chief Judge, Ms. Harmon is required by the City to perform, and Ms. Harmon agrees to perform, all the duties and responsibilities of the Chief Judge of the Municipal Court of Garden City, Georgia, which duties and responsibilities include the following:

- (i) Presiding over approximately seventy-five (75%) percent of the scheduled court sessions pursuant to a court schedule established by City ordinance or, in the absence of an applicable ordinance, by the Chief Judge to ensure that the court dockets are kept current.
- (ii) Signing arrest warrants and conducting arraignments on an as-needed basis.
- (iii) Establishing rules and procedures for the Municipal Court to follow unless otherwise provided by City ordinance, the City Charter, or by general State law.
- (iv) Providing guidance, direction, and oversight to the Associate Judge of the City's Municipal Court.
- (v) In coordination with the City Attorney, approving court forms and procedures necessary for the proper exercise of constitutional rights and compliance with State law, and updating such forms and procedures, as necessary.
- (vi) In coordination with the City Attorney, providing proper training of court staff and officials subject to the Chief Judge's direction and control about court procedures and the use of approved court forms, and updating such training, as necessary.

- (vii) Ensuring that court staff and officials, subject to the Chief Judge's direction and control use approved forms, follow approved procedures, and comply with applicable provisions of the Code of Judicial Conduct, court rules, ordinances, and statutes.
- (viii) Notifying the City Manager and City Attorney of additional resources necessary to ensure compliance with applicable laws and rules.
- (ix) Notifying the City Manager and City Attorney of service provider performance deficiencies.
- (x) Reviewing quarterly reports and other communications of the Georgia Department of Community Supervision Misdemeanor Probation Oversight program and taking any actions the Chief Judge deems necessary or appropriate.

**Section 2. Decision-Making Responsibility.** The Chief Judge shall be solely responsible for judicial decisions. Judicial decisions include, but are not limited to, the establishment of a standard bail schedule, determination of bail in individual cases, determination of financial ability, conditions of probation, determination of liability, and determination of eligibility for indigent defense and for alternatives to monetary penalties including community service and penalty or fine reductions.

**Section 3. Qualifications and Performance.** The Chief Judge shall be licensed to practice in the State of Georgia and an active member in good standing of the State Bar of Georgia. All work done by the Chief Judge shall be of the highest professional standard and shall be performed to the City's reasonable satisfaction. The City recognizes that professional regulatory and advisory groups and bodies may from time to time establish standards and requirements with regard to municipal court judges. All restrictions contained herein with respect to the duties and obligations of the Chief Judge shall be subject to said standards and requirements of the aforesaid groups and bodies.

**Section 4. Status.** The Chief Judge's status under this Agreement shall be that of an independent contractor, and not that of an agent or employee. The Chief Judge warrants and represents that she has complied with all state and local laws regarding licenses that may be required for her to perform the work as set forth in this Agreement. The Chief Judge shall not be entitled to receive any compensation or benefits other than those expressly provided in this Agreement. Except as otherwise required by law, the City shall not withhold any sums from the payments to be made to the Chief Judge for Social Security or other federal, state, or local tax liabilities or contributions, and all withholdings, liabilities, and contributions shall be solely the Chief Judge's responsibility. She shall not be eligible for, nor be entitled to, and shall not participate in, any of the City's pension, health, or other fringe benefit plans, if any such plans exist. Such participation in these fringe benefit plans is limited solely to the City's employees.

**Section 5. Terms of Payment.** The City shall pay the Chief Judge, as sole consideration for the services being rendered pursuant hereto, the sum of One Thousand and 00/100's (\$1,000.00) Dollars per court day (which includes any and all sessions within the day such as criminal, traffic, and arraignments) worked by the Chief Judge. The Chief Judge shall invoice the

City for such compensation within ten (10) business days after the court day during which her services were rendered. The City shall process the invoice for payment within two (2) weeks after receiving the invoice.

Section 6. **Reimbursement of Expenses.** The City shall pay for the cost of the Chief Judge's judicial training as required pursuant to Official Code of Georgia Annotated Section 36-32-27 on a pro rata basis with the other municipal courts in Georgia over which the Chief Judge presides. In order to receive payment on such basis for the training, the Chief Judge shall submit to the City Manager an invoice evidencing the cost of the training and a statement identifying all of the municipal courts in Georgia over which the Chief Judge is presiding during the year in question. The amount which the City shall pay towards the Chief Judge's required judicial training shall be calculated by dividing the amount of the submitted invoice by the number courts identified in the statement. Other than paying for the Chief Judge's training as aforesaid, the City shall not be liable to the Chief Judge for any expenses she pays or incurs unless otherwise agreed to in writing by the City.

Section 7. **City Not Responsible for Worker's Compensation.** Because the Chief Judge is not an employee of the City, the City will not obtain worker's compensation insurance for the Chief Judge.

Section 8. **Term.** The term of this Agreement shall commence on the date of the execution of same and shall remain in force until January 31, 2025.

Section 9. **Termination.** The Chief Judge may be removed from her position, and this Agreement terminated, during her term of service by a two-thirds vote of the entire membership of City Council pursuant to the mandated procedure set forth in Official Code of Georgia Annotated Section 36-32-2.1, or upon action taken by the State Judicial Qualifications Commission for the following:

- (i) willful misconduct in office;
- (ii) willful and present failure to perform duties;
- (iii) habitual intemperance;
- (iv) conduct prejudicial to the administration of justice which brings the judicial office in disrepute; or,
- (v) disability seriously interfering with the performance of duties, which is or is likely to become, of a permanent character.

Section 10. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be sufficient if in writing and if delivered personally, or sent by certified or registered mail as follows or to another addressee or address as shall be set forth in a notice given in the same manner:

If to the Chief Judge:

Crystal D. Harmon  
Attorney at Law  
1909 Abercorn Street  
Savannah, Georgia 31401

and

If to the City:

City Manager  
Garden City City Hall  
100 Central Avenue  
Garden City, Georgia 31405

Any notice shall be deemed to be given on the date delivered or mailed in the manner provided above.

Section 11. **No Authority to Bind City.** The Chief Judge has no authority to enter into contracts or agreements on behalf of the City.

Section 12. **Validity.** If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and effect of the other provisions shall not be affected.

Section 13. **Waiver of Breach.** The waiver by the City or by the Chief Judge of a breach of any provision of this Agreement by the other party shall not operate, or be construed, as a waiver of any other breach of the other party.

Section 14. **Assignment.** This Agreement shall inure to the benefit of, and be binding upon, the City, its successors, and assigns. It shall not be assigned by the Chief Judge.

Section 15. **Entire Agreement.** This Agreement represents the entire understanding of the parties. There are no other outstanding agreements or provisions on this subject matter. This Agreement may not be amended except by a writing signed by the party against whom enforcement of any amendment is sought.

Section 16. **Applicable Law.** The parties agree that this Agreement shall be construed and enforced pursuant to the laws of Georgia.

Section 17. **Severable.** If, for any reason, any section or portion of this Agreement shall be held by a court to be invalid or unenforceable, it is agreed that this shall not affect any other section or portion of this Agreement.

SIGNATURE PAGE FOLLOWS

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

**CITY OF GARDEN CITY, GA**

By: \_\_\_\_\_  
Bruce Campbell, Mayor

Attest: \_\_\_\_\_  
Rhonda Ferrell-Bowles  
Clerk of Council

\_\_\_\_\_(L.S.)  
**CRYSTAL D. HARMON**

**OATH OF OFFICE FOR THE  
CHIEF JUDGE OF THE  
GARDEN CITY, GEORGIA,  
MUNICIPAL COURT**

I, **Crystal D. Harmon**, do solemnly swear that I will truthfully, honestly, faithfully, impartially, and without fear or affection, discharge my duties as Chief Judge of the Garden City, Georgia, Municipal Court, and will take only my lawful compensation. I do further swear that I am not the holder of any unaccounted for public money due this State, or any political subdivision or authority thereof; that I am not the holder of any office of trust under the government of the United States, or any other state, or any foreign state which I am prohibited from holding by the laws of the State of Georgia, and I am otherwise qualified to hold said office according to the Constitution and laws of the State of Georgia; and that I will support and defend the Constitution of the United States and of this State as well as the ordinances and regulations of the City of Garden City, Georgia.

Furthermore, I will perform the duties of my office in the best interest of the City of Garden City to the best of my ability without fear, favor, affection, reward, or expectation thereof, so help me God.

This the \_\_\_\_ day of March, 2024.

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CRYSTAL D. HARMON,  
Chief Judge, Garden City, Georgia,  
Municipal Court

Sworn to and subscribed before me this \_\_\_\_ day of March, 2024.

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James P. Gerard  
City Attorney/Notary Public

## GARDEN CITY RESOLUTION

BE IT RESOLVED by the Mayor and Council of Garden City, Georgia, in regular session assembled, that **LINDY MOODY**, as a duly qualified member in good standing of the State Bar of Georgia, and admitted to practice before the appellate courts of this State, be appointed to serve as Associate Judge of the Garden City Municipal Court for the purpose of exercising all of the authority and duties of such position as are set forth in Article IV, Section 4.11 (b) of the Garden City, Georgia, Charter, in compliance with all applicable laws, statutes, and ordinances of Garden City, the State of Georgia, and the United States of America.

BE IT FURTHER RESOLVED that before Ms. Moody commences performance of her duties and responsibilities as the Associate Judge of the Garden City Municipal Court, she be given his oath of office as required by Article IV, Section 4.11 (e), of the Garden City, Georgia, Charter, that the oath be entered upon the minutes of City Council, and that her name, contact information for business correspondence, and term of office be provided to the Georgia Administrative Office of the Courts.

BE IT FURTHER RESOLVED that the Mayor execute, with the Clerk of Council's attestation, that certain agreement between the City and Lindy Moody attached hereto as Exhibit "A" which sets forth the terms of Ms. Moody's appointment as the Associate Judge of the Garden City Municipal Court.

IN OPEN SESSION this \_\_\_\_ day of March, 2024.

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RHONDA FERRELL-BOWLES  
Clerk of Council

Received and approved this \_\_\_\_ day of March, 2024.

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BRUCE CAMPBELL, Mayor

EXHIBIT "A"

STATE OF GEORGIA )  
COUNTY OF CHATHAM )

THIS AGREEMENT is made this \_\_\_\_\_ day of March, 2024, by and between **GARDEN CITY, GEORGIA**, a municipal corporation organized and existing under the laws of the State of Georgia (hereinafter referred to as the "City"), and **LINDY MOODY**, of Chatham County, Georgia (hereafter referred to as "Ms. Moody").

WHEREAS, the City desires to appoint and engage Ms. Moody to exercise the powers, and to perform the duties and responsibilities, as Associate Judge of the Municipal Court of Garden City, Georgia.

NOW, THEREFORE, in consideration of the forgoing and the mutual promises and covenants herein contained, the parties, intending to be legally bound, agree as follows:

**Section 1. Appointment and Services to be Rendered.** The City appoints Ms. Moody as Associate Judge of the Garden City Municipal Court and authorizes her to exercise any and all powers associated with such position as set forth in the applicable provisions of State law as well as the City Charter and ordinances. As Associate Judge, Ms. Moody is required by the City to perform, and Ms. Moody agrees to perform, all of the duties and responsibilities of the Associate Judge of the Municipal Court of Garden City, Georgia, which duties and responsibilities include presiding over approximately twenty-five (25%) percent of the scheduled court sessions pursuant to a court schedule established by City ordinance or, in the absence of an applicable ordinance, by the Chief Judge of the Garden City Municipal Court, and signing arrest warrants and conducting arraignments on an as-needed basis. The performance of services of the Associate Judge shall be subject to the guidance, direction, and oversight of the Chief Judge of the Court.

Section 2. **Decision-Making Responsibility**. The Associate Judge shall be responsible for making judicial decisions which include, but are not limited to, the determination of bail in individual cases, financial ability, conditions of probation, liability, eligibility for indigent defense, and alternatives to monetary penalties including community service and penalty or fine reductions.

Section 3. **Qualifications and Performance.** The Associate Judge shall be licensed to practice in the State of Georgia and an active member in good standing of the State Bar of Georgia. All work done by the Associate Judge shall be of the highest professional standard and shall be performed to the City's reasonable satisfaction. The City recognizes that professional regulatory and advisory groups and bodies may from time to time establish standards and requirements with regard to municipal court judges. All restrictions contained herein with respect to the duties and obligations of the Associate Judge shall be subject to said standards and requirements of the aforesaid groups and bodies.

Section 4. **Status**. The Associate Judge's status under this Agreement shall be that of an independent contractor, and not that of an agent or employee. The Associate Judge warrants and represents that she has complied with all state and local laws regarding licenses that may be required for her to perform the work as set forth in this Agreement. The Associate Judge shall not be entitled to receive any compensation or benefits other than those expressly provided in this Agreement. Except as otherwise required by law, the City shall not withhold any sums from the payments to be made to the Associate Judge for Social Security or other federal, state, or local tax liabilities or contributions, and all withholdings, liabilities, and contributions shall be solely the Associate Judge's responsibility. She shall not be eligible for, nor be entitled to, and shall not participate in, any of the City's pension, health, or other fringe benefit plans, if any such plans exist. Such participation in these fringe benefit plans is limited solely to the City's employees.

Section 5. **Terms of Payment**. The City shall pay the Associate Judge, as sole consideration for the services being rendered pursuant hereto, the sum of One Thousand and 00/100's (\$1,000.00) Dollars per court day (which includes any and all sessions within the day such as criminal, traffic, and arraignments) worked by the Associate Judge. The Associate Judge shall invoice the City for such compensation within ten (10) business days after the court day during which her services were rendered. The City shall process the invoice for payment within two (2) weeks after receiving the invoice.

Section 6. **Reimbursement of Expenses**. The City shall pay for the cost of the Associate Judge's judicial training as required pursuant to Official Code of Georgia Annotated Section 36-32-27 on a pro rata basis with the other municipal courts in Georgia over which the Associate Judge presides. In order to receive payment on such basis for the training, the Associate Judge shall submit to the City Manager an invoice evidencing the cost of the training and a statement identifying all of the municipal courts in Georgia over which the Associate Judge is presiding during the year in question. The amount which the City shall pay towards the Associate Judge's required judicial training shall be calculated by dividing the amount of the submitted invoice by the number courts identified in the statement. Other than paying for the Associate Judge's training as aforesaid, the City shall not be liable to the Associate Judge for any expenses she pays or incurs unless otherwise agreed to in writing by the City.

Section 7. **City Not Responsible for Worker's Compensation**. Because the Associate Judge is not an employee of the City, the City will not obtain worker's compensation insurance for the Associate Judge.

Section 8. **Term**. The term of this Agreement shall commence on the date of the execution of same and shall remain in force until January 31, 2025.

Section 9. **Termination**. The Associate Judge may be removed from her position, and this Agreement terminated, during her term of service by a two-thirds vote of the entire membership of City Council pursuant to the mandated procedure set forth in Official Code of Georgia Annotated Section 36-32-2.1, or upon action taken by the State Judicial Qualifications Commission for the following:

- (i) willful misconduct in office;
- (ii) willful and present failure to perform duties;
- (iii) habitual intemperance;
- (iv) conduct prejudicial to the administration of justice which brings the judicial office in disrepute; or,
- (v) disability seriously interfering with the performance of duties, which is or is likely to become, of a permanent character.

Section 10. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be sufficient if in writing and if delivered personally, or sent by certified or registered mail as follows or to another addressee or address as shall be set forth in a notice given in the same manner:

If to the Associate Judge: Lindy Moody, Esq.  
The L. Moody Law Firm, P.C.  
2 East Bryan Street, Suite 434  
Savannah, Georgia 31401

and

If to the City: City Manager  
Garden City City Hall  
100 Central Avenue  
Garden City, Georgia 31405

Any notice shall be deemed to be given on the date delivered or mailed in the manner provided above.

Section 11. **No Authority to Bind City.** The Associate Judge has no authority to enter into contracts or agreements on behalf of the City.

Section 12. **Validity.** If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and effect of the other provisions shall not be affected.

Section 13. **Waiver of Breach.** The waiver by the City or by the Associate Judge of a breach of any provision of this Agreement by the other party shall not operate, or be construed, as a waiver of any other breach of the other party.

Section 14. **Assignment.** This Agreement shall inure to the benefit of, and be binding upon, the City, its successors, and assigns. It shall not be assigned by the Associate Judge.

Section 15. **Entire Agreement.** This Agreement represents the entire understanding of the parties. There are no other outstanding agreements or provisions on

this subject matter. This Agreement may not be amended except by a writing signed by the party against whom enforcement of any amendment is sought.

Section 16. **Applicable Law.** The parties agree that this Agreement shall be construed and enforced pursuant to the laws of Georgia.

Section 17. **Severable.** If, for any reason, any section or portion of this Agreement shall be held by a court to be invalid or unenforceable, it is agreed that this shall not affect any other section or portion of this Agreement.

Section 18. **Insurance.** The Associate Judge agrees to procure and maintain at her expense until this Agreement is terminated professional liability insurance in an amount not less than \$500,000.00 per claim and \$1,000,000.00 in the aggregate issued by an insurance company authorized to do business in the State of Georgia. Before commencing work under this Agreement, the Associate Judge shall furnish the City a certificate in form satisfactory to the City, showing how he has complied with this Section 18. The certificate shall provide that the policy shall not be changed or canceled until at least thirty (30) days written notice shall be given to the City.

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

**CITY OF GARDEN CITY, GA**

By: \_\_\_\_\_  
Bruce Campbell, Mayor

Attest: \_\_\_\_\_  
Rhonda Ferrell-Bowles  
Clerk of Council

\_\_\_\_\_  
**LINDY MOODY** (L.S.)

**OATH OF OFFICE FOR THE  
ASSOCIATE JUDGE OF  
THE GARDEN CITY,  
GEORGIA,  
MUNICIPAL COURT**

I, Lindy Moody, do solemnly swear that I will truthfully, honestly, faithfully, impartially, and without fear or affection, discharge my duties as Associate Judge of the Garden City, Georgia, Municipal Court, and will take only my lawful compensation. I do further swear that I am not the holder of any unaccounted for public money due this State, or any political subdivision or authority thereof; that I am not the holder of any office of trust under the government of the United States, or any other state, or any foreign state which I am prohibited from holding by the laws of the State of Georgia; and I am otherwise qualified to hold said office according to the Constitution and Laws of the State of Georgia; and that I will support and defend the Constitution of the United States and of this State as well as the ordinances and regulations of the City of Garden City, Georgia.

Furthermore, I will perform the duties of my office in the best interest of the City of Garden City to the best of my ability without fear, favor, affection, reward, or expectation thereof, so help me God.

This the \_\_\_\_ day of March, 2024.

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Lindy Moody  
Associate Judge, Garden City, Georgia,  
Municipal Court

Sworn to and subscribed before me this \_\_\_\_ day of March, 2024.

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James P. Gerard  
City Attorney/Notary Public

## GARDEN CITY RESOLUTION

BE IT RESOLVED by the Mayor and Council of Garden City, Georgia, in regular session assembled, that **BILLY TOMLINSON**, as a duly qualified member in good standing of the State Bar of Georgia, and admitted to practice before the appellate courts of this State, be appointed to serve as Judge Pro Tem of the Garden City Municipal Court for the purpose of exercising all of the authority and duties of such position as are set forth in Article IV, Section 4.11 (c) of the Garden City, Georgia, Charter, in compliance with all applicable laws, statutes, and ordinances of Garden City, the State of Georgia, and the United States of America.

BE IT FURTHER RESOLVED that before Mr. Tomlinson commences performance of his duties and responsibilities as the Judge Pro Tem of the Garden City Municipal Court, he be given his oath of office as required by Article IV, Section 4.11 (e), of the Garden City, Georgia, Charter, that the oath be entered upon the minutes of City Council, and that his name, contact information for business correspondence, and term of office be provided to the Georgia Administrative Office of the Courts.

BE IT FURTHER RESOLVED that the Mayor execute, with the Clerk of Council's attestation, that certain agreement between the City and Billy Tomlinson, attached hereto as Exhibit "A", which sets forth the terms of Mr. Tomlinson's appointment as the Judge Pro Tem of the Garden City Municipal Court.

IN OPEN SESSION this \_\_\_\_ day of March, 2024.

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RHONDA FERRELL-BOWLES  
Clerk of Council

Received and approved this \_\_\_\_ day of March, 2024.

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BRUCE CAMPBELL, Mayor

**Exhibit “A”**

STATE OF GEORGIA )  
COUNTY OF CHATHAM )

THIS AGREEMENT is made this \_\_\_\_\_ day of March, 2024, by and between **GARDEN CITY, GEORGIA**, a municipal corporation organized and existing under the laws of the State of Georgia (hereinafter referred to as the "City"), and **BILLY E. TOMLINSON** of Bryan County, Georgia (hereinafter referred to as "Mr. Tomlinson").

WHEREAS, the City desires to appoint and engage Mr. Tomlinson to exercise the powers, and to perform the duties and responsibilities, as Judge Pro-Tem of the Municipal Court of Garden City, Georgia.

NOW, THEREFORE, in consideration of the forgoing and the mutual promises and covenants herein contained, the parties, intending to be legally bound, agree as follows:

Section 1. **Appointment and Services to be Rendered.** The City appoints Mr. Tomlinson as Judge Pro Tem of the Garden City Municipal Court and authorizes him to exercise any and all powers associated with such position as set forth in the applicable provisions of State law as well as the City Charter and ordinances. As Judge Pro Tem, the City desires that Mr. Tomlinson perform, and Mr. Tomlinson agrees to perform, all the duties and responsibilities of the Judge of the Municipal Court of Garden City, Georgia, in the event he is requested by either the Chief Judge or Associate Judge of said Court to substitute for either judge for a court day. The performance of services of the Judge Pro Tem shall be subject to the guidance, direction, and oversight of the Chief Judge of the Court.

**Section 2. Decision-Making Responsibility.** When substituting for either the Chief Judge or Associate Judge of the Garden City Municipal Court, the Judge Pro Tem shall be responsible for making judicial decisions which include, but are not limited to, the determination of bail in individual cases, financial ability, conditions of probation, liability, eligibility for indigent defense, and alternatives to monetary penalties including community service and penalty or fine reductions.

Section 3. **Qualifications and Performance.** The Judge Pro Tem shall be licensed to practice in the State of Georgia and an active member in good standing of the State Bar of Georgia. All work done by the Judge Pro Tem shall be of the highest professional standard and shall be performed to the City's reasonable satisfaction. The City recognizes that professional regulatory and advisory groups and bodies may from time to time establish standards and requirements with regard to municipal court judges. All restrictions contained herein with respect to the duties and obligations of the Judge Pro Tem shall be subject to said standards and requirements of the aforesaid groups and bodies.

Section 4. **Status.** The Judge Pro Tem's status under this Agreement shall be that of an independent contractor, and not that of an agent or employee. The Judge Pro Tem warrants and represents that he has complied with all state and local laws regarding licenses that may be required for him to perform the work as set forth in this Agreement. The Judge Pro Tem shall not be entitled to receive any compensation or benefits other than those expressly provided in this Agreement. Except as otherwise required by law, the City shall not withhold any sums from the payments to be made to the Judge Pro Tem for Social Security or other federal, state, or local tax liabilities or contributions, and all withholdings, liabilities, and contributions shall be solely the Judge Pro Tem's responsibility. He shall not be eligible for, nor be entitled to, and shall not participate in, any of the City's pension, health or other fringe benefit plans, if any such plans exist. Such participation in these fringe benefit plans is limited solely to the City's employees.

Section 5. **Terms of Payment.** The City shall pay the Judge Pro Tem, as sole consideration for the services being rendered pursuant hereto, the sum of One Thousand and 00/100's (\$1,000.00) Dollars per court day (which includes any and all sessions within the day such as criminal, traffic, and arraignments) worked by the Judge Pro Tem. The Judge Pro Tem Judge shall invoice the City for such compensation within ten (10) business days after the court day during which his services were rendered. The City shall process the invoice for payment within two (2) weeks after receiving the invoice.

Section 6. **Reimbursement of Expenses.** The City shall pay for the cost of the Pro Tem Judge's judicial training as required pursuant to Official Code of Georgia Annotated Section 36-32-27 on a pro rata basis with the other municipal courts in Georgia over which the Pro Tem Judge presides. In order to receive payment on such basis for the training, the Pro Tem Judge shall submit to the City Manager an invoice evidencing the cost of the training and a statement identifying all of the municipal courts in Georgia over which the Pro Tem Judge is presiding during the year in question. The amount which the City shall pay towards the Pro Tem Judge's required judicial training shall be calculated by dividing the amount of the submitted invoice by the number courts identified in the statement. Other than paying for the Pro Tem Judge's training as aforesaid, the City shall not be liable to the Pro Tem Judge for any expenses he pays or incurs unless otherwise agreed to in writing by the City.

Section 7. **City Not Responsible for Worker's Compensation.** Because the Judge Pro Tem is not an employee of the City, the City will not obtain worker's compensation insurance for the Judge Pro Tem.

Section 8. **Term.** This Agreement's term shall remain in force until January 31, 2025.

Section 9. **Termination.** The Judge Pro Tem may be removed from his position, and this Agreement terminated, during his term of service by a two-thirds vote of the entire membership of City Council pursuant to the mandated procedure set forth in Official Code of Georgia Annotated Section 36-32-2.1, or upon action taken by the State Judicial Qualifications Commission for the following:

- (i) willful misconduct in office;
- (ii) willful and present failure to perform duties;
- (iii) habitual intemperance;
- (iv) conduct prejudicial to the administration of justice which brings the judicial office in disrepute; or,
- (v) disability seriously interfering with the performance of duties, which is or is likely to become, of a permanent character.

Section 10. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be sufficient if in writing and if delivered personally, or sent by certified or registered mail as follows or to another addressee or address as shall be set forth in a notice given in the same manner:

If to the Judge Pro Tem:      Billy Tomlinson, Esq.  
3760 U.S. Highway 17S.  
Richmond Hill, GA 31324

and

If to the City:                      City Manager  
Garden City City Hall  
100 Central Avenue  
Garden City, Georgia 31405

Any notice shall be deemed to be given on the date delivered or mailed in the manner provided above.

Section 11. **No Authority to Bind City.** The Judge Pro Tem has no authority to enter into contracts or agreements on behalf of the City.

Section 12. **Validity.** If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and effect of the other provisions shall not be affected.

Section 13. **Waiver of Breach.** The waiver by the City or by the Judge Pro Tem of a breach of any provision of this Agreement by the other party shall not operate, or be construed, as a waiver of any other breach of the other party.

Section 14. **Assignment.** This Agreement shall inure to the benefit of, and be binding upon, the City, its successors and assigns. It shall not be assignable by the Judge Pro Tem.

Section 15. **Entire Agreement.** This Agreement represents the entire understanding of the parties. There are no other outstanding agreements or provisions on

this subject matter. This Agreement may not be amended except by a writing signed by the party against whom enforcement of any amendment is sought.

Section 16. **Applicable Law.** The parties agree that this Agreement shall be construed and enforced pursuant to the laws of Georgia.

Section 17. **Severable.** If, for any reason, any section or portion of this Agreement shall be held by a court to be invalid or unenforceable, it is agreed that this shall not affect any other section or portion of this Agreement.

Section 18. **Insurance.** The Judge Pro Tem agrees to procure and maintain at his expense until this Agreement is terminated professional liability insurance in an amount not less than \$500,000.00 per claim and \$1,000,000.00 in the aggregate issued by an insurance company authorized to do business in the State of Georgia. Before commencing work under this Agreement, the Judge Pro Tem shall furnish the City a certificate in form satisfactory to the City, showing how he has complied with this Section 18. The certificate shall provide that the policy shall not be changed or canceled until at least thirty (30) days written notice shall be given to the City.

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

**CITY OF GARDEN CITY, GA**

By: \_\_\_\_\_  
Bruce Campbell, Mayor

Attest: \_\_\_\_\_  
Rhonda Ferrell-Bowles  
Clerk of Council

\_\_\_\_\_(L.S.)  
**BILLY E. TOMLINSON**

**OATH OF OFFICE FOR THE  
JUDGE PRO TEM OF THE  
GARDEN CITY, GEORGIA,  
MUNICIPAL COURT**

I, **Billy Tomlinson**, do solemnly swear that I will truthfully, honestly, faithfully, impartially, and without fear or affection, discharge my duties as Judge Pro Tem of the Garden City, Georgia, Municipal Court, and will take only my lawful compensation. I do further swear that I am not the holder of any unaccounted for public money due this State, or any political subdivision or authority thereof; that I am not the holder of any office of trust under the government of the United States, or any other state, or any foreign state which I am prohibited from holding by the laws of the State of Georgia; and I am otherwise qualified to hold said office according to the Constitution and Laws of the State of Georgia; and that I will support and defend the Constitution of the United States and of this State as well as the ordinances and regulations of the City of Garden City, Georgia.

Furthermore, I will perform the duties of my office in the best interest of the City of Garden City to the best of my ability without fear, favor, affection, reward, or expectation thereof, so help me God.

This the \_\_\_\_ day of March, 2024.

---

Billy Tomlinson  
Judge Pro Tem, Garden City, Georgia,  
Municipal Court

Sworn to and subscribed before me this \_\_\_\_ day of March, 2024.

---

James P. Gerard  
City Attorney/Notary Public

## GARDEN CITY RESOLUTION

BE IT RESOLVED by the Mayor and Council of Garden City, Georgia, in regular session assembled, that **CRAIG A. CALL**, as a duly qualified member in good standing of the State Bar of Georgia, and admitted to practice before the appellate courts of this State, be appointed to serve as Judge Pro Tem of the Garden City Municipal Court for the purpose of exercising all of the authority and duties of such position as are set forth in Article IV, Section 4.11 (c) of the Garden City, Georgia, Charter, in compliance with all applicable laws, statutes, and ordinances of Garden City, the State of Georgia, and the United States of America.

BE IT FURTHER RESOLVED that before Mr. Call commences performance of his duties and responsibilities as the Judge Pro Tem of the Garden City Municipal Court, he be given his oath of office as required by Article IV, Section 4.11 (e), of the Garden City, Georgia, Charter, that the oath be entered upon the minutes of City Council, and that his name, contact information for business correspondence, and term of office be provided to the Georgia Administrative Office of the Courts.

BE IT FURTHER RESOLVED that the Mayor execute, with the Clerk of Council's attestation, that certain agreement between the City and Craig A. Call, attached hereto as Exhibit "A", which sets forth the terms of Mr. Call's appointment as the Judge Pro Tem of the Garden City Municipal Court.

IN OPEN SESSION this \_\_\_\_ day of March, 2024.

---

RHONDA FERRELL-BOWLES  
Clerk of Council

Received and approved this \_\_\_\_ day of March, 2024.

---

BRUCE CAMPBELL, Mayor

**Exhibit "A"**

STATE OF GEORGIA )  
COUNTY OF CHATHAM )

THIS AGREEMENT is made this \_\_\_\_\_ day of March, 2024, by and between **GARDEN CITY, GEORGIA**, a municipal corporation organized and existing under the laws of the State of Georgia (hereinafter referred to as the "City"), and **CRAIG A. CALL** of Chatham County, Georgia (hereafter referred to as "Mr. Call").

WHEREAS, the City desires to appoint and engage Mr. Call to exercise the powers, and to perform the duties and responsibilities, as Judge Pro-Tem of the Municipal Court of Garden City, Georgia.

NOW, THEREFORE, in consideration of the forgoing and the mutual promises and covenants herein contained, the parties, intending to be legally bound, agree as follows:

Section 1. **Appointment and Services to be Rendered.** The City appoints Mr. Call as Judge Pro Tem of the Garden City Municipal Court and authorizes him to exercise any and all powers associated with such position as set forth in the applicable provisions of State law as well as the City Charter and ordinances. As Judge Pro Tem, the City desires that Mr. Call perform, and Mr. Call agrees to perform, all the duties and responsibilities of the Judge of the Municipal Court of Garden City, Georgia, in the event he is requested by either the Chief Judge or Associate Judge of said Court to substitute for either judge for a court day. The performance of services of the Judge Pro Tem shall be subject to the guidance, direction, and oversight of the Chief Judge of the Court.

Section 2. **Decision-Making Responsibility**. When substituting for either the Chief Judge or Associate Judge of the Garden City Municipal Court, the Judge Pro Tem shall be responsible for making judicial decisions which include, but are not limited to, the determination of bail in individual cases, financial ability, conditions of probation, liability, eligibility for indigent defense, and alternatives to monetary penalties including community service and penalty or fine reductions.

Section 3. **Qualifications and Performance.** The Judge Pro Tem shall be licensed to practice in the State of Georgia and an active member in good standing of the State Bar of Georgia. All work done by the Judge Pro Tem shall be of the highest professional standard and shall be performed to the City's reasonable satisfaction. The City recognizes that professional regulatory and advisory groups and bodies may from time to time establish standards and requirements with regard to municipal court judges. All restrictions contained herein with respect to the duties and obligations of the Judge Pro Tem shall be subject to said standards and requirements of the aforesaid groups and bodies.

Section 4. Status. The Judge Pro Tem's status under this Agreement shall be that of an independent contractor, and not that of an agent or employee. The Judge Pro

Tem warrants and represents that he has complied with all state and local laws regarding licenses that may be required for him to perform the work as set forth in this Agreement. The Judge Pro Tem shall not be entitled to receive any compensation or benefits other than those expressly provided in this Agreement. Except as otherwise required by law, the City shall not withhold any sums from the payments to be made to the Judge Pro Tem for Social Security or other federal, state, or local tax liabilities or contributions, and all withholdings, liabilities, and contributions shall be solely the Judge Pro Tem's responsibility. He shall not be eligible for, nor be entitled to, and shall not participate in, any of the City's pension, health or other fringe benefit plans, if any such plans exist. Such participation in these fringe benefit plans is limited solely to the City's employees.

Section 5. **Terms of Payment.** The City shall pay the Judge Pro Tem, as sole consideration for the services being rendered pursuant hereto, the sum of One Thousand and 00/100's (\$1,000.00) Dollars per court day (which includes any and all sessions within the day such as criminal, traffic, and arraignments) worked by the Judge Pro Tem. The Judge Pro Tem Judge shall invoice the City for such compensation within ten (10) business days after the court day during which his services were rendered. The City shall process the invoice for payment within two (2) weeks after receiving the invoice.

Section 6. **Reimbursement of Expenses.** The City shall pay for the cost of the Pro Tem Judge's judicial training as required pursuant to Official Code of Georgia Annotated Section 36-32-27 on a pro rata basis with the other municipal courts in Georgia over which the Pro Tem Judge presides. In order to receive payment on such basis for the training, the Pro Tem Judge shall submit to the City Manager an invoice evidencing the cost of the training and a statement identifying all of the municipal courts in Georgia over which the Pro Tem Judge is presiding during the year in question. The amount which the City shall pay towards the Pro Tem Judge's required judicial training shall be calculated by dividing the amount of the submitted invoice by the number courts identified in the statement. Other than paying for the Pro Tem Judge's training as aforesaid, the City shall not be liable to the Pro Tem Judge for any expenses he pays or incurs unless otherwise agreed to in writing by the City.

Section 7. **City Not Responsible for Worker's Compensation.** Because the Judge Pro Tem is not an employee of the City, the City will not obtain worker's compensation insurance for the Judge Pro Tem.

Section 8. **Term.** This Agreement's term shall remain in force until January 31, 2025.

Section 9. **Termination.** The Judge Pro Tem may be removed from his position, and this Agreement terminated, during his term of service by a two-thirds vote of the entire membership of City Council pursuant to the mandated procedure set forth in Official Code of Georgia Annotated Section 36-32-2.1, or upon action taken by the State Judicial Qualifications Commission for the following:

- (i) willful misconduct in office;

- (ii) willful and present failure to perform duties;
- (iii) habitual intemperance;
- (iv) conduct prejudicial to the administration of justice which brings the judicial office in disrepute; or,
- (v) disability seriously interfering with the performance of duties, which is or is likely to become, of a permanent character.

Section 10. **Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be sufficient if in writing and if delivered personally, or sent by certified or registered mail as follows or to another addressee or address as shall be set forth in a notice given in the same manner:

If to the Judge Pro Tem: Craig A. Call  
8 East Liberty Street.  
Savannah, Georgia 31401

and

If to the City: City Manager  
Garden City City Hall  
100 Central Avenue  
Garden City, Georgia 31405

Any notice shall be deemed to be given on the date delivered or mailed in the manner provided above.

Section 11. **No Authority to Bind City.** The Judge Pro Tem has no authority to enter into contracts or agreements on behalf of the City.

Section 12. **Validity**. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and effect of the other provisions shall not be affected.

Section 13. **Waiver of Breach.** The waiver by the City or by the Judge Pro Tem of a breach of any provision of this Agreement by the other party shall not operate, or be construed, as a waiver of any other breach of the other party.

Section 14. **Assignment.** This Agreement shall inure to the benefit of, and be binding upon, the City, its successors and assigns. It shall not be assignable by the Judge Pro Tem.

Section 15. **Entire Agreement.** This Agreement represents the entire understanding of the parties. There are no other outstanding agreements or provisions on this subject matter. This Agreement may not be amended except by a writing signed by the party against whom enforcement of any amendment is sought.

Section 16. **Applicable Law.** The parties agree that this Agreement shall be construed and enforced pursuant to the laws of Georgia.

Section 17. **Severable.** If, for any reason, any section or portion of this Agreement shall be held by a court to be invalid or unenforceable, it is agreed that this shall not affect any other section or portion of this Agreement.

Section 18. **Insurance.** The Judge Pro Tem agrees to procure and maintain at his expense until this Agreement is terminated professional liability insurance in an amount not less than \$500,000.00 per claim and \$1,000,000.00 in the aggregate issued by an insurance company authorized to do business in the State of Georgia. Before commencing work under this Agreement, the Judge Pro Tem shall furnish the City a certificate in form satisfactory to the City, showing how he has complied with this Section 18. The certificate shall provide that the policy shall not be changed or canceled until at least thirty (30) days written notice shall be given to the City.

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

**CITY OF GARDEN CITY, GA**

By: \_\_\_\_\_  
Bruce Campbell, Mayor

Attest: \_\_\_\_\_  
Rhonda Ferrell-Bowles  
Clerk of Council

\_\_\_\_\_(L.S.)  
**CRAIG A. CALL**

**OATH OF OFFICE FOR THE  
JUDGE PRO TEM OF THE  
GARDEN CITY, GEORGIA,  
MUNICIPAL COURT**

I, Craig A. Call, do solemnly swear that I will truthfully, honestly, faithfully, impartially, and without fear or affection, discharge my duties as Judge Pro Tem of the Garden City, Georgia, Municipal Court, and will take only my lawful compensation. I do further swear that I am not the holder of any unaccounted for public money due this State, or any political subdivision or authority thereof; that I am not the holder of any office of trust under the government of the United States, or any other state, or any foreign state which I am prohibited from holding by the laws of the State of Georgia; and I am otherwise qualified to hold said office according to the Constitution and Laws of the State of Georgia; and that I will support and defend the Constitution of the United States and of this State as well as the ordinances and regulations of the City of Garden City, Georgia.

Furthermore, I will perform the duties of my office in the best interest of the City of Garden City to the best of my ability without fear, favor, affection, reward, or expectation thereof, so help me God.

This the \_\_\_\_ day of March, 2024.

---

Craig A. Call  
Judge Pro Tem, Garden City, Georgia,  
Municipal Court

Sworn to and subscribed before me this \_\_\_\_ day of March, 2024.

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James P. Gerard  
City Attorney/Notary Public

## **GARDEN CITY RESOLUTION**

BE IT RESOLVED by the Mayor and Council of Garden City, Georgia, in regular session assembled, that **TY WILSON**, as a duly qualified member in good standing of the State Bar of Georgia, and admitted to practice before the appellate courts of this State, be appointed to serve as the City's Prosecuting Attorney on a part-time basis at their pleasure for the purpose of exercising all of the authority and duties of such position as are set forth in Section 15-18-96 of the Official Code of Georgia Annotated in compliance with all applicable laws, statutes, and ordinances of Garden City, the State of Georgia, and the United States of America.

BE IT FURTHER RESOLVED that within thirty (30) days of the date of this resolution, the Municipal Court Clerk notify the Prosecuting Attorneys' Council of the State of Georgia of Mr. Wilson's appointment.

BE IT FURTHER RESOLVED that before Mr. Wilson commences performance of his duties and responsibilities as the City's Prosecuting Attorney, he be given his oath of office as required by Section 15-18-93 of the Official Code of Georgia Annotated.

BE IT FURTHER RESOLVED that the Mayor execute, with the Clerk of Council's attestation, that certain agreement between the City and Ty Wilson attached hereto as Exhibit "A" which sets forth the terms of Mr. Wilson's appointment as the City's Prosecuting Attorney.

IN OPEN SESSION this \_\_\_\_\_ day of March, 2024.

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**RHONDA FERRELL-BOWLES**  
Clerk of Council

Received and approved this \_\_\_\_\_ day of March, 2024.

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**BRUCE CAMPBELL, Mayor**

EXHIBIT "A"

STATE OF GEORGIA        )  
                              )  
COUNTY OF CHATHAM    )

THIS AGREEMENT is made this \_\_\_\_\_ day of March, 2024, by and between **GARDEN CITY, GEORGIA**, a municipal corporation organized and existing under the laws of the State of Georgia (hereinafter referred to as the "City"), and **TY WILSON** of Chatham County, Georgia (hereafter referred to as "Mr. Wilson").

WHEREAS, the City desires to appoint and engage Mr. Wilson to perform the duties and responsibilities as Solicitor of the Municipal Court of Garden City, Georgia, pursuant to the terms and conditions stated in this Agreement.

NOW, THEREFORE, in consideration of the forgoing and the mutual promises and covenants herein contained, the parties, intending to be legally bound, agree as follows:

Section 1. Services to be Rendered. The City desires that Mr. Wilson perform, and Mr. Wilson agrees to perform, all the duties and responsibilities of the Solicitor, Municipal Court of Garden City, Georgia, which duties and responsibilities include (a) prosecuting misdemeanor and felony violations of the Georgia Criminal Code and violations of Garden City ordinances that are heard in the Municipal Court of Garden City; (b) reviewing cases prior to trial; (c) reviewing evidence prior to trial; (d) coordinating and reviewing the case witness list to insure that subpoenas have been issued; (e) consulting with applicable law enforcement officers prior to trial; and, (f) conducting preliminary hearings as required. During the term of this Agreement, the Solicitor shall be available upon reasonable notice given by the City for special assignments on an as-needed basis.

Section 2. Performance. All work done by the Solicitor shall be of the highest professional standard and shall be performed to the City's reasonable satisfaction. The City recognizes that professional regulatory and advisory groups and bodies may from time to time establish standards and requirements with regard to prosecutors. All restrictions contained herein with respect to the duties and obligations of the Solicitor shall be subject to said standards and requirements of the aforesaid groups and bodies.

Section 3. Status. The Solicitor's status under this Agreement shall be that of an independent contractor, and not that of an agent or employee. The Solicitor warrants and represents that he has complied with all state and local laws regarding licenses that may be required for him to perform the work as set forth in this Agreement. The Solicitor shall not be entitled to receive any compensation or benefits other than those expressly provided in this Agreement. Except as otherwise required by law, the City shall not withhold any sums from the payments to be made to the Solicitor for Social Security or other federal, state, or local tax liabilities or contributions, and all withholdings, liabilities, and contributions shall be solely the Solicitor's responsibility. He shall not be

eligible for, nor be entitled to, and shall not participate in, any of the City's pension, health or other fringe benefit plans, if any such plans exist. Such participation in these fringe benefit plans is limited solely to the City's employees.

Section 4. Terms of Payment. The City shall pay the Solicitor, as sole consideration for the Solicitor's services rendered pursuant hereto, the sum of Eight Hundred and 00/100's (\$800.00) Dollars per court day (which includes any and all sessions within the day such as criminal, traffic, and arraignments) worked by the Solicitor. The Solicitor shall invoice the City for such compensation within ten (10) business days after the court day during which his services were rendered. The City shall process the invoice for payment within two (2) weeks after receiving the invoice.

Section 5. Reimbursement of Expenses. The City shall not be liable to the Solicitor for any expenses he pays or incurs unless otherwise agreed to in writing by the City.

Section 6. City Not Responsible for Worker's Compensation. Because the Solicitor is not an employee of the City, the City will not obtain worker's compensation insurance for the Solicitor.

Section 7. Term. The term of this Agreement shall commence on the date of the execution of same and shall remain in force until January 31, 2025. Either party may terminate the Agreement at any time, for any or no reason, by giving thirty (30) days' written notice to the other.

Section 8. Notices. Any notice or other communication required or permitted to be given under this Agreement shall be sufficient if in writing and if delivered personally, or sent by certified or registered mail as follows or to another addressee or address as shall be set forth in a notice given in the same manner:

If to the Solicitor:

Ty Wilson, Esq.  
Attorney at Law  
2 East Bryan Street, Suite 400  
Savannah, Georgia 31401

and

If to the City:

City Manager  
Garden City, Georgia  
100 Central Avenue  
Garden City, Georgia 31405

Any notice shall be deemed to be given on the date delivered or mailed in the manner provided above.

Section 9. No Authority to Bind City. The Solicitor has no authority to enter into contracts or agreements on behalf of the City.

Section 10. Validity. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and effect of the other provisions shall not be affected.

Section 11. Waiver of Breach. The waiver by the City or by the Solicitor of a breach of any provision of this Agreement by the other party shall not operate, or be construed, as a waiver of any other breach of the other party.

Section 12. Assignment. This Agreement shall inure to the benefit of, and be binding upon, the City, its successors and assigns. It shall not be assigned by the Solicitor.

Section 13. Entire Agreement. This Agreement represents the entire understanding of the parties. There are no other outstanding agreements or provisions on this subject matter. This Agreement may not be amended except by a writing signed by the party against whom enforcement of any amendment is sought.

Section 14. Applicable Law. The parties agree that this Agreement shall be construed and enforced pursuant to the laws of Georgia.

Section 15. Separability. If, for any reason, any section or portion of this Agreement shall be held by a court to be invalid or unenforceable, it is agreed that this shall not affect any other section or portion of this Agreement.

Section 16. Insurance. The Solicitor agrees to procure and maintain at his expense until this Agreement is terminated professional liability insurance in an amount not less than \$1,000,000 per claim and \$2,000,000.00 in the aggregate issued by an insurance company authorized to do business in the State of Georgia covering him as well as any agents or employees involved in the performance of his duties hereunder. Before commencing work under this Agreement, the Solicitor shall furnish the City a certificate in form satisfactory to the City, showing how he has complied with this Section. The certificate shall provide that the policy shall not be changed or canceled until at least thirty (30) days written notice shall be given to the City.

Section 17. Indemnification. The Solicitor agrees to indemnify the City against all liability of any character brought because of any damage sustained by any person or property resulting from any asserted negligent act, error or omission of the Solicitor or his agents or employees. The Solicitor, however, shall not be required to indemnify the City from assertions that the City was negligent, or to defend the City from liability based upon the City's own negligence. The indemnity required by this Section shall not be limited by the professional liability insurance coverage set forth in Section 16 above.

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

**CITY OF GARDEN CITY, GEORGIA**

By: \_\_\_\_\_  
Bruce Campbell, Mayor

Attest: \_\_\_\_\_  
Rhonda Ferrell-Bowles  
Clerk of Council

\_\_\_\_\_  
**TY WILSON** (L.S.)

## **GARDEN CITY RESOLUTION**

BE IT RESOLVED by the Mayor and Council of Garden City, Georgia, in regular session assembled, that **ASHLEY BEARD**, as a duly qualified member in good standing of the State Bar of Georgia, and admitted to practice before the appellate courts of this State, be appointed to serve as the City's Pro-Tem Prosecuting Attorney at their pleasure for the purpose of exercising all of the authority and duties of such position as are set forth in Section 15-18-96 of the Official Code of Georgia Annotated in compliance with all applicable laws, statutes, and ordinances of Garden City, the State of Georgia, and the United States of America, in the event that the City's designated City Solicitor, Ty Wilson, is unavailable to perform such duties.

BE IT FURTHER RESOLVED that within thirty (30) days of the date of this resolution, the Municipal Court Clerk notify the Prosecuting Attorneys' Council of the State of Georgia of Ms. Beard's appointment.

BE IT FURTHER RESOLVED that before Ms. Beard commences performance of her duties and responsibilities as the City's Prosecuting Attorney, she be given her oath of office as required by Section 15-18-93 of the Official Code of Georgia Annotated.

IN OPEN SESSION this \_\_\_\_ day of March, 2024.

---

RHONDA FERRELL-BOWLES  
Clerk of Council

Received and approved this \_\_\_\_ day of March, 2024.

---

BRUCE CAMPBELL, Mayor

## GARDEN CITY RESOLUTION

BE IT RESOLVED by the Mayor and Council of Garden City, Georgia, in regular session assembled, that **CAROLINE BRADLEY**, as a duly qualified member in good standing of the State Bar of Georgia, and admitted to practice before the appellate courts of this State, be appointed to serve at their pleasure as the City's Public Defender on a part-time basis in compliance with all applicable laws, statutes, and ordinances of Garden City, the State of Georgia, and the United States of America.

BE IT FURTHER RESOLVED that the Mayor execute, with the Clerk of Council's attestation, that certain agreement between the City and Caroline Bradley, attached hereto as Exhibit "A" which sets forth the terms of Ms. Bradley's appointment as the City's Public Defender.

IN OPEN SESSION this \_\_\_\_ day of March, 2024.

---

RHONDA FERRELL-BOWLES  
Clerk of Council

Received and approved this \_\_\_\_ day of March, 2024.

---

BRUCE CAMPBELL  
Mayor

EXHIBIT "A"

STATE OF GEORGIA        )  
                              )  
COUNTY OF CHATHAM    )

THIS AGREEMENT is made this \_\_\_\_\_ day of March, 2024, by and between **GARDEN CITY, GEORGIA**, a municipal corporation organized and existing under the laws of the State of Georgia (hereinafter referred to as the "City"), and **CAROLINE BRADLEY** of Chatham County, Georgia (hereafter referred to as "Ms. Bradley").

WHEREAS, the City desires to appoint and engage Ms. Bradley to perform the duties and responsibilities as Public Defender of the Municipal Court of Garden City, Georgia, pursuant to the terms and conditions stated in this Agreement.

NOW, THEREFORE, in consideration of the forgoing and the mutual promises and covenants herein contained, the parties, intending to be legally bound, agree as follows:

Section 1. Services to be Rendered. The City desires that Ms. Bradley perform, and Ms. Bradley agrees to perform, all the duties and responsibilities of the Public Defender of the Municipal Court of Garden City, Georgia, which duties and responsibilities include (a) providing legal defense, as required, to indigent persons who are defendants in the Court, and who are charged with criminal offenses for which a suspended sentence of imprisonment, or other loss of liberty or any fine, fee, or cost enforceable by confinement, probation, or other loss of liberty, may be imposed; (b) reviewing cases prior to trial; (c) reviewing evidence prior to trial; (d) meeting with defendants prior to trial as needed; (e) consulting with the Garden City Solicitor and probation personnel prior to trial as needed; and (f) providing defense consultation for preliminary hearings as required. During the term of this Agreement, the Public Defender shall be available upon reasonable notice given by the City for special assignments on an as-needed basis. Ms. Bradley shall share the duties of Public Defender with other qualified persons appointed by the City to serve in the position. Legal representation responsibilities subject to the Agreement are limited to those required while in the Garden City Municipal Court. Any follow-up representation should be arranged by the defendant and at the defendant's expense or through the Eastern Judicial Circuit Public Defenders Office.

Section 2. Performance. The Clerk of the Garden City Municipal Court shall schedule, at least 60 days in advance, the court sessions at which Ms. Bradley's services will be needed. If Ms. Bradley has any scheduling conflicts, she is authorized to contact any of the City's other public defenders to substitute for her. All work done by the Public Defender shall be of the highest professional standard and shall be performed to the City's reasonable satisfaction. The City recognizes that professional regulatory and advisory groups and bodies may from time to time establish standards and requirements with regard to public defenders. All restrictions contained herein with respect to the

duties and obligations of the Public Defender shall be subject to said standards and requirements of the aforesaid groups and bodies.

**Section 3. Status.** The Public Defender's status under this Agreement shall be that of an independent contractor, and not that of an agent or employee. The Public Defender warrants and represents that she is currently a member in good standing of the State Bar of Georgia, and has complied with all state and local laws regarding licenses that may be required for her to perform the work as set forth in this Agreement. The Public Defender shall not be entitled to receive any compensation or benefits other than those expressly provided in this Agreement. Except as otherwise required by law, the City shall not withhold any sums from the payments to be made to the Public Defender for Social Security or other federal, state, or local tax liabilities or contributions, and all withholdings, liabilities, and contributions shall be solely the Public Defender's responsibility. She shall not be eligible for, nor be entitled to, and shall not participate in, any of the City's pension, health, or other fringe benefit plans, if any such plans exist. Such participation in these fringe benefit plans is limited solely to the City's employees.

**Section 4. Terms of Payment.** The City shall pay the Public Defender, as sole consideration for the Public Defender's services rendered pursuant hereto, the sum of Eight Hundred and 00/100's (\$800.00) Dollars per court day (which includes any and all sessions within the day such as criminal, traffic, and arraignments) worked by the Public Defender. The Public Defender shall invoice the City for such compensation within ten (10) business days after the court day during which her services were rendered. The City shall process the invoice for payment within two (2) weeks after receiving the invoice.

**Section 5. Reimbursement of Expenses.** The City shall not be liable to the Public Defender for any expenses she pays or incurs unless otherwise agreed to in writing by the City.

**Section 6. City Not Responsible for Worker's Compensation.** Because the Public Defender is not an employee of the City, the City will not obtain worker's compensation insurance for the Public Defender.

**Section 7. Term.** The term of this Agreement shall commence on the date of the execution of same and shall remain in force until January 31, 2025. Either party may terminate the Agreement at any time, for any or no reason, by giving thirty (30) days' written notice to the other.

**Section 8. Notices.** Any notice or other communication required or permitted to be given under this Agreement shall be sufficient if in writing and if delivered personally, or sent by certified or registered mail as follows or to another addressee or address as shall be set forth in a notice given in the same manner:

If to the Public Defender: Caroline Bradley, Esq.  
33 Bull Street, Suite 510  
Savannah, Georgia 31401

and,

If to the City: City Manager  
Garden City City Hall  
100 Central Avenue  
Garden City, Georgia 31405

Any notice shall be deemed to be given on the date delivered or mailed in the manner provided above.

Section 9. No Authority to Bind City. The Public Defender has no authority to enter into contracts or agreements on behalf of the City.

Section 10. Validity. If for any reason any provision of this Agreement shall be determined to be invalid or unenforceable, the validity and effect of the other provisions shall not be affected.

Section 11. Waiver of Breach. The waiver by the City or by the Public Defender of a breach of any provision of this Agreement by the other party shall not operate, or be construed, as a waiver of any other breach of the other party.

Section 12. Assignment. This Agreement shall inure to the benefit of, and be binding upon, the City, its successors, and assigns. It shall not be assigned by the Public Defender.

Section 13. Entire Agreement. This Agreement represents the entire understanding of the parties. There are no other outstanding agreements or provisions on this subject matter. This Agreement may not be amended except by a writing signed by the party against whom enforcement of any amendment is sought.

Section 14. Applicable Law. The parties agree that this Agreement shall be construed and enforced pursuant to the laws of Georgia.

Section 15. Separability. If, for any reason, any section or portion of this Agreement shall be held by a court to be invalid or unenforceable, it is agreed that this shall not affect any other section or portion of this Agreement.

Section 16. Insurance. The Public Defender agrees to procure and maintain at her expense until this Agreement is terminated professional liability insurance in an amount not less than \$1,000,000.00 per claim and \$2,000,000.00 in the aggregate issued by an insurance company authorized to do business in the State of Georgia covering her as well

as any agents or employees involved in the performance of her duties hereunder. Before commencing work under this Agreement, the Public Defender shall furnish the City with a certificate in form satisfactory to the City, showing how she has complied with this Section. The certificate shall provide that the policy shall not be changed or canceled until at least thirty (30) days written notice shall be given to the City.

Section 17. Indemnification. The Public Defender agrees to indemnify the City against all liability of any character brought because of any damage sustained by any person or property resulting from any asserted negligent act, error or omission of the Public Defender or her agents or employees. The Public Defender shall not, however, be not required to indemnify the City from assertions that the City was negligent, or to defend the City from liability based upon the City's own negligence. The indemnity required by this Section shall not be limited by the amount of professional liability insurance coverage set forth in Section 16 above.

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

**GARDEN CITY, GEORGIA**

By: \_\_\_\_\_  
Bruce Campbell, Mayor

Attest: \_\_\_\_\_  
Rhonda Ferrell-Bowles  
Clerk of Council

\_\_\_\_\_  
**CAROLINE BRADLEY** (L.S.)

## **GARDEN CITY RESOLUTION**

BE IT RESOLVED by the Mayor and Council of Garden City, Georgia, in regular session assembled, that **LAWRENCE TELL**, as a duly qualified member in good standing of the State Bar of Georgia, and admitted to practice before the appellate courts of this State, be appointed to serve at their pleasure as the City's Public Defender in the event that the City's designated Public Defender, Caroline Bradley, is unavailable to perform her duties and he is requested by the Garden City Court Administrator to substitute for the Public Defendant for a court day, such service being in compliance with all applicable laws, statutes, and ordinances of Garden City, the State of Georgia, and the United States of America.

IN OPEN SESSION this \_\_\_\_ day of March, 2024.

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**RHONDA FERRELL-BOWLES**  
Clerk of Council

Received and approved this \_\_\_\_ day of March, 2024.

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**BRUCE CAMPBELL**  
Mayor

## **GARDEN CITY RESOLUTION**

**WHEREAS**, the Mayor and Council of Garden City, Georgia, are desirous of classifying as surplus property, and selling at public auction, eleven (11) of its police vehicles by reason of said vehicles no longer serving any public purpose due to excessive mileage, multiple mechanical issues, or the incurrence of excessive repair costs, and therefore not being suitable for police use;

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

1. The nine (9) vehicles which are described in the attached Exhibit "A" are hereby classified as surplus property by reason of their no longer serving any public purpose and because no future public use for the property can be reasonably anticipated.

2. The Police Department is hereby authorized to dispose of each vehicle by arranging for same to be sold at auction pursuant to State law as soon as is reasonably possible, but not until the Department has obtained a suitable replacement for the vehicle if needed and currently budgeted for.

3. The proceeds from the sale of the subject vehicles shall be placed in the City's general operating fund and earmarked for the Police Department's vehicle maintenance and operations.

**ADOPTED** this the \_\_\_\_ day of March, 2024.

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RHONDA FERRELL-BOWLES,  
Clerk of Council

**RECEIVED AND APPROVED** this \_\_\_\_ day of March, 2024.

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BRUCE CAMPBELL, Mayor

**EXHIBIT "A"**

**Surplus Vehicles**

1. Unit 0906: 2009 Ford Explorer; VIN 1FMEU63E39UA23522; Mileage - 153,944 (excessive)
2. Unit 1024: 2010 Ford E 350 Van; VIN 1FBSS3BL6ADA71830; Excessive Mileage
3. Unit 1125: 2011 Crown Victoria; VIN 2FABP7BV3BX122402; Mileage - 127,999 (excessive)
4. Unit 1503: 2015 Chevrolet Tahoe, VIN1GNSK3EC1FR616244; Mileage – 126573 (excessive)
5. Unit 1504: 2015 Chevrolet Tahoe; VIN 1GNSK3EC2FR621081; Mileage - 137,826 (excessive)
6. Unit 1526: 2015 Ford F150 XLT; VIN 6G3NS5U23EL928063; Mileage - 118,063 (excessive)
7. Unit 1615: 2016 Chevrolet Caprice; VIN 6G3NS5U2XGL208889; Mileage - 101,048 (excessive)
8. Unit 1627: 2016 Chevrolet Caprice; VIN 6G3NS5U25GL208895; Mechanical issues and excessive mileage
9. Unit 1629: 2016 Chevrolet Tahoe; VIN 1GNLCDEC5GR370002; Mileage - 100,751 (excessive)
10. Unit 1644: 2016 Chevrolet Caprice; VIN 6G3NS5U28GL210723; Mileage - 103,332 (excessive)
11. Unit 1649: 2016 Chevrolet Tahoe; VIN 1GNLCDEC9GR373128; Mileage - 111,854 (excessive)

## **RESOLUTION**

### **A RESOLUTION TO AMEND THE REGULAR MEETING SCHEDULE OF THE GARDEN CITY CITY COUNCIL; TO ELIMINATE THE MARCH 18, 2024, REGULAR CITY COUNCIL MEETING DUE TO THE ST. PATRICK'S DAY HOLIDAY; AND TO ESTABLISH A MEETING OF THE CITY COUNCIL ON MARCH 19, 2024.**

**WHEREAS**, it is desirous to amend the regular meeting schedule of the Garden City City Council for the period of March 18, 2024 through March 19, 2024; and

**WHEREAS**, an amendment to the regular meeting schedule of the City Council is not detrimental to the proper and diligent administration of the City; and

**NOW THEREFORE BE IT RESOLVED**, by the Mayor and Council of Garden City, Georgia, in regular session assembled, that they do hereby approve and amend the regular meeting schedule of the Garden City City Council as herein described for the period of March 18, 2024 through March 19, 2024.

**ADOPTED** this 4<sup>th</sup> day of March 2024.

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BRUCE CAMPBELL, Mayor

**RECEIVED AND APPROVED** this 4<sup>th</sup> day of March 2024.

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RHONDA FERRELL BOWLES, Clerk of Council

**A RESOLUTION OF THE MAYOR AND COUNCIL  
OF THE CITY OF GARDEN CITY, GEORGIA,  
REQUESTING THE LOCAL LEGISLATIVE DELEGATION TO  
WITHDRAW THE CITY'S REQUEST FOR LOCAL LEGISLATION DEALING WITH  
ANNEXATION**

WHEREAS, on February 5, 2024, the Mayor and Council passed a resolution requesting that the matter of annexing to Garden City certain areas to the South of, and contiguous to, Garden City's present City limits in unincorporated Chatham County, Georgia, as described on the Exhibit "A" attached thereto, be introduced into both houses of the Georgia General Assembly by local legislation; and,

WHEREAS, after further consideration and study, the Mayor and Council wish to withdraw its request, having decided that now is not the appropriate time to proceed with the annexation; and,

WHEREAS, the Mayor and Council intend to continue monitoring its available land supply and will re-consider its need to pursue the annexation at a more appropriate time in the future;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF GARDEN CITY, GEORGIA, in regular meeting, that:

1.

The Mayor and Council of Garden City, Georgia, hereby withdraw the City's request made in the resolution which it adopted on February 5, 2024, for the Georgia General Assembly to consider and pass local legislation annexing to Garden City certain areas South of, and contiguous to, the City's present City limits in unincorporated Chatham County, Georgia, as more particularly described therein.

2.

The Mayor and Council expresses its appreciation to the local legislative delegation for all of the time and effort put forth by the delegation in considering the City's annexation request.

**ADOPTED** this 4<sup>th</sup> day of March, 2024.

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RHONDA FERRELL-BOWLES,  
Clerk of Council

RECEIVED AND APPROVED this 4<sup>th</sup> day of March, 2024.

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BRUCE CAMPBELL, Mayor