



Mayor and City Council Worksession

Thursday, March 07, 2024 at 6:00 PM

Dacula City Hall, Council Chambers

442 Harbins Rd. | P.O. Box 400 | Dacula, Georgia 30019 | (770) 963-7451

Agenda

CALL TO ORDER AND ROLL CALL OF MEMBERS:

OLD BUSINESS:

1. Rezoning Application: 2023-CD-RZ-03

NEW BUSINESS:

2. Change of Conditions Application: 2024-CD-COC-01
3. Change of Conditions Application: 2024-CD-COC-02
4. Special Use Permit Application: 2024-CD-SUP-01 (*withdrawn*)
5. Ordinance to amend Article IX of the Zoning Resolution
6. Adopt Records Management Policy
7. Amendments to the Marshal's Office Policy and Procedure
8. Proposal for tax collection services
9. Proposal for architect services
10. CDBG Subrecipient Agreements for the McMillan Road improvement project
11. Proposal to prepare the 2025 Community Development Block Grant Application

MARSHAL UPDATE:

CITY ADMINISTRATOR UPDATE:

MEMBER COMMENT(S) / QUESTION(S):

ADJOURNMENT:

Memorandum

To: City of Dacula Planning Commission /
City of Dacula Mayor and City Council

From: Hayes Taylor, City Planner

Date: November 27, 2023

Subject: 2023-CD-RZ-03

Proposed Zoning: R-TH Single-Family Residence Townhouse District

Existing Zoning: MH Mobile Home Park District

Size: 4.04 acres

Proposed Use: Attached Single Family Townhome Neighborhood

Applicant: Archon Homes
2160 Morningside Dr. Suite 250
Buford, Georgia 30518
770-616-9774

Owner: Dacula Real Estate
3975 Stone Village Ct
Duluth, Georgia 30097
678-643-6257

Location: Land Lot 275 - 5th District

Existing Land Use and Zoning:

The subject property is located at 2263 Stanley Rd and is approximately 4.04 acres. Jody Avenue and Shane Lane surround the property on all sides. The parcel is zoned MH (Mobile Home Park District) and is occupied by 16 mobile homes (net density = 3.96 units/acre). Properties to the northeast and northwest are zoned R-1200 (Single Family Residential). A 173-lot single-family residential development zoned TRD (Transitional Residential District) is currently under construction across Stanley Road to the south of the subject property.

The Proposed Rezoning & Development:

The applicant has requested to rezone the 4.04-acre subject property from MH (Mobile Home Park District) to R-TH (Single Family Residence Townhouse District) to construct a 16-unit (net density = 3.96 units/acre), 4 building town home development. Application materials indicate an internal private drive with sidewalks that bisects the parcel, connecting Jody Ave and Shane Ln. The internal drive serves as the entrances into the development and conforms the area with the 2019 Future Land Use Map characterization by bolstering pedestrian infrastructure. The concept plan shows a mail kiosk center, pedestrian pathways, an amenity area, a 25-foot landscape setback from the Stanley Rd, and an additional 50-foot building setback.

Staff notes the proposed density maintains the residential density of the property's current use. The 2019 Future Land Use Map designates the subject parcel as a Village Area Density character area (3.5-6 units/acre). The proposed development would serve as a logical transition from medium density residential and commercial to lower density suburban development.

Summary:

The proposed townhouse development would maintain the existing residential density of the current mobile home development (Mobile Home Park District) and is consistent with the City's Future Land Use Map. For these reasons, the Department recommends that the rezoning be approved with conditions.

Comprehensive Plan:

The City of Dacula's 2019 Comprehensive Plan labels the subject property as Village Density Residential on the Future Land Use Map. Village Density Residential character areas are defined as being "in close proximity to activity centers and are relatively dense compared to Suburban Residential areas" and that "residents are more likely to walk or bike to nearby centers rather than forced to rely on automobiles." The Village Density Residential uses are stated as "low density residential (0.5 to 4 units/acre), medium density residential (4-6 units/acre), traditional neighborhood development, duplexes, parks/recreation/greenspace, and small institutional development." (The City of Dacula, Georgia 2019 Comprehensive Plan, page 7.26).

The analysis of the application should be made based upon the "Standards Governing Exercise of the Zoning Power" as stated in Section 1702 of the 2000 Zoning Resolution of the City of Dacula.

1. *Whether the proposed rezoning request will permit a use that is suitable in view of the use and development of an adjacent and nearby property?*

The townhouse development is a suitable use because it maintains the current residential density and would improve the pedestrian infrastructure within the character area. In addition, the proposed development provides a gradient in the transition from the Neighborhood Mixed Use and General Commercial character area designated to the north on the Future Land Use map.

2. *Whether the proposed rezoning will adversely affect the existing use or usability of adjacent or nearby properties?*

The proposed applications would not be expected to adversely affect the existing use or usability of adjacent or nearby properties along Stanley Rd.

3. *Whether the property to be affected by the proposed rezoning request has a reasonable economic use as currently zoned?*

The property has reasonable economic use as currently zoned.

4. *Whether the proposed rezoning request will result in a use that will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools?*

With the provided conditions, excessive or burdensome use of streets, transportation facilities or schools should be minimized. The utility and school needs should not be substantially affected due to the maintenance of the current residential density.

5. *Whether the proposed rezoning request conforms with the policy and intent of the Land Use Plan?*

The City of Dacula's Future Land Use Map designates the property for a Village Density Residential character area. Village Density Residential character area serves as a transition from higher density residential and commercial to traditional single-family density. The proposed rezoning restructures the current infrastructure into a more grid-like format, encouraging walkability. As properties to the east develop within the Community Mixed Use Activity Center character area, the townhouses could serve as a transition in the gradient from attached and village density units to low density. As such, the proposed rezoning would be considered suitable at this location.

6. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning?*

If approved, the requested rezoning would provide an opportunity for a mixture of housing types and provide a transition between land uses of potential future developments.

Recommendation:

Based on the application, the requested rezoning is recommended for approval with the following conditions:

The Department notes the Planning Commission unanimously recommended approval with staff's recommended conditions for the requested rezoning at the Public Hearing on November 27, 2023. Said conditions are below.

1. The property shall be developed in accordance with the conceptual site plan prepared by Archon Homes dated August 23, 2023 and with the provided zoning conditions. Any substantial deviation from the approved conceptual plan and/or remaining conditions of zoning shall be resubmitted to the City Council for consideration. The City Administrator shall determine what constitutes substantial deviation.
2. The open space shall not be subdivided and shall be owned and maintained by a mandatory homeowners' association. The deed to the mandatory homeowners' association shall require that the open space be perpetually maintained.
3. The maximum number of dwelling units shall not exceed 4 buildings consisting of 16 units total.
4. The minimum heated floor area per dwelling unit shall be 1,800 square feet.
5. The front and side façades of all dwelling units shall consist of architectural treatments of brick, stone, or stucco with fiber cement siding for the remainder of the elevation. The remainder of the structures shall be constructed of brick, stone, stucco, concrete fiber, or similar material.
6. The proposed elevation, building materials, and colors shall be approved by the City prior to building permit issuance.
7. Delineated street parking outside of travel lanes along the internal road must be provided by the developer.
8. Collection of solid waste, recycling, and recovered materials from the townhome development shall be arranged by an agreement with a franchised contractor.
9. The development shall include an amenity area with park benches and picnic tables. The benches and tables will be included in a walking trail, gathering space, or central green as approved by the City.
10. The development shall include a cabana, pavilion or shade provision alternative in the designated mail kiosk space as approved by the City.
11. All non-amenity grassed areas shall be sodded.
12. The amenity and stormwater maintenance areas may include lower maintenance grass alternatives such as Blue Star Creeper, Corsican Mint, Microclover, or Fescue as approved by the City Administrator.
13. 5-foot-wide sidewalks shall be constructed on both sides of the internal private drive.
14. 5-foot-wide sidewalks shall be constructed along the property frontage of Stanley Road, Shane Lane, and Jody Avenue.

15. The developer shall provide street trees along the external sidewalk, internal sidewalk and internal walkways at 25-foot increments on center. All trees should be 6 to 8 feet tall at the time of installation with a minimum DBH of 2.5 inches. Subject to review and approval by the City Administrator or their designee.

Street and walkway trees shall be of one or a combination of the following species:

- a. Sweet Bay Magnolia
 - b. Blood Good Japanese Maple
 - c. Eastern Redbud
 - d. Willow Oak
 - e. Carolina Silverbell
 - f. Nuttal Oak
 - g. Shumard Oak
 - h. White Oak
 - i. Japanese Zelkova
 - j. Red Maple
 - k. North Red Oak
16. The developer will provide crosswalks at the stop signs of the internal private drive.
 17. The developer shall submit the Final Plat to the City of Dacula prior to the issuance of any building permits.
 18. Each townhome building shall have landscape features to include, but not necessarily limited to flowerbeds, landscape trees, evergreen understory plantings and the like. Subject to review and approval by the City Administrator or their designee.
 19. Underground utilities shall be provided throughout the development.
 20. Street light service fees and maintenance are the responsibility of the homeowner's association. Street light fixtures must be reviewed and approved by the City.
 21. Ownership and maintenance of internal drives, roads, sidewalks and/or parking area found on the subject site shall be the responsibility of the developer and/or private property owner.



City of Dacula
 P. O. Box 400
 Dacula, GA 30019
 (770) 962-0055 / Fax (770) 513-2187

Item 1.

REZONING/ CHANGE OF CONDITIONS/ SPECIAL USE PERMIT APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF DACULA, GEORGIA.
 (Please Type or Print using BLACK INK)

APPLICANT *		PROPERTY OWNER *	
NAME <u>Archon Homes</u>		NAME <u>Dacula Real Estate</u>	
ADDRESS <u>2160 Morningside Dr. Ste 250</u>		ADDRESS <u>3975 Stone Village Ct.</u>	
CITY <u>Buford</u>		CITY <u>Duluth</u>	
STATE <u>GA</u> ZIP <u>30518</u>		STATE <u>GA</u> ZIP <u>30097</u>	
PHONE <u>770-616-9774</u> FAX		PHONE <u>678-643-6257</u> FAX	

APPLICANT IS THE:

- OWNER'S AGENT
- PROPERTY OWNER
- CONTRACT PURCHASER

* Include any person having a property interest and/or a financial interest in any business entity having property interest (use additional sheets if necessary).

CONTACT PERSON John Slappay
 COMPANY NAME Archon Homes
 ADDRESS 2160 Morningside Dr. Ste. 250
Buford, GA 30518
 PHONE 770-616-9774 FAX
 EMAIL jslappay@psponline.com

PRESENT ZONING DISTRICT(S) Mobile Home REQUESTED ZONING DISTRICT Town Home
 LAND LOT(S) _____ PARCEL # B5275 057 DISTRICT(S) _____ ACREAGE 4.07
 PROPOSED DEVELOPMENT OR SPECIAL USE REQUESTED 16 Unit Town Home
Development

RESIDENTIAL DEVELOPMENT: NO. OF LOTS/DWELLINGS UNITS 16
 DWELLING UNIT SIDE (SQ. FT.) _____
 NON-RESIDENTIAL DEVELOPMENT: NO. OF BUILDINGS/LOTS _____
 TOTAL GROSS SQ. FEET _____

LETTER OF INTENT & LEGAL DESCRIPTION OF PROPERTY

*** PLEASE ATTACH A "LETTER OF INTENT" EXPLAINING WHAT IS PROPOSED and TYPED "LEGAL DESCRIPTION" OF PROPERTY TO BE AMENDED ***

CASE NUMBER

SITE DATA	
GROSS ACRES	11.404 AC
EXISTING ZONING	MH
PROPOSED ZONING	R-3H
TOTAL UNITS	16 UNITS
GROSS DENSITY	3.98 U/A
TOWNHOME SIZE	24' X 50' REAR ENTRY TOWNHOME
MIN. UNIT HEATED S.F.	1,699 S.F. PER TOWNHOME
BUILDING SETBACKS	
FRONT	50'
REAR	40'
SIDE	40'
BUILDING HEIGHTS	
	35'
20' GRASS OR LANDSCAPED STRIP SHALL BE PROVIDED BETWEEN ALL BUILDINGS AND INTERIOR DRIVEWAYS/STREETS.	

SITE LEGEND	
	STORMWATER MANAGEMENT
	MAIL KIOSK
	PARK

PARKING CALCS						
TYPE	SPACES	REQUIREMENT	MIN	MAX	TOTAL	REMARKS
REAR ENTRY TOWNHOME	2	4	4	16	14	
TOTAL PARKING SPACES REQUIRED (1 ON RESIDENTIAL UNITS + 3 SPACES PER UNIT)					48	
90 DEGREE PARKING SPACES (OFF-STREET PARKING)					7	
TOTAL PARKING SPACES PROVIDED FOR RESIDENTS					55	

PROPERTY ADDRESS:
2263 STANLEY RD
Dacula, GA 30019

UTILITIES:
THE DEVELOPER SHALL BE RESPONSIBLE FOR ANY CONFLICTS WITH EXISTING UTILITIES.

#LAW NOTE:
THIS PLAN IS CONCEPTUAL IN NATURE AND DOES NOT CONSTITUTE APPROVAL FOR CONSTRUCTION OR DEVELOPMENT. ADDITIONAL REGULATIONS SHALL APPLY PRIOR TO PERMIT SUBMISSION.

PROPERTY OWNER:
P&S DEVELOPMENT
Dacula Real Estate, LLC

STORMWATER SITE:
STORMWATER TO BE MANAGED ON-SITE.

SEWER NOTE:
GRAVITY SEWER PROVIDED BY GWINNETT COUNTY OFF STANLEY ROAD.

WATER NOTE:
WATER PROVIDED BY CITY OF DACULA.

FEMA NOTE:
NO PORTION OF THIS PROPERTY IS LOCATED IN A FEMA FLOOD HAZARD AREA AS PER FEMA PANEL No. 13135C0007, DATED 09/20/2006 & 131135C0075F.

***VARIATIONS FROM CODE:**
1) DECORATIVE COLUMNS AND FENCE ON STANLEY RD ONLY.
2) 50' LANDSCAPE SETBACK TO 25' LANDSCAPE SETBACK ALONG ALL EXISTING ROADS.



ALLIANCE
ENGINEERING & PLANNING, INC.
1000 W. GARDNER BLVD., SUITE 100
Dacula, GA 30019
770.325.2321 | www.alliancega.com

1

2

3

4

5

6

7

8

9

10

11

12

NOT
RELEASED
FOR
CONSTRUCTION

**PEGGY SLAPPEY
PROPERTIES, LLC**
24 HR CONTACT: JORR SLAPPEY, 770.648.8774
JSLAPPEY@SPRINTLIFE.COM

Site Concept Plan for
2263 Stanley Rd.

PELAGIA, GA 30084
LL-214-CONTRACT 04
-PARCEL 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

Orig. Issue

05.31.23

Designed by

BW

Checked by

BW

Project #

23127

NORTH

SCALE: 1" = 40'

CONCEPT
PLAN

8.28.23

8

LETTER OF INTENT

9/26/23

City of Dacula
442 Harbins Road
Dacula, GA 30019

To Whom It May Concern,

This letter of intent is for a proposed rezoning for 2263 Stanley Road, Dacula GA 30019 from its present zoning of mobile homes with 4 units per acre to a proposed townhome zoning with 4 units per acre. We feel that this rezoning will be a positive impact on the community by providing new townhomes and will keep the same number of homes on the property that currently exists.

Best Regards,

John Slappey
Archon Homes, LLC
2160 Morningside Drive
Suite 250
Buford, GA 30518

APPLICANT CERTIFICATION

The undersigned is authorized to make this application and is aware that if an application is denied, no application or re-application affecting the same property shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Applicant [Signature] Date 9/21/23
Type or Print Name/Title Tom Slattery Member
Notary Public _____ Date _____

PROPERTY OWNER CERTIFICATION

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that if an application is denied, no application or re-application affecting the same land shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Property Owner _____ Date 9/21/23
Type or Print Name/Title Manoj Patel Member
Notary Public _____ Date _____

FOR ADMINISTRATIVE USE ONLY

DATE RECEIVED _____ RECEIVED BY _____ FEE _____ RECEIPT # _____

LAND LOT _____ DISTRICT _____ PARCEL # _____ HEARING DATE _____

.....
ACTION TAKEN _____

SIGNATURE _____ DATE _____

STIPULATIONS _____



City of Dacula
 P. O. Box 400
 Dacula, GA 30019
 (770) 962-0055 / Fax (770) 513-2187

Item 1.

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes No

If the answer is *Yes*, please complete the following section:

Name of Government Official	Contributions <i>(All which aggregate to \$250.00+)</i>	Contribution Date <i>(within last 2 years)</i>

Have you, within the two years immediately preceding the filing of this application, made gifts having in the aggregate a value of \$250.00 or more to the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes No

If the answer is *Yes*, please complete the following section:

Name of Government Official	Description of Gifts <i>(Valued aggregate \$250.00+)</i>	Date Gift was Given <i>(within last 2 years)</i>

(Attach additional sheets if necessary to disclose or describe all contributions/gifts)

CONFLICT OF INTEREST CERTIFICATION

The undersigned, making application for rezoning/SUP, has complied with the Official Code of Georgia, Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions and has submitted or attached the required information on the forms provided.

Signature of Applicant  Date 9/21/23

Type or Print Name/Title John Slappey Member

Signature of Applicant' Attorney _____ Date _____

Type or Print Name/Title _____

Notary Public _____ Date _____

(Notary Seal)

Official Use Only

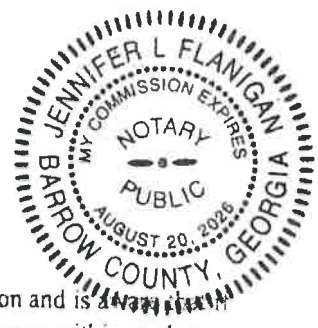
DATE RECEIVED _____ ZONING CASE NUMBER _____

RECEIVED BY _____

APPLICANT CERTIFICATION

The undersigned is authorized to make this application and is aware that if an application is denied, no application or re-application affecting the same property shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

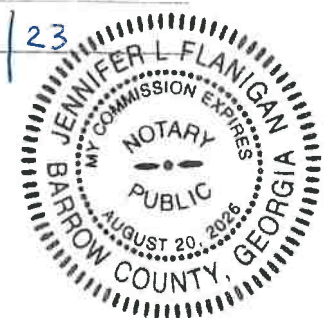
Signature of Applicant [Signature] Date 9/21/23
Type or Print Name/Title John Slippy Member
Notary Public Jennifer L Flanigan Date 9/21/23



PROPERTY OWNER CERTIFICATION

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that if an application is denied, no application or re-application affecting the same land shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Property Owner [Signature] Date 9/21/23
Type or Print Name/Title Manoj Patel Member
Notary Public Jennifer L Flanigan Date 9/21/23



FOR ADMINISTRATIVE USE ONLY

DATE RECEIVED _____ RECEIVED BY _____ FEE _____ RECEIPT # _____
LAND LOT _____ DISTRICT _____ PARCEL # _____ HEARING DATE _____

ACTION TAKEN

SIGNATURE _____ DATE _____

STIPULATIONS



City of Dacula
P. O. Box 400
Dacula, GA 30019
(770) 962-0055 / Fax (770) 513-2187

IMPACT ANALYSIS STATEMENT

As required by the Zoning Resolution of the City of Dacula, the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power. **ALL APPLICATIONS MUST BE COMPLETED WITH THE COMPLETED IMPACT ANALYSIS STATEMENT.**

DATE 9/21/23 APPLICANT Anchor Homes

A Whether a proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property: Yes

B Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property: No

C Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned: Yes

D Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. No

E Whether the proposed rezoning is in conformity with the policy and intent of the Land Use Plan: Yes

F Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning: N/A

Salomon Duenez
2203 Stanley Road
Dacula, GA 30019

Santiago Jimenez
2257 Shane Lane
Dacula, GA 30019

Lisa Pina
2263 Shane Lane
Dacula, GA 30019

Thomas Powell
2273 Shane Lane
Dacula, GA 30019

Kenny Everson
2283 Shane Lane
Dacula, GA 30019

Oscar Garcia
2293 Shane Lane
Dacula, GA 30019

Rosita Duenez
2284 Shane Lane
Dacula, GA 30019

Pronto VM, LLC
2281 Scott Circle
Dacula, GA 30019

Jose Garcia
2282 Scott Circle
Dacula, GA 30019

Juan Cruz
2277 Stanley Road
Dacula, GA 30019

Starlight Homes
3820 Mansell Road
Suite 400
Alpharetta, GA 30022

USA Maag, LLC
2204 Stanley Road
Dacula, GA 30019

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Adult Signature Required \$

Adult Signature Restricted Delivery \$

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Sent To **Thomas + Debra Powell**

Street and Apt. No., or PO Box No.
2213 Shane Lane

City, State, ZIP+4®
Dacula Ga 30019

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Street and Apt. No., or PO Box No.
2213 Shane Lane

City, State, ZIP+4®
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Sent To **Santiago Jimenez**

Street and Apt. No., or PO Box No.
2211 Shane Lane

City, State, ZIP+4®
Dacula Ga 30019

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Sent To **Starlight Homes GA LLC**

Street and Apt. No., or PO Box No.
3820 Mansell Road Ste 400

City, State, ZIP+4®
Calhoun Ga 30022-1515

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Sent To **Jose Garcia**

Street and Apt. No., or PO Box No.
2282 Scott Circle

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Dacula Ga 30019

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Adult Signature Restricted Delivery \$

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Sent To **Jaramillo D. Garcia Mariela Zavala**

Street and Apt. No., or PO Box No.
2293 Shane Lane

City, State, ZIP+4®
Dacula Ga 30019

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Item 1.

Item 1.

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 Adult Signature Restricted Delivery \$

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Street and Apt. No., or PO Box No.
2203 Stanley Road
City, State, ZIP+4®
Dacula Ga 30019

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 Adult Signature Required \$
 Adult Signature Restricted Delivery \$

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Street and Apt. No., or PO Box No.
VM Pronto LLC
5001 Plaza on the Lake Ste 200
City, State, ZIP+4®
Austin TX 78746-1053

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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 Adult Signature Required \$
 Adult Signature Restricted Delivery \$

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Total Postage and Fees
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Sent To
Street and Apt. No., or PO Box No.
MAAG USA LLC
324 Kent Valley Circle
City, State, ZIP+4®
Dacula Ga 30084-8493

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Dacula Ga 30019

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

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Dacula, GA 30019-3222
770-271-3322

Terminal...: POS2981A Date.: 10/5/2023
Employee...: 180272 Time.: 02:42 PM

ITEM NAME	QTY	PRICE	TOTAL
Certified / Return Receipt			\$150.00
	12 @	\$12.50	
Tax			\$0.00
First Class Letter 1 oz			\$12.72
	12 @	\$1.06	
Tax			\$0.00
Subtotal			\$162.72
Shipping/Other Charges			\$0.00
Total tax			\$0.00
Total			\$162.72

Cards \$162.72

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10/5/2023
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GMF

Memorandum

To: City of Dacula Planning Commission/
City of Dacula Mayor and City Council

From: Hayes Taylor, City Planner

Date: February 26, 2024 (*Updated February 27, 2024*)

Subject: Change of Conditions Case: 2024-CD-COC-01

Proposed Zoning: C-1 (Neighborhood Commercial District)

Existing Zoning: C-1 (Neighborhood Commercial District)

Size: 1.40 acres

Proposed Use: Meeting, office, and event space

Applicant: James Clinkscales
1352 Innsfail Court
Snellville, Georgia 30078
404-944-0762

Owner: CircaSpaces, Inc.
1352 Innsfail Court
Snellville, Georgia 30078
404-944-0762

Location: LL 301 - 5th District, Parcel 040

Existing Land Use and Zoning:

The subject property is located on the west side of Harbins Road and south of the Harbins Road and McMillan Road intersection. The site is approximately 1.40 acres, contains one (1) three-story structure totaling 3,196 +/- square feet, and has a concrete parking lot with twelve (12) marked spaces including two (2) handicap spaces. The site was previously utilized for a gift and antique shop after it was rezoned from OI Office Institutional District to C-1 Neighborhood Commercial District with conditions in 2006 pursuant to 2006-CD-RZ-15. The applicant requested a change of conditions in 2019 pursuant to 2019-CD-COC-01, allowing for indoor meeting and office use. That application was approved with conditions.

The property neighbors a private school, Dacula Classical Academy, located south of the subject parcel. Residential properties zoned R-1200 and R-1400, Single Family Residential District, are located north and across Harbins Road to the east.

The Proposed Development:

The applicant has requested a change of conditions to allow for special/social events, outdoor events, expanded business hours, use of tents, use of banners/streamers, fencing along Harbins Rd, an interior chain-link fence, and the elimination of the 50-foot buffer. The inclusion of special events as a permitted use would allow the applicant to hold indoor special events. Currently the maximum occupancy permitted by the Gwinnett County Fire Marshal certificate of occupancy is thirty-two (32) persons. Staff recommends permitting indoor special events as an allowable use on the property, provided the maximum occupancy remains thirty-two (32) persons. In addition, staff could find it permissible to encroach within the 50-foot buffer for a water feature or landscaping enhancements.

In addition to requesting indoor special events, the applicant requests extending all permitted uses beyond the structure to allow for outdoor special events. The application materials seek the allowance of tents, canopies, gazebos, banners, streamers, or roping decorated with flags, tinsel, or other similar materials. Application materials request the maximum height of front yard fencing along Harbins Rd to be increased from six (6) feet in height to eight (8) feet in height with less restrictive fence designs. Furthermore, the applicant requests that the interior fencing options include a chain-link fence.

Outdoor events could greatly impact the neighboring residential properties. The Department notes that the City offers a Temporary Use Permit, which allows applicants to apply for up to six (6) special events per year. Six (6) outdoor events a year would provide some protection for the adjacent residential properties. Staff recommends any outdoor use to be regulated by the temporary use permit process provided in the City's Zoning Resolution (Section 904 (C)).

The letter of intent requests an extension of business hours from 6:00 am to 9:00 pm under the current zoning conditions. The hours of operations were intended to reduce adverse impacts on neighboring residential properties. The applicant has requested to extend business hours an additional two (2) hours in the evening to provide time for closing procedures. Staff recommends allowing meetings, office, and special events to operate until 9:00 pm and allowing two (2) hours for closing procedures.

Summary:

Some of the requested changes to conditions could be considered suitable. Staff recommends the allowance of indoor special events, outdoor special events and temporary canopies/tents with a temporary use permit, a provision for closing procedures after business operations have concluded, and a black interior chain-link fence. However, the Department recommends denial for the requested changes to allow outdoor decorative materials, and the front yard fencing along Harbins Road.

Comprehensive Plan:

The subject parcel is designated as Dacula West on Dacula's 2050 Future Development Map in the City of Dacula Comprehensive Plan. The Dacula West character area is described as allowing "small scale neighborhood commercial activities along Harbins Road," providing community amenities while maintaining the single-family character.

The analysis of the application should be made based upon the “Standards Governing Exercise of the Zoning Power” as stated in Section 1702 of the 2000 Zoning Resolution of the City of Dacula.

1. *Whether a proposed change of conditions will permit a use that is suitable in view of the use and development of an adjacent and nearby property?*

The recommended changes in conditions are suitable in view of the use as an indoor event space in consideration of the adjacent residential uses.

2. *Whether the proposed change of conditions will adversely affect the existing use or usability of adjacent or nearby properties?*

With the recommended conditions, certain limited changes in conditions would not be expected to negatively impact surrounding properties.

3. *Whether the property to be affected by a proposed change of conditions has a reasonable economic use as currently zoned?*

Yes, the property has reasonable economic use as currently zoned.

4. *Whether the proposed change of conditions will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools?*

No, excessive and burdensome use of existing streets, transportation facilities, utilities or schools would not be expected should the recommended changes be approved with the listed conditions.

5. *Whether the proposed change of conditions is in conformity with the policy and intent of the Land Use Plan?*

The recommended change in conditions would be consistent with the small-scale neighborhood commercial characterization of the Dacula West and is consistent with the development pattern along this portion of Harbins Road.

6. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning?*

The proposed conditions would allow for meeting, office, and special event uses and thus expand the usability of the property without adversely impacting the surrounding area.

Recommendation:

Based upon the Application, the following Change of Conditions are recommended for Approval.

The Department notes the Planning Commission unanimously recommended denial of the requested change of conditions at the Public Hearing on February 26, 2024.

Bold – Addition**Strikethrough – Deletion**

1. Permitted uses shall be limited to meeting and office use, **and indoor special events.**
The maximum occupancy shall not exceed thirty-two (32) persons.
2. All business activities shall be contained within the existing structure on the property.
Outdoor events are permitted with a temporary use permit.
3. The fence that adjoins residential properties must remain in place and the structural and visual characteristics of the fence shall be maintained at all times.
4. The existing zoning buffer must remain in place and be maintained at all times.
5. Ground signage shall be limited to a single monument type only with indirect lighting or a LED reader board. Sign shall be constructed with a brick or stacked stone base of at least 2 feet in height. Neon or internally lit ground signs shall be prohibited. The light from any illuminated sign shall not be of an intensity and brightness which will interfere with the peace, comfort, convenience, and general welfare of residents or occupants of adjacent and nearby properties.
6. Property lighting shall be directed in towards the property so as not to reflect into adjacent residential properties. A separate lighting plan (showing location and type of light) shall be submitted to the City for approval.
7. Normal business hours of operation shall be limited from 6:00 am to 9:00 pm.
Closing procedures may continue until 11:00 pm.
8. Any dumpster enclosures shall be constructed with brick, stacked stone, or split face block (CMU). Subject enclosures shall have a completely opaque wood or steel door. Garbage/Sanitation or dumpster service pickups shall be conducted between the hours of 7:00 am and 6:00 pm, as scheduled Monday through Friday only.
9. No outdoor storage shall be permitted on site. Accessory storage sheds / structures shall be allowed in the side and rear yards. Said structures shall be enclosed on all four sides.
10. No outside loudspeakers shall be allowed.
11. No ~~tents, canopies,~~ temporary banners, streamers or roping decorated with flags, tinsel, or other similar material shall be displayed, hung, or strung on the site. No decorative balloons or hot-air balloons shall be displayed on the site. **Temporary tents and canopies may be permitted with an approved temporary use permit.**
12. Any fencing along Harbins Road shall be wrought-iron style with stacked stone or brick columns spaced every 30 feet or white decorative vinyl and/or steel as shown in Exhibit A. Fencing shall not exceed six (6) feet in height. A fence plan shall be subject to review and approval by the City of Dacula.
13. Any interior fencing shall be of decorative iron, painted/stained wood slat, ~~or~~ a similar vinyl material, **or a black chain link fence** not to exceed six (6) feet in height.

14. Any garbage, litter, or construction debris must be removed from the site prior to the issuance of a certificate of occupancy for the site.
15. All drive and/or parking areas shall be paved with either concrete or asphalt, prior to issuance of an Occupational Tax Certificate for the property. Parking requirements will adhere to Article X of the Zoning Resolution of the City of Dacula.
16. The property generally shall be developed as approved by the Mayor and City Council. Any substantial deviation from the approved conditions of zoning shall be resubmitted to the City Council for approval. The City Administrator shall determine what constitutes substantial deviation.
17. **The 50-foot undisturbed buffer may be encroached by a maximum of twenty (20) feet for the installation of one (1) six (6) foot water feature/fountain, and/or landscape enhancements. A location plan for the water feature/fountain shall be submitted to the City for approval. The existing trees with a 2-inch dbh or greater will not be disturbed for the construction of said water feature/fountain, or landscape enhancements.**



City of Dacula
 P. O. Box 400
 Dacula, GA 30019
 (770) 962-0055 / Fax (770) 513-2187

Item 2.

REZONING/ CHANGE OF CONDITIONS/ SPECIAL USE PERMIT APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF DACULA, GEORGIA.
 (Please Type or Print using BLACK INK)

APPLICANT *	PROPERTY OWNER *
NAME <u>James Clinkscates</u>	NAME <u>James Clinkscates</u>
ADDRESS <u>1352 Innsfail Court</u>	ADDRESS <u>491 Harbins Road</u>
CITY <u>Snellville</u>	CITY <u>Dacula</u>
STATE <u>GA</u> ZIP <u>30078</u>	STATE <u>GA</u> ZIP <u>30019</u>
PHONE <u>404-944-0762</u> FAX <u>-</u>	PHONE <u>770-524-7133</u> FAX <u>-</u>

APPLICANT IS THE:

- OWNER'S AGENT
- PROPERTY OWNER
- CONTRACT PURCHASER

* Include any person having a property interest and/or a financial interest in any business entity having property interest (use additional sheets if necessary).

CONTACT PERSON James Clinkscates
 COMPANY NAME Circaspace
 ADDRESS 491 Harbins Road
Dacula, GA 30019
 PHONE 770-524-7133 FAX _____
 EMAIL james@circaspace.com

PRESENT ZONING DISTRICT(S) 5th REQUESTED ZONING DISTRICT 5th
 LAND LOT(S) 301 PARCEL # R5276040 DISTRICT(S) 5th ACREAGE 1.40

PROPOSED DEVELOPMENT OR SPECIAL USE REQUESTED modification to existing zoning condition as defined in Letter of Intent. Modifications to conditions: #1, 2, 7, 11, 12. ① Permitted use includes intimate social/business events, use of outside; ⑦ hours 6am-11pm; ⑩ allow tents/canopies; ⑫ 8ft fencing

RESIDENTIAL DEVELOPMENT:	NON-RESIDENTIAL DEVELOPMENT: <u>No Development.</u>
NO. OF LOTS/DWELLINGS UNITS _____	NO. OF BUILDINGS/LOTS _____
DWELLING UNIT SIDE (SQ. FT.) _____	TOTAL GROSS SQ. FEET _____

LETTER OF INTENT & LEGAL DESCRIPTION OF PROPERTY

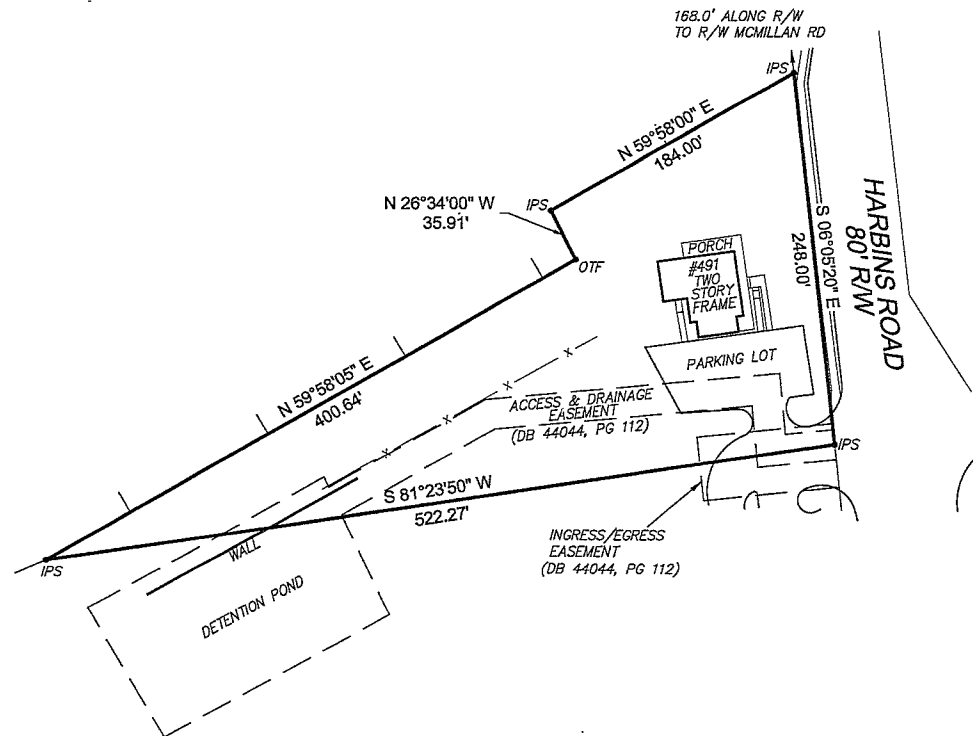
*** PLEASE ATTACH A "LETTER OF INTENT" EXPLAINING WHAT IS PROPOSED and TYPED "LEGAL DESCRIPTION" OF PROPERTY TO BE AMENDED ***

CASE NUMBER

RESERVED FOR THE CLERK OF COURTS

LEGEND AND SYMBOLS USED

- IPF - Iron Pin Found
- IPS - Iron Pin Set (1/2" Capped Rebar)
- RBF - Rebar Found
- OTF - Open Top Pipe Found
- CTF - Crimped Top Pipe Found
- MON - Monument Found
- CMF - Concrete Monument Found
- CP - Calculated Point
- ♂ PP - Power Pole
- ⊕ LP - Light Pole
- ⊕ PED - Utility Pedestal
- ⊕ FH - Fire Hydrant
- ⊕ WM - Water Meter
- ⊕ WV - Water Valve
- ⊕ GM - Gas Meter
- ⊕ SMH - Sewer Manhole
- ⊕ CB - Catch Basin
- DI - Drop Inlet
- ⊕ C/O - Cleanout
- ⊕ PBX - Power Box
- ⊕ Deciduous Tree
- ⊕ Coniferous Tree
- CMP - Corrugated Metal Pipe
- RCP - Reinforced Concrete Pipe
- R/W - Right of Way
- N-F - Now or Formerly
- DB, PG - Deed Book and Page
- FB, PG - Plat Book and Page
- POB - Point of Beginning



SURVEYOR'S NOTES:

1. The field data upon which this plat is based has a relative positional accuracy of 0.02 feet.
2. This plat has been calculated for closure and has a mathematical error of 1: 300,000+.
3. Field angles and measurements acquired for the production of this plat were obtained on 5/31/19 using a Leica TCRP 1203 Total Station.
4. This plat was prepared without benefit of a current title examination. Easements or other encumbrances may exist which are not shown hereon. All matters pertaining to title are excepted.
5. No provisions have been made to secure the delineation of any wetlands, historical, or cultural features that may exist on this property.
6. Information regarding the reputed presence, size, character, and location of existing underground utilities and structures is shown hereon. There is no certainty of the accuracy of this information and it shall be considered in that light by those using this drawing. The location and arrangement of underground utilities and structures shown hereon may be inaccurate and utilities and structures not shown may be encountered. The owner, his employees, his consultants, his contractors and/or his agents shall hereby distinctly understand that the surveyor is not responsible for the correctness or sufficiency of this information shown hereon as to such underground installations.
7. The certification, as shown hereon, is purely a statement of professional opinion based on knowledge, information and belief, and based on existing field evidence and documentary evidence available. The certification is not an expressed or implied warranty or guarantee.

AREA
60,816 SQ.FT.
1.40 ACRES



SURVEYOR'S CERTIFICATION

This survey is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel. The recording information of the document(s), map(s), plat(s) or other instrument(s) which created the parcel(s) are stated hereon. Recordation of this survey does not imply approval of the local jurisdiction, availability of permits, compliance with local regulations or requirements, nor suitability for any use or purpose of the land.

Further, the undersigned land surveyor certifies that this map, plat or plan complies with the minimum technical standards for property surveys in Georgia as set forth in Chapter 180-7 of the Rules of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in the Georgia Plat Act OCGA 15-6-67.

John C. Groves, Jr.
John C. Groves, Jr. RLS 3237



FOOTHILLS
LAND SURVEYING, LLC

8450 KNOX BRIDGE HWY
CANTON, GA 30114
(678) 533-8637
www.foothillslandsurveying.com
GA LSF #1162

BOUNDARY SURVEY PREPARED FOR
CIRCSPACES, INC

LOCATED IN LAND LOT 301
5TH DISTRICT,
GWINNETT COUNTY, GEORGIA

DATE:	6/4/19
SCALE:	1"=80'
DRAWING:	19-176
COORD:	
REVISIONS:	
SHEET #:	1 of 1



LETTER OF INTENT - REQUEST FOR MODIFICATIONS IN EXISTING ZONING CONDITIONS

January 10, 2024

To City of Dacula:

Please accept this letter of intent as the formal request to update the existing zoning condition for 491 Harbins Road Dacula, GA 30078 also referred as Circaspaces, Inc.. Circaspaces has been operating as a solid, collaborative and positive entity in the city of Dacula since 2019. As owners, we have invested meaningful time, resources and finances in the city and the community. Prior to our acquiring the building, it stood as an old, dilapidated, vacant building, and a drain to the valuation and optics of the Harbins Road corridor in the city. Over the past few years, as small business owners, we continue to invest in our business operating model to provide an Intimate (up to 32 people) rentable gathering meeting (with no distinction between business-related or social-related) and office space for the community.”

The property is zoned C-1 which is intended to conveniently serve through commercial uses, the needs of the community. We are serving the needs of those in the community wishing to have intimate (up to 32 persons per our Fire Marshal Occupancy limit) gatherings such as: workshops, business and social gatherings, conference calls, receptions, ceremonies, training, seminars, client discussions, etc. In the flex/shared/co-working industry, these are considered micro gatherings with no distinction of social or office related.

Within the the flex-space (or shared-space) industry, there are locations (one is Best of Gwinnett) that are similar to Circaspaces and they are allowed to rent/host their spaces for social gatherings (bridal/baby showers, graduation, etc.) and also business gatherings.

CircaSpaces, Inc. is requesting the following Modifications to the 2019 (existing) Zoning Conditions:

	Existing	Requested Updates	Just Comments
1	Permitted uses shall be limited to meeting and office use only	Permitted uses for business and social meetings, office and related activities. Social meetings will be limited to the # of occupancy, currently 32, and are considered intimate gatherings such as ceremonies, receptions, seminars, training, workshops, bible study, celebration and other like-kind intimate private and public gatherings.	

	Existing	Requested Updates	Just Comments
2	All business activities shall be contained within the existing structure on the property	Activities permitted to occur on the property, inside and outside.	e.g. A Spring Garden Elopement Ceremony with 10 guests that lasts less than 15min.
3	The fence that adjoins residential properties must remain in place, and the structure and visual characteristics of the fence shall be maintained at all times	No modification	
4	The existing zone and buffer must remain in place and be maintained at all times	No modification	
5	Ground signage shall be limited to a single monument type only with indirect light in or an LED reader board. Sign shall be constructed with a brick or deck, stone base of at least 2 feet and height, neon or internally lit ground signs shall be prohibited. The light from any eliminated sign shall not be off an intensity and brightness, which will interfere with the peace, comfort convenience, and general welfare of residence or occupants of the Adjacent and nearby properties	No modification	
6	Proper lighting shall be directed in towards the property, so as not to reflect into adjacent residential properties. A separate Lighting plan (showing location and type of light) shall be submitted to the city for approval.	No modification	
7	Normal business hours of operation should be limited from 6 AM to 9 PM	Normal business hours of operation shall be limited from 6 AM - 11 PM	e.g. to allow adequate time for winding down and clean-up.

	Existing	Requested Updates	Just Comments
8	Any dumpster enclosure shall be constructed with brick stack stone or split face block (CMU). Subject enclosure shall have a completely opaque wood or steel door. Garbage/sanitation or dumpster service pick up shall be conducted between the hours of 7 AM to 6 PM as scheduled Monday through Friday only	No modification	
9	No outdoor storage shall be permitted on site. Accessory storage shed/structures shall be allowed in the side and rear yards. Set structures shall be closed on all four sides.	No modification	
10	No outside loudspeakers shall be allowed	No modification	
11	No tents, canopies, temporary banners, streamers or roping decorated with flags, tinsel, or other similar material shall be displayed, hung, or strung on the site. No decorative balloons, or hot air balloons shall be displayed on the site.	Tents, canopies, gazebo are permitted on the site at side or back of property. Banners, streamers or roping, decorated with flags, tinsel or other similar material shall be displayed, hung or strung on the site. No hot air balloons shall be displayed on the site.	
12	Any fencing along Harbins Rd., shall be wrought- iron style with stacked stone or brick columns faced every 30 feet or white decorative vinyl and/or steel as shown in exhibit A. Fencing should not exceed six (6) feet in height. A fence plan shall be subject to review and approved by the city of Dacula	Fencing along Harbins Road shall be wrought-iron style, stacked stone, brick or a combination thereof, and shall not exceed eight (8) feet in height.	There is consistent, heavy and loud traffic on Harbins Road. For the proper usability, it is desirable to have adequate noise buffering to allow members and clients to safely and reasonably use the spaces.
13	Any interior fencing shall be off decorative iron, painted/stain, wood, slat, or a similar final material, not to exceed 6 feet and height	Any interior fencing shall be off decorative iron, painted/stain, wood, slat, chain-link or a similar final material, not to exceed 6 feet and height	Chain-link fence added, as this is similar to existing interior fencing and neighboring fencings.

	Existing	Requested Updates	Just Comments
14	Any garbage, litter, or construction debris must be removed from the site prior to the issuance of certificate of occupancy for the site.	No modification	
15	all drive and/or parking areas shall be paved with either concrete or asphalt prior to issuance of an occupational tax certificate for the property. Parking requirements will adhere to article X of the Zoning resolution of the city of Dacula.	No modification	
16	The property generally shall be developed as approved by the Mayor and city Council. Any substantial deviation from the approved conditions of zoning, shall be submitted to the city Council for approval. The city administrator should determine what constitutes substantial deviation.	No modification	

The request for modifications will allow CircaSpaces at 491 Harbins Rd to better serve the community wishing to use the facility for business and social gatherings. This will improve the local community’s access to services and provide business opportunities for local vendors. During the 1/4/2024 Dacula City Council Meeting, multiple Dacula residents and business owners in the community showed FULL SUPPORT for having a viable flex space for social and business gatherings. They voiced their concerns around the impacts to the overall community, not just to Circaspaces, if business with flexible spaces are not allowed to conduct social gatherings for common purpose. All the requested modifications to the zoning conditions address Circaspaces’ ability to provide quality services and enhancement to the constituents seeking an Intimate flexible space (up to 32 people) where social and business gatherings can occur.

If there are any additional information needed or questions, please feel free to contact our office. Thank you for the continued support.

Sincerely,

James Clinkscales
 Co-owner CircaSpaces, Inc
 (O) 770-524-7133
 (C) 404-944-0762
 james@circaspaces.com

January 17, 2024

To: City of Dacula

From: CircaSpaces, Inc.
James Clinkscates
491 Harbins Road
Dacula, GA 30091

RE: APPLICATION CASE # 2024-CD-COC-01

Please accept this document as a formal request to be added to the already submitted COC form.

Request a variance to eliminate zoning buffers. There is currently approximately 6-ft fencing along the side and back where the adjoining properties are located (north/west), and evergreen trees were planted, in addition to several existing trees and shrubs that provide adequate buffer to contiguous properties.

EXHIBIT A

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 301, 5th District, in the City of Dacula, of Gwinnett County, Georgia, and being more particularly shown on that survey for James R. Williams, Charles Taylor, Peachtree Bank and Chicago Title Insurance, prepared by W. T. Dunahoo, G.R.L.S. No. 1577, dated July 26, 2005, and more particularly described as follows:

BEGINNING at a point located on the Northwesterly right-of-way line of Harbins Road (an 80-foot right-of-way), 168.00 feet Southernly, along said right-of-way line, from its intersection with the centerline of McMillan Road; from said POINT OF BEGINNING thence run South 06° 05' 20" East, along said Northwesterly right-of-way line of Harbins Road, 248.00 feet to a point; thence running South 81° 23' 50" West, 522.27 feet to an iron pin set; thence running North 59° 58' 05" East, 400.64 feet to an iron pin found; thence running North 26° 34' 00" West, 35.91 to an iron pin set; thence running 59° 58' 00" East, 184.00 feet to the POINT OF BEGINNING, being 1.40 Acres, more or less, as shown on the survey referenced above.

Together With an Access Easement and Detention Easement as set forth in that certain Easement Agreement, dated August 15, 2005, between James R. Williams, Charles H. Taylor and Harbins Dacula Properties, LLC, recorded in Deed Book 44044, Page 112, of the Gwinnett County, Georgia Deed Book Records.

APPLICANT CERTIFICATION

The undersigned is authorized to make this application and is aware that if an application is denied, no application or re-application affecting the same property shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Applicant James Clinkscales Date 12-7-2023
Type or Print Name/Title James Clinkscales, Co-owner
Notary Public _____ Date _____

PROPERTY OWNER CERTIFICATION

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that if an application is denied, no application or re-application affecting the same land shall be acted upon within twelve months from the date of last action unless waived by the City.



Signature of Property Owner James Clinkscales Date 12-7-2023
Type or Print Name/Title James Clinkscales, Co-owner
Notary Public Kalona Teusdau Date 12/7/2023

FOR ADMINISTRATIVE USE ONLY

DATE RECEIVED _____ RECEIVED BY _____ FEE _____ RECEIPT # _____

LAND LOT _____ DISTRICT _____ PARCEL # _____ HEARING DATE _____

ACTION TAKEN _____

SIGNATURE _____ DATE _____

STIPULATIONS _____

CONFLICT OF INTEREST CERTIFICATION

The undersigned, making application for rezoning/SUP, has complied with the Official Code of Georgia, Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions and has submitted or attached the required information on the forms provided.

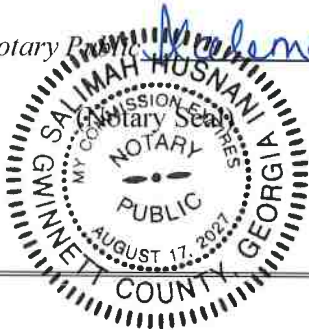
Signature of Applicant James Clinkscales Date 12-7-2023

Type or Print Name/Title James Clinkscales Co-owner

Signature of Applicant' Attorney N/A Date N/A

Type or Print Name/Title N/A

Notary Public Salimah Husnani Date 12/7/2023



Official Use Only

DATE RECEIVED _____ ZONING CASE NUMBER _____

RECEIVED BY _____

MANVERA DIEGOS SANCHEZ VAZQUEZ CONCEPCION CURIE
 2433 ROBIN RIDGE DR
 DACULA, GA 30019-2124
 0.68 ACRES
 2433 ROBIN RIDGE DR DACULA 30019 RS301 116

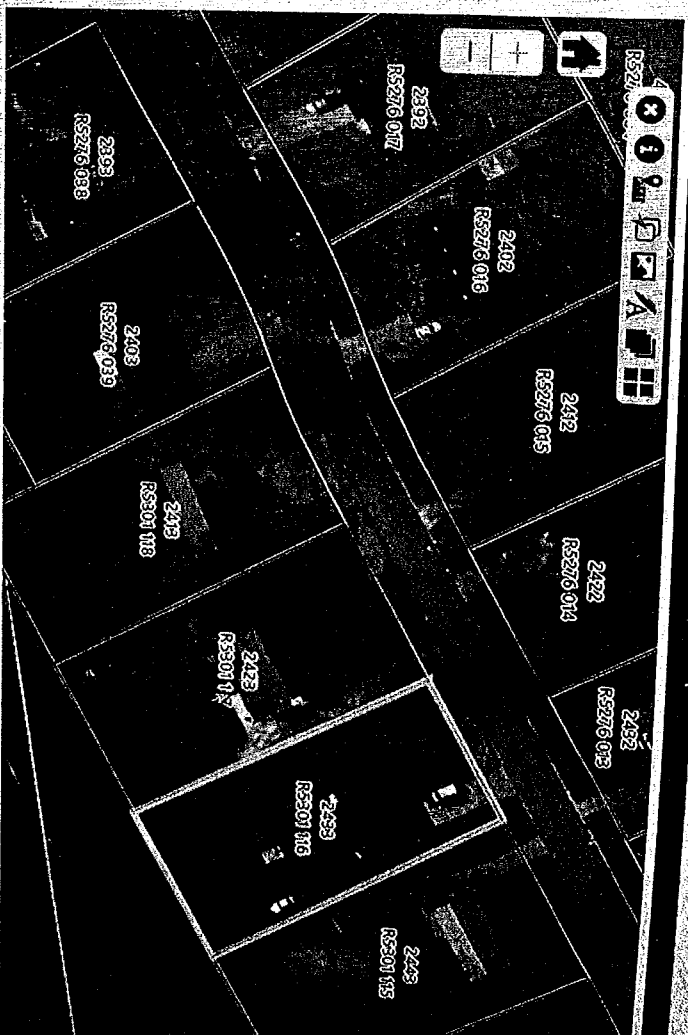
Map It
 Land: \$60,000
 Building: \$247,100
 Total Fair Market: \$307,100

Your search returned 1 records

Search Hints

Steps to search for additional property information and sales in your neighborhood:

1. Enter one of the following in the search box above: Your Parcel Number (example: R8001 001 or R8001A001) OR Property Owner Name OR Property Address. Click on the ? for additional examples
2. Click on the Search box
3. Click on the name of the owner (underlined in blue text) from the returned search results to view comparable sales and additional information for the property



30FF
Class

Search

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MOULDOUGH, ROBERT E
 2551 JUNE EDWARDS RD
 Dacula, GA 30019-2508
 0-48 ACRES
 2443 ROBIN RIDGE DR DACULA, 30019 | RS301-115

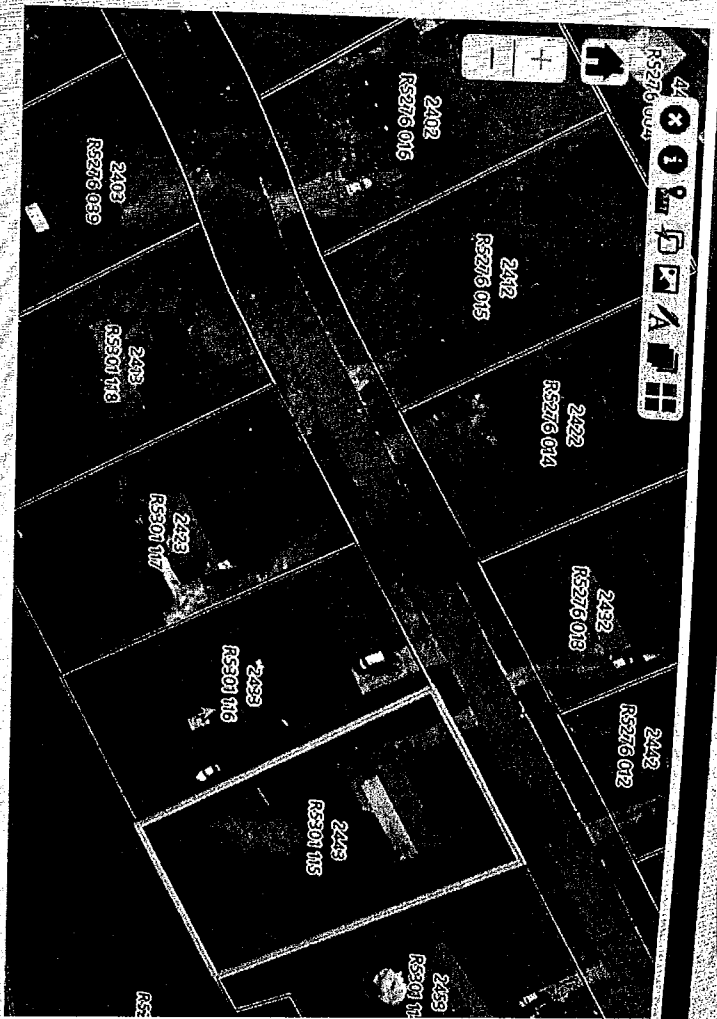
Your search returned 1 records

	Map/Hi
Land:	\$60,000
Building:	\$150,500
Total Fair Market:	\$210,500

Search Hints

Steps to search for additional property information and sales in your neighborhood

1. Enter one of the following in the search box above: Your Parcel Number (example: R8001 001 or R8001A001) OR Property Owner Name OR Property Address. Click on the ? for additional examples.
2. Click on the Search box
3. Click on the name of the owner (underlined in blue text) from the returned search results to view comparable sales and additional information for the property.



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11:58

Search

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Your search returned 1 records.

COURSON TERRIS
 2452 ROBIN RIDGE DR
 DACULA, GA 30019-2824
 B-45 A062
 2452 ROBIN RIDGE DR DACULA 30019 RS301 114

Map/Lt
 Land: \$60,000
 Building: \$189,000
 Total Fair Market: \$249,000

Search Hints

Steps to search for additional property information and sales in your neighborhood

1. Enter one of the following in the search box above: Your Parcel Number (example: R8001 001 or R8001 A001) OR Property Owner Name OR Property Address. Click on the ? for additional examples.
2. Click on the Search box
3. Click on the name of the owner (underlined in blue text) from the returned search results to view comparable sales and additional information for the property.



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Search



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CLARK STERNAITE KYNETE
 1099 PATRIOT CV
 DACULA, GA 30019-6845
 0.50 ACRES
 2463 ROBIN RIDGE DR DACULA 30019 | RS301 113

Map It
 Land: \$60,000
 Building: \$209,400
 Total Fair Market: \$269,400



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Steps to search for additional property information and sales in your neighborhood.

1. Enter one of the following in the search box above: Your Parcel Number (example: R8001 001 or R8001A001) OR Property Owner Name OR Property Address. Click on the ? for additional examples
2. Click on the Search box
3. Click on the name of the owner (underlined in blue text) from the returned search results to view comparable sales and additional information for the property.



Your search returned 1 records.

CROSBY'S INC
 1352 HANSALE CT
 SNELLVILLE, GA 30078-5884
 1.40 ACRES
 4911 HARBINS RD Dacula 30019 | RS2276 040

Map Use
 Land: \$150,000
 Building: \$150,000
 Total Estimated Value: \$300,000



Search Hints

Steps to search for additional property information and sales in your neighborhood.

1. Enter one of the following in the search box above: Your Parcel Number (example: R8001.001 or R8001A001) OR Property Owner Name OR Property Address. Click on the ? for additional examples.
2. Click on the Search box
3. Click on the name of the owner (underlined in blue text) from the returned search results to view comparable sales and additional information for the property.

Want To Tax Assessor

Tax Assessor's Office

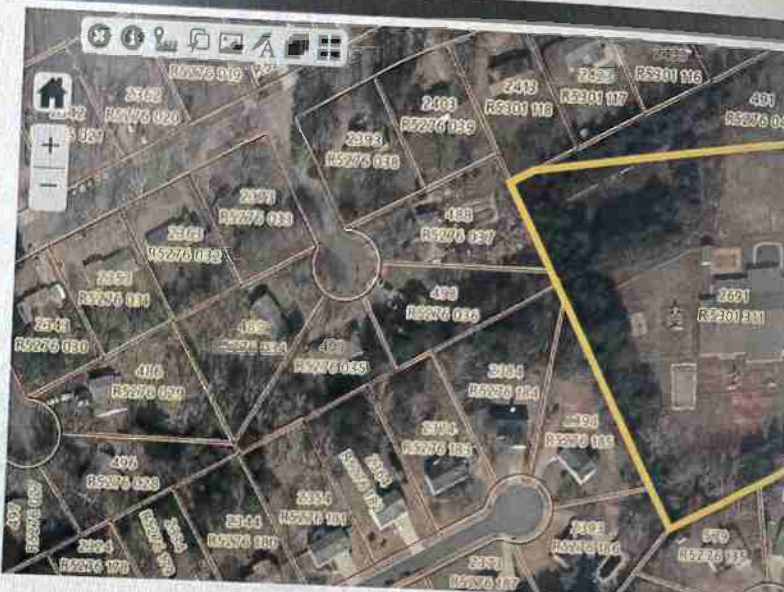
Your search returned 1 records.

BONNIE BLUE PROPERTIES, LLC
495 HARBINS RD
DACULA, GA 30019-2359

4.90 ACRES
495 HARBINS RD DACULA 30019 | R5301.311

Map It!

Land:	\$326,300
Building:	\$1,859,300
Total Fair Market:	\$2,185,600



Search Hints


Steps to search for additional property information and sales in your neighborhood

1. Enter one of the following in the search box above: Your Parcel Number (example R8001 001 or R8001A001) OR Property Owner Name OR Property Address. Click on the ? for additional examples.
2. Click on the Search box
3. Click on the name of the owner (underlined in blue text) from the returned search results to view comparable sales and additional information for the property.

30°F Clear

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Search





City of Dacula
 P. O. Box 400
 Dacula, GA 30019
 (770) 962-0055 / Fax (770) 513-2187

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes No

If the answer is *Yes*, please complete the following section:

Name of Government Official	Contributions <i>(All which aggregate to \$250.00+)</i>	Contribution Date <i>(within last 2 years)</i>

Have you, within the two years immediately preceding the filing of this application, made gifts having in the aggregate a value of \$250.00 or more to the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes No

If the answer is *Yes*, please complete the following section:

Name of Government Official	Description of Gifts <i>(Valued aggregate \$250.00+)</i>	Date Gift was Given <i>(within last 2 years)</i>

(Attach additional sheets if necessary to disclose or describe all contributions/gifts)



City of Dacula
P. O. Box 400
Dacula, GA 30019
(770) 962-0055 / Fax (770) 513-2187

IMPACT ANALYSIS STATEMENT

As required by the Zoning Resolution of the City of Dacula, the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power. **ALL APPLICATIONS MUST BE COMPLETED WITH THE COMPLETED IMPACT ANALYSIS STATEMENT.**

DATE 1/10/24 APPLICANT James Clinkscales

- A. Whether a proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property: No Known Impact.
- B. Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property: No Known Impact.
- C. Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned: No Known Impact.
- D. Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. no known impact.
- E. Whether the proposed rezoning is in conformity with the policy and intent of the Land Use Plan: yes, to our knowledge
- F. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning: no known impact.

CONFLICT OF INTEREST CERTIFICATION

The undersigned, making application for rezoning/SUP, has complied with the Official Code of Georgia, Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions and has submitted or attached the required information on the forms provided.

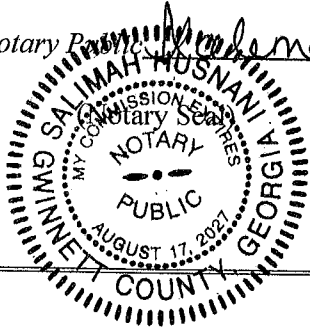
Signature of Applicant James Clinkscales Date 12-7-2023

Type or Print Name/Title James Clinkscales Co-owner

Signature of Applicant' Attorney N/A Date N/A

Type or Print Name/Title N/A

Notary Public Sajima Husnani Date 12/7/2023



Official Use Only

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RECEIVED BY _____

LEGAL DESCRIPTION OF CIRCASPACE, INC.
491 HARBINS ROAD, DACULA, GA 30019

December 5th, 2023

To City of Dacula:

Legal Description of CircaSpaces, request for modification to the existing zoning conditions.

Address: 491 Harbins Road, Dacula, GA 30019

Parcel #: R5276040

Land Lot #: 301

District: 5th District

Ann's Book
CFA 30019
1005



Resident
2443 Robin Ridge Drive
Dacula GA 30019

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 Adult Signature Required \$0.00
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Postage \$0.68

Total Postage and Fees \$5.08

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PS Form 3800, January 2023 PSN 7530-02-000-9077 See Reverse for Instructions

Item 2.



SNELLVILLE
2440 WISTERIA DR
SNELLVILLE, GA 30078-3325
(800)275-8777

01/23/2024 02:20 PM

Product	Qty	Unit Price	Price
First-Class Mail® Letter	1		\$0.65
Dacula, GA 30019			
Weight: 0 lb 0.30 oz			
Estimated Delivery Date			
Thu 01/25/2024			
Certified Mail®			\$4.40
Tracking #:			
9589 0710 5270 1554 0311 65			
Total			\$5.08
First-Class Mail® Letter	1		\$0.68
Iowa, LA 70647			
Weight: 0 lb 0.30 oz			
Estimated Delivery Date			
Thu 01/25/2024			
Dacula, GA 30019			
Weight: 0 lb 0.30 oz			
Estimated Delivery Date			
Thu 01/25/2024			
Certified Mail®			\$4.00
Tracking #:			
9589 0710 5270 1554 0341 04			
Total			\$5.08
PurpleHeartMedal	4	\$0.68	\$2.72
Grand Total:			\$3.00
Credit Card Remit			\$3.00
Card Name: Discover			
Account #: XXXXXXXXXXXX4153			
Approval #: 023740			
Transaction #: 481			
AID: A0000001523010			Chip
AL: Discover			
PIN: Not Required			

2d
30019



Resident
2423 Robin Ridge Drive
Dacula, GA 30019

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A 30019



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Memorandum

To: City of Dacula Planning Commission/
City of Dacula Mayor and City Council

From: Hayes Taylor, City Planner

Date: February 26, 2024 (*Revised February 27, 2024*)

Subject: Change of Conditions Case: 2024-CD-COC-02

Proposed Zoning: PMUD (Planned Mixed-Use District)

Existing Zoning: PMUD (Planned Mixed-Use District)

Size: 1.22 acres

Proposed Use: Commercial/Fast-food

Applicant: WREG Harbins, LLC
1958 Monroe DR NE
Atlanta, Georgia 30319
404-872-8666

Owner: WREG Harbins, LLC
1958 Monroe DR NE
Atlanta, Georgia 30319
404-872-8666

Location: LL 300 - 5th District, Parcel 145

Existing Land Use and Zoning:

The subject property totals 1.22 acres and is located in Out Lot A in the northwestern portion of the Harbins 316 development along Harbins Rd. Harbins 316 was zoned PMUD (Planned Mixed-Use District) pursuant to 2020-CD-RZ-03. Within the development there are various uses including a gas station, commercial uses, multi-family living, and senior living, currently under development. Within the planned mixed-use development, there is an existing fast-food restaurant with a drive-thru lane.

The Proposed Development:

The applicant has requested a change of conditions to amend 2020-CD-RZ-03 Zoning Condition Set #2, Condition #5. The existing conditions limit the mixed-used development to one (1) fast food restaurant with a drive-thru and/or curb service. The applicant is requesting to change Condition #5 to allow for an additional fast food establishment with curb service.

The site plan depicts a proposed commercial fast-food restaurant (2,325 square feet) and a proposed urgent care facility (4,550 square feet) occupying a 6,875 square foot building with

no outdoor seating in Out Lot A with three (3) access points from Out Lot B, and none from Harbins Road. Automotive traffic from Harbins Rd must pass through the parking lot of Out Lot B, which contains a gas station designed for heavier automotive use. The application materials show the proposed curb service pick up lane for Chipotle on the northwest side of the building, accessible from a one-way drive, with a ten (10) foot landscape buffer on the southwest and northwest parcel boundaries. Site plans show that of the 1.22 acres, roughly 1.09 acres (48,000 square feet) will be impervious surface. Of the impervious surface area 6,875 square feet (0.15 acres) is the building footprint, roughly 18,556 square feet (0.426 acres) is the parking footprint, 3,700 square feet (0.09 acres) is dedicated to pedestrian walkways, and the remaining impervious acreage is dedicated to automotive traffic.

The letter of intent asserts that the “limited-service pick-up window” will not undermine the intent of the present set of conditions set by council because there are no menu boards or call boxes, decreasing “impulsive” vehicular traffic. Staff notes that the proposed end-user, Chipotle, would not be considered a fast food restaurant per the definition listed under Condition #5 (2020-CD-RZ-03), if there is no drive-thru or curb service use.

Council has set a policy to protect the City, citizens, and traveling public from excessive drive-thru and automotive traffic along Harbins Road (see 2020-CD-RZ-03 and 2022-CD-RZ-02) by limiting the number of fast food restaurants with drive-thru/curb services lanes to one (1) per development. The policy serves the purpose of traffic calming and assuring traffic flow on Harbins Road and internally in commercial parcels nearby. The policy further advances the goal of enhancing air quality by limiting extended vehicle idling. The requested change of conditions would modify this policy, break said precedent, and could lead to the proliferation of drive-thru/curb service lanes along this emerging commercial corridor.

The City of Dacula’s 2050 Comprehensive Plan designates the subject property and the surrounding area as the Emerging Commercial character area. Emerging Commercial land uses are identified as “commercial, office, and public/institutional” buildings with mixed-use character that facilitate “increased connectivity, and transportation model options” (The City of Dacula 2050 Comprehensive Plan, page 66). The proposed commercial food chain use falls within potentially permissible uses; however, the encouragement of expanded automotive transport within a mixed-use development conflicts with the character area’s policy recommendation.

Summary:

The requested change of conditions to allow for an additional curb service lane within the Harbins 316 development conflicts with the City’s policy goals outlined in the land use considerations for the Emerging Commercial Comprehensive Plan character area. As such, the Department recommends the requested change of conditions be denied.

Comprehensive Plan:

The subject parcel is designated as an Emerging Commercial on the City of Dacula's 2050 Future Development Map and designated Innovation District on the Gwinnett County 2040 Unified Plan.

The Dacula 2050 Comprehensive Plan describes the Emerging Commercial character areas as being "more pedestrian oriented" nodes with "mixed-use buildings" with "non-residential uses... oriented towards the street with direct pedestrian access, outdoor patios, plazas etc." (page 66).

The analysis of the application should be made based upon the "Standards Governing Exercise of the Zoning Power" as stated in Section 1702 of The 2000 Zoning Resolution of the City of Dacula.

1. *Whether the proposed change of conditions will permit a use that is suitable in view of the use and development of an adjacent and nearby property?*

Given the council precedent limiting automotive use in proximal parcels, the proposed change of conditions for an additional drive-thru/curb service is unsuitable. Furthermore, the use could be considered incompatible with the policies outlined in the character area description in the Dacula 2050 Comprehensive Plan.

2. *Whether the proposed change of conditions will adversely affect the existing use or usability of adjacent or nearby properties?*

The change of conditions could expand vehicular traffic within the outparcel and disincentivize pedestrian foot traffic from the nearby multi-family living, and senior living, currently under development.

3. *Whether the property to be affected by the proposed change of conditions has a reasonable economic use as currently zoned?*

Yes, the property has reasonable economic use as currently zoned and with its present conditions.

4. *Whether the proposed change of conditions will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools?*

Excessive and burdensome use of utilities or schools would not be expected should the request be approved with adequate measures to control traffic along Harbins Rd. The proposed change could contribute to increased burdens on existing streets and transportation facilities.

5. *Whether the proposed change of conditions is in conformity with the policy and intent of the Land Use Plan?*

The proposed change of conditions furthers dependence on a singular mode of transportation and may deter pedestrian use which may be considered oppositional to the land use considerations within the character area description.

6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed change of conditions?

There is a clear Council precedent limiting drive-thru lane traffic within developments. The consequences of diverting from said precedent should be taken into consideration.

Recommendation:

Based on the application, the requested change of conditions is recommended for denial. If the City Council approves the change of conditions application, the following conditions are recommended:

The Department notes the Planning Commission unanimously recommended approval with staff's recommended conditions for 2024-CD-COC-02 at the Public Hearing on February 26, 2024.

*Changes from 2020-CD-RZ-3, Conditions Set #2 are below. Additions are shown in **bold** and deletions in ~~strikethrough~~.*

Condition Set #2

Conditions of the City of Dacula

Concept Plan and Land Use

- 1) The property shall be developed in accordance with the conceptual site plans prepared by Doulgerakis Consulting Engineers, Inc entitled Inland Pass: A Planned Mixed-Use Development **and Harbins 316-Outlot A Multi-Tenant Commercial** revised on June 17, 2021, **and December 14, 2023, respectively**. Any substantial deviation from the approved conceptual plan and / or remaining conditions of zoning shall be resubmitted to the City Council for consideration. The City Administrator shall determine what constitutes substantial deviation.
- 2) The following uses in the PMUD Zoning District shall be prohibited and made part of the owner's restrictive covenants: adult entertainment establishments, log splitting operations or storage lots, mobile home leasing or sales lots, taxi cab, limousine, or other for hire vehicle services (excluding public or private ambulatory services), solid waste transfer stations, the storage or warehousing of caustic or hazardous materials, animal rendering plants, bulk petroleum or natural gas plant and/or storage facilities, landfills, composting facilities, fertilizer manufacturing, foundries, heavy equipment rental or repair, hardship mobile homes, incinerators, junkyards, lawnmower repair shops, livestock feedlots, materials recovery facility, pawn shops, title loan and check cashing facilities, poultry houses, the raising of dangerous animals for profit or gain, privately owned septic

treatment facilities, stack houses, stand-alone crematories, truck stops and/or semi storage lots.

- 3) The following uses in the PMUD Zoning District shall be allowed with the approval of a Special Use Permit by the Mayor and City Council of the City of Dacula: contractor's offices with outdoor storage, machine/welding/radiator or muffler repair shops, vehicle rental (without driver), churches and/or religious facilities that are not located in a standalone building or structure, automotive sales lots, general auto repair, tire stores, muffler shops, boat sales establishments, crematories as an accessory to a funeral home, equipment rental sales or service (excluding heavy equipment) with associated outside storage, helicopter landing pads, mini-warehouse / personal storage facilities, fleet vehicle parking lots, tattoo and body piercing parlors, pool or billiard halls, liquor and/or package stores, van, moving or truck rental (i.e. U-Haul, Ryder) or any other non-specified commercial and/or industrial business or use that could require outside storage.
- 4) All forms of on-site outdoor storage shall be subject to Special Use Permit approval by the Mayor and City Council. Garages within the multifamily and senior living projects shall be allowed.
- 5) Only one (1) fast food restaurant with or without drive-thru windows and/or curb service shall be permitted. A fast food restaurant shall be defined as any establishment which dispenses food for consumption on or off the premises, and which has the following characteristics: a limited menu, items prepared in advance or prepared or heated quickly, no table orders, and food served in disposable wrapping or containers. Said definition shall exclude restaurants with drive-thru services whose primary product focuses on specialty coffees or donuts and exclude restaurants without a drive thru in a multi-tenant building. **One (1) restaurant located within a multitenant building may have drive-thru / curb service limited to a single "pick-up window" provided there are no menu boards/call boxes and all food orders take place off site and in advance.**
- 6) The senior living facility shall include improvements to accommodate and assist the senior age group. Necessary improvements and services include elevators, interior corridors, larger hallways (minimum width of 72 inches or compliant with ADA requirements, whichever is greater), resident programming, on-site staff to assist with the needs of residents, and off-site transit / shuttle bus services for residents. In addition, seven (7) of the following amenities / services shall be provided: social clubs, a weekly schedule of activities, nail and hair salon, on-site physical therapy, water aerobics, massage and meditation rooms, wine bar, game rooms, movie theatre, and/or a community concierge.
- 7) The maximum number of senior living units shall not exceed 180.

Architectural Design

- 8) The fronts and visible sides of non-residential building exteriors shall be constructed of brick, stone, stacked stone, stucco, EIFS, tilt-up concrete, and/or glass. The rear of the structures shall be finished with brick, stone, stucco, tilt-up concrete, glass, split faced block (CMU), painted block on the rear of the structures, or any combination thereof. Non-residential structures may contain accents of fiber-cement siding in addition to the primary construction materials. The Department of Planning and Development shall decide what is considered rear of the structure (if any). All non-residential buildings shall be constructed with flat roofs with architectural treatments to include canopies and varying parapet heights. A combination of pitched roofs and architectural parapet treatments shall be allowed with City approval. The appearance of flat roof structures shall be avoided. Mansard style roofs shall be prohibited. Ground mounted mechanical, HVAC and like systems shall be screened on all sides by an opaque wall of brick, stucco, split faced block or wood. Elevated or roof mounted mechanical, HVAC and like systems shall be positioned in such a way as to not be visible from the front street level or surface parking areas of the development. Architectural design shall lend the appearance of multi-tenant occupancy; facades of multi-tenant buildings shall have varied parapet height. Final architectural plans and color palate shall be submitted to the Department of Planning and Development for approval.
- 9) Residential building exteriors shall, at a minimum, be constructed of fiber cement siding with accents of brick, stone, stacked stone, stucco, or cedar shake on all sides. Vinyl siding shall be prohibited except as used for maintenance free accent elements such as soffits, and window casings. Residential buildings shall be constructed with a pitched roof, minimum 4 to 12 pitch, or flat roof with architectural treatments to include canopies and parapets of varying heights to avoid the appearance of a flat roof. A combination of pitched roofs and architectural parapet treatments shall be allowed with City approval. Ground mounted mechanical, HVAC and like systems shall be screened from public view by an opaque wall of brick, stucco, split faced block or wood, or landscaping. Elevated or roof mounted mechanical, HVAC and like systems shall be positioned in such a way as to not be visible from the front street level or parking areas of the development. Final architectural plans and color palate shall be submitted to the Department of Planning and Development for approval.
- 10) Architectural design of multi-family and senior living facilities shall be developed in accordance with the elevations/renderings received on March 28, 2021. Any substantial deviation shall be resubmitted to the City Council for consideration. The City Administrator or his/her designee shall determine what constitutes substantial deviation. Color changes shall not constitute a substantial deviation.
- 11) Multi-family and senior living facilities shall be limited to a maximum of 5-stories.
- 12) Attached residential units shall be a minimum of 720 square feet for single bedroom, 1,000 square feet for two bedroom, and 1,200 square feet for three bedrooms.

- 13) Any accessories provided such as railings, benches, trash receptacles and / or bicycle racks shall complement the building design and style.
- 14) Chain link fence shall be prohibited except around the stormwater management ponds and the multifamily and senior living dog parks. All chain link fences shall be black vinyl.
- 15) All trash dumpsters shall be screened by an enclosure using the same exterior building material as the adjacent occupied buildings. Pickup shall be limited to the hours of 7:00 a.m. to 9:00 p.m. Monday through Saturday. Dumpster enclosures shall remain closed, locked, and in good repair at all times.

Landscaping and Parking

- 16) A ten (10) foot wide landscape strip from the proposed ROW shall be provided along the entire tract frontage of Harbins Road. The landscape strip shall be planted so as to not impede site distance along Harbins Road.
 - a. Provide non-ornamental shade trees spaced 30-feet on-center along the Harbins Road right-of-way and both sides of the private drive. All street trees shall be a minimum 3-inch caliper (dbh) at the time of planting. Street trees shall be planted at least six-feet from back-of-curb subject to review and approval of the City of Dacula and Gwinnett Department of Transportation.

Street trees shall be of one or a combination of the following species:

1. Willow Oak
2. Overcup Oak
3. Nuttall Oak
4. Pin Oak
5. Shumard Oak
6. Lacebark Elm

- 17) A fifty (50) foot wide landscape strip measured from the property line shall be provided along the southern property line of the multi-family tract. The landscape strip shall be planted with a minimum of two (2), 6-foot high trees staggered every 15 linear feet and supplemented with understory plantings.
- 18) Provide a 20-foot wide landscaped buffer along the rear boundary line of the retail tract as shown on the concept plan. The landscape buffer shall be planted with a row of Leyland Cypress or Cryptomeria trees, planted 20-foot on center, and include a 6-foot height decorative fence. Said fence shall be maintained by the property owner and be in good repair at all times.
- 19) Provide a 10-foot wide landscaped buffer along the side and rear property lines of developing parcels, units, or phases. Landscape buffers shall be planted with a single

row of Leyland Cypress or Cryptomeria trees, planted 30-foot on center. The buffer can be eliminated after a Building Permit has been issued on adjacent property.

- 20) A parking lot landscape plan shall be submitted to the City for approval prior to a development permit issuance. At a minimum, the landscape plan shall include monument sign locations and should ensure that each parking island/strip will have a minimum of one (1) ornamental shade tree per 25 feet. Fifty (50) percent of all parking area trees shall be a minimum of 2-inch dbh caliper and fifty (50) percent shall be a minimum of 3-inch dbh caliper.
- 21) Parking lot lighting shall be directed in toward the property so as not to shine directly into adjacent properties.
- 22) Natural vegetation shall remain on the property until issuance of a land disturbance permit.
- 23) **Curb service lanes must have protruding corners with adequate landscaping to protect the curb service lane from street view. The subject site, pursuant to 2024-CD-COC-02, with drive-thru and/or curb service must have raised pedestrian crosswalks, and a bicycle rack protected by a canopy or the building awning to encourage multi-modal activity. The additional requirements will be submitted with the landscape plan for the City's approval.**

Signage and Advertising

- 24) The subject site shall be limited to two (2) planned multi-use center signs along Harbins Road. Each sign is limited to a maximum 150-square foot of advertising space. Monument signs shall not exceed a maximum 20-foot in height for Harbins Road, signs shall be constructed with a brick or masonry base (minimum two feet in height) matching the materials of the buildings. Signs shall be located so as to not impede site distance along Harbins Road. Internally illuminated and indirect lighting shall be allowed for signage at the project entrance(s) along Harbins Road. Sign location and design criteria are subject to review and approval by the City of Dacula.
- 25) Ground signage shall be limited to one monument-type sign for each commercial out lot / out parcel fronting Harbins Road and one monument-type sign per road frontage abutting each of the specified tracts: retail/grocer tract, office/commercial/industrial tract, multi-family tract, and senior living tract. Each sign is limited to a maximum 50-square foot of advertising space. Monument signs shall not exceed a maximum of 6-foot in height and shall be constructed with a brick base (minimum two feet in height) matching the materials of the buildings. Neon signs shall be prohibited. Signs shall be set back 15-feet from right-of-way of Harbins Road and located so as to not impede site distance along Harbins Road. Sign location and design subject to review and approval by the City of Dacula.

- 25) Temporary signage shall be regulated and/or permitted as stated in Article XII (Signs and Advertising) of the City of Dacula Zoning Resolution with the following exceptions:
- a. Business specific temporary signage must be mounted flush onto or against existing permitted structures within the development.
 - b. Temporary signage shall be prohibited on individual residential units.
- 26) Live human advertisement shall be prohibited within the subject area. To include, but not necessarily be limited to, sign spinners, twirlers, dancers, clowns, and / or other similar temporary advertising methods commonly provided by costumed or animated humans.
- 27) Tents, free-standing-canopies, streamers or roping decorated with flags, tinsel, decorative balloons, hot-air balloons or other similar materials shall be prohibited on the site. Yard and sail signs shall be permitted for residential leasing purposes only.
- 28) Oversized signs or billboards shall be reviewed and permitted separately and must abide by the procedures and regulations as stated in Article XII of the Zoning Resolution.

Transportation and Infrastructure

- 29) A Traffic Impact Study shall be provided prior to the issuance of a development permit. Prior to the issuance of the first certificate of occupancy, the applicant shall make any improvements recommended by the traffic impact study, provided the improvements are approved by the City of Dacula and Gwinnett County Department of Transportation respectively. All design and construction will be subject to Gwinnett County D.O.T. review and approval.
- 30) Provide a Signal Warrant Study for the signalization of the intersection of West Drowning Creek Road and Harbins Road to the City of Dacula and Gwinnett County Department of Transportation for review. If it is determined by the signal warrant study that a signal is warranted, and the signal is approved by the Gwinnett County D.O.T., The developer shall incur all costs of the required signal including studies, design with interconnect to adjoining signals, any additional right of way/easements, utility relocations and construction. The developer shall also contract for the installation of the signal by a D.O.T. approved contractor. All design and construction will be subject to Gwinnett County D.O.T. review and approval. The signal will be installed and operational prior to the issuance of the first certificate of occupancy. The developer shall provide documentation to the City verifying payment for materials and installation of the traffic signal.
- 31) Include Interconnect with the signalized intersections of SR 316 and Harbins Road.
- 32). Coordinate with the Georgia Department of Transportation (DOT) for their project PI#0013899 located on SR 316 University Parkway

- 33) All intersection/street widening/entrance plans for Harbins Road shall be submitted and are subject to review and approval by the City of Dacula and the Gwinnett County Department of Transportation.
- 34) Street widening and road improvements, to include the first 400 linear feet of the new two-lane private drive with planted median, shall be installed and functional prior to the issuance of a certificate of occupancy for any portion of the development.
- 35) It shall be the responsibility of the applicant to secure at no cost to the City and/or Gwinnett County, all necessary right-of-way to implement the required improvements.
- 36) Ownership and maintenance of drives, roads, side streets, alleys, and/or parking lots found on the subject site shall be the responsibility of the developer and/or private property owner.
- 37) All new utility lines shall be located underground. The developer shall be responsible for the relocation of public or private utilities and stormwater infrastructure.
- 38) Utilities shall be placed on the developer's property whenever possible, appropriate access and maintenance easements shall be filed at the time of final plat approval for any one parcel or section of the subject development.
- 39) Provide inter-parcel access (curb cuts) where possible to contiguous parcels of the mixed use development.
- 40) All vehicular access onto the proposed private drive must meet the City of Dacula's project access improvement standards of a public road. All improvements shall be provided by the developer.
- 41) A five-foot sidewalk shall be required adjacent to Harbins Road right-of-way. The sidewalk location shall be reviewed and approved by the City of Dacula and Gwinnett County Department of Transportation.
- 42) Five-foot wide sidewalks shall be required adjacent to both sides of the proposed private drive. Sidewalks shall be constructed with an additional 2-foot by 8-foot pad approximately every 300 linear feet to accommodate pedestrian amenities such as benches, planters, and trash containers. All such required amenities shall be decorative, commercial-quality fixtures. Sidewalk design and placement of any of these amenities shall be reviewed and approved by the City of Dacula.
- 43) Provide decorative light poles / fixtures along Harbins Road right-of-way and the interior private drive. Streets lights shall be staggered, 150 feet on-center. Light poles shall be black and a maximum 20 feet high. All street lighting shall be subject to review and approval of the City of Dacula and Gwinnett County Department of Transportation. Where applicable, streetlights shall be placed adjacent to required pedestrian amenity sidewalk pads. The property owner shall be responsible for street light maintenance and lighting fees. A separate lighting plan showing type of light and locations shall be submitted to the City for review and approval.

- 44) Applicant shall construct a southbound right turn deceleration lane along Harbins Road at W Drowning Creek Road with any modification or variation from design approved in writing by the Director of Gwinnett Department of Transportation.

Private Access

- 45) The free-standing multi-family residential and senior living portion(s) of the mixed use development may be gated, with controlled resident access, both vehicular and pedestrian.
- 46) It is the responsibility of the owner and/or developer to provide pass codes, keys, and/or up to date contact information for controlled entrance locations to the Dacula Marshal's Department, Gwinnett County Police Department, and Gwinnett County Fire Department.
- 47) Contact information for any maintenance associations, homeowner associations, and/or private security company's shall be submitted and updated regularly with the Dacula Marshal's Department.
- 48) Provide controlled access for all residential apartment pods. Controlled access shall consist of gates, swing fences, entry posts, or other similar mechanism to control vehicular or pedestrian movement within residential (apartment) pods.

Grading and Phasing

- 49) Prior to the issuance of a Land Disturbance Permit or Development Permit for mass grading, the Developer or Land Owner will submit a "Bond Stabilization and Landscape Plan" to the City of Dacula which will provide for the permanent stabilization of disturbed area(s) via rye grass seeding, tree replanting and landscaping in accordance with the City's Development Regulations and these conditions of zoning. Tree replanting along the frontage of Harbins Road and both sides of the private drive shall include non-ornamental shade trees spaced 30-feet on-center, six feet from the right-of-way or pavement edge of the private drive. All street trees shall be a minimum 2-inch caliper (dbh) at the time of planting. Interior replanting of disturbed areas shall include five (5) two-inch caliper trees (DBH) per acre.

Once the "Bond Stabilization and Landscape Plan" has been approved by the City Administrator, and prior to the issuance of any Land Disturbance or Development Permit, Developer or Land Owner shall post a performance bond in favor of the City of Dacula to guarantee the replanting of the disturbed acreage in accordance with the City's Development Regulations and these conditions of zoning. The performance bond amount shall be equal to \$15,000.00 per acre disturbed. The bond shall be in the form of a Letter of Credit from an FDIC insured institution or an insurance company in good standing with the Georgia Insurance Commissioner's office, authorized to do business in Georgia, and rated "A" or better by the rating agency A.M. Best. The Surety must also be listed on the

U.S. Department of Treasury's Circular 570. The City staff shall approve the form of the performance bond and the qualifications of the surety prior to execution of the bond.

In the event that Developer/Land Owner has not obtained a building permit within twelve (12) months of the issuance of the Land Disturbance or Development Permit, whichever is first issued, then the City of Dacula will redeem the performance bond [or equivalent security acceptable to the City of Dacula] to fund the implementation of the Bond Stabilization and Landscape Plan. The performance bond [or equivalent security acceptable to the City of Dacula] will terminate and/or be surrendered or returned once the improvements shown in the Bond Stabilization and Landscape Plan have been completed or a building permit is issued on any parcel of the development.

- 50) Site grading adjacent to the main project entrance shall be consistent in elevation to the right-of-way of Harbins Road to ensure adequate sight distance.



City of Dacula
P. O. Box 400
Dacula, GA 30019
(770) 962-0055 / Fax (770) 513-2187

REZONING/ CHANGE OF CONDITIONS/ SPECIAL USE PERMIT APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF DACULA, GEORGIA.
(Please Type or Print using BLACK INK)

APPLICANT *		PROPERTY OWNER *	
NAME	WREG Harbins Land, LLC	NAME	WREG Harbins Land, LLC
ADDRESS	1958 Monroe DR NE	ADDRESS	1958 Monroe DR NE
CITY	Atlanta	CITY	Atlanta
STATE	GA	STATE	GA
ZIP	30319	ZIP	30319
PHONE	404-872-8666	PHONE	404-872-8666
FAX		FAX	

APPLICANT IS THE:

- OWNER'S AGENT
- PROPERTY OWNER
- CONTRACT PURCHASER

* Include any person having a property interest and/or a financial interest in any business entity having property interest (use additional sheets if necessary).

CONTACT PERSON Robbie Swan

COMPANY NAME Watkins Real Estate Group

ADDRESS 1958 Monroe DR NE
Atlanta, GA 30319

PHONE 404-920-5067 FAX _____

EMAIL rswan@watkinsreg.com

PRESENT ZONING DISTRICT(S) PMUD REQUESTED ZONING DISTRICT PMUD

LAND LOT(S) 300 PARCEL # 5300 145 DISTRICT(S) 5th ACREAGE 1.22

PROPOSED DEVELOPMENT OR SPECIAL USE REQUESTED Change in conditions to allow a pick up only window on a multi tenant building

RESIDENTIAL DEVELOPMENT:	NON-RESIDENTIAL DEVELOPMENT:
NO. OF LOTS/DWELLINGS UNITS <u>0</u>	NO. OF BUILDINGS/LOTS <u>1</u>
DWELLING UNIT SIDE (SQ. FT.) <u>0</u>	TOTAL GROSS SQ. FEET <u>6,875</u>

LETTER OF INTENT & LEGAL DESCRIPTION OF PROPERTY

*** PLEASE ATTACH A "LETTER OF INTENT" EXPLAINING WHAT IS PROPOSED and TYPED "LEGAL DESCRIPTION" OF PROPERTY TO BE AMENDED ***

CASE NUMBER

Letter of Intent – Change in Conditions – Pick-up Window

This Change in Conditions request is for the 1.22 acres on the north side of Davis Rock Drive in the mixed-use development known as Harbins 316 (“Subject Property”) to allow a limited-service pick-up only window on the end of the proposed retail building.

WREG Harbins Land, LLC is the owner and applicant and is controlled by Watkins Real Estate Group (“Watkins”), who is the master developer. Watkins is also the current developer for the Publix anchored shopping center and out parcels associated with Harbins 316 and has been actively developing the project for over a year.

Since the COVID pandemic, many retail and food service tenants have had to change they way the operate and serve their customers. Consumer trends have also changed dramatically as we shift to a more online and e-commerce economy. As such, our buildings and infrastructure also have been changing to adapt to these new trends and needs from consumers and businesses which is what Watkins is proposing.

Watkins is requesting a change in conditions to allow for a limited service, pick-up only window on the northern end of the proposed retail building on Outlot A. This limited-service pick-up only window is specific to Chipotle, who is a national restaurant. This limited-service pick-up only window differs from a drive thru lane for a number of reasons:

1. There are no menu boards, no call boxes, and no way to order from a car.
2. There queuing for the limited-service pick-up window is limited to only 4 – 5 cars compared to 12-20 for a typical fast-food chain.
3. Customers must have previously ordered on the Chiptole App in order to pick-up their good in the limited-service pick-up window.

The original rezoning of Harbins 316 limited the project to only one fast food restaurant with a drive thru, and Watkins believes that this limited-service pick-up window does not compromise the original intent of the zoning. The limited-service pick-up window will not create more impulse driven consumer traffic, which is generated by typical fast-food restaurants, because the pick-up window can only be used after an order is placed online. Furthermore, once orders are placed online, the limited-service pick-up window increases the efficiency of the restaurant as the average service time from the limited-service pick-up window is 2 minutes and 33 seconds as compared to 6 minutes and 13 seconds from normal fast food restaurants with a drive thru. This not only gets the customer their food quicker but alleviates any potential traffic stacking, which is common with typical fast-food restaurants with drive thrus. Finally – the design of this building and limited-service pick-up window is to limit the car stacking and appearance of a pick-up window.

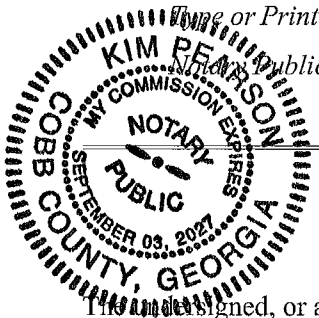
In closing, we believe the approval of the limited-service pick-up window does not undermine the original rezoning of fast-food restaurant with a drive thru. There is no menu board, no call box, and no noise pollution. Limited car stacking and a narrow pick-up lane will limit the visual appearance and the pick-up window can only be used after online orders are placed limiting the impulse consumer traffic. Watkins appreciates your consideration and look forward to delivering another first class building with a best-in-class restaurant in Chipotle.

APPLICANT CERTIFICATION

The undersigned is authorized to make this application and is aware that if an application is denied, no application or re-application affecting the same property shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Applicant [Signature] Date 1/11/24

Type or Print Name/Title Michael Aide, as President of Watkins Real Estate Group, Inc.,
Manager of WREG Harbins Land, LLC
Notary Public [Signature] Date 1/11/24



PROPERTY OWNER CERTIFICATION

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that if an application is denied, no application or re-application affecting the same land shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Property Owner [Signature] Date 1/11/24

Type or Print Name/Title Michael Aide, as President of Watkins Real Estate Group, Inc.,
as Manager of WREG Harbins Land, LLC
Notary Public [Signature] Date 1/11/24



FOR ADMINISTRATIVE USE ONLY

DATE RECEIVED _____ RECEIVED BY _____ FEE _____ RECEIPT # _____

LAND LOT _____ DISTRICT _____ PARCEL # _____ HEARING DATE _____

ACTION TAKEN _____

SIGNATURE _____ DATE _____

STIPULATIONS _____



City of Dacula
P. O. Box 400
Dacula, GA 30019
(770) 962-0055 / Fax (770) 513-2187

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes No

If the answer is *Yes*, please complete the following section:

Name of Government Official	Contributions <i>(All which aggregate to \$250.00+)</i>	Contribution Date <i>(within last 2 years)</i>

Have you, within the two years immediately preceding the filing of this application, made gifts having in the aggregate a value of \$250.00 or more to the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes No

If the answer is *Yes*, please complete the following section:

Name of Government Official	Description of Gifts <i>(Valued aggregate \$250.00+)</i>	Date Gift was Given <i>(within last 2 years)</i>

(Attach additional sheets if necessary to disclose or describe all contributions/gifts)

CONFLICT OF INTEREST CERTIFICATION

The undersigned, making application for rezoning/SUP, has complied with the Official Code of Georgia, Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions and has submitted or attached the required information on the forms provided.

Signature of Applicant *[Handwritten Signature]* Date 1/11/24

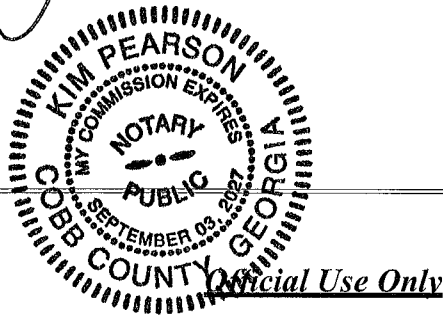
Type or Print Name/Title Michael Aide, President of Watkins Real Estate Group, Inc,
Manager of WREG Harbins Land, LLC

Signature of Applicant' Attorney _____ Date _____

Type or Print Name/Title _____

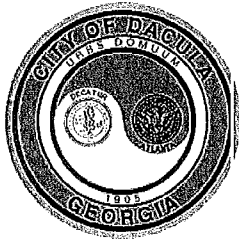
Notary Public *Kim Pearson* Date 1/11/2024

(Notary Seal)



DATE RECEIVED _____ ZONING CASE NUMBER _____

RECEIVED BY _____



City of Dacula
P. O. Box 400
Dacula, GA 30019
(770) 962-0055 / Fax (770) 513-2187

IMPACT ANALYSIS STATEMENT

As required by the Zoning Resolution of the City of Dacula, the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power. **ALL APPLICATIONS MUST BE COMPLETED WITH THE COMPLETED IMPACT ANALYSIS STATEMENT.**

DATE 1/10/24 APPLICANT WREG Harbins Retail, LLC

- A. Whether a proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property: Yes, use will compliment the existing retail and residential uses
- B. Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property: No, the change will enhance exiting uses and usability of adjacent properties.
- C. Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned: The change in conditions is needed for this restaurant to effeciently operate as a fast casual concept. The restaurant business is extremely competitve and the pick up window is needed for this business to operate.
- D. Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. No
- E. Whether the proposed rezoning is in conformity with the policy and intent of the Land Use Plan: Yes
- F. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning: The current zoning allows for retail uses. The mixed use development will thrive with more restaurants to serve the residents and community. Allowing a pick up window enables the restaumt to stay in business but does not conflict with the drive thru condition as this is a pick up only window.

APPENDIX

(For Informational Purposes)

CONFLICT OF INTEREST IN ZONING ACTIONS

Sec. 36-67A-1.	Definitions
Sec. 36-67A-2.	Disclosure of Financial Interests
Sec. 36-67A-3.	Disclosure of Campaign Contributions
Sec. 36-67A-4.	Penalties

Effective Date: This Chapter became effective July 1, 1984.

Cross References: Codes of Ethics and Conflicts of Interest, T. 45, Ch. 10.

Code Commission Notes: Ga. L. 1986, p. 1269, Sec. 1 and Ga. L. 1986, pa. 1496, Sec. 1, both enacted a Chapter 85 of Title 36. The chapter enacted by Ga. L. 1986, p. 1269, Sec. 1 was redesignated as Chapter 67A of Title 36 pursuant to Sec. 26-9-3.

36-67A-1. Definitions

As used in this chapter, this term:

- (1) "Applicant" means any individual or business entity applying for rezoning action.
- (2) "Business entity" means any corporation, partnership, limited partnership, firm, enterprise, franchise, association or trust.
- (3) "Financial interest" means all direct ownership interests of the total assets or capital stock of a business entity where such ownership interest is 10 percent or more.
- (4) "Local government" means any country or municipality of this State.
- (5) "Local government official" means any member of the governing authority of a local government or any member of a planning or zoning commission.
- (6) "Member of the family" means the spouse, mother, father, brother, sister, son, or daughter of a local government official.
- (7) "Property interest" means the direct or indirect ownership of real property and includes any percentage of ownership less than total ownership.
- (8) "Real property" means any tract or parcel of land and, if developed, any buildings or structures located on the land.
- (9) "Rezoning action" means action by local government adopting an amendment to a zoning ordinance which as the effect of rezoning real property from one zoning classification to another. (Code 1981, Sec. 36-67A-1, enacted by Ga. L. 1986, p. 1269, Sec. 1.)

DISCLOSURE & PENALTIES

36-67A-2 Disclosure of Financial Interests

A local government official who:

- (1) Has a property interest in any real property affected by a rezoning action upon which that official is authorized to vote.
- (2) Has a financial interest in any business entity which a property interest in any real property affected by a rezoning action upon which that official is authorized to vote; or
- (3) Has a member of the family having any interest described in paragraph (1) or (2) of this Code section shall immediately disclose the nature and extent of such interest, in writing to the governing authority of the local government in which the local government official is a member. Such disclosures shall be a public record and available for public inspection at any time during normal working hours. (Code 1981, Sec. 36-67A-2, enacted by Ga.L. 1986, p. 1269, Sec.1.).

36-67A-3 Disclosure of Campaign Contributions.

- (a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating \$250.00 or more or made gifts having in the aggregate a value of \$250.00 or more to a local government official of the local government which will consider the applications, it shall be the duty of the applicant and the attorney representing the applicant to file a disclosure report with the governing authority of the respective local government showing:
 - (1) The name of the local government official to whom the campaign contribution or gift was made;
 - (2) The dollar amount of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution; and
 - (3) An enumeration and description of each gift having a value of \$250.00 or more made by the applicant to the local government official during the two years immediately preceding the filing of the application for the zoning change.
- (b) The disclosures required by subsection (1) of this Code shall be filed within ten days after the application for the rezoning action if first filed. (Code 1981, Sec. 36-67A-3, enacted by Ga. L. 1986, p. 1269, Sec. 1)

36-67A-4 Penalties

Any local government official knowingly failing to make a disclosure required by Code Section 36-85-2 shall be guilty of a misdemeanor. Any applicant for rezoning action knowingly failing to make any disclosures as required by Code Section 36-83-3 shall be guilty of a misdemeanor. (Code 1981, Sec. 36-67A-4, enacted by Ga.L. 1986, p. 269, Sec.1.)

ADJOINING PROPERTY OWNER(S)
RECORD NOTIFICATION

DATE: _____

TO: _____

(Sent by First Class Mail and Certified Mail - Return Receipt Requested)

FROM: _____

RE: Application Case #: _____

Application Case #: _____

Application Case #: _____

Property Location: 5th District, Land Lot _____ Parcel _____

LOCATION/ADDRESS: _____

You are hereby notified that an application a zoning change from _____
to _____ has been submitted to the City of Dacula.

The proposed rezoning is contiguous to your property.

The PLANNING COMMISSION Public Hearing/Meeting will be held at the Dacula City Hall,
442 Harbins Rd., Dacula, Georgia on _____ at 6:00 P. M. in the Council
Chambers. *(date)*

The CITY COUNCIL Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd.,
Dacula, Georgia on _____ at 7:00 P. M. in the Council Chambers.
(date)

If you have any comments or concerns concerning this matter, please plan to attend the public
hearings.

Thank you.

LEGAL DESCRIPTION OF OUTLOT A

That tract or parcel of land lying and being situated in Gwinnett County, Georgia and being more particularly described as "Outlot A" in Plat Book 156, Page 254-256, filed October 10, 2022.

PLAT #: 00156 P: 00254
Recorded: 10/10/2022 04:12 PM
22L059017 Pages: 3 Fees: \$30.00
This is a General
Clerk of Superior Court, Gwinnett County, GA
of the Participant(s): 001190424.

EXEMPTION PLAT

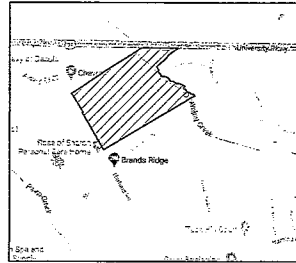
FOR

WREG Harbins Land, LLC

LAND LOTS 299 & 300 5th DISTRICT
CITY OF DACULA, GWINNETT COUNTY, GEORGIA

DESIGNED FOR CLERK OF SUPERIOR COURT RECORDING INFORMATION

- LEGEND**
- B/F IRON PIN FOLDED
 - R/S IRON PIN SET
 - RTS REBAR
 - UTD UTILITY
 - R/W RIGHT OF WAY
 - M/W MANHOLE
 - CS CATCH BASIN
 - LI LI
 - LS LIFT
 - WTD WASTED TOP DROP INLET
 - HW HOUSING
 - CMSP CORRUGATED METAL PIPE
 - RCMSP REINFORCED CONCRETE PIPE
 - DIP DUCTILE IRON PIPE
 - PH PNEUMATIC
 - WM WATER METER
 - WV WATER VALVE
 - CV C/C VALVE
 - S/C S/C C/S & GUTTER
 - CPY COPPER PIPE
 - LP LIGHT POLE
 - LP JOINDER LINE
 - TE TELEPHONE LINE
 - PO POWER LINE
 - WV WATER LINE
 - PT 11 REGULAR PARKING SPACES
 - 11 HANDICAP PARKING SPACE
 - TRANSFORMER
 - CONCRETE PAVING



OVERALL TRACT =
73.877 ACRES
3,218,095 SQ. FEET

I HEREBY CERTIFY THAT THE COMMUNITY OR PUBLIC WATER SUPPLY AND DISTRIBUTION SYSTEMS ARE TO BE INSTALLED SHOWN IN THE SUBDIVISION PLAT ATTACHED HERETO, MEET THE REQUIREMENTS OF THE GEORGIA DEPARTMENT OF NATURAL RESOURCES WATER SUPPLY SECTION.

DATED THIS _____ DAY OF _____ 2022
GEORGIA DEPARTMENT OF NATURAL RESOURCES WATER SUPPLY SECTION

I HEREBY CERTIFY THAT THE COMMUNITY OR PUBLIC SEWERAGE COLLECTION AND DISPOSAL SYSTEM INSTALLED OR TO BE INSTALLED SHOWN IN THE SUBDIVISION PLAT ATTACHED HERETO, MEETS THE REQUIREMENTS OF THE PUBLIC SEWER SYSTEM TO SERVE THESE LOTS.

OFFICIAL OF THE PUBLIC SEWER SYSTEM
PROVIDING SERVICE TO THE SUBDIVISION

- GENERAL NOTES**
- CITY OF DACULA DOES NOT ENFORCE PROTECTIVE COVENANTS. IT IS THE RESPONSIBILITY OF THE PROPERTY OWNERS TO ENSURE COMPLIANCE WITH THE PROTECTIVE COVENANTS.
 - GWINNETT COUNTY TO PROVIDE WATER AND SEWER.

- EXISTING PARCELS**
- PARCEL ID: 5300 138
 - PARCEL ID: 5300 140
 - PARCEL ID: 5300 141
 - PARCEL ID: 5300 143
 - PARCEL ID: 5300 051
 - PARCEL ID: 5300 255

PUBLIC NOTICE/DRAINAGE

- DRAINAGE AND STORM DRAINAGE - NOTES**
- NOTE: THE CITY OF DACULA ASSUMES NO RESPONSIBILITY FOR DRAINAGE OR EROSION OF MATERIAL OR MATERIAL DEPOSITS BEYOND THE EXTENT OF THE STREET RIGHT-OF-WAY, OR FOR THE EXTENSION OF CURBS BEYOND THE POINT SHOWN ON THE APPROVED AND RECORDED SUBDIVISION PLAT. THE CITY OF DACULA DOES NOT ASSUME THE RESPONSIBILITY FOR THE MAINTENANCE OF PIPES IN DRAINAGE EASEMENTS BEYOND THE STREET RIGHT-OF-WAY.
 - STRUCTURES ARE NOT ALLOWED IN DRAINAGE EASEMENTS.
 - STORM DRAINAGE EASEMENTS ARE TO REMAIN IN A NATURAL AND UNDISTURBED CONDITION.

ZONING NOTE

THE SUBJECT PROPERTY IS ZONED PWD (PLANNED MOOD - USE DISTRICT)

FLOODING NOTE

A PORTION OF THE SUBJECT PROPERTY DOES LIE WITHIN A FLOOD HAZARD AREA ZONE AE (WHICH IS DEFINED AS A REGULATORY FLOODING) PER FIRM MAP NUMBER 131320007H DATED SEPTEMBER 20, 2008. THE REMAINDER OF THE SUBJECT PROPERTY LIES WITHIN A ZONE X, WHICH IS DEFINED AS AREAS OUTSIDE THE 500 YEAR FLOODPLAIN.

CONFORMITY STATEMENT

This survey was prepared in conformity with the Technical Standards for Professional Surveys in Georgia as set forth in Chapter 180-2 of the Rules of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in the Georgia Plat Act O.C.G.A. 15-6-67.

CLOSURE STATEMENT

THE FIELD DATA UPON WHICH THIS PLAT IS BASED HAS A CLOSURE ERROR OF ONE FOOT IN _____ FEET AND AN ANGULAR ERROR OF _____ PER ANGLE AND WAS ADJUSTED USING THE COMPOUND RULE.
A _____ 1975 1975 TOTAL STATION AND AN _____ DATA COLLECTOR WERE USED TO OBTAIN THE DATA AND ANGLE MEASUREMENTS USED IN THE PREPARATION OF THIS PLAT.
THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE TO WITHIN ONE FOOT IN _____ FEET.

PLAT APPROVAL (CITY OF DACULA)

THE MAYOR OF THE CITY OF DACULA, GEORGIA, CERTIFIES THAT THIS PLAT COMPLETS WITH THE CITY OF DACULA ZONING REGULATIONS, AND THE CITY OF DACULA DEVELOPMENT REGULATIONS, AND HAS BEEN APPROVED BY ALL OTHER APPLICABLE CITY, COUNTY, OR STATE DEPARTMENTS, AS APPROPRIATE, AND THE CITY COUNCIL OF THE CITY OF DACULA. THE MAYOR HEREBY ACCEPTS ON BEHALF OF THE CITY OF DACULA THE CONSTRUCTION OF THE RIGHT-OF-WAY OF ALL PUBLIC STREETS, PUBLIC WATER, SEWER, AND OTHER PUBLIC UTILITIES AND APPURTENANCES SHOWN HEREON, FURTHER, SUBJECT TO THE PROVISIONS AND REQUIREMENTS OF THE DEVELOPMENT PERFORMANCE AND MAINTENANCE AGREEMENT DISCUSSED FOR THIS PROJECT BETWEEN THE OWNER AND THE CITY OF DACULA.

DATED THIS 5th DAY OF OCTOBER 2022
[Signature]
MAYOR, CITY OF DACULA

OWNER'S ACKNOWLEDGEMENT AND DECLARATION

(STATE OF GEORGIA)
(COUNTY OF GWINNETT)
THE OWNER OF THE LAND SHOWN ON THIS PLAT AND WHOSE NAME IS SUBSCRIBED HERETO, AND IN PERSON OR THROUGH A duly authorized agent, HEREBY DECLARES THAT THIS PLAT WAS MADE FROM AN ACTUAL SURVEY, AND DEDICATED BY THIS DECLARATION TO THE USE OF THE PUBLIC FOR WATER, SEWER, COLLECTIONS, LIFT STATIONS, DRAINAGE EASEMENTS, AND OTHER PUBLIC UTILITIES AND APPURTENANCES THEREON SHOWN, AND TRANSFERS OWNERSHIP OF ALL PUBLIC USE AREAS IN FEE SIMPLE, BY DEED, FOR THE PURPOSES THEREOF EXPRESSED.
WREG Harbins Land, LLC, a Georgia limited liability company
By: Watkins Real Estate Group, Inc., a Georgia corporation, its President
SUBSCRIBED BY: *[Signature]*
WENY James C. Levy
Title: President
DATE: 9/29/2022
OWNER: *[Signature]*
WREG Harbins Land, LLC, a Georgia limited liability company
By: Watkins Real Estate Group, Inc., a Georgia corporation, its President
SUBSCRIBED BY: *[Signature]*
WENY James C. Levy
Title: President
DATE: 9/29/2022

SURVEYOR'S CERTIFICATION

As required by subsection (4) of O.C.G.A. Section 15-6-67, this plat has been prepared by a land surveyor and approved by all applicable local jurisdictions for recording as evidenced by approved certificates, signatures, stamps, or statements hereon. Such approvals or affirmations should be confirmed with the appropriate governmental bodies by any purchaser or user of this plat as to intended use of any parcel. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in Section 15-6-67.

[Signature]
Aubrey L. Abo, P.L.S. #31130
Date: May 26, 2022

[Stamp]
AUBREY L. ABO
AUGUST 28, 2022

ISS
INTERNATIONAL SURVEY SERVICES
1641 Avenida Blvd, SW
Gainesville, Georgia 30607
(770) 922-0391 Office
(770) 922-0767 Fax
www.issai.com

Date	Revision	No.
07/12/22	REVISED PER COMMENTS	1

Plat Date: 11/16/2020
Plat Date: 05/26/2022
Scale: AS SHOWN

1
SHEET 1 OF 3
JOB #: 2020-728
CDD: WATKINS HARBINS
DWG: WATKINS HARBINS 1D
LSV: ALTA

Adjoining Property Owners List

WREG Harbins Land, LLC

Change in Conditions

Adjoining Property Owner / Tax Parcel	Mailing Address
WREG Harbins Land LLC / 5300 139	1958 Monroe Dr. NE, Atlanta, GA 30324
Quiktrip Corporation / 5300 140	4705 S 129 th East Ave, Tulsa OK, 74134-7005
Lynn and Tai Bing Chang / 5300 074	1598 Brandon SQ, Lawrenceville, GA 30044
Lynn and Tai Bing Chang / 5300 074	852 Harbins Road, Dacula GA 30019

Economic and Community Infrastructure Facilities Impact Worksheet



To be completed and submitted with applications for:
Annexation, Rezoning, Change of Conditions,
Special Use Permit, Special Exception, or Variance.

Date Received: _____

Reviewed By: _____

Proposed Project Information

Name of Proposed Project: Harbins 316 – Outlot A Retail
Developer/Applicant: WREG Harbins Land, LLC
Telephone: 404-920-5067
Fax:
Email(s): Rswan@watkinreg.com

Economic Impacts

Estimated Value at Build-Out:
\$4M

Will the proposed project generate population and/or employment increases in the area?
If yes, what would be the major infrastructure and facilities improvement needed to support the increase?

No population increases. 15-20 total jobs. All major infrastructure is in place.

How many short-term and /or long-term jobs will the development generate?

15-20 mix or short and long term jobs.

Estimated annual local tax revenues (i.e., property tax, sales tax) likely to be generated by the proposed development:

50,000

Is the regional work force sufficient to fill the demand created by the proposed project?

Yes

Community Facilities & Infrastructure Impacts

Water Supply

Name of water supply provider for this site: Gwinnett County

What is the estimated water supply demand to be generated by the project, measured in Gallons Per Day (GPD)? 168,650 GPD this is for the entire development

Is sufficient water supply capacity available to serve the proposed project? yes

If no, are there any current plans to expand existing water supply capacity? All complete.

If there are plans to expand the existing water supply capacity, briefly describe below: no

If water line extension is required to serve this project, how much additional line (in feet) will be required? All work has been completed

Wastewater Disposal

What is the estimated sewage flow to be generated by the project, measured in Gallons Per Day (GPD)? 146,652 GPD. This is for the entire Harbins 316 Development

Name of wastewater treatment provider for this site: Gwinnett county

Is sufficient wastewater treatment capacity available to serve this proposed project? yes

If no, are there any current plans to expand existing wastewater treatment capacity? NO

If there are plans to expand existing wastewater treatment capacity, briefly describe below: no

If sewer line extension is required to serve this project, how much additional line (in feet) will be required? All work complete.

Land Transportation

How much traffic volume is expected to be generated by the proposed development, in peak hour vehicle trips per day?

List any traffic and/or road improvements being made and how they would affect the subject area. All improvements complete.

Solid Waste Disposal

How much solid waste is the project expected to generate annually (in tons)? 1484 tons/year. This is for the entire Harbins 316 Project

Is sufficient landfill capacity available to serve this proposed project? Yes

If no, are there any current plans to expand existing landfill capacity?

If there are plans to expand existing landfill capacity, briefly describe below:

Will any hazardous waste be generated by the development? If yes, please explain below: No

Stormwater Management

What percentage of the site is projected to be impervious surface once the proposed development has been constructed? 49.2%

Is the site located in a water supply watershed? yes

If yes, list the watershed(s) name(s) below: Alcovy and Apalachee

Describe any measures proposed (such as buffers, detention or retention ponds, and/or pervious parking areas) to mitigate the project's impacts on stormwater management: In addition to preserving a large portion of the property for park buffers and open space, the project will include water quality and storm water management basins per the guidelines of the Georgia Storm water management manual.

Environmental Quality

Is the development located within or likely to affect any of the following:

1. Water supply watersheds? Alcovy and Apalachee watersheds

2. Significant groundwater recharge areas? No

3. Wetlands? No

4. Protected river corridors? No

5. Floodplains? yes

6. Historic resources? No

7. Other environmentally sensitive resources? No

If you answered yes to any question 1-7 above, describe how the identified resource(s) may be affected below: the proposed uses are allowed with no restrictions on the Alcovy and Apalachee watersheds.

Other Facilities

What intergovernmental impacts would the proposed development generate for:

Schools?
None

Libraries?
None

Fire, Police, or EMS
None

Other community services/resources (day care, health care, low income, non-English speaking, elderly, etc.)?

Additional Comments:

ADJOINING PROPERTY OWNER(S)
RECORD NOTIFICATION

DATE: 1/24/2024

TO: WREG Harbins Land LLC

(Sent by First Class Mail and Certified Mail - Return Receipt Requested)

FROM: WREG Harbins Land LLC

RE: Application Case #: 2024-CD-COC-02

Application Case#: _____

Application Case#: _____

Property Location: 5th District, Land Lot 300 Parcel 5300145

LOCATION/ADDRESS: 862 Harbins Rd Dacula, GA 30019

You are hereby notified that an application a zoning change from PMUD
to PMUD - change in conditions has been submitted to the City of Dacula.

The proposed rezoning is contiguous to your property.

The PLANNING COMMISSION Public Hearing/Meeting will be held at the Dacula City Hall,
442 Harbins Rd., Dacula, Georgia on 2/26/2024 at 6:00 P. M. in the Council
Chambers. (date)

The CITY COUNCIL Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd.,
Dacula, Georgia on 3/7/2024 at 7:00 P. M. in the Council Chambers.
(date)

If you have any comments or concerns concerning this matter, please plan to attend the public
hearings.

Thank you.

ADJOINING PROPERTY OWNER(S)
RECORD NOTIFICATION

DATE: 01/24/2024

TO: Quiktrip Corporation

(Sent by First Class Mail and Certified Mail - Return Receipt Requested)

FROM: WREG Harbins Land LLC

RE: Application Case #: 2024-CD-COC-02

Application Case#: _____

Application Case#: _____

Property Location: 5th District, Land Lot 300 Parcel 5300 145

LOCATION/ADDRESS: 862 Harbins Rd Dacula, GA 30019

You are hereby notified that an application a zoning change from PMUD
to PMUD - change in conditions has been submitted to the City of Dacula.

The proposed rezoning is contiguous to your property.

The PLANNING COMMISSION Public Hearing/Meeting will be held at the Dacula City Hall,
442 Harbins Rd., Dacula, Georgia on 02/26/2024 at 6:00 P. M. in the Council
Chambers. (date)

The CITY COUNCIL Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd.,
Dacula, Georgia on 03/07/2024 at 7:00 P. M. in the Council Chambers.
(date)

If you have any comments or concerns concerning this matter, please plan to attend the public
hearings.

Thank you.

ADJOINING PROPERTY OWNER(S)
RECORD NOTIFICATION

DATE: 01/24/2024

TO: Lynn and Tai Bing Chang

(Sent by First Class Mail and Certified Mail - Return Receipt Requested)

FROM: WREG Harbins Land LLC

RE: Application Case #: 2024-CD-COC-02

Application Case #: _____

Application Case #: _____

Property Location: 5th District, Land Lot 300 Parcel 5300 145

LOCATION/ADDRESS: 862 Harbins Rd Dacula, GA 30019

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Dacula, Georgia on 03/07/2024 at 7:00 P. M. in the Council Chambers.
(date)

If you have any comments or concerns concerning this matter, please plan to attend the public
hearings.

Thank you.

ADJOINING PROPERTY OWNER(S)
RECORD NOTIFICATION

DATE: 01/24 / 2024
TO: Lynn and Tai Bing Chang
(Sent by First Class Mail and Certified Mail - Return Receipt Requested)
FROM: WREG Harbins Land LLC
RE: Application Case #: 2024 - CD - COC - 02
Application Case #: _____
Application Case #: _____
Property Location: 5th District, Land Lot 300 Parcel 5300 145
LOCATION/ADDRESS: 862 Harbins Rd Dacula, GA 30019

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Chambers. (date)

The CITY COUNCIL Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd.,
Dacula, Georgia on 03/07 / 2024 at 7:00 P. M. in the Council Chambers.
(date)

If you have any comments or concerns concerning this matter, please plan to attend the public
hearings.

Thank you.

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Adult Signature Required \$

Adult Signature Restricted Delivery \$

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Total Postage and Fees \$

Sent To **WREG Hobins Land**
 Street and Apt. No., or PO Box No.
1958 Monroe Dr NE
 City, State, ZIP+4®
Atlanta, GA 30324

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions



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Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To **Lynn and Tai Bing**
 Street and Apt. No., or PO Box No.
1598 Brandon Sq
 City, State, ZIP+4®
Lawrenceville, GA 30044

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions



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Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To **Quicktrip Corporat**
 Street and Apt. No., or PO Box No.
4705 S 129th East Ave
 City, State, ZIP+4®
Tulsa, OK 74134

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions



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Adult Signature Required \$

Adult Signature Restricted Delivery \$

Postage \$

Total Postage and Fees \$

Sent To **Lynn and Tai Bing**
 Street and Apt. No., or PO Box No.
852 Harbins Rd
 City, State, ZIP+4®
Dacula, GA 30019

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions





MEMO

TO: City of Dacula Mayor and City Council Members

FROM: Hayes Taylor, City Planner

DATE: February 27, 2024

SUBJECT: 2024-CD-SUP-02 - Withdrawal Request

On February 27, 2024, the Department of Planning & Development received a request to withdraw the special use permit application for 287 Church Street.





City of Dacula
 P. O. Box 400
 Dacula, GA 30019
 (770) 962-0055 / Fax (770) 513-2187

Item 4.

REZONING/ CHANGE OF CONDITIONS/ SPECIAL USE PERMIT APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF DACULA, GEORGIA.
 (Please Type or Print using BLACK INK)

APPLICANT *	PROPERTY OWNER *
NAME <u>BARBARA QUARTEY-PAPAFIO</u>	NAME <u>Edith Rodriguez Ventura</u> * per conversation on 2/2/24 HHH
ADDRESS <u>2145 GYNNMORE DRIVE</u>	ADDRESS <u>CLEMENT QUARTEY-PAPAFIO 2145 GYNNMORE DRIVE 287</u>
CITY <u>LAWRENCEVILLE</u>	CITY <u>LAWRENCEVILLE Dacula</u> ch 2/5 54.
STATE <u>GEORGIA</u> ZIP <u>30043</u>	STATE <u>GEORGIA</u> ZIP <u>30043 14</u>
PHONE <u>678-687-3547</u> FAX _____	PHONE <u>404-990-0096</u> FAX _____

APPLICANT IS THE:

- OWNER'S AGENT
- PROPERTY OWNER
- CONTRACT PURCHASER

CONTACT PERSON BARBARA QUARTEY-PAPAFIO
 COMPANY NAME BRILLIANT STAR EARLY CHILDHOOD LLC
 ADDRESS 2145 GYNNMORE DRIVE
LAWRENCEVILLE GA 30043
 PHONE 678-687-3547 FAX _____
 EMAIL Barbara.papafio@yahoo.com

* Include any person having a property interest and/or a financial interest in any business entity having property interest (use additional sheets if necessary).

PRESENT ZONING DISTRICT(S) OI REQUESTED ZONING DISTRICT NOT APPLICABLE
 LAND LOT(S) 302 PARCEL # R5302A-104 DISTRICT(S) 5TH ACREAGE 0.26
 PROPOSED DEVELOPMENT OR SPECIAL USE REQUESTED CHILD CARE SERVICES

RESIDENTIAL DEVELOPMENT: NO. OF LOTS/DWELLINGS UNITS _____ DWELLING UNIT SIDE (SQ. FT.) _____
 NON-RESIDENTIAL DEVELOPMENT: NO. OF BUILDINGS/LOTS _____ TOTAL GROSS SQ. FEET _____

LETTER OF INTENT & LEGAL DESCRIPTION OF PROPERTY

*** PLEASE ATTACH A "LETTER OF INTENT" EXPLAINING WHAT IS PROPOSED and TYPED "LEGAL DESCRIPTION" OF PROPERTY TO BE AMENDED ***

CASE NUMBER

LETTER OF INTENT TO OPERATE A DAYCARE

BARBARA QUARTEY-PAPAFIO
2145 GLYNMOORE DRIVE
LAWRENCEVILLE GA 30043
January 9, 2024

Dear Sir/Madam,

LETTER OF INTENT TO OPERATE AND RUN A DAYCARE CENTER FOR THE COMMUNITY LOCATED AT 287 CHURCH STREET, DACULA GA 30019.

Brilliant Star Early Childhood Development LLC is asking for a special permit to utilize a property at 287 Church Street, Dacula GA 30019 for use as a Daycare to assist parents in the community to find a place to bring their children so they can go to work.

The statistics indicate that 87% of families have children and most families have 2 streams of income with both parents working each day and this is only possible if both parents have dependable childcare service they can take their wards.

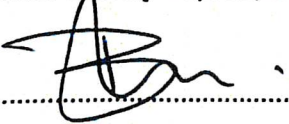
Per the search performed by *Brilliant Star Early Childhood Development LLC*, the nearest childcare is within at least 1.5-2.0 miles from this location address. This childcare center will serve parents within this neighborhood and be of immense help to the community.

The capacity of the daycare will not be more than 55 students even though at the moment the building cannot have more than 30 students. *Brilliant Star* has plans to have additional structures added to increase the capacity of the daycare to approximately 55 students. This will include Pre-K, Aftercare, Before care, and daily childcare services.

Hoping our special request will be granted and looking forward to your kind consideration.


Sincerely Yours,

Barbara Quartey-Papafio, Director



.....

Clement Quartey-Papafio, Assistant Director



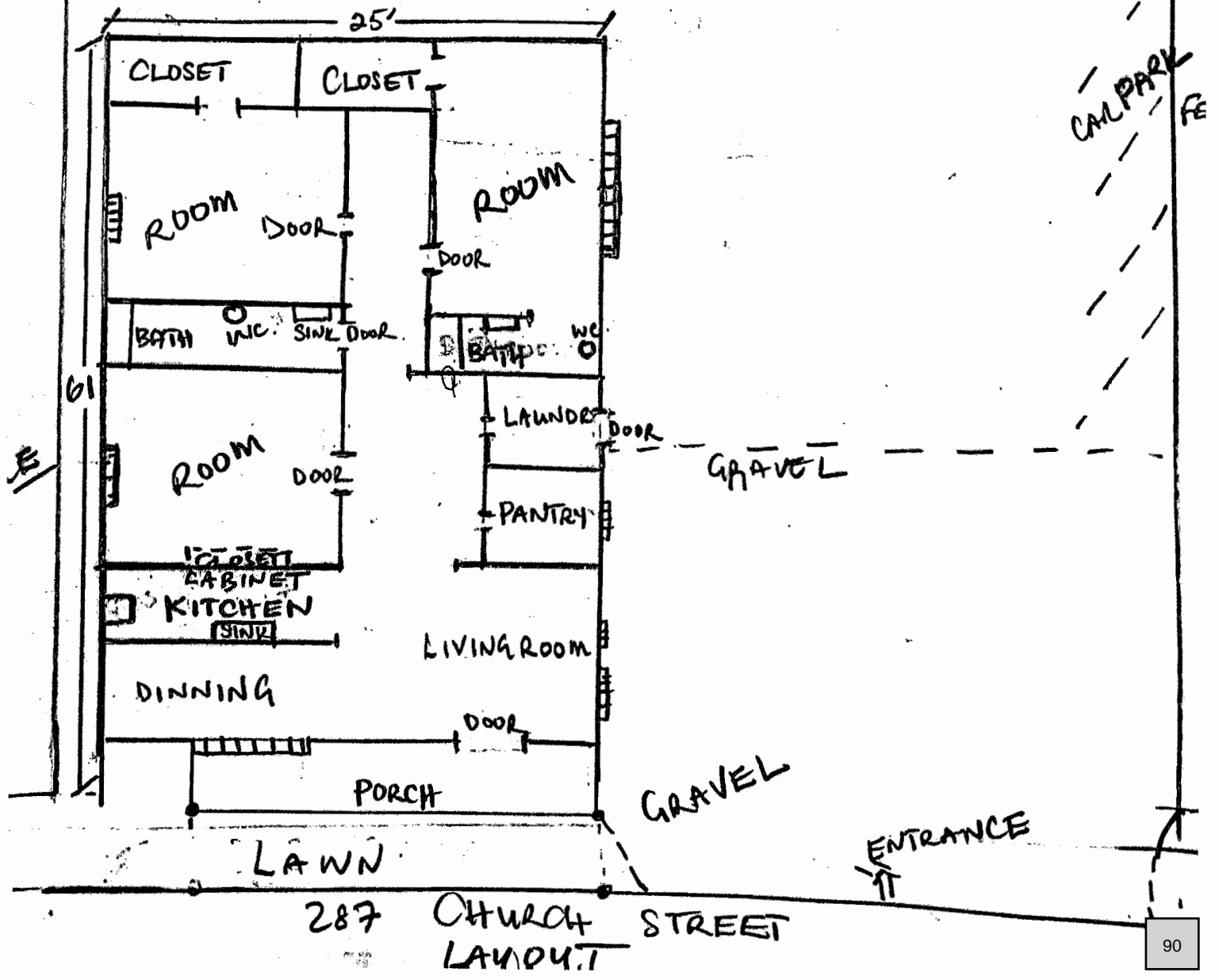
.....

ENCE

Item 4.

NCE

GRASS AREA



ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 302 OF THE 5TH DISTRICT OF GWINNETT COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT LOCATED ON THE SOUTHWESTERLY SIDE OF CHURCH STREET, FORMERLY KNOWN AS SECOND AVENUE AND SOMETIMES KNOWN AS PHARR AVENUE, AT AN IRON PIN LOCATED AT THE SOUTHEAST CORNER OF PROPERTY NOW OR FORMERLY BELONGING TO DACULA BAPTIST CHURCH PROPERTY CEMETERY; RUNNING THENCE SOUTHWESTERLY AS MEASURED ALONG THE SOUTHERLY LINE OF PROPERTY NOW OR FORMERLY BELONGING TO DACULA BAPTIST CHURCH PROPERTY CEMETERY A DISTANCE OF 209 FEET TO AN IRON PIN LOCATED ON THE NORTHEASTERLY SIDE OF AN UNOPENED STREET; RUNNING THENCE SOUTHEASTERLY AS MEASURED ALONG THE NORTHEASTERLY SIDE OF SAID STREET A DISTANCE OF 55 FEET TO AN IRON PIN LOCATED ON THE NORTHWEST CORNER OF PROPERTY NOW OR FORMERLY BELONGING TO MRS. G. F. PHARR; RUNNING THENCE NOTHEASTERLY AS MEASURED ALONG THE NORTHERLY LINE OF PROPERTY NOW OR FORMERLY BELONGING TO MRS. G. F. PHARR A DISTANCE OF 209 FEET TO AN IRON PIN LOCATED ON THE SOUTHWESTERLY SIDE OF CHURCH STREET; RUNNING THENCE NORTHWESTERLY AS MEASURED ALONG THE SOUTHWESTERLY SIDE OF CHURCH STREET A DISTANCE OF 55 FEET TO THE SOUTHEAST CORNER OF DACULA BAPTIST CHURCH PROPERTY CEMETERY AND THE POINT OF BEGINNING; BEING DESCRIBED ACCORDING TO A SURVEY PREPARED BY E. L. CHAPMAN, REGISTERED SURVEYOR, DATED DECEMBER 14,1971, FOR SAMMY S. EVERETT.

Being the same property conveyed to Jesus Edith Rodriguez Ventura and Cindy M. Rodriguez Anaya, by virtue of Limited Warranty Deed from Jesus Edith Rodriguez Ventura, dated 5/31/2022, and recorded on 6/6/2022, in Deed Book 59997, page 65, Gwinnett County, Georgia Records.

Parcel ID: R5302A104

APPLICANT CERTIFICATION

The undersigned is authorized to make this application and is aware that if an application is denied, no application or re-application affecting the same property shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Applicant [Signature] Date 1/12/24
Type or Print Name/Title BARBARA QUARTEY-PAPAFIO
Notary Public Courtney Mahady Date 1/12/24

Courtney Mahady
NOTARY PUBLIC

Barrow County, GEORGIA

PROPERTY OWNER CERTIFICATION Commission Expires 02/21/2027

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that if an application is denied, no application or re-application affecting the same land shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Property Owner [Signature] Date 1-12-2024
Type or Print Name/Title CLEMENT QUARTEY-PAPAFIO
Notary Public Courtney Mahady Date 1/12/24

Courtney Mahady
NOTARY PUBLIC

Barrow County, GEORGIA

My Commission Expires 02/21/2027

FOR ADMINISTRATIVE USE ONLY

DATE RECEIVED _____ RECEIVED BY _____ FEE _____ RECEIPT # _____

LAND LOT _____ DISTRICT _____ PARCEL # _____ HEARING DATE _____

ACTION TAKEN _____

SIGNATURE _____ DATE _____

STIPULATIONS _____



City of Dacula
 P. O. Box 400
 Dacula, GA 30019
 (770) 962-0055 / Fax (770) 513-2187

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes No

If the answer is Yes, please complete the following section:

Name of Government Official	Contributions <i>(All which aggregate to \$250.00+)</i>	Contribution Date <i>(within last 2 years)</i>
NOT APPLICABLE (N/A)	N/A	N/A

Have you, within the two years immediately preceding the filing of this application, made gifts having in the aggregate a value of \$250.00 or more to the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes No


If the answer is Yes, please complete the following section:

Name of Government Official	Description of Gifts <i>(Valued aggregate \$250.00+)</i>	Date Gift was Given <i>(within last 2 years)</i>
NOT APPLICABLE	N/A	N/A

(Attach additional sheets if necessary to disclose or describe all contributions/gifts)

CONFLICT OF INTEREST CERTIFICATION

The undersigned, making application for rezoning/SUP, has complied with the Official Code of Georgia, Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions and has submitted or attached the required information on the forms provided.

Signature of Applicant  Date 1/12/24

Type or Print Name/Title BARBARA QUARTEY-PAPAFIO

Signature of Applicant' Attorney _____ Date _____

Type or Print Name/Title representing our selves.

Notary Public Courtney Mahady Date 1/12/24

~~Courtney Mahady
NOTARY PUBLIC
Barrow County, GEORGIA
My Commission Expires 02/21/2027~~

Courtney Mahady
NOTARY PUBLIC
Barrow County, GEORGIA
My Commission Expires 02/21/2027

Official Use Only

DATE RECEIVED _____ ZONING CASE NUMBER _____

RECEIVED BY _____



City of Dacula
P. O. Box 400
Dacula, GA 30019
(770) 962-0055 / Fax (770) 513-2187

IMPACT ANALYSIS STATEMENT

As required by the Zoning Resolution of the City of Dacula, the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power. **ALL APPLICATIONS MUST BE COMPLETED WITH THE COMPLETED IMPACT ANALYSIS STATEMENT.**

DATE 1-12-2024 APPLICANT BARBARA QUARTEY - PAPAFO

A Whether a proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property: NOT APPLICABLE

B Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property: NOT APPLICABLE

C Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned: NOT APPLICABLE

D Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. NO, THIS WILL NOT LEAD TO ANY BURDEN SOME USE OF EXISTING STREET.

E Whether the proposed rezoning is in conformity with the policy and intent of the Land Use Plan: YES

F Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning: THERE ARE NO EXISTING OR CHANGING CONDITIONS AFFECTING THE USE AND DEVELOPMENT OF THE PROPERTY

APPENDIX

(For Informational Purposes)

CONFLICT OF INTEREST IN ZONING ACTIONS

Sec. 36-67A-1.	Definitions
Sec. 36-67A-2.	Disclosure of Financial Interests
Sec. 36-67A-3.	Disclosure of Campaign Contributions
Sec. 36-67A-4.	Penalties

Effective Date: This Chapter became effective July 1, 1984.

Cross References: Codes of Ethics and Conflicts of Interest, T. 45, Ch. 10.

Code Commission Notes: Ga. L. 1986, p. 1269, Sec. 1 and Ga. L. 1986, pa. 1496, Sec. 1, both enacted a Chapter 85 of Title 36. The chapter enacted by Ga. L. 1986, p. 1269, Sec. 1 was redesignated as Chapter 67A of Title 36 pursuant to Sec. 26-9-3.

36-67A-1. Definitions

As used in this chapter, this term:

- (1) "Applicant" means any individual or business entity applying for rezoning action.
- (2) "Business entity" means any corporation, partnership, limited partnership, firm, enterprise, franchise, association or trust.
- (3) "Financial interest" means all direct ownership interests of the total assets or capital stock of a business entity where such ownership interest is 10 percent or more.
- (4) "Local government" means any county or municipality of this State.
- (5) "Local government official" means any member of the governing authority of a local government or any member of a planning or zoning commission.
- (6) "Member of the family" means the spouse, mother, father, brother, sister, son, or daughter of a local government official.
- (7) "Property interest" means the direct or indirect ownership of real property and includes any percentage of ownership less than total ownership.
- (8) "Real property" means any tract or parcel of land and, if developed, any buildings or structures located on the land.
- (9) "Rezoning action" means action by local government adopting an amendment to a zoning ordinance which has the effect of rezoning real property from one zoning classification to another. (Code 1981, Sec. 36-67A-1, enacted by Ga. L. 1986, p. 1269, Sec. 1.)

DISCLOSURE & PENALTIES

36-67A-2 Disclosure of Financial Interests

A local government official who:

- (1) Has a property interest in any real property affected by a rezoning action upon which that official is authorized to vote.
- (2) Has a financial interest in any business entity which a property interest in any real property affected by a rezoning action upon which that official is authorized to vote; or
- (3) Has a member of the family having any interest described in paragraph (1) or (2) of this Code section shall immediately disclose the nature and extent of such interest, in writing to the governing authority of the local government in which the local government official is a member. Such disclosures shall be a public record and available for public inspection at any time during normal working hours. (Code 1981, Sec. 36-67A-2, enacted by Ga.L. 1986, p. 1269, Sec.1.).

36-67A-3 Disclosure of Campaign Contributions.

- (a) When any applicant for rezoning action has made, within two years immediately preceding the filing of that applicant's application for the rezoning action, campaign contributions aggregating \$250.00 or more or made gifts having in the aggregate a value of \$250.00 or more to a local government official of the local government which will consider the applications, it shall be the duty of the applicant and the attorney representing the applicant to file a disclosure report with the governing authority of the respective local government showing:
 - (1) The name of the local government official to whom the campaign contribution or gift was made;
 - (2) The dollar amount of each campaign contribution made by the applicant to the local government official during the two years immediately preceding the filing of the application for the rezoning action and the date of each such contribution; and
 - (3) An enumeration and description of each gift having a value of \$250.00 or more made by the applicant to the local government official during the two years immediately preceding the filing of the application for the zoning change.
- (b) The disclosures required by subsection (1) of this Code shall be filed within ten days after the application for the rezoning action is first filed. (Code 1981, Sec. 36-67A-3, enacted by Ga. L. 1986, p. 1269, Sec. 1)

36-67A-4 Penalties

Any local government official knowingly failing to make a disclosure required by Code Section 36-85-2 shall be guilty of a misdemeanor. Any applicant for rezoning action knowingly failing to make any disclosures as required by Code Section 36-83-3 shall be guilty of a misdemeanor. (Code 1981, Sec. 36-67A-4, enacted by Ga.L. 1986, p. 269, Sec.1.)

ADJOINING PROPERTY OWNER(S)
RECORD NOTIFICATION

DATE: _____

TO: _____

(Sent by First Class Mail and Certified Mail - Return Receipt Requested)

FROM: _____

RE: Application Case #: _____

Application Case #: _____

Application Case #: _____

Property Location: 5th District, Land Lot _____ Parcel _____

LOCATION/ADDRESS: _____

You are hereby notified that an application a zoning change from _____
to _____ has been submitted to the City of Dacula.

The proposed rezoning is contiguous to your property.

The PLANNING COMMISSION Public Hearing/Meeting will be held at the Dacula City Hall,
442 Harbins Rd., Dacula, Georgia on _____ at 6:00 P. M. in the Council
Chambers. *(date)*

The CITY COUNCIL Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd.,
Dacula, Georgia on _____ at 7:00 P. M. in the Council Chambers.
(date)

If you have any comments or concerns concerning this matter, please plan to attend the public
hearings.

Thank you.

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Dacula, GA 30019

OFFICIAL USE

Certified Mail Fee	\$4.35	0726
Extra Services & Fees (check box, add fee as appropriate)	\$3.55	07
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.66	
Total Postage and Fees	\$8.56	01/19/2024

Sent To Garcia Francisco
 Street and Apt. No., or PO Box No.
 2988 Stockbridge Way
 City, State, ZIP+4®
 Dacula GA 30019-6867

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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Dacula, GA 30019

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Certified Mail Fee	\$4.35	0726
Extra Services & Fees (check box, add fee as appropriate)	\$3.55	07
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<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.66	
Total Postage and Fees	\$8.56	01/19/2024

Sent To Garcia Francisco
 Street and Apt. No., or PO Box No.
 2528 Pharr Ave.
 City, State, ZIP+4®
 Dacula GA 30019

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

Item 4.

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Dacula, GA 30019

OFFICIAL USE

Certified Mail Fee	\$4.35	0726
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<input type="checkbox"/> Return Receipt (electronic)	\$0.00	
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.66	
Total Postage and Fees	\$8.56	01/19/2024

Sent To Shampton Angle
 Street and Apt. No., or PO Box No.
 290 Maken street
 City, State, ZIP+4®
 Dacula GA 30019

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

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Dacula, GA 30019

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<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.66	
Total Postage and Fees	\$8.56	01/19/2024

Sent To Dacula First Baptist Church
 Street and Apt. No., or PO Box No.
 P.O. box 151
 City, State, ZIP+4®
 Dacula GA 30019

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Dacula, GA 30019

OFFICIAL USE

Certified Mail Fee	\$4.35	0726
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<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00	
<input type="checkbox"/> Adult Signature Required	\$0.00	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00	
Postage	\$0.66	
Total Postage and Fees	\$8.56	01/20/2024

Sent To Dacula First Baptist Church
 Street and Apt. No., or PO Box No.
 P.O. box 297
 City, State, ZIP+4®
 Dacula GA 30019

PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions



MEMO

TO: City of Dacula Planning Commission/
City of Dacula Mayor and City Council

FROM: Brittni Nix, City Administrator
Hayes Taylor, City Planner
Jack Wilson, City Attorney

DATE: February 26, 2024

SUBJECT: Ordinance to Amend Zoning Resolution Article IX

Staff has reviewed Article IX, Use Provisions, and recommends amending the Zoning Resolution to replace “parking lot” and/or “parking garages” with “parking deck.” The recommended amendment will clarify the permitted uses within several zoning districts (OI, C-1, C-2, C-3, M-1).



AN ORDINANCE

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF DACULA REGARDING PARKING IN CERTAIN DISTRICTS; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, the City has adopted and maintained a comprehensive Zoning Ordinance; and

WHEREAS, changes in development patterns, proposed land uses, infrastructure and other matters warrant reviewing and updating portions of the Zoning Ordinance related to parking in certain districts; and

WHEREAS, it is in the best interest of the health, safety and welfare of the citizens of the City to review and evaluate the current Zoning Ordinance in view of current development trends and future land use plans in and near the City; and

WHEREAS, the City has undertaken and completed such review and evaluation; and

WHEREAS, as a part of that review process, the Planning Commission and City Council have conducted public hearings in accordance with Georgia law seeking comment on the amendments and updates to the Zoning Ordinance; and

WHEREAS, it is in the best interest of the health, safety and welfare of the citizens and businesses within the City of Dacula to amend the Zoning Ordinance as outlined herein;

NOW THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DACULA HEREBY ORDAINS that the Zoning Ordinance and City Code be amended as follows:

SECTION 1

The following amendments are approved and adopted:

Subsection 904(B)14 is deleted and the following is substituted in its place:

904(B)14 Parking Decks.

Subsection 905(B)26 is deleted and the following is substituted in its place:

905(B)26 Parking Decks.

Subsection 906(B)41 is deleted and the following is substituted in its place:

906(B)41 Parking Decks.

Subsection 908(B)37 is deleted and the following is substituted in its place:

908(B)37 Parking Decks.

SECTION 2

The City Administrator, Assistant City Administrator, and Director of Planning and Economic Development are further authorized to correct typographical errors in the text of the existing Zoning Ordinance and to produce and publish a final codified version of the Zoning Ordinance with the amendments and revisions outlined herein.

SECTION 3

In the event any Court of competent jurisdiction determines that any portion of the foregoing amendment is invalid, unconstitutional or otherwise illegal, such rulings shall not impair the validity of the rest and remainder of this amendment.

SECTION 4

All laws and parts of laws in conflict with this Ordinance are hereby repealed.

SECTION 5

This Ordinance and the amendments outlined herein shall be effective immediately upon their adoption by the Mayor and City Council.

SO ORDAINED by the governing authority of the City of Dacula, this ____ day of _____, 2024.

AYES: ____

NAYES: ____

ATTEST:

HUGH D. KING, III
MAYOR, CITY OF DACULA

BRITTNI NIX,
CITY ADMINISTRATOR



MEMO

TO: Mayor and City Council
FROM: Brittni Nix, City Administrator
Courtney Mahady, Administrative Clerk
DATE: February 12, 2024
SUBJECT: City of Dacula Records Management Policy

The City needs to implement a Records Management Policy to solidify procedures for the maintenance of municipal records. The Policy provides for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all City records. The procedures outlined within the Policy are consistent with the requirements of the Georgia Open Records Act, Georgia Archives Local Government Retention Schedule, and generally accepted records management principles.

Staff recommends approval of the draft Records Management Policy in the form following this memo and for the Policy to be effective immediately.





City of Dacula

RECORDS MANAGEMENT POLICY

Contents

1. Purpose/Statement of Policy
2. Definitions
3. Ownership and custody of City records
4. Password protected electronic records prohibited
5. Requests, pending litigation, or audit
6. Records Management Officer – Duties and Responsibilities
7. Department Heads – Duties and Responsibilities
8. Records Liaison – Duties and Responsibilities
9. Records Retention and Disposition Schedules
10. Implementation
11. Destruction of Records
12. Records Center
13. Electronic records – storage and destruction
14. Electronic mail
15. Guidelines and Procedures for storage
16. Indexing System

1. PURPOSE – STATEMENT OF POLICY

It is hereby declared to be the policy of the City of Dacula to provide for efficient economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all City records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Georgia Open Records Act and generally accepted records management principles.

2. DEFINITIONS

Approved Record's Retention and Disposition Schedule – a record's retention and disposition schedule that has been approved by Georgia Archives Local Government Record Retention Schedule.

City Record – every document, paper, letter, record, book, map, drawing, photograph, tape (sound or video recording), and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment and on floppy disks, optical disks, and compact disks, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under State Law, that is created or received by the City of Dacula or any of its officers or employees pursuant to law or in the transaction of public business. A City record does not include library material acquired solely for reference, exhibit, or display or stocks of publications, advertisements, or other unsolicited written materials received by the City or any of its officers or employees. The provisions of the State of Georgia Open Records Act or any successor provisions thereof shall govern with regard to the status or the records described herein as public records or as exempt from the public records laws.

Department – any department, division, commission, authority, committee, task force, or similar entity of City records.

Department Head – the person who is in charge of a department of the City that creates or receives City records.

Essential/Vital Record – any City record necessary to resume or continue operations of the City in an emergency or disaster; recreate the legal and financial status of the City; or to protect and fulfill obligations to the citizens of the City.

Form – a document on which captions are pre-printed for entering variable data and which is used to transmit information from one point to another. Forms are generally used to cause some action, establish a memory and/or give a report. This includes stationery, envelopes, memo pads, checks, etc.

Open Records Law – O.C.G.A. § 50-18-70 through 50-18-78, also known as the Georgia Open Records Act.

Permanent Record – any City record for which the retention period on Records Retention and Disposition Schedule is given as permanent.

Records Center – the facility used to provide centralized and secure storage for non-current and permanent City records.

Records Disposition – the removal or destruction of a City record from a department or from a non-current records storage center and for a City record that has passed its minimum legal retention period and no longer had value to the City, or for a permanent City record, transfer of the record to *Records Center* for archival accession.

Records Inventory – the process of location, identifying, and describing in detail the records of a department.

Records Liaison – a person designated by each Director/Division Head to implement the Records Management Program in their department.

Records Management – the creation and implementation of systematic controls for City records from the point where they are created or received through final disposition or archival retention, including distribution, use, maintenance, storage, retrieval, protection, preservation, and disposal, for the purpose of achieving adequate and proper documentation of the policies and transactions of City government and reducing costs and improving the efficiency of record keeping. The term includes: development of Records Retention and Disposition Schedules; management of filing and information retrieval systems; protection of essential and permanent records; economical and space-effective storage of non-current records; control over the creation and distribution of forms, reports, and correspondence; management of manual, micrographic, electronic, and other records storage systems; and identification of functional record keeping requirements that ensure City records are created to adequately document the City's business transactions.

Records Management Officer – the person appointed by the City Administrator to administer the City's Record Management Program.

Records Management Program – the requirements, policies, and procedures developed by this document.

Records Retention and Disposition Schedule – a document prepared by or under the authority of the Records Management Officer that describes recurring records or records series on a continuing basis, indicating for each record series the length of time it is to be maintained in a department or Records Center, when and if the record or records series may be destroyed or otherwise disposed of; and other records disposition information that the Records Management Program may require.

Retention Period – the minimum time that must pass after the creation, recording, or receipt of a City record, or after the fulfillment of certain actions associated with a City record before the record is eligible for disposition.

3. OWNERSHIP AND CUSTODY OF CITY RECORDS

All City records as defined in Section I of this policy are hereby declared to be the property of the City of Dacula. No City official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

4. PASSWORD PROTECTED ELECTRONIC RECORDS PROHIBITED

All City records, including all electronic records, are public records. Electronic records may not be password protected unless it is a record specifically exempt from the Open Records Law. Only confidential documents as specified in the Open Records Law may be password protected as long as the creator of the document provides his/her supervisor with the password. Written confirmation from the supervisor shall be forwarded to the Records Management Officer confirming the record is confidential. Such confirmation shall note the specific law that exempts the record from being an Open Record.

5. RECORDS INVOLVED IN PUBLIC INFORMATION REQUESTS, REQUESTS BY MEDIA, AND RECORDS PENDING LITIGATION, OR PENDING AUDITS

The destruction of a City record involved in a pending request under the Open Records Law, pending litigation, or a pending audit is prohibited, even if the destruction of the record is authorized by an approved Records Retention and Disposition Schedule. Retrieval and release of all records to the public or media shall be in accordance with rules and regulations of the Open Records Law.

6. RECORDS MANAGEMENT OFFICER – DUTIES AND RESPONSIBILITIES

- a. Administer the City's Records Management Program and provide advice and assistance to Director/Division Heads in its implementation;
- b. Prepare the requirements, policies and procedures for the City's Records Management Program;
- c. Review and approve all the Records Retention and Disposition Schedules for all departments;
- d. In cooperation with Director/Division Heads, identify essential records and establish a records disaster and recovery plan for each department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;
- e. Monitor retention/disposition schedules and administrative rules issued by the Georgia Secretary of State to determine if the Records Management Program and the City's Records Retention and Disposition Schedules are in compliance with State regulations;
- f. Disseminate information concerning State Laws and administrative rules relating to City records to the Director/Division Heads;
- g. Instruct or train Records Liaison Officers and other personnel in the Records Management Program;

- h. Direct Records Liaison Officers and other personnel in the conduct of records inventories (of file types, not individual files) in preparation for the development of Records Retention and Disposition Schedules;
- i. Ensure that the creation, maintenance, preservation, microfilming, electronic storage, destruction, and other disposition of City records are carried out in accordance with the requirements, policies, and procedures of the Records Management Program, this chapter and State law;
- j. Bring to the attention of the City Administrator any noncompliance by a Director/Division Heads or other personnel with the requirements, policies, and procedures of the Records Management Program, this chapter or State law;
- k. Develop procedures to ensure the permanent preservation of the historically valuable records of the City;
- l. Conduct periodic reviews of departmental record keeping practices and Records Retention and Disposition Schedules to ensure that the schedules are kept current;
- m. Provide uniform standards and efficient controls over the identification, appraisal, maintenance, protection, preservation, transfer, retention, and disposition of City records;
- n. Review City-wide and departmental policies to ensure compliance with the Records Management Program, this chapter, and State law;
- o. In cooperation with Director/Division Heads, incorporate records management policies, objectives, responsibilities, and authorities in pertinent departmental directives;
- p. Review user requirements, cost feasibility studies, systems requirements, systems specifications, and other system design documents to ensure that record keeping requirements and public access requirements are incorporated into electronic record keeping systems at the design phase;
- q. Establish procedures for the use of approved general retention and disposition schedules by City departments; and
- r. Serve as the City's liaison to applicable State agencies for Records Management Program requirements.

7. DEPARTMENT HEADS – DUTIES AND RESPONSIBILITIES

Every Director and Division Head shall:

- a. Cooperate with the Records Management Officer in carrying out the policies, procedures, and requirements of the Records Management Program, this chapter, and State law;
- b. Maintain City records in their custody and carry out the preservation, microfilming, electronic storage, destruction, and other disposition of those records only in accordance with the Records Management Officer;
- c. Review and approve Records Retention and Disposition Schedules and requests to dispose of City records that prepared and submitted by or under the direction of the Records Management Officer;
- d. Notify the Records Management Officer within 24 hours of the discovery of any loss, theft, or damage to a City record;
- e. Ensure the ability to access records regardless of form or medium;

- f. Notify the Records Management Officer of proposed electronic record keeping systems to ensure compliance with electronic record keeping requirements established by the Records Management Program, this chapter, and State law;
- g. Under the direction of the Information Technology Department/Contractor, ensure electronic records in the Director's custody are migrated forward as technology changes, for as long as the records are determined to have value, and to ensure that requests for funding for new systems or systems enhancements address requirements for backup, recopying, disaster recovery, security, public access, audit trails, and other record keeping requirements in accordance with the Records Management Program, this chapter, and State Law;
- h. Appoint a department Records Liaison Officer in accordance with this program;
- i. Incorporate the Records Management Program requirements in pertinent departmental policies and procedures; and
- j. In cooperation with the Records Management Officer, identify essential records of the department and establish a Records Disaster Recovery Plan to ensure maximum availability of the records to re-establish operations quickly and with minimum disruption and expense.

8. RECORDS LIAISON OFFICERS – DUTIES AND RESPONSIBILITIES

Each Department Head may designate in writing to the Records Management Officer a member of the Department Head's staff to serve as the Records Liaison Officer for the implementation of the Records Management Program. If the Records Management Officer determines that more than one Records Liaison Officer should be designated for a department, the Department Head shall designate the number of Records Liaison Officers specified by the Records Management Officer for a department.

A person designated as a Records Liaison Officer shall be thoroughly familiar with departmental policies and activities and have full knowledge of and access to all City records created and maintained by the department and by all officers and employees of the department.

If a person designated as a Records Liaison Officer resigns, retires, or is removed by action of the Department Head, the Department Head shall promptly designate another person to fill the vacancy.

In addition to other duties assigned in this chapter or by State law, a Records Liaison Officer shall:

- a. In cooperation with the Records Management Officer, coordinate and implement the requirements, policies, and procedures of the Records Management Program in the department;
- b. Disseminate information to department staff concerning the Records Management Program;
- c. In cooperation with the Records Management Officer, coordinate the records inventory of the department (inventory of file types, not individual files);

- d. Verify the accuracy, content and completeness of the records inventory prior to submission to the Records Management Officer;
- e. Review departmental record keeping practice for compliance with the Records Management Program and, in consultation with the Records Management Officer, identify practices that require improvement for the purposes of increasing efficiency or implementing corrective action for program compliance;
- f. Report any noncompliance with the Records Management Program to the Department Head in writing and correct and re-submit to the Records Management Officer any records inventory that is incomplete or inaccurate; and
- g. Periodically inventory records in department or division and give report to the Records Management Officer.

9. RECORDS RETENTION AND DISPOSITION SCHEDULE

A Records Retention and Disposition Schedule is an official policy for records and information retention and disposal. The schedule provides mandatory instructions for the disposal of records no longer needed for current city business. The City of Dacula Code of Ordinance Sec. 2-60 maintains records in accordance with approved applicable retention schedules.

The benefits of using an approved records retention schedule:

- Ensures that important records are organized and maintained in a manner that can be easily retrieved and identifiable as evidence of the City's activities
- Conserves office space, equipment, and manpower
- Helps preserve those records that are valuable for historical and research purposes
- Stabilizes the growth of records in offices through the systematic disposition of inactive records

The Retention Schedule for local government records is divided into two categories:

- Common records – records created by any local government agency, such as budget and accounting records, administration, property records, and legal records.
- Specific records – records created by a specific government agency and no other, such as elections qualifying application, planning & zoning applications, and public works work orders.

Should a retention schedule call for the retaining of a document for a period of years after certain conditions have been met, such as, completion of a project, disposition of a case or terminating of an employee, a plus sign (+) shall follow the recommended destruction date. The file shall note the special condition of retention.

Example: Applications to sell beer and wine in the City are to be retained 7 years after expiration of the application. The application was made in 2002. Therefore, the destruction date would appear as 2009+. Beginning with the year 2009 this record will be reviewed each year to determine if it can be destroyed. If the record has not

achieved its destruction date it will be carried forward until it has reached the 7-year expiration period.

10. IMPLEMENTATION

The Department Head and Records Liaison Officer of a department for which a Records Retention and Disposition Schedule has been approved shall implement the schedule in accordance with the requirements, policies, and procedures of the Records Management Program, this chapter, and State law.

A City record whose retention period has expired on an approved Records Retention and Disposition Schedule must be destroyed unless an Open Records Request is pending on the records; the subject matter of the record is pertinent to pending litigation or a pending audit; the Department Head requests to the Records Management Officer in writing that the record be retained for an additional period, which request must clearly state the reason for the continued retention; or the Records Management Officer sends written notification to a Department Head that the records must be held pending review for historical appraisal.

11. DESTRUCTION OF RECORDS

The Records Management Officer shall approve City records proposed for destruction on a regularly scheduled basis, according to the maximum retention and records disposition guidelines in the approved retention schedule. No original record shall be destroyed without the review and concurrence of the Records Management Officer and the appropriate Department Head. The Records Management Officer is directed to supervise the destruction of records approved for final disposition on a regularly scheduled basis. Any City record, the subject matter of which is in litigation, shall not be destroyed until such litigation is final.

Destruction of original records that have been duplicated – Original paper records that have been duplicated on microfilm, microfiche, data processing, or word processing equipment may be destroyed prior to the retention period specified in the records schedule without further approval provided the following three (3) conditions are met:

- (1.) The duplicate copy of the information contained in the original record is maintained for the specified time.
- (2.) The original paper record has not been scheduled for permanent preservation.
- (3.) The Records Management Officer has agreed to the destruction of the original paper record and the destruction is recorded.

Unscheduled Records – A City record that is obsolete or that has not been identified on an approved Records Retention and Disposition Schedule may be destroyed if its destruction has been approved in the same manner required by this chapter, and the Records Retention Officer has approved a request for destruction authorization.

12.RECORDS CENTER

The Records Center serves as centralized records storage facilities for all departments for the storage of non-current City records and is under the direct control and supervision of the Records Management Officer. The Records Management Officer shall establish policies and procedures regulating the operations and use by City departments. The City Hall Storage Building, located behind City Hall, shall serve as the repository for current-permanent and records of less importance.

13.ELECTRONIC RECORDS – STORAGE AND DESTRUCTION

The creation, maintenance, preservation, electronic document imaging, and storage of the electronic records of the City must comply with the Records Management Program, this chapter, and State law. All operational procedures of document imaging and electronic systems are under the supervision of the Manager of Information Systems.

Destruction of Data Processing Records – Computer printouts and other data processing input/output may be destroyed without specific authorization and recording provided the following conditions apply:

- (1.)The information is retained on magnetic media (e.g., magnetic tape, diskettes, etc.) and the media is scheduled in a Records Retention and Disposition Schedule.
- (2.)The output copy is not specifically listed and scheduled in this Records Retention and Disposition Schedule.

14.ELECTRONIC MAIL

The City of Dacula provides e-mail services to help its employees conduct business effectively. E-mail is a public record and should be used for City business. It is intended to expedite communications, reduce paperwork, and automate routine office tasks; thereby increasing productivity and reducing costs. The same discretion should be used in maintaining and storing e-mail messages as other city produced records.

15.GENERAL GUIDELINES AND PROCEDURES FOR STORAGE IN RECORD CENTERS

- a. The Record Liaison, appointed under the direction of the Department Head, will be responsible for the coordination of the department's records storage in conjunction with the guidelines and procedures outlined in the Records Management Policy. The Records Management Officer will witness receipt and approve all record storage deposits in the Records Center.
- b. The Record Liaison for each department will be responsible for inventory, and coordination of filing and records management in their department's storage and filing facility in

conjunction with the rule and regulations of this policy and State of Georgia records retention requirements.

- c. **Type of Storage Box** – Paper records will be stored in one cubic foot six boxes (10"x12"x15¼"). Boxes greater than the designated size will not be accepted in the Records Center.
- d. **Packing of Box** – records should be categorized by date and item description. Disposition of records will be by year and type of record. Records shall be stored in similar categories and dates (years).
- e. **Packing of Box** – leave enough room equivalent to “one hand’s width” (about ½ inch) in each box when packing. Do not overly pack the box.
- f. **Paperwork Submittal** – an entry form must be completed with record descriptions and signed by the Department Head and Record Liaison.
- g. **Record Disposition** – a disposition notice in compliance to the retention schedule will be sent to the Department Head and Records Liaison prior to any destruction of records.
- h. Disposition of records must be approved by the Department Head and Records Management Officer and in compliance with Local and State Retention regulations.

16. INDEXING SYSTEM

The purpose of the City of Dacula Records Management Indexing is to provide a standardized system for identifying stored boxes and allow for speedy retrieval of stored documents.

Each number has a specific meaning and provides information regarding the category number, number of boxes, documents contained within. Listed below the index number is a Destroy Date. This date reflects when the documents contained in the box are eligible for destruction.

Below is a brief description of each number given in the indexing sequence.

Index Number Example: 01-02-03

01 = Department Number. This is the number assigned for each Department. *Example: 01= Finance; 02= Human Resources; 03= Court; etc.*

02 = Year in which material contained inside the box was created and boxed for retention. All boxes should contain only one complete year documents/files. Documents with different retention time lengths may not be placed in the same box.

03 = Box number in sequence. *Example: Box number 3 out of 5 boxes.*

The actual destruction date will be displayed on the box.

Example: Destroy Date – December 31, 2007

17. DEPARTMENT INDEX NUMBERS

Finance	01	Court/Marshals	04
Administration	02	Elections	05
Human Resources	03	Planning & Zoning	06

Public Works	07
Records Management	08
Taxation	09



MEMO

TO: Mayor and City Council of the City of Dacula
 FROM: Amy White, Chief Marshal
 DATE: February 13, 2024
 SUBJECT: Ordinance to amend the Marshal’s Office Policy and Procedure

On August 4, 2021, the Mayor and City Council approved the implementation of the Marshal’s Office Policy and Procedure Manual.

Staff conducted a thorough review of the Marshal’s Manual and recommends correcting grammar errors and clarification of several procedures. A summary table of the proposed amendments are below for your review and consideration:

Proposed Marshal’s Policy and Procedure Amendments

Amendment Description	Section
Clarify deputized officer jurisdictions	Section 01 C-1
Update code of appearance	Section 05 A-5, B-5d
Extend distance permitted for extra duty employment	Section 19 C-2
Update experience required for Chief Marshal	Section 26
Create take home car procedure	Section 52 M



DACULA MARSHAL'S OFFICE POLICY AND PROCEDURES MANUAL

All newly issued or amended General Orders shall be placed in this manual in numerical order. This table of contents will be amended and will accompany each newly issued General Order.

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Number 2021-01	Agency Jurisdiction
Number 2021-02	Arrest Procedures
Number 2021-03	Basic Mandate Training
Number 2021-04	Case File Management and Reporting
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Number 2021-07	Code of Ethics
Number 2021-08	Collection and Preservation of Property and Evidence
Number 2021-09	Reserved
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Number 2021-26	Job Functions/Summary of Duties and Qualifications
Number 2021-27	Juvenile Operations
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Number 2021-33	Oath of Office
Number 2021-34	Officers Response to Resistance and/or Aggression
Number 2021-35	Organization and Direction
Number 2021-36	Orientation and Office Provided Employee Training
Number 2021-37	Personnel Selection Process
Number 2021-38	Preliminary and Follow-Up Investigation Procedures
Number 2021-39	Promotional Process
Number 2021-40	Reserved

Number 2021 -41	Race or Ethnic Profiling
Number 2021 -42	Radio and Mobile Phone Communications
Number 2021 -43	Response to Resistance/Apprehension Techniques
Number 2021 -44	Search and Inspection Warrant Execution
Number 2021 -45	Searches without Search Warrants
Number 2021 -46	Sexual Harassment
Number 2021 -47	Sign Removal Procedures
Number 2021 -48	Sovereign Citizens
Number 2021 -49	Special Threats and Unusual Occurrences
Number 2021 -50	Threat and Terrorism Prevention Plan
Number 2021 -51	Traffic Direction and Control
Number 2021 -52	Vehicle Operation and Usage

DACULA MARSHAL'S OFFICE

2021-01: Agency Jurisdiction

- PURPOSE:** To define the geographical jurisdictional boundaries of the City of Dacula Marshal's Office.
- POLICY:** The Dacula Marshal's Office has the primary responsibility and authority for Marshal services within the geographical boundaries of the incorporated limits of the City of Dacula, Georgia. Unless otherwise limited by General Order, sworn officers of The City of Dacula have full power and authority as peace officers within the incorporated City limits of Dacula, Georgia.
- PROCEDURE:**
- A. The City of Dacula, Georgia is located in Gwinnett County, Georgia.
 - B. Jurisdiction within the incorporated boundaries of the City of Dacula, Georgia.
 1. On-duty
 - a. On-duty Marshals have full power and authority as peace officers within the boundaries of the City of Dacula, Georgia. The Marshals may limit the exercise of this power and authority based on good and sufficient reason.
 - b. An on-duty Marshal may stop, arrest, or cite violators of traffic offenses and issue citations for violation of traffic laws and City Ordinances.
 2. Off-duty:

Off-duty Marshals retain full power and authority as Peace Officers within the incorporated limits of the City of Dacula, Georgia. However, the Marshal Office has defined certain limitations to safeguard both the officer and the Marshal's Office from unwarranted civil and criminal liability should the officer decide or be forced to respond to a situation. When confronting a situation within the jurisdiction and the officer is in the off-duty status, and it is reasonably assumed that immediate police action is appropriate, and the officer makes the decision to intervene, as soon as possible the officer shall immediately identify themselves as a Law Enforcement Officer and City of Dacula Marshal prior to taking action. This may include the showing of proper identification such as, identification card, badge, etc., when appropriate.

 - a. Many considerations must be made before and officer decides to take action in the off-duty status. These may include but are not limited to:
 - (1) Does he/she have proper identification identifying them as an Officer of the City of Dacula Marshal's Office, should the situation require this proof?

- (2) Is the member armed with a proper defensive weapon that meets criteria set forth in the Office Firearms Policy or the Officer Response to Resistance and Aggression policy, should the situation require the use of force?
 - (3) Will the officer's intervention escalate the situation greater than if he or she had not intervened at all?
 - (4) Will the officer's intervention place others in a more hazardous situation?
- b. The officer shall take all reasonable steps, under the circumstances, to resolve the situation without the use of physical force.
 - c. The officer shall contact an on-duty Marshal or Gwinnett County Police Department officer as soon as possible and take only the necessary actions before the on-duty officer arrives.
 - d. An off-duty officer shall not stop, arrest, or cite violators of traffic offenses. When the violation is flagrant and clearly dangerous enough to jeopardize the lives or safety of others, then the officer must make all reasonable efforts to notify an on duty Marshal or an officer of the Gwinnett County Police Department operating a departmental vehicle equipped with proper emergency equipment, so that the stop can be made safely.
 - e. An off-duty officer shall not take official law enforcement action in personal disputes, involving neighbors and close friends, unless such an action must be made to prevent physical injury to another.
 - f. An off-duty officer shall not take official law enforcement action under any circumstances when taking prescribed drugs and/or consuming alcohol.
 - g. Whenever an off-duty officer acts with the authority of a peace officer, the officer shall notify his or her commanding officer as soon as possible, and complete an official report of the incident.
 - h. Any sworn officer who is in the off-duty status and should become involved in a situation that might have been resolved with the use of a firearm but who failed to have one in his or her possession at the time will not be subject to departmental disciplinary action based on that fact alone. (Refer to Departmental General Order entitled "Firearms".)
 - i. Any sworn officer who is in the off-duty status and should become involved in a situation that he/she failed to have in their possession identification as a law enforcement officer at the time, will not be subject to disciplinary action on that fact alone. When an officer is armed with an off-duty weapon as described in the Office Firearms Policy and the officer is in the off-duty status, the officer should carry proper identification, i.e. badge, departmental identification, concealed weapons permit, if applicable.

C. Jurisdiction outside of the incorporated boundaries of the City of Dacula, Georgia.

1. On-duty.

An officer of the City of Dacula Marshal's Office may take official law enforcement action outside of the incorporated boundaries of the City of Dacula when:

- a. The officer is in pursuit of a person who has committed a crime within the boundaries of the City of Dacula, Georgia.
- b. The officer has a valid search or arrest warrant or citation and has a sworn peace officer from that jurisdiction present to serve the warrant or citation. The officer shall act only as an observer. If the officer renders assistance it shall be as a private citizen under the following provision; the officer reasonably and in good faith believes that the jurisdictional law enforcement officer is being hindered in the performance of his/her official duties or the jurisdictional officer's life is endangered by the conduct of any other person or persons while he/she is performing their official duties. The officer's action would be that of a private citizen and not that of a law enforcement officer.
- c. The officer reasonably believes that, in the officer's presence, a person is about to commit a felony, and action is necessary to prevent serious bodily injury to any person. ~~The officer's authority would only be that of a private citizen and not that of a law enforcement officer.~~

2. Off-duty

When off-duty and outside of the jurisdictional boundaries of the City, the Marshals will only have the powers afforded to sworn peace officer or a private citizen in situations where police action may be reasonably deemed necessary.

D. Joint Jurisdiction / Gwinnett County Police Department and Gwinnett County Sheriff's Department:

1. The Dacula Marshal's Office has concurrent jurisdiction with the Gwinnett County Police Department and the Gwinnett County Sheriff's Department for the enforcement of state statutes and federal laws within the geographic limits of the City of Dacula.
2. The Dacula Marshal's Office will, with the exceptions noted below, provide the following law enforcement services within the jurisdictional boundaries of the City of Dacula.
 - a. Initial response to calls regarding traffic offenses, city code violations and regulatory matters;

- b. Preliminary and all necessary follow-up investigation of minor traffic offenses, city code violations and regulatory matters within the jurisdictional boundaries of the City of Dacula.
 3. The Gwinnett County Police Department will provide the initial response to calls for service, preliminary investigation, and follow-up investigation of criminal offenses located within the jurisdictional boundaries of the City of Gwinnett County Police Department.
 4. Nothing in this section should be construed to relieve any Marshal from the responsibility of providing all legal and reasonable assistance to any member of the Gwinnett County Police Department and the Gwinnett County Sheriff's Department requesting such assistance.
 5. Nothing in this section should be construed to authorize any to interfere in any investigation or law enforcement operation being conducted by personnel of the Gwinnett County Police Department and the Gwinnett County Sheriff's Department.
- E. Joint Jurisdiction / Georgia State Patrol
1. The Dacula Marshal's Office has concurrent jurisdiction with the Georgia State Patrol for the enforcement of state statutes and federal laws within the geographic limits of the City of Dacula.
 2. OCGA 35-2-33 restricts Georgia State Patrol authority for the investigation of criminal offenses occurring off public roads and highways to situations in which no local law enforcement personnel are immediately available and requires that Georgia State Patrol personnel relinquish jurisdiction to local law enforcement personnel as soon as possible under prevailing circumstances.
 3. A Marshal who is informed of such an incident by Georgia State Patrol personnel and/or who arrives at the scene of such an incident where Georgia State Patrol personnel are present will assume jurisdiction in such a manner as to provide for a smooth transition and ensure the integrity of the investigation until such time as the incident may be relinquished to the Gwinnett County Police Department.
 4. Nothing in this section should be construed to relieve any Marshal from the responsibility of providing all legal and reasonable assistance to any member of the Georgia State Patrol requesting such assistance.
 5. Nothing in this section should be construed to authorize any Marshal to interfere in any investigation or law enforcement operation being conducted by Georgia State Patrol personnel.

DACULA MARSHAL'S OFFICE

2021-02: Arrest Procedures

PURPOSE: To establish procedures for arrest without a warrant and arrest with a warrant.

POLICY: It shall be the policy of the Dacula Marshal's Office that all arrests with and without warrants are conducted according to procedures outlined by the United States Supreme Court, the Courts of the State of Georgia, and any legislation pertaining to or governing the laws of arrest.

PROCEDURE:

A. Arrest Without a Warrant

An arrest without a warrant must be based on probable cause. No officer shall arrest any person without a warrant when he/she knows that he/she is without reasonable cause to arrest such person. According to O.C.G.A. § 17-4-62, whenever a law enforcement officer without a warrant arrests an individual, the statute requires the officer to bring the arrested person before a judicial officer within a reasonable time, but no later than 48 hours after the arrest.

P.O.S.T. certified Marshals who have completed basic mandate training may make an arrest without a warrant in the following instances:

1. When an offense is committed in the officer's presence or within his/her immediate knowledge;
2. When an offender is attempting to escape;
3. When an officer has probable cause to believe an act of family violence has been committed as specified under OCGA 19-13-1;
4. When for other cause there is likely to be a failure of justice for want of a judicial officer to issue a warrant;

All of the above exceptions are based on timeliness; if enough time has passed for a warrant to have been obtained, an arrest without a warrant may not be upheld.

B. Arrest With a Warrant

The execution of arrest warrants shall only be conducted by sworn P.O.S.T. certified Marshals who are in compliance with G.P.O.S.T.C.

1. Jurisdiction - An arrest warrant may be issued in any county in Georgia, even for a crime committed in another county. Once issued, a warrant may be carried from one county to another. The warrant may be served in any county of the state regardless of where it was issued.

2. Contents - A valid arrest warrant must contain specific information as required by statute, court decisions and the Uniform Rules of the Superior, State and Magistrate Courts. Such information includes:
 - a. The authority under which the warrant is issued;
 - b. Identification of the person who is to execute the warrant, generally addressed: "To any sheriff, deputy sheriff, coroner, constable, marshal, police officer, Marshal officer;"
 - c. Identification of the person to be arrested;
 - d. The name of the offense committed;
 - e. The date and place of occurrence of the offense, including the county in which it was committed;
 - f. Identification of the victim; and
 - g. A description of the offense, including all of the elements of the offense.

In addition, when the offense charged is a theft, the warrant must contain:

- h. A description of the property alleged to have been stolen;
- i. Identification of the owner of the stolen property;
- j. The value of the stolen property; and
- k. The person from whose possession it was taken.

Without strict compliance with the above, the warrant may not be valid.

3. No officer shall arrest any person under color of a warrant unless he/she reasonably believes a valid warrant exists and that the person described in the warrant is before him/her.

C. Procedure When Making an Arrest

When a lawful arrest cannot be made except with a warrant, the arresting officer shall have the warrant in his/her physical possession at the time of the arrest, or so near at hand that it can be exhibited upon demand.

An officer making a lawful arrest has the right to use only that force which is reasonably necessary to accomplish the arrest, but no more than is necessary to take the suspect into custody (Refer to General Order entitled "Officers Response to Resistance and Aggression").

D. Alternatives to Physical Arrest

What is reasonable in terms of appropriate police action or what constitutes probable cause varies with each situation. The particular facts and circumstances may justify an investigation, a detention, a search, an arrest, or no action at all. In some cases,

when the offense is of a minor nature, a verbal warning or other action may be taken. The requirement that legal justification be present imposes a limitation on an officer's action. In every case, an officer must act reasonably within the limits of his/her authority as defined by statute and judicial interpretation. For procedures for taking law enforcement action against juvenile offenders (Refer to General Order entitled "Juvenile Operations").

E. Timely Preliminary Hearings / First Appearances

Arresting officers must bring persons before a judicial officer within 72 hours of arrest, O.C.G.A 17-4-26. State law provides that every law enforcement officer arresting under a warrant shall exercise reasonable diligence in bringing the person arrested before the judicial officer authorized to examine, commit, or receive bail and in any event to present the person arrested before a judicial officer within 72 hours after arrest. The accused shall be notified as to when and where the commitment hearing is to be held. An arrested person who is not notified before the hearing of the time and place of the commitment hearing shall be released.

F. Immunity From Arrest

Federal and state laws provide that under certain circumstances, individuals may be immune from arrest. With the limited exception of certain diplomatic officials, immunity from arrest does not preclude prosecution of the individual for the offense for which immunity from arrest is claimed. For procedures for taking law enforcement action against diplomats and other individuals who may be immune from arrest and for persons who seek political asylum and/or defection. (Refer to General Order entitled "Diplomatic Immunity").

DACULA MARSHAL'S OFFICE

2021-03: Basic Mandate Training

PURPOSE: The purpose of this policy is to require all newly hired officers of the Dacula Marshal's Office to complete the legally mandated Basic Training prior to an assignment where the officer is required to carry a firearm or make an arrest, as well as establish the relationship between the Dacula Marshal's Office and the attended certified training academies.

POLICY: All newly hired officers shall complete the legally mandated Basic Training Program in accordance with the standards, rules and procedures as declared by the Georgia Peace Officers Standards and Training (P.O.S.T.,) Council prior to being sworn and prior to any regular assignment of duty. Specific exemptions may apply to newly sworn officers who possess current P.O.S.T. certification prior to appointment.

PROCEDURE:

- A. Pursuant to O.C.G.A. Statute 35-8-9, entitled "Completion of basic training course required", subsection (a) states "In addition to complying with the pre-employment standards as set forth in Code Section 35-8-8, each and every candidate shall satisfactorily complete a basic training course prior to his or her appointment as a peace officer". Additionally, subsection (C) states "Should any candidate fail to complete successfully the basic training requirements specified in this Code section, he or she shall not perform any of the duties of a peace officer involving the power of arrest until such training shall have been successfully completed."
- B. All newly hired Marshals must attend a Basic Mandate Course of the prescribed number of hours to meet the minimum standard as previously addressed above before being allowed to carry a firearm or being placed in a position to make an arrest.
- C. If the newly hired officer is already certified as a police officer in the State of Georgia and that certification has not lapsed, academy training is not necessary. A specific orientation program will be administered, however, to provide the newly hired certified officer with departmental rules, regulations, policies and procedures.
- D. Relationship with P.O.S.T.
 1. Council certified Training Academies – The City may choose to send recruits to any academy certified by the Georgia P.O.S.T. Council which provides the course requirements and methods of instruction established by the Council. In its relationship and/or dealings with the various police academies, this agency will be guided by the following principles which govern the stated topics:

2. Legal basis for participation in the academy -found in O.C.G.A. 35-8-8 and 35-8-9 requires completion of the Basic Mandate Course as a precursor to employment or appointment as a peace officer.
3. Relationship between the agency and academies - The Chief Marshal his or her designee will be the liaison between this agency and the academies. This liaison provides an avenue for agency input to the basic program as well as a means of determining participant progress.
4. Legal obligations of Agency to Academy - Recruits attending any P.O.S.T. certified police academy is considered on-duty, and, as such, any liability incurred during the legal performance of their duties at the academy may be the responsibility of this agency, unless it is the result of negligence on the part of the academy.
5. There are no financial obligations between this agency and any P.O.S.T. certified academy providing Basic Mandate Training.
6. All P.O.S.T. certified training academies provide an orientation handbook to all new recruit personnel at the time academy training begins. Included in the handbook will be information concerning:
 - a. The organization of the academy;
 - b. The academy's rules and regulations;
 - c. The academy's rating, testing and evaluation system;
 - d. Physical fitness and proficiency skill requirements;
 - e. Academy curriculum and;
 - f. Daily training schedules.

E. Basic Training Curriculum

It is required that the basic recruit training program includes:

1. A curriculum based on job task analysis of the most frequent assignments of recruit officers;
2. Use of competency-based evaluation techniques to measure required knowledge, skills, and abilities;
3. The course content and required hours as established by the Georgia P.O.S.T. Council rules and regulations on Basic Certification for Peace Officers;
4. Instruction in the following subject areas, at a minimum:

- a. Law enforcement role, responsibilities, and relationships (i.e., history of law enforcement, ethics in law enforcement, etc.);
- b. Administration (i.e., civil and criminal liability);
- c. Operations (i.e., criminal procedures, criminal law, use of firearms, use of force);
- d. Auxiliary and administrative services (i.e., report writing, note taking);
- e. Crime and accident scene processing (i.e., familiarization of physical evidence, collection methods, accident scene recording).

DACULA MARSHAL'S OFFICE

2021-04: Case File Management and Reporting

PURPOSE: To establish a system of case file management to specify information that should be recorded for each case file and to establish a comprehensive reporting system for incidents which occur within the City.

POLICY: It is the policy of the Dacula Marshal's Office to maintain specific information in case files on all cases in which investigative activities are going on and to maintain records of actions taken by members of the Dacula Marshal's Office whether in response to a request for service or for self-initiated actions.

PROCEDURE:

A. Reporting

1. When a Marshal receives citizen reports of crimes; or is dispatched or assigned to investigate complaints; or when criminal and non-criminal cases are initiated by him or her, the Marshal shall report or document the actions as follows:
 - a. Violations of State or Federal Law: Marshals who receive a report of violation of a State or Federal law shall immediately notify the Gwinnett County Police Department or other appropriate law enforcement agency. The Gwinnett County Police Department will investigate and take appropriate action as necessary for these types of cases which occur inside the City of Dacula. Exceptions to this include but may not be limited to violations which relate directly to City Code and regulatory matters such as alcoholic beverages, adult entertainment, massage, bad checks, and related matters. In such cases, officers of the Marshal may be responsible for the investigation, documenting and prosecuting the case as necessary.
 - b. City Code Violations: A Marshal who receives a report of city code violations shall take appropriate action to confirm the violation, correct the violation, educate, warn or cite the violator. Marshals shall also conduct any necessary investigation and initiate a written complaint report and document any action taken to include issuance of citations or written warnings. Refer also to General Order entitled "Enforcement Procedures". The person making the complaint should be notified and advised of any action taken by the Marshal ~~-,if requested.~~

B. Case File Management

1. Case files for criminal investigations and code enforcement investigations, will be maintained by the City.

C. Case Status Control System

All investigative case files are maintained in the Dacula Marshal's Office database for accountability. The database records: type or nature of the complaint, complaint location, business name and address, business owner and address, business phone number, contact name and phone number, offender's name address and phone number, complainant's name address and phone number, receiving officer and date received, assigned officer and date assigned, a narrative of the case, number of warrants or citations issued, warrant or citation number, code section number, written and verbal warnings, administrative hearings, pictures taken, audio/digital recordings (will be downloaded in separate file on your computer), how the case is closed, reporting officer and date of report, status open/closed, date closed, reviewer and date of last review. The case will remain in the open status until a report is received to clear the case. The database is capable of maintaining reports or records of "incidents by type" and "incidents by location".

D. Case Status Designation:

1. Open: The case has been assigned to an officer and active investigation has not been completed. Active leads should be present to justify a case remaining in open status.
2. Closed:
 - a. Arrest of those responsible for committing the crime.
 - b. Unable to confirm violation.
 - c. Violation corrected prior to official action.
 - d. Citations have been issued
 - e. Warrants have been taken
 - f. Exceptional clearance under the following conditions:
 - (1) Identity of the offender has been established.
 - (2) There is enough information to support an arrest.
 - (3) There is some reason outside department control that prevents arrest, such as:
 - (a) Victim doesn't wish to prosecute;
 - (b) Prosecution declined by prosecutor;
 - (c) Death of suspect;

(d) Prosecution will be pursued by victim.

- g. Suspended: there remains a valid complaint but due to circumstances beyond the control of the Marshal, the investigation is at a point of stall or standstill, such as a bench warrant situation, and it is unknown when the case may be reopened.
- h. Other: Case closed due to circumstances other than above.
- i. “Closed” status as indicated here is an administrative designation. For public dissemination purposes, an arrest case is not closed until the case is disposed of in court.

E. Case Investigator

Each case in which a follow-up investigation is being conducted will be assigned to a “case investigator”. It is the responsibility of the case investigator to conduct any follow-up investigation as dictated by the case requirements and/or the Chief Marshal. The case investigator will be the principal investigator and coordinator of that particular case. This does not preclude the assignment of additional personnel to a particular case. However, accountability for the case lies with the case investigator.

F. Administrative Designators

Cases will be assigned usually according to the geographical area of the investigation or dependent on present caseloads of officers; or the experience, expertise and knowledge of officers.

G. Case Assignment Status Control

The Marshal’s Office

database maintains a record of assigned cases which will include the following:

1. Officer assigned
2. Date assigned
3. Type of incident
4. Incident location

H. Maintaining Records

The officer assigned maintains the investigative case file until the investigation is completed. If necessary, all information may be copied and maintained by the officer for future reference. The original case files and attachments such as copies of citations or warnings and court orders or dispositions shall be submitted to the Chief Marshal upon completion for review. After review and the case is approved, the Chief Marshal shall officially close the case and file it numerically according

to the case number. The database will be updated when the case is completed and closed.

1. **Accessibility to the Files:** The files are stored in the Marshal's Office area and are available to the Marshals, the City Administrator, and the public to the extent permitted by law.
2. **Purging Files:** Only current year cases will be maintained in the active files. Past years case files will be boxed and stored in the Marshal's Office for safekeeping and for reference purposes. Completed cases in the database will automatically be removed from open status.
3. Where necessary for documentation, pictures, interviews and documents shall be maintained.
4. Interview and field voice recordings, if pertinent to an investigation or case, need to be downloaded and entered in that case file.
5. Interview and filed voice recordings that are not pertinent to an investigation or a case can be deleted after seven (7) working days.

DACULA MARSHAL'S OFFICE

2021-05: Code of Appearance

PURPOSE: To provide for an approved code of appearance for both plain clothed and uniformed sworn officers of the Dacula Marshal's Office.

POLICY: All sworn law enforcement officers of the Dacula Marshal's Office shall present a professional appearance while on duty, recognizing the fact that their appearance greatly enhances the image of the Marshal's Office and the law enforcement profession. An employee's appearance can greatly affect his/her job performance and the proficiency in which he/she does his/her job. Exceptions to this directive shall be when an officer is assigned to a function when he/she must blend with the environment to perform an undercover function. Officers will then seek supervisory recommendations on clothing type. Dacula Marshals will adhere to the following regulations:

PROCEDURE:

A. Code of Appearance (Plain Clothed Officers)

The clothing of the plain clothed employee should consist of a neat, clean, conservative business suit or sport coat and dress slacks, dress style shirt, and a tie or a golf-style/polo collared shirt or collared button-up shirt which may include the City of Dacula logo or the embroidered badge. Female attire will be appropriate as compared with the standard of male clothing. Jeans and other denim clothing are prohibited for either gender. Exceptions to this shall be when the Chief Marshal has prescribed and approved other clothing necessary and/or appropriate to meet a particular duty assignment or when an officer is assigned to a function when he/she must blend with the environment to perform an undercover function. Officers will then seek supervisory recommendations on clothing type. Any clothing that may tend to distract from a professional appearance may be restricted from use by the Chief Marshal. The dress code may be relaxed by permission of the Chief Marshal.

Plain clothed officers shall also adhere to the following regulations:

1. Ornaments and Jewelry

When on duty, no unfavorable badges, emblems or logos shall be worn. Ornaments or jewelry that may tend to be inappropriate or distracts from a professional appearance may be restricted from use by the Chief Marshal.

2. Weapon Carry

Officers assigned to wear plain clothing should make every attempt to conceal their weapon when in public. Plain clothed officers not wearing their primary

duty weapon shall have it readily available or in their immediate possession. In a circumstance when the weapon is worn unconcealed, the badge shall be worn on the belt clip holder in view at all times. Likewise, when articles of clothing are worn identifying the officer as a law enforcement officer, the member shall be suitably armed. Weapons worn in a shoulder holster shall remain concealed while the officer is in public. Female officers may carry their primary firearm in an alternate method of carry, i.e., purse. The primary carry of the primary weapon and any alternate method of carry must be inspected by a certified weapons instructor and approved by the Chief Marshal.

3. Grooming

Good grooming habits are very important in reflecting a professional appearance.

4. Hair

Hairstyles should be of a conservative style common to the professional image. Female hairstyles should be appropriate when compared to the male standard. The Chief Marshal may restrict any hairstyle that may tend to distract from a professional appearance.

5. Facial Hair

Neatly trimmed sideburns, mustaches, and beards will be permitted ~~for plain clothes offices except while wearing a duty uniform.~~ Facial hair shall be neatly trimmed and styled. The Chief Marshal may restrict any facial hair that may tend to distract from a professional appearance.

6. Issued Equipment

Equipment issued to all fulltime sworn employees assigned to wear plain clothing includes but may not be limited to the following:

7. Office issued weapon and 40 rounds of duty ammunition;

- a. Two (2) spare magazines;
- b. Belt holster and magazine carrier;
- c. Two (2) badges
- d. Belt clip badge holder
- e. City issued identification card. and I.D. / badge case: Officers shall at all times have on their person or immediate possession while on duty their city issued photo identification card and badge;

- f. Handcuffs; one (1) pair
- g. Soft body armor; soft body armor shall be provided, by the office, to every fulltime sworn officer of the Dacula Marshal's Office. Office authorized body armor will be worn at the discretion of plain clothes Marshals, but shall be kept readily available for use at the scene of a police incident where a clear and imminent danger is present;
- h. Cellular phone.
- i. 800 MHZ two-way mobile police radio.
- j. Reflective traffic vest; A departmentally issued traffic vest shall be provided for each departmental vehicle. The vest will be worn at any time day or night when the Marshal is performing a traffic control function or when performing other functions within the public right of ways.
- k. Expandable ASP baton and side-break rotating scabbard.
- l. Canister LE 10% Pepper Spray and nylon canister holder.

B. Code of Appearance (Uniformed Officers)

The duty uniform shall be the uniform of the day as directed by the Chief Marshal. Officers shall wear only the uniform specified for their particular rank and assignment. All articles of uniform and equipment worn or carried shall conform to the specifications set forth in this policy. The uniform shall fit properly, be neat, clean, and pressed, and in good condition. If any uniform article requires replacement, notify the Chief Marshal. Civilian clothing shall not be worn with any distinguishable part of the uniform when in public view, whether during or after hours.

- 1. Equipment issued to all fulltime sworn employees assigned to wear duty uniforms includes but may not be limited to the following:
 - a. Long sleeve Polo shirts
 - b. Short sleeve Polo shirts
 - c. Khaki uniform trousers
 - d. Departmentally authorized winter jacket
 - e. Rain Jacket
 - f. Boots, gloves, and hats
 - g. Duty belt with under belt and holster
 - h. Office issued weapon and 40 rounds of duty ammunition

- i. Two (2) spare magazines and magazine carrier;
 - j. Badges. The badge shall be worn on an office issued belt clip on the duty belt at all times when in uniform. One Badge shall be displayed on the winter jacket when worn and one badge is to be held in the office issued I.D./ badge case.
 - k. Belt clip badge holder
 - l. City issued identification card and I.D. / badge case: Officers shall at all times have on their person or immediate possession while on duty their city issued photo identification card and badge;
 - m. A minimum of one (1) pair of handcuffs shall be carried on duty at all times by those officers assigned to uniformed field duties.
 - n. Soft body armor shall be provided, by the Office, to every fulltime sworn officer of the Dacula Marshal's Office. The Office authorized soft body armor shall be worn while on duty at all times by those officers assigned to uniformed field duties.
 - o. A city issued cellular phone shall be carried on duty at all times by those officers assigned to uniformed field duties.
 - p. An 800 MHZ mobile radio shall be carried on duty at all times by those officers assigned to uniformed field duties.
 - q. An Office issued traffic vest shall be provided for each Office vehicle. The vest will be worn at any time day or night when the officer is performing a traffic control function or when performing other functions within the public right of ways.
 - r. Expandable ASP baton and side-break rotating scabbard.
 - s. Canister of LE 10% Pepper Spray and nylon canister holder.
2. The following items are also considered to be a part of the basic uniform but are provided by the individual Dacula Marshal. They must comply with the specifications listed in this order:
- a. T-shirts and/or insulated undershirts may be worn under the uniform shirt. No part of the t-shirt or insulated undershirt may be visible below the sleeve of the uniform shirt when wearing the long or short sleeve uniform shirt.
 - b. Socks (black or white cotton if worn under boots)
 - c. Black low-profile socks when worn with shorts
 - d. Sunglasses (outdoors only), with non-reflective lenses

3. Uniform and Equipment Specification

Hats are optional and will be worn squarely on the head. Hats will be of a style approved by the Chief Marshal and if worn, will be styled and colored consistently among all officers.

4. The uniform shirts will be long sleeve or short sleeve, according to the uniform of the day. The long sleeve shirt will be worn buttoned with the exception of the collar button. All shirts will have the appropriate Dacula Marshal's logo embroidered on the front of the shirts.

5. Uniformed officers shall also adhere to the following regulations:

a. Ornaments and Jewelry

When on duty, no unfavorable badges, emblems or logos shall be worn. Ornaments or jewelry that may be inappropriate or distracts from a professional appearance may be restricted from use by the Chief Marshal.

b. Grooming

Good grooming habits are very important in reflecting a professional appearance.

c. Hair

Hairstyles should be of a conservative style common to the professional image. Female hairstyles should be appropriate when compared to the male standard. The Chief Marshal may restrict any hairstyle that may tend to distract from a professional appearance.

d. Facial Hair

Mustaches, goatees, beards and neatly trimmed sideburns will be permitted for uniformed officers. ~~Beards or other facial hair is not permitted for any officer, uniformed or plain clothes, while wearing a duty uniform.~~ The Chief Marshal may restrict any facial hair that may tend to distract from a professional appearance.

e. Piercings

When on duty and in uniform no eyebrow, lip, nose, ear, tongue or other piercings shall be worn.

Female officers while on duty and in uniform may wear ear rings that do not extend beyond the ear lobe. The Chief Marshal may restrict any ear jewelry that may tend to distract from a professional appearance.

DACULA MARSHAL'S OFFICE

2021-06: Code of Conduct

PURPOSE: To set forth and establish a code of conduct to be followed by all employees both sworn and civilian of the Marshal's Office.

POLICY: Rules and regulations are necessary for the achievement of organizational goals. Primary among these goals is a requirement that all employees of the Dacula Marshal's Office adopt a general standard of conduct both on and off duty consistent with the professional standards of the law enforcement community and the City of Dacula.

PROCEDURE:

Administrative charges may be placed against an employee for any violation, either by omission or commission, of office and/or City of Dacula rules, regulations, or procedures, or for any conduct that tends to be detrimental to the good order, efficiency or discipline of the department. This shall apply in every case, even though such offense may not be specifically defined or set out in the rules, regulations or procedures of the department and/or the City.

All employees, both sworn and civilian, shall be thoroughly familiar with the rules promulgated in this policy and comply with all agency directives, as well as the City of Dacula Personnel Policies and Procedures Manual, and adhere resolutely to their requirements.

Although these rules cannot and do not cover every specific act of conduct or specific situation which an employee may encounter, their fundamental aim is to ensure optimum orderliness, and shall be the prevailing guideline for all behavior. The exercise of good judgment and the application of common sense together with the highest degree of cooperation by those entrusted with law enforcement are essential to effective police work.

The development of a well-disciplined and efficient Marshal's Office, which has the confidence and respect of the public, can only be accomplished when each employee realizes that his or her every action is closely observed by the public. Acts of misconduct or inefficiency not only reflect on the employee as an individual, but on the Dacula Marshal's Office and City as a whole.

RULES AND REGULATIONS:

A. Conduct

Conduct unbecoming an officer or employee shall include any conduct, which tends to bring the Dacula Marshal's Office into disrepute or tends to reflect discredit upon the officer, employee, Office, or City. It also includes any conduct, which tends to impair the operation or efficiency of the Office, or of the officer or employee. Officers and employees shall conduct themselves at all times, both on and off-duty, in such a manner so as to reflect most favorably on the Office and the city at large.

1. All members of the Dacula Marshal's Office shall be civil and orderly at all times, and shall refrain from coarse, profane or insolent language and racial slurs.

2. Members of the Dacula Marshal's Office shall meet the public with courtesy and consideration. Questions must be answered civilly and courteously; members shall not use slang or facetious expressions while talking to the public or other City employees.
3. It shall be the duty of every member of the Dacula Marshal's Office to promote good public relations by giving assistance when it is required; by the impartial administration of the law; and by clean, sober and orderly habits.
4. Unless necessary to do so in the performance of their duty, members of the Dacula Marshal's Office shall refrain from making non-family personal contacts with persons of questionable character, to include but not limited to convicted felons, and shall not frequent locations where it is reasonable to believe that criminal activity may be occurring.
5. Every member of the Dacula Marshal's Office shall refrain from using unnecessary force or violence, and shall not strike any person in their custody or any other person, except in self-defense, or immediate defense of a third party. However, they must be firm and resolute, and if resisted, may repel force with force, using only such force as reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer and all others.
6. All members of the Dacula Marshal's Office shall fulfill their financial obligations.
7. As per the City of Dacula Personnel Policies and Procedures, no employee shall be given or refused employment, suspended or discharged because of his/her vote or failure to vote in any primary or election. Employees are encouraged to exercise their individual right to vote.
8. No member of the Dacula Marshal's Office shall publicly criticize or ridicule the official action the City, a public official, or judge.
9. No member of the Dacula Marshal's Office shall at any time be insubordinate or disrespectful to a superior.
10. No member of the Dacula Marshal's Office shall fail to follow their applicable chain of command, absent prevailing exigent circumstances.
11. No member of the Dacula Marshal's Office shall willfully disobey, or fail to perform any lawful order, command, direction, instruction, or request, either verbal or written, of any departmental supervisor or other member designated to command, or City Administrator. A lawful order, command, direction, instruction, or request means any lawful verbal or written communication of a superior requiring the performance of a certain duty by an officer or employee.
12. No member of the Dacula Marshal's Office shall maliciously threaten, strike, or assault any person. Members who aid, abet or incite any altercation between members of the Dacula Marshal's Office shall be held responsible along with those actually involved.
13. All members of the Dacula Marshal's Office shall treat as confidential the official

documents, files, papers, communications, and other business of the City.

14. No member of the Dacula Marshal's Office shall knowingly make any false statement or misrepresentation of any material fact, oral or written, under any circumstance, with the intent to mislead any person or tribunal.
15. Members of the Dacula Marshal's Office shall be punctual in attendance to all calls, requirements of duty, court appearances, City Council meetings and Work Sessions and other circumstances where time is specified. In such cases where attendance is not possible, or a delayed response is indicated, notification to the Chief Marshal and other appropriate personnel and/or court should be made.
16. Members of the Dacula Marshal's Office shall be held strictly responsible for the proper and satisfactory performance of their duties, with adequate training. Members shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Members shall perform their duties in a manner, which will maintain the highest standards of efficiency in carrying out the functions and objectives of the Dacula Marshal's Office. Unsatisfactory performance may be demonstrated by a lack of knowledge of the application of laws required to be enforced; the lack of skill in the use of tools and equipment need to accomplish assigned tasks and responsibilities, an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the member's grade and/or position; the failure to take appropriate action on the occasion of a crime, disorder, code violation, or other condition deserving enforcement attention; absence without leave; or unnecessary absence from an assignment during a scheduled shift. In addition to other indications of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance; repeated less than satisfactory evaluation or a written record of repeated infractions of the Dacula Marshal's Office and/or city policies, regulations, directives or orders; repeated inability to perform assigned duties in a satisfactory manner including but not necessarily limited to physical, mental or emotional incapacitation including, but not limited to, that brought about by a member's use of alcohol and/or drugs shall also be considered unsatisfactory performance.
17. Members of the Dacula Marshal's Office shall not feign illness, avoid responsibility, and sleep on duty or otherwise attempt to shirk their duties.
18. All members of the Dacula Marshal's Office are prohibited from the indulgence in intoxicating liquors while on-duty, or while engaged in off-duty employment, in uniform or partial uniform. Only in cases requiring such action to carry out an assignment shall authority be granted to violate this rule; the Chief Marshal must give such authority. Overindulgence is forbidden. Members, while off-duty, shall refrain from consuming intoxicating beverages to the extent that it results in any behavior, or condition which would tend to discredit them or the Department, or such an extent that at the member's next regularly scheduled tour of duty, they are impaired or intoxicated and thereby unfit for duty.
19. Members of the Dacula Marshal's Office shall not bring any intoxicating liquor into any Office building or vehicle, nor shall they permit it to be brought therein, except as required in the performance of their duty.

20. Marshals are to exercise caution and safety in the deployment of their duties. If an employee has been prescribed a medically necessary prescription, or over the counter medicine that limits movement, slows reflexes, or otherwise makes the employee a safety risk to himself or others, he/she must notify the Chief Marshal of his/her incapacity. Medical inquires or specific questions about prescribed drugs should be directed to Human Resources. The Chief Marshal shall determine if a modified job assignment is available or if the situation warrants that the employee take leave.
21. Members of the Dacula Marshal's Office, in their private business transactions, shall not place themselves in a position which would tend to interfere with the proper discharge of their official duties. Likewise, members shall not misrepresent their position, abuse their lawful authority and/or misrepresent their qualifications to the public, whether on or off-duty, which may tend to discredit them or the Dacula Marshal's Office.
22. Members of the Dacula Marshal's Office are strictly prohibited from the targeting of people based on their race or ethnic background, commonly referred to as illegal profiling.

B. Property, Evidence, and Money

All members of the Dacula Marshal's Office who recover or come into the possession, custody, or control of any lost, stolen, seized, or abandoned property; evidence; or money; shall be held responsible to properly secure and handle such property, evidence, or money in conformity with the law and the established procedures of the Dacula Marshal's Office. Stolen goods, firearms, drugs or other contraband shall be delivered to the Gwinnett County Police Department for storage.

C. Firearms

Members of the Dacula Marshal's Office who are authorized to carry firearms shall exercise the utmost care and precaution in the preservation and use of such weapons.

1. All sworn members of the Dacula Marshal's Office shall be suitably armed while on-duty. Officers assigned to wear plain clothing shall make every attempt to conceal their weapon when in public. Plain clothed officers not wearing their primary duty weapon shall have it readily available or in their immediate possession. In a circumstance when the weapon is worn unconcealed, the badge shall be worn on the belt clip holder in view at all times. Likewise, when articles of clothing are worn identifying the officer as law enforcement officer, the member shall be armed. Weapons worn in a shoulder holster shall remain concealed while the officer is in public. Female officers may carry their primary firearm in an alternate method of carry, i.e., purse. The primary carry of the primary weapon and any alternate method of carry must be inspected by a certified weapons instructor and approved by the Chief Marshal.
2. Members of this Department shall only use firearms in accordance with Office Policy entitled "Officer's Response to Resistance and/or Aggression".

3. A Dacula Marshal's Office "Officer Response to Resistance and/or Aggression Report" must be submitted to the Chief Marshal whenever a firearm is discharged or drawn and pointed at a person, other than in training or qualification sessions. This report shall be completed by the member and the member's immediate supervisor, as soon after the incident as possible, but no longer than 24 hours. However, no employee shall be disciplined for failure to make a statement where the statement(s) could be incriminating unless the sworn employee has been given the following Garrity admonition:
 - a. The issue being investigated is administrative rather than criminal.
 - b. You are being ordered by a supervisor to answer questions.
 - c. The questions you will be asked are strictly and narrowly defined to determine your fitness for duty.
 - d. The answers given during the interview cannot be used in any future criminal investigation or criminal prosecution.
 - e. If you refuse to answer, you may receive punishment, which could include termination of your employment from the office.
4. When not in use, firearms shall be stored in a secure manner inaccessible to other persons.
5. All Dacula Marshal's Office firearms shall be immediately forwarded to the Chief Marshal for any repairs and adjustments, however slight.

C. Uniforms and Equipment

Members of the Dacula Marshal's Office shall wear such uniforms, badges, and equipment as prescribed in Departmental General Order entitled "Code of Appearance".

1. Members of the Dacula Marshal's Office are required at all times to be neat, clean, and well-groomed; uniforms and civilian clothes shall be cleaned and pressed; shoes, boots, leather, nylon and metal equipment shall be regularly polished; and all equipment shall be clean and serviceable.
2. Members of the Dacula Marshal's Office while on-duty shall wear the prescribed dress, and be properly armed and equipped, unless otherwise directed.
3. No member of the Dacula Marshal's Office shall allow any other person to use his or her badge or other means of personal identification.
4. Members of the Dacula Marshal's Office shall not sell, exchange, lend or borrow any part of their prescribed uniform and equipment, nor shall they wear their uniforms and equipment or any part thereof in any private performance, exhibition, or parade without permission of the Chief Marshal.
5. Members of the Dacula Marshal's Office whose equipment is lost or stolen shall cause to be completed a police report with a copy forwarded to the Chief Marshal.

6. Members of the Dacula Marshal's Office shall be held responsible for all equipment and tools issued, or assigned to them, or held or used by them, and where it is established that any part thereof is lost or damaged through negligence; the member(s) concerned shall be obligated to replace it at their own expense. All members of the Dacula Marshal's Office shall assume personal responsibility for all Office property issued to them or placed in service for their use or convenience, and shall notify their supervisor immediately when such property or equipment requires repair or replacement. Members who elect to store issued equipment within desks, lockers, etc., shall inspect such equipment periodically to ensure its presence and condition.
7. Members of the Dacula Marshal's Office under investigation for alleged misconduct or criminal activity may be required to turn over Office service weapon(s), identification, badges, and keys and any other Office property deemed necessary by the Chief Marshal or designee.

D. Leave, Sickness, and Injury

Members of the Dacula Marshal's Office shall perform their prescribed scheduled shift except when on authorized personal or medical leave.

1. Members of the Dacula Marshal's Office shall not absent themselves from duty without proper authority.
2. All applications from members of the Dacula Marshal's Office for leave of absence shall be made on the City of Dacula "Request for Leave" form, and shall be approved or disapproved by the Chief Marshal or designee.
3. Members who are unable to report for duty for any reason shall promptly notify or cause to be notified the Chief Marshal. Members who sustain an injury in the line of duty shall promptly notify or cause to be notified the Chief Marshal and the City Administrator.
4. Members of the Dacula Marshal's Office on medical or sick or administrative leave or light duty shall not engage in extra or off- duty employment or training.
5. Any member on sick leave for three (3) or more consecutive workdays may be required to return with a treating clinician's excuse and must complete all return-to-work requirements from Human Resources. An employee may also be required to provide medical certification if a request for sick leave falls within a period when the employee is on vacation leave, or is absent from work frequently or habitually.
6. When an employee is absent from work due to a physical ailment or injury or psychological reason the employee must provide a full medical/psychological fitness for duty release from the treating physician to Human Resources personnel.

E. Reports and Communication

In the transaction of Dacula Marshal's Office business, all reports and communications shall be prepared and handled in accordance with the procedure

of the Office.

1. Unless otherwise ordered, members of the Dacula Marshal's Office shall refrain from discussing with the public any of the general policies or business of the Dacula Marshal's Office. Only the Chief Marshal or persons authorized by the rules, regulations, or procedures shall release information concerning the general policies or business of the Dacula Marshal's Office.
2. As per the City of Dacula Personnel Policies and Procedures, the primary purpose of city's telephones is to provide a convenient means of communications to serve our customers and to conduct the internal and external business of the City of Dacula.

a. Personal Phone Calls

All personal calls shall be very limited especially when using wireless cellular communication. Employees should understand that office phones and cellular phones are provided for use in business transactions or business communication for the City of Dacula. However, from time to time this equipment may be used for personal use to make personal calls. Personal calls by employees, especially on cellular phones, may be limited by the Chief Marshal when deemed to be excessive. Personal solicitation such as soliciting ads, sale of products, or services, and any business for private income or similar activities are prohibited. City employees are publicly paid and are expected to spend their time on assigned tasks and not on activities that produce private income. Personal phone calls shall be placed on hold or terminated when attention should be directed toward conducting City business or attending to customers.

Exceptions: Any unusual circumstance that would cause deviation or variance from these policies should be discussed with and approved by the Chief Marshal.

3. Members of the Dacula Marshal's Office are required to report through official channels any change in their address or telephone number within twenty-four (24) hours, or as soon as practical.
4. Such reports as may be required to properly administer the affairs of the Dacula Marshal's Office, or to furnish information, shall be submitted in accordance with Office procedure.

F. Office Records

All members of the Dacula Marshal's Office whose duties require them to maintain Office records shall do so in accordance with the provisions of the law and the established procedures of the Dacula Marshal's Office.

1. No member of the Dacula Marshal's Office or other person(s) shall have access to or make a transcript from Office records except where permitted by Office procedures, or unless so directed by the Chief Marshal.
2. No member of the Dacula Marshal's Office shall remove or give to any other person any official document or copy thereof, or file or copy thereof, belonging

to the Dacula Marshal's Office, whether contained in the buildings or vehicles without authority of the Chief Marshal or under due process of law.

G. Miscellaneous Rules

1. Members of the Dacula Marshal's Office are prohibited from affiliating with any organization or body, the provisions of whose constitution or charter would tend to in any way prevent or hinder them from performing their duty as members of the Dacula Marshal's Office or tend to bring discredit upon themselves or the office.
2. Members of the Dacula Marshal's Office shall not recommend or suggest to persons in their custody, or persons suspected of violating the law, or persons involved in accidents, the name of any person, firm, or corporation, as attorney, counsel or bondsman; nor shall any members be directly or indirectly concerned with making any arrangements, agreements, or compromises between a person charged with a City code violation or criminal offense and the victim/complainant and/or any other party/person thereto; nor become involved in any matter for the purpose of allowing the criminal or violator to escape punishment as provided by law or in any other way interferes with the criminal justice or administrative process, in a manner, which is inconsistent with legal and ethical standards and/or protocols.
3. Members of the Dacula Marshal's Office shall not, without proper authority, release any suspect or person in their charge or, through neglect or design, allow any suspect or person in their charge to escape.
4. Members of the Dacula Marshal's Office shall not solicit nor accept any gratuities, rewards, discounts, or gifts regardless of value, from persons or businesses except with prior approval of the Chief Marshal and as provided by law and City of Dacula Personnel Policies and Procedures. **Attention is directed to the Official Code of Georgia (O.C.G.A.) Title 16, Chapter 10, Article 2, entitled "Bribery".**
5. Members of the Dacula Marshal's Office are advised that acts of dishonesty will have an impact on their ability to act as a witness in a criminal and/or court proceedings and may force the Dacula Marshal's Office into a position where termination is the only appropriate response to such disciplinary actions.

DACULA MARSHAL'S OFFICE**2021-07: Code of Ethics**

PURPOSE: To establish a code of ethics to be followed by the personnel of the Dacula Marshal's Office.

POLICY: Sworn officers of the Dacula Marshal's Office are required to abide by the Law Enforcement Code of Ethics as published by the International Association of Chiefs of Police.

PROCEDURE:**CODE OF ETHICS:**

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all men to liberty, equality, and justice.

I WILL keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I WILL never act officiously or permit personal feelings, prejudices, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I RECOGNIZE the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession — LAW ENFORCEMENT.

DACULA MARSHAL'S OFFICE

2021-08: Collection and Preservation of Property and Evidence

PURPOSE: Proper collection and preservation of property and evidence is essential to the function of any law enforcement agency.

POLICY: Members of the Dacula Marshal's Office shall comply with all legal and generally accepted scientific requirements in the collection and preservation of property and evidence. It shall be the policy of this office that such property and/or evidence shall be placed into secure areas before the completion of the officer's tour of duty. Such property shall be logged into agency records as soon as possible by personnel having responsibility with such function. It is the responsibility of each officer to attempt to identify and notify the owner or custodian of property in the office custody.

PROCEDURE:

- A. Processing Evidence at the Scene
 - 1. Member Responsibilities (Crime Scene: State Law Violations)
 - a. Members of the Dacula Marshal's Office
 - (1) There may be times when Marshal is the first officer on the scene of a crime. It is that officer's responsibility to secure the scene to prevent contamination or destruction of evidence. This can be accomplished by the use of crime scene markers such as crime scene tape or simply by the officer's presence, depending upon the nature and scope of the scene.
 - (2) The Marshal shall document any persons on the scene upon his/her arrival and shall immediately request members of the Gwinnett County Police Department to respond to the scene. Once officers of the Gwinnett County Police Department arrive at the scene of a crime, the scene will be relinquished and officers of the Gwinnett County Police Department will take charge of the scene.
 - (3) It will be the responsibility of the Gwinnett County Police Department to completely process crime scenes and recovered stolen vehicles. This includes photographing, diagramming, and sketching the scene; and collecting and preserving evidence.
 - 2. Methods for Processing Physical Evidence in the Field (Code Violations)
 - a. Methods used shall be those that will preserve the condition of the evidence in the process of collection; prevent the introduction of foreign materials to it, and ensure as complete a sample as possible and practical.
 - 3. Equipment
 - a. All Dacula Marshal's Office vehicles shall be maintained with a supply of

evidence bags for the collection and preservation of physical evidence.

4. In such instances where latent prints or perishable evidence which will be submitted to the Crime Lab, officers of the Dacula Marshal's Office will request assistance from the CID or shift supervisor of the Gwinnett County Police Department in collecting such evidence. Whenever possible the Chief Marshal shall be notified before such request for assistance.
5. Special consideration must be given to handling of perishable evidence which will be submitted to the Crime Lab. Collection and preservation of evidence to be submitted to the Crime Lab will be accomplished, logged and stored by officers of the Gwinnett County Police Department according to their policies and procedures.
6. Code Violation Photography
 - a. All aspects of the scenes of major code violation cases or major nuisance cases shall be photographed by officers of the Dacula Marshal's Office.
 - b. When it may be necessary to determine from a photograph the exact size of an object, a scale shall be used in the field of view.
 - (1) Photographs of the entire scene shall be made without a scale being introduced into the field of view.
 - (2) Where a scale is used, a photograph shall be made without the scale and with the scale using the same camera setting, lighting conditions, and camera position.
 - (3) In some instances, in lieu of introducing a scale into the photograph, a measurement of a fixed object in the scene may be taken to provide a scale of reference.
 - (4) The photographer must be aware that without a scale, objects cannot be adequately reproduced for any later comparisons.

B. At Scene Evidence Records

1. The officer who collects property and evidence must be able to positively identify each item of evidence in court. This is accomplished by proper marking, labeling, and sealing of evidence. This begins at the scene when the evidence is initially collected.
 - a. Marking, Labeling, Sealing
 - (1) Items that can be marked shall be marked individually with date and officer's initials or other identifying mark.
 - (2) All items should be placed in appropriate container; the container properly labeled and sealed.
 - (3) Seals shall be marked sufficiently to ensure integrity of chain of evidence.

2. At the time evidentiary photographs are taken, the date, time, location, and case number shall be recorded.
3. Custody of Property and Physical Evidence
 - a. Custody of every item of evidence recovered by officers of the Dacula Marshal's Office as the result of their official duties including digital photographs, videos, audio tapes and certain other documents shall be stored in the City's file. Should such items involve a violation of State law, those items shall be collected by appropriate personnel of the Gwinnett County Police Department having responsibility for keeping property and evidence for logging and safekeeping until such time as the case is disposed. Personal use of any property is strictly prohibited.

C. Training

1. All officers shall receive at a minimum, familiarization training in the following subjects:
 - a. Potentialities and limitations of the examination of physical evidence
 - b. Written directives concerning the role and function of the evidence collector's responsibilities
 - c. Collection methods and procedures regarding fingerprints, footprints, blood, fibers, fabrics, weapons, hairs, paint, glass, tool marks, and the requirements for collection of materials from a known source for comparison purposes
 - d. Preservation methods for various forms of evidence
 - e. Maintenance of the chain of evidence, marking, custody, and records
 - f. Sketch
 - g. Photography
 - h. Records
2. In-service and roll-call training shall be provided for all personnel in evidence processing. Among other things, this training should include updates in laboratory capabilities and new equipment and examination techniques.

D. Organization and Administration

1. Crime scene specialists of the Gwinnett County Police Department are available twenty-four (24) hours a day and may be requested as need be by members of the Dacula Marshal's Office.
 - a. Officers of the Dacula Marshal's Office on the scene shall secure the scene and stand by for the arrival of the crime scene specialist.
 - b. Nothing at the scene should be disturbed prior to the arrival of the crime scene specialist. If, due to emergency, disturbance of the scene is necessary,

any movement of items should be noted and the specialist apprised of this.

2. The services of a crime scene specialist shall require prior approval of the Chief Marshal, with notification of the crime scene specialist by the highest ranking on duty supervisor of the Gwinnett County Police Department's patrol or criminal investigations division.

DACULA MARSHAL'S OFFICE

2021-09: Reserved

DACULA MARSHAL'S OFFICE

2021-10: Reserved

DACULA MARSHAL'S OFFICE

2021-11: Criminal Investigations and Covert Operations

PURPOSE: To establish guidelines to be followed in criminal investigations and covert operations including vice and organized crime investigations.

POLICY: The Dacula Marshal's Office shall, as it becomes necessary and is authorized by the Chief Marshal, assist the Gwinnett County Police Department with criminal investigations and conduct covert operations including surveillance, and undercover operations. The Dacula Marshal's Office shall not initiate the conducting of raids but may assist the Gwinnett County Police Department in conducting raids as provided by law in support of the covert operations.

DEFINITIONS:

CRIMINAL INVESTIGATIONS: Investigations conducted following the violation of Local, State or Federal laws.

SURVEILLANCE: The covert observation of persons, vehicles, places or objects to obtain information concerning the activities and identities of individuals.

UNDERCOVER OPERATIONS: Police investigative techniques involving the use of law enforcement officers acting in a capacity where the officers and/or undercover operatives' identity is undisclosed. Its objective is to gather evidence of a crime or merely to accumulate evidence about suspected criminal activity.

PROCEDURE:

A. Criminal Investigations

1. In preliminary and follow-up investigation of incidents involving violations of State or Federal law, personnel of the Dacula Marshal's Office will be a supporting agency and assist at the request and direction of the Gwinnett County Police Department. Whether a case is assigned or self-initiated, officers of the Dacula Marshal's Office shall provide preliminary and follow-up investigative services.
2. Information Development and Execution of Background Investigations: Potential sources of information include but are not limited to G.C.I.C. records, Office case files, other officers, friends, family and neighbors of the suspect or applicant. Background investigations for criminal cases will be handled by the Gwinnett County Police Department. In reference to code violation investigations and licensing and permit investigations; if necessary, the Dacula Marshal's Office will perform a limited background check of criminal history, previous and current licenses/permits held, and past criminal cases. These investigations should be conducted discreetly and with special precautions. Use of background information shall be limited to the intended use and need for the

information. The information collected shall be stored in a secure location until files are purged and archived according to established departmental procedures.

3. Interviews and Interrogations: Field interviews are a productive tool and a good source of information. When used properly, they can discourage criminal activity, identify suspects and add intelligence information to the files. They can also be used as an educational tool. Eyewitness statements should be reduced to writing, if possible. Statements obtained during an interview with a suspect must not be based on coercion, promises, delays in arraignments, or deprivations of counsel. A suspect under arrest should be advised of the Miranda warning and a waiver of rights completed before interviewing.

B. Surveillance

1. The following are some of the objectives of surveillance:
 - a. To protect undercover officers or to corroborate their testimony;
 - b. To obtain evidence of a crime;
 - c. To locate persons;
 - d. To check the reliability of informants;
 - e. To locate hidden property or contraband;
 - f. To obtain probable cause for search warrants;
 - g. To prevent the commission of an act, or to apprehend subjects in the commission of an act;
 - h. To obtain information for later use in interrogation;
 - i. To develop leads and information received from other sources;
 - j. To track the movements of an individual;
 - k. To obtain evidence for court.
2. The following are procedures which shall be used in surveillance operations:
 - a. No surveillance operation will be initiated unless there is an articulable suspicion that the person or location placed under observation is engaged in criminal activity, or unless in conjunction with an undercover operation.
 - b. Prior to initiating a surveillance operation, the Chief Marshal or designee shall:
 - (1) Analyze all available intelligence information pertaining to the operation (e.g., crime and victim analysis);
 - (2) Identify and analyze probable offenders and their habits, associates, vehicles, methods of operation and any and all pertinent information;
 - (3) Familiarize assigned officers with targeted areas for surveillance;

- (4) Establish operational procedures for observation, tails, and effecting the arrest;
 - (5) Provide expense funds for surveillance teams (e.g., admission fees, cover charges, etc.);
 - (6) Establish a means of communication (e.g., portable radio, cell phones, etc.);
 - (7) Select needed specialized equipment or vehicles;
 - (8) Provide adequate relief for surveillance team;
 - (9) Contact the District Attorney's Office for legal advice when appropriate.
- c. A chronological log of the surveillance shall be kept by at least one officer, making note of descriptions of vehicles, people, etc.
- d. Electronic Surveillance
- (1) All electronic surveillance (wiretaps or other mechanical devices) shall be conducted pursuant to a valid court order.
 - (2) Normally, before a wiretap is sought, all other investigative means should be exhausted. Investigators must show that they have attempted to infiltrate and break a particular illicit operation through traditional means.
 - (3) In order to gather information or evidence on a suspect, conversations between the suspect(s) and informant(s) or undercover officer(s) may be recorded with the consent of the officer(s) or the informant(s) or undercover operative(s).
- e. Surveillance Equipment
- (1) To prevent unauthorized use and loss of expensive and sophisticated surveillance and undercover equipment, the distribution and use of any equipment shall be approved by the Chief Marshal and if the equipment is to be borrowed from the Gwinnett County Police Department, the distribution and use of their equipment shall also be approved by the Criminal Investigation Department of that department according to their policies and procedures.
 - (2) A checkout form shall be used to distribute equipment.

C. Undercover Operations

- 1. Undercover operations will only be initiated with the approval of the Chief Marshal.
- 2. The Chief Marshal shall be notified initially and prior to any undercover operations.

3. Undercover operations shall only be conducted while under the direct supervision of the Chief Marshal.
4. Prior to initiating any undercover operation, the Chief Marshal will be responsible for addressing the following:
 - a. An analysis of suspect(s) and their identity;
 - b. Provisions for initiating contact with suspects;
 - c. An analysis of the neighborhood surrounding the target area;
 - d. False identities for surveillance officers with appropriate credentials (if applicable)
 - e. Maintenance of confidentiality of false identities;
 - f. Expense funds;
 - g. Securing necessary equipment to carry out the operations;
 - h. Determination of communication channel(s) or other appropriate communication methods, especially emergency communications;
 - i. Determining legal ramifications of the operation seeking advice from the District Attorney's Office when appropriate;
 - j. Plans and guidelines should an arrest result;
 - k. Ensuring that adequate police personnel are available for the safety of the undercover personnel involved in the operation;
 - l. Ensuring that close supervision is provided throughout the operation;
 - m. Civilian undercover agents shall be required to complete a Dacula Marshal's Office "Release and Indemnity Agreement" form prior to performing any activities or riding in any City owned vehicle.
 - n. A file shall be maintained on each civilian undercover agent to include at minimum: a facial photograph, photocopy of their driver's license and/or birth certificate or passport, current home address, home and/or cell phone numbers, the signed original Release and Indemnity Agreement. (Refer to General Order entitled: Confidential Informant Management)

DACULA MARSHAL'S OFFICE

~~2021-12~~: Departmental Written Directives System

PURPOSE: The purpose of this policy is to establish a written directives system; to define terms used in Dacula Marshal's Office written communication; and to provide procedures used in all Departmental written communication.

POLICY: There is hereby established a system of Dacula Marshal's Office written directives consisting of General Orders, Special Orders, Personnel Orders, Supervisory Orders, and Memorandums. Directives will be issued and maintained in accordance with the provisions set forth in this and other applicable General Orders.

All personnel are responsible for knowing and adhering to the provisions of all orders which affect them in any way.

DEFINITIONS:

GENERAL ORDER: A written directive issued by the Chief Marshal which establishes a policy or procedure concerning a given subject.

SPECIAL ORDER: A written directive issued by the Chief Marshal which establishes temporary principles, policies or procedures on any given subject, usually for a specific stated length of time.

PERSONNEL ORDER: A written directive issued by the Chief Marshal which changes the status of personnel, such as new appointments or promotions.

SUPERVISORY ORDER: A written or verbal directive issued by the Chief Marshal for the purpose of directing subordinates' activities.

MEMORANDUM: An informal, written document issued by any member of the Office used to clarify, inform or inquire.

PROCEDURE:

A. General Orders

1. General Orders are issued and or amended only by the Chief Marshal and establish a policy or procedure concerning a given subject and require his or her signature for validation.
2. General Orders are in effect until revoked by a subsequent General Order or Special Order.
3. General Orders are numbered in sequence, with the year of issue shown first, and followed by the number of the General Order for that particular year.
4. General Orders are incorporated into the Office Policy and Procedures Manual.
5. If a General Order supersedes or amends an existing order in the index or manual, it is to be placed in that part of the manual it has replaced. If it is a new policy or procedure, it will be maintained in the policy manual following sequence of General Order number and date. All General Orders prior to the

adoption of this policy manual shall remain in effect unless otherwise superseded.

6. All General Orders will be incorporated into an Office General Order form. The General Order form heading will contain the following information:
 - a. Number: (number of the General Order);
 - b. Amends: (information as to previous directives that are amended by this order);
 - c. Rescinds: (information as to previous directives that are rescinded by this order);
 - d. Standard: (State of Georgia Law Enforcement Certification Standard that relate to this General Order);
 - e. Distribution: (Office members who are affected by, responsible for, and who will receive the General Order. Generally, this will be all personnel).
7. General Orders will be cited in the following format:

SUBJECT: (Statement)

ISSUE DATE: (Date of issue of the order)

EFFECTIVE DATE: (Date the order becomes effective. This date should generally be seven 7 days from the issue date to allow for dissemination.)

PURPOSE: (Statement)

POLICY: (Statement - when applicable)

DEFINITIONS: (When applicable)

PROCEDURE:

A. (Topic)

1. (Section)

a. (Sub-section)

(1) (Sub-section)

a. (Sub-section)

8. Staffing of General Orders:

Proposed General Orders are to be presented at Office Staff Meetings for review by the members of the Dacula Marshal's Office. It shall be the responsibility of the Chief Marshal to present General Orders for review. Options in reference to the proposed General Order upon review are:

- a. Approve the order for implementation as presented upon final approval of

the Chief Marshal.

- b. Remand the order for recommended changes and/or additions.
 - c. Disapprove the order.
9. It is the responsibility of the Chief Marshal to coordinate, review, revise, update, or purge the Office's policy manual on an annual basis using the effective date assigned to each section of policy, or as directed by the Chief Marshal.
 10. The Chief Marshal shall coordinate the development, staffing, and issuance of all orders.
 11. Dissemination Procedures:
 - a. General Orders shall be disseminated to all personnel.
 - b. All General Orders will be incorporated into the Dacula Marshal's Policy and Procedures Manual as instructed upon dissemination.
 - c. The Chief Marshal shall have the overall responsibility for the dissemination of General Orders.
 - (1) The Chief Marshal shall be responsible for ensuring that members of the Dacula Marshal's Office receive issued General Orders.
 - (2) The Chief Marshal shall issue members of the Dacula Marshal's Office a copy of the order along with a Recipient Verification Form. The Office member shall print and sign his/her name on the Recipient Verification Form to indicate that the order has been received. This will also indicate that he/she accepts responsibility for knowledge of the contents of the order. Upon completion, Recipient Verification Forms shall be returned to the Chief Marshal.
 12. The Chief Marshal shall maintain a filing system for all General Orders and Recipient Verification Forms.
 13. Members of the department are to ensure that their Policies and Procedures Manuals are kept up to date and the Chief Marshal shall periodically conduct inspections of the Dacula Marshal's Office Member's Policy and Procedures Manuals to ensure that they have been kept up-to-date.

B. Special Orders

1. Special Orders are issued by the Chief Marshal and require the Chief Marshal's signature for validation.
2. Special Orders will be issued on Office Special Order forms.
3. Special Orders may be applicable to the Office as a whole or to a specific member or component.

4. Special Orders are numbered in sequence with the year of issue shown first, followed by the number of the Special Order for that particular year.
5. When the effective period of a Special Order is not stated, it automatically becomes inoperative with the passing of the incident or situation that caused its issuance.
6. Dissemination Procedures:
 - (1) The Chief Marshal shall have the overall responsibility for the dissemination of Special Orders.
 - (2) The Chief Marshal shall be responsible for ensuring that members of the Dacula Marshal's Office receive issued Special Orders.
 - (3) The Chief Marshal shall issue members of the Office a copy of the order along with a Recipient Verification Form.
 - (4) The Chief Marshal shall have the Dacula Marshal's Office member print and sign his/her name on the Recipient Verification Form to indicate that the order has been received. This will also indicate that he/she accepts responsibility for knowledge of the contents of the order. Upon completion, Recipient Verification forms shall be returned to the Chief Marshal.
7. The Chief Marshal shall maintain a filing system for all Special Orders and Recipient Verification Forms.

C. Personnel Orders

1. Personnel Orders are issued by the Chief Marshal and require the Chief Marshal's signature for validation.
2. Personnel Orders shall be issued on Office Personnel Order forms.
3. Personnel Orders are numbered in sequence with the year of issue shown first, followed by the number of the Personnel Order for that particular year.
4. Dissemination Procedures: The Chief Marshal shall have the overall responsibility for the dissemination of Personnel Orders.
 - (1) The Chief Marshal shall be responsible for ensuring that members of the Dacula Marshal's Office receive issued Personnel Orders.
 - (2) The Chief Marshal shall issue members of the Office a copy of the order along with a Recipient Verification Form.
 - (3) The Chief Marshal shall have the departmental member print and sign his/her name on the Recipient Verification Form to indicate that the order has been received. This will also indicate that he/she accepts responsibility for knowledge of the contents of the order. Upon completion, Recipient Verification Forms shall be returned to the Chief Marshal.
5. The Chief Marshal shall maintain a filing system for all Personnel Orders and

Recipient Verification Forms.

D. Memorandums

1. A Memorandum can be issued by any member of the Office and is validated by the member's initials.
2. All Memorandums shall be issued on Office Memorandum forms.
3. Memorandums are the basic means of written communication with the Office and provide a written documentation of clarifications, inquiries, and information dissemination. They are informal and do not contain orders. They are to be used for information dissemination within the components of the Dacula Marshal's Office.
4. Copies of all Memorandums shall be forwarded to the Chief Marshal for review and administrative filing.
5. Memorandums may be used for communication with other members of the Office and other departments of City government. Such Memorandums shall be routed through the Chief Marshal and require the Chief Marshal's initials for validation.
6. Memorandums are not to be used for communication outside City government. A letter format is appropriate for this type communication.
7. It shall be the responsibility of the member issuing the Memorandum to ensure that it is disseminated to all affected personnel and a copy forwarded to the Chief Marshal for administrative filing.

DACULA MARSHAL'S OFFICE

2021-13: Diplomatic Immunity

PURPOSE: To establish the proper procedure for taking enforcement action against individuals who may be immune from arrest and/or detention and to establish protocols for those persons seeking political asylum and/or defection.

POLICY: It shall be the policy of the Dacula Marshal's Office to abide by all Federal and State laws as they apply to individuals who may be immune from arrest and/or detention and for those persons who seek political asylum and/or defection.

PROCEDURE:

A. Initial Contact

1. A person about to be arrested has the right to know that he/she is being taken into custody by an officer with lawful authority. A person is considered to have notice if he/she:
 - a. Actually knows the person making an arrest is an officer;
 - b. Is able to see the officer's uniform or badge;
 - c. Is apprehended while committing a crime;
 - d. Is pursued from the scene of a crime; or;
 - e. Is told by the officer of the officer's status, the reasons for an arrest and are advised of his/her constitutional rights.
2. If an officer who is unknown to a suspect fails to identify themselves or to make their purpose known, the suspect has the right to resist what appears to be an unjustified assault. However, once the officer is identified, the assumption that the arrest is unlawful is no longer valid.
3. If a person knows or believes that the arrest is lawful, it is their duty to submit quietly to custody. An officer making a lawful arrest has the right to use whatever force is necessary to accomplish the arrest, but no more than is necessary to take the suspect into custody. (Refer to General Order entitled "Use of Force".)

B. Foreign Nationals / Diplomats / Consular Officials

1. Citizens of other nations who reside in or are visiting Georgia are subject to Georgia law (*Silver v. State*, 147 Ga. 162, 166 - 167. [1917]) and except as indicated below, foreign nationals who are arrested will be treated in the same matter as U.S. citizens. (*Harisiades v. Shaughnessy*, 342 U.S. 580, 586, 72 S. Ct. 512, 96 L.Ed.2d 586, 597 (1951); *Wong Wing v. United States*, 163 U.S. 228, 237, 16 S. Ct. 977, 41 L. Ed 140, 143 [1895]).

- a. A foreign national who is arrested (taken into custody) will be informed that he or she has the right under a treaty to which the United States is a party (*Vienna Convention on Consular Relations*, Art. 36(l)(b), 21 U.S.T. 77, T.I.A.S. 6820, 596 U.N.T.S. 261 - hereafter referred to as the “Vienna Convention” was ratified by the United States in 1969) to have his or her country’s embassy or nearest consulate notified of his or her arrest and detention. This should be done at the time of the arrest but no later than during booking at the Gwinnett County Detention Center. (*Vienna Convention*, Art. 36(1)(b); U.S. Dept. of State, *Memorandum, Notice for Law Enforcement Officials on Detention of Foreign Nationals*, April 20, 1993, see also *Rep. Of Paraguay v. Allen*, 134 F3d 622, 625 (4th Cir. 1998))
- (1) A notation should be made in the incident report of the fact that the accused was advised of his or her rights under the Vienna Convention on Consular Relations and whether or not the accused requested that the embassy or consulate be contacted.
 - (2) If the foreign national asks that their embassy or consulate be notified, it is the Dacula Marshal’s Office responsibility to contact the consulate or embassy. (*Vienna Convention*, Art. 36(1) (b)). Unless the accused is a national from the countries listed below, do not notify the embassy/consulate unless the accused requests they be notified. (*Vienna Convention*, Art 36(1) (c). See Kadish, at 598.)
 - (3) An updated listing of consulates and embassies can be found at the U.S. State Department web site: <http://www.state.gov>. This site also contains translations of the suggested rights warning in several different languages.
2. By law, if a citizen of any of the following countries is arrested, the Chief Marshal will notify the nearest consulate of the embassy of the arrest. (*Detention of Foreign Nationals; Id., CONSULAR NOTICATION AND ACCESS*, at http://www.state.gov/www/about_state Compliance with these treaty obligations regarding notification “is essential to ensure that similar notice is given to U.S. diplomatic and consular officials when U.S. citizens are arrested or detained abroad.” *Id.* “United States citizens are scattered about the world - as missionaries, Peace Corps volunteers, doctors, teachers and students, as travelers for business and for pleasure. Their freedom and safety are seriously endangered if state officials fail to honor the Vienna Convention (on Consular Relations) and other nations follow their example.” *Breard v. Pruett*, 134 F3d at 622 (Butzner, J. concurring)).
- a. The accused will be told that his or her embassy or consulate will be contacted, even if the accused does not want his or her consulate notified. (*Id.*) The Chief Marshal should contact the U.S. State Department for additional guidance if the accused indicates a fear of persecution or mistreatment by his or her government. The U.S. State Department may be contacted by phone at the following: (1) Business hours: 202-647-4415 or fax at 202-736-7559 (2) After business hours: 202-647-1512.
 - b. Notification of the consulate will be made at the time the accused is booked. (Consular treaties between the United States and some mandatory

notification countries provide for a longer period in which the consulate or embassy must be notified. See e.g., 26 U.S.T. 687, Art. 38(2); 23 U.S.T. 2873, Art. 35(2). However, most require immediate notification. For this reason, a policy of immediate notification no later than booking is strongly recommended). A suggested form for sending a fax notice to the applicable consulate can be found at the State Department Web Site.

- c. NOTE: If the accused also requests asylum, contact the U.S. State Department for further guidance prior to notifying the consulate or embassy.

- | | |
|--------------------------------|---|
| (1) Antigua and Barbuda % | (32) Moldova # |
| (2) Armenia # | (33) Mongolia |
| (3) Azerbaijan # | (34) Nigeria % |
| (4) Bahamas % | (35) Philippines |
| (5) Barbados % | (36) Poland |
| (6) Belarus # | (37) Romania |
| (7) Belize % | (38) Russia # |
| (8) Brunei % | (39) St. Kitts and Nevis % |
| (9) Bulgaria | (40) St. Lucia % |
| (10) China Peoples Republic of | (41) St. Vincent and the Grenadines % |
| (11) Congo Republic of % | (42) Seychelles % |
| (12) Costa Rica | (43) Sierra Leone % |
| (13) Cyprus % | (44) Singapore % |
| (14) Czech Republic | (45) Slovakia |
| (15) Dominica % | (46) Tajikistan # |
| (16) Fiji % | (47) Tanzania |
| (17) The Gambia % | (48) Tonga % |
| (18) Georgia Republic of # | (49) Trinidad and Tabago % |
| (19) Ghana % | (50) Turkmenistan |
| (20) Grenada % | (51) Tuvalu % |
| (21) Guyana | (52) Ukraine |
| (22) Hong Kong | (53) <i>United Kingdom, including Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands</i> |
| (23) Hungary | (54) <i>U.S.S.R. (Although the U.S.S.R. no longer exists as a national entity, many citizens of its successor states still carry passports issued by the former U.S.S.R.)</i> |
| (24) Jamaica % | (55) Uzbekistan # |
| (25) Kazakhstan # | (56) Zambia % |
| (26) Kiribati % | |
| (27) Kuwait % | |
| (28) Kyrgyzstan # | |
| (29) Malaysia % | |
| (30) Malta % | |
| (31) Mauritius % | |

% *Rules applicable to United Kingdom apply.*

Rules applicable to the former U.S.S.R. apply.

3. Diplomatic and consular officers have the legal right to consult with their citizens who are detained by federal, state or local authorities. (*Vienna Convention on Consular Relations*, Art. 6, 36(1) (c); see generally, *Dupree v. United States*, 559 F.2d 1151, 1154 (9th Cir. 1977); *Breard v. Pruett*, 134

F.3d at 619 - 620; *Murphy v. Nether and*, 116 F.3d at 99 - 101; *Faulder v. Johnson*, 81 F.3d at 520). Any communication by a detained foreign national must be forwarded to the consular post without delay.

- a. A diplomatic or consular official who is acting in this capacity will be treated with the utmost courtesy as befits their rank.
 - b. The right of consular access and communication are generally subject to local laws and regulations concerning prisoner visitations.
 - c. Whenever possible, the Chief Marshal or prosecuting attorney should brief the diplomatic or consular office on the fact and circumstance of the arrest and the legal process which will be followed in the case. (*Vienna Convention on Consular Relations*, Art. 6; see generally, *Dupree v. United States*, 559 F.2d at 1154)
4. If the foreign national who is arrested is in possession of a passport, visa, border crossing card, resident alien card or alien registration card, the arresting officer shall make a photocopy of the documents and attach them to the incident report and the arrest/booking report. (Photocopying of passports, visa and other documents of identification by which foreign nationals may enter or remain in the United States, for law enforcement purposes is authorized by 18 U.S.C. 1546(c)). A copy should also be made of any other identity or travel documents in the possession of the accused.
 5. When completing the incident report, the following information should be obtained:
 - a. A complete home address (foreign address) of the accused;
 - b. A complete local address of the accused.
 6. The officer who contacts an embassy or consulate on behalf of an accused foreign national will note the date, time and name of the person who received the call at the embassy or consulate in the incident report. (*Detention of Foreign Nationals*).
 7. If the accused foreign national is a juvenile who is not accompanied by a parent or legal guardian, the Immigration and Naturalization Service should be notified at the same time as Juvenile Court. It is the responsibility of the Immigration and Naturalization Service to contact the embassy of the accused juvenile's nation. Contact INS at:

U.S. Immigration and Naturalization Service 77 Forsyth Street, Suite G-89
 Atlanta, Georgia 30303
 Phone: 404-331-2765

8. If the foreign national is unable to communicate in English, the Chief Marshal should be contacted and every effort made to obtain a translator. (The Supreme Court of Georgia, Office of Commissions and Programs maintains a Registry of Foreign Language Interpreters. The complete Registry is available at the Office of Commissions and Programs at 404-463-6478). Miranda warnings

must be translated before questioning can begin. (See *De La Fe v. United States*, 413 F. 2d 543 (5th Cir. 1969). The investigating officer will include the name, address, telephone number and relationship of the translator to the victim/witness in the incident report.

9. During major events such as the Olympics, international sporting events, or international conferences, if a foreign national who is officially connected with the event is arrested, the District Attorney (or the Solicitor in misdemeanor cases) should be immediately contacted by telephone and provided with oral summary of the incident. The prosecuting attorney will advise the supervisor of any special procedures which should be followed.
10. If a foreign national is arrested for a felony, the U.S. Immigration and Naturalization Service (INS) should be notified and provided with the name of the accused and the nature of the charges. (The arrest of a foreign national for a violation of the laws of this State does not automatically lead to the deportation of the individual. In most misdemeanor cases, the only action INS will take is to notify the appropriate embassy or consulate if the individual is not released on bond). By law, the INS is required to notify the appropriate consulate or embassy if one of their citizens has been taken into custody by INS. (8 C.F.R. 242.2).

C. Diplomatic and Consular Immunity

Federal and state laws provide that under certain circumstances, individuals may be immune from arrest. With the limited exception of certain diplomatic officials, immunity from arrest does not preclude prosecution of the individual for the offense for which immunity from arrest is claimed. In all cases in which immunity is claimed, an officer has the right to detain the person long enough to verify that the person is entitled to the immunity claimed. This can usually be done by examination of official identification cards. The officer may also request that the dispatcher contact the appropriate government agency to verify the individual's status.

In all cases in which a person asserts immunity from arrest, the detaining officer will immediately notify his or her immediate supervisor.

Under no circumstances will an officer permit a person who is entitled to immunity from arrest to continue to operate a motor vehicle or boat if the officer has probable cause to believe that the person is under the influence of alcohol and/or drugs.

Under Federal law, diplomatic and consular officers, members of their official staff, officials of international organizations such as the United Nations and family members of such officers will be accorded their respective privileges, rights and immunities as provided by the Treaties and laws of the United States.

1. All officers of the Dacula Marshal's Office will treat these officials with the utmost courtesy and respect that befits their distinguished position if, for no other reason, that the treatment which foreign diplomatic and consular officials receive from this Office can directly affect how U.S. diplomatic and consular officials are treated in a foreign country.
2. It is a well-established principle of international law that persons enjoying such

privileges and immunities are to respect local laws and regulations. Any incident involving persons claiming diplomatic or consular immunity or a family member of a diplomatic or consular official will be reported immediately through the chain of command. It shall be the policy of the Dacula Marshal's Office to report all such incidents to the U.S. Department of State for such diplomatic action as may be appropriate.

3. Because diplomatic and consular immunity may be waived or withdrawn by the foreign government, it can never be ascertained with certainty at the investigative stage that a person asserting immunity will continue to enjoy that immunity when his or her government is confronted with allegations of criminal conduct or that the accused will not later become subject to prosecution. Therefore, all serious incidents, (i.e., felonies, DUI's and misdemeanors involving death or serious bodily harm involving persons with diplomatic or consular immunity will be referred to the District Attorney for prosecution.
4. Where, however, a person entitled to diplomatic or consular immunity presents a clear, present and actual danger to him or herself or others or it is apparent that a serious crime may be committed, a law enforcement officer may take such reasonable actions necessary to protect public safety and the person entitled to immunity or to halt the illegal activity. This naturally includes the power to defend officers from personal harm. (*E.g., Agan v. State, 203 Ca. App. 363 (1992)*; see also *Sanders v. City of Columbus, 140 Ga. App. 441 (1976)*). The fact that one is employed by a foreign government's diplomatic service does not automatically confer immunity from arrest or prosecution on that individual - they must be granted diplomatic or consular status by the receiving national government. *United States v. Kostadinov, 734 F.2d 905, 910 (2d Cir. 1984)*; *23 U.S.T. 3227*; *22 U.S.C.254 et seq.*). In all such cases, a supervisor must be called and the United States Department of State contacted immediately.

D. Diplomatic Immunity

1. Under Federal law, heads of a mission (usually called the Embassy) of a foreign government to the United States and the United Nations Headquarters in New York, members of the diplomatic, administrative and technical staff of the mission and members of their family household are "not liable to any form of arrest or detention." (Verification of status from the U.S. State Department is the only method which will confirm that the individual claiming diplomatic or consular immunity is actually entitled to the immunity claimed. See *e.g., Hale v. State, 214 Ga. App. 899 (1994)*). Generally, this does not extend to United States citizens who are employed by an embassy.
2. Persons entitled to diplomatic immunity are entitled, by law, to be treated with "due respect" and "appropriate steps (must be taken) to prevent any attack on this person, freedom, or dignity." (Under international law, detention of an individual while awaiting verification of their claim of diplomatic immunity does not constitute an arrest. U.S. Department of State, GUIDANCE FOR LAW ENFORCEMENT OFFICERS, PERSONAL RIGHTS AND IMMUNITIES OF FOREIGN DIPLOMATIC AND CONSULAR

PERSONNEL, 15 (1988) (Hereafter cited as “State Dept. Guidance”).

3. Under normal circumstances, this means that a person who establishes that he or she is entitled to diplomatic immunity cannot be arrested or tried for any criminal offense unless such immunity is expressly waived by the foreign government. As indicated above, immunity continues only as long as the person is accredited as such to the United States.

E. Consular Immunity

1. In addition to members of their embassy staff, foreign governments may with the approval of the United States, establish consular offices to provide consular services to their foreign nationals in the United States and to represent them in trade matters. Under Georgia law, officials of the Atlanta office of the Coordination Council for North American Affairs of the Republic of China (also known as Taiwan) are entitled to the same protections and immunities as career consuls. (State Dept. Guidance, p. 3, 15-16)

There are two (2) types of consular officials, career consuls and honorary consuls.

- a. Career consuls are normally full-time employees of the foreign government. (*Vienna Convention on Diplomatic Relations*, 23 U.S.T. 3227; *Vienna Convention on Consular Relations*, 21 U.S.T. 77; *Convention on Privileges and Immunities of the United Nations*, 21 U.S.T. 1418; *The Diplomatic Relations Act*, 22 U.S.C. 254a - 258a; *International Organizations Immunities Act*, 22 U.S.C. 288, et. seq. Treaties between the United States and other nations are not codified as part of the United States Code but are published in a separate publication, United States treaties and other international agreements (U.S.T.), nonetheless, these treaties are part of Federal law and are binding on the states. *U.S. Constitution*, Art. VI, 2 *Baldwin v. Franks*, 120 U.S. 678, 7 S.Ct. 6.56, 30 L.Ed. 766 (1887); *Camp v. Sellers & Co.*, 1.58 Ga. App. 646, 648 - 649 (1981).
 - b. Honorary consuls may be a citizen of the foreign government who has residency in the United States or a United States citizen. (State Dept. Guidance, 15)
2. In the absence of a specific treaty, consular officials are not entitled to diplomatic immunity (State Dept. Guidance, p. 20), but they are entitled to consular immunity which is more limited than diplomatic immunity. (State Dept. Guidance, 17; See also *in re Grand Jury Proceedings, Doe No.700*, 817 F2d 1108, 111 (4th Cir. 1987); *United States v. Guinand*, 688 F. Supp. 774 (D.C. 1988)
 3. Career consular officers are entitled to consular immunity.
 - a. Included are consul-generals, deputy consul-generals, consuls, vice consuls and consular agents who are official representatives of a foreign government accredited to the United States.
 - b. “Consular officers shall not be liable to arrest or detention pending trial,

except in the case of a grave crime and pursuant to a decision by the competent judicial authority.” (State Dept. Guidance, 16.) A “grave crime” is a felony offense that endangers the public safety (23 U.S.T. 3227; 23 U.S.C. 254a, et seq.) and a warrant is required.

- c. Career consular officers are subject to criminal prosecution by the courts of this State except for acts performed which are within the scope of consular duties (23 U.S.T. 3227)

4. Honorary Consuls

Honorary consuls are not entitled to immunity from arrest or detention. They are subject to the civil or criminal jurisdiction of the courts of this State unless they are performing official acts in the exercise of their consular function. (State Dept. Guidance, 17; *United States v. Kostadinov*, 734 F.2d at 911 - 912)

5. Family Members

Family members of consular officers are not entitled to immunity but will be treated with appropriate courtesy and respect. Incidents involving family members of consular officials will be reported through channels the same as for consular officials. (O.C.G.A. 50-1-2)

6. Consulates and Consular Premises

- a. Consulates and consular premises are inviolable. This means that law enforcement and other government officials cannot enter that portion of the consular premise “which is used exclusively for the work of the consular post except with the consent of the consular post, or his designee or the head of the diplomatic mission of the sending state.” (State Dept. Guidance, 7-8).

Consulates are required to be clearly marked. If, in the case of an honorary consul, the consular premises are within a building or office used for other purposes, only that portion of the structure which is clearly marked cannot be entered. (*Id.*)

- b. In the event of a fire or other emergency, the consent of head of the consular post is assumed and officials may enter for the purpose of dealing with the emergency. (*Hall v. Coppel*, 7 Wall (74 U.S) 542, 19 L.ed. 244, 247 (1869)). Any emergency entry into a consulate will be immediately reported to the Chief Marshal, the Gwinnett County Chief of Police, the District Attorney and the U.S State Department by telephone.
- c. Except in an actual emergency, the decision to enter a consulate for law enforcement purposes, without the consent of the head of the consular post will be made only by the Chief Marshal after consultation with the District Attorney and the United States State Department. The Dacula Marshal’s Office will strictly abide by the guidance received from the State Department.

- d. A violation of this section may result in the prosecution of the officer under 18 U.S.C.112.

F. Diplomatic and Consular Pouches

1. A diplomatic or consular pouch is a container (of any size) used to transport official communications (including equipment needed for communication). It is required to be clearly marked as such. (State Dept. Guidance, 7).
2. A diplomatic or consular pouch will not be opened by any officer under any circumstance. If an officer has probable cause to believe that a diplomatic or consular pouch is being used in furtherance of crime, all of the facts will be reported to his or her supervisor who will contact the U.S. State Department Bureau of Diplomatic Security.

G. Situations

1. In all cases where a person who is known to be entitled to or asserts diplomatic or consular immunity, will be treated with the courtesy and respect that befits their distinguished position and the Chief Marshal should be contacted immediately. It is the duty of the Chief Marshal to contact the U.S. State Department immediately to verify the person's status and seek official guidance. (21 U.S.T. 78).
 2. Career consular officials may only be arrested for a felony pursuant to a warrant issued by a judge. (State Dept. Guidance, 9; see also *Serritsen v. Dela Madrid Hurdato*, 819 F.2nd 1511, 1517 (9th Cir. 1987)
3. Traffic violations
- a. Under international law, the issuance of a traffic citation does not constitute an arrest or detention. Therefore, the officer on the scene may, after ascertaining that the official has the proper credentials, based on the nature of the offense issue a warning or citation. (21 U.S.T. 78; see *People v. John Doe*, 421 N.Y.S.2nd 1015 (N.Y. 1979); *State v. Killeen*, 39 Or. App. 365, 592 P.2d 268 (1979) *Silva V. Superior Court*, 52 Cal. App.3d 295, 281, 125 Cal. Rep. 78, 86 - 87 (1975).
 - b. A copy of the citation along with a report of the incident will be forwarded through the chain of command to the United States Department of State, Washington, D.C. 20520. (*Id.* at 8; e.g., *Agan v. State*, 203 Ga. App. 363)
4. Traffic accidents
- a. If a motor vehicle involved in an accident (1) was operated by a person who has verified diplomatic or consular status, or (2) bears diplomatic or consular motor vehicle license plates issued by the United States Department of State, a copy of the accident report, together with a copy of any traffic citations issued to the person entitled to diplomatic or consular status and the report of the incident will be forwarded through the chain of command to:

OFM Diplomatic Motor Vehicle Office 3507 International Place, N.W.
Washington, D.C. 20008

- b. Vehicles issued Department of State license plates are required to be covered by liability insurance. (*Id.*)
5. Driving under the Influence and other offenses where the safety of the official or public is involved.
 - a. The primary consideration in DUI cases and other more serious offenses is to ensure that the official is not a danger to their self or the public. At best, these are sensitive situations and the officer must treat the official with respect and courtesy (*Vienna Convention on Consular Relations*, Art. 31, par. 1.)
 - (1) If the supervisor determines that a diplomatic or consular official is a danger to them self or others, the supervisor may direct that:
 - (2) The official be taken to the Gwinnett County Police Department or another location where he/she may recover sufficiently to drive safely;
 - (3) The official be taken to a telephone to call someone to drive them home;
 - (4) A taxi be called for the official;
 - (5) The official be taken home. (*Id.*, Art 61)
 - b. In cases involving a motor vehicle or boat operated by a person asserting diplomatic or consular immunity who the officer believes to be intoxicated, the officer may ask the individual to perform field sobriety tests the same as any other driver while awaiting verification of the status claimed. (*Vienna Convention on Consular Relations*, Art. 1, par.1)
 - c. If the incident involves a person entitled to diplomatic immunity, the Chief Marshal will contact the United States Department of State, Office of Protocol, by telephone immediately and advise them of the situation. A full written report will be submitted within 24 hours through the chain of command to:

Office of Protocol Department of State Post Office Box 2976 Washington, D.C. 20520
 - d. For consular officials, a full report will be submitted, through the chain of command, to the United States Department of State, Office of Protocol.
6. Protection
 - a. If a person asserting or entitled to diplomatic or consular immunity presents a clear, present and actual danger to him or herself, or others, an officer may take such reasonable actions as may be necessary to protect public safety and the person entitled to immunity or to prevent further illegal activity.
 - b. If it is necessary to physically restrain a diplomatic or consular official (i.e.,

handcuffs), the officer will, after taking appropriate action, explain to the official why he or she is being restrained and that they will be released from restraint as soon as they no longer are a danger to themselves or others.

- c. The Chief Marshal will immediately contact the U.S. State Department, in the event of a diplomatic or consular official must be restrained. The Chief Marshal will also report the incident through the department chain of command and notify the District Attorney.
- d. Use of excessive force or use of force where there was no clear, present and actual danger to the person entitled to immunity or others may result in prosecution of the officer under Federal law. (*Vienna Convention on Diplomatic Relations*, Art. 27; *Vienna Convention on Consular Relations*, Art. 35)

7. Possession of Contraband

- a. If a person asserting diplomatic or consular immunity, is in possession of contraband (i.e., controlled substances), the officer may seize the contraband.
- b. Any such seizure will be immediately reported to the Chief Marshal. The Chief Marshal will contact the District Attorney and the United States Department of State, Office of Protocol by telephone immediately and advise them of the situation. A full written report will be submitted within 24 hours through the chain of command to:

Office of Protocol Department of State Post Office Box 2976 Washington,
D.C. 20520

8. Verification of Status

- a. Persons claiming diplomatic or consular immunity are required to produce satisfactory evidence of their official status.
 - (1) The United States Department of State issues identification cards to diplomatic officials, consular agents and officials of international organizations accredited to the United States. On the back of these cards is an explanation of the immunity to which the official is entitled and telephone numbers which may be called to verify status.
 - (2) Honorary consuls may be issued identification cards by the Georgia Secretary of State.
 - (3) The United States Department of State issues motor vehicle operator permits (driver's licenses) to persons entitled to diplomatic or consular immunity and functions similarly to the Georgia Department of Public Safety regarding these licenses. (21 U.S.T. 78, Art. 41. T.I.A.S. 6820, at p. 27.) Driver's licenses issued by the Department of State will not be relied on as conclusive proof of the immunity of the bearer. (State Dept. Guidance, 16; see also, Leich, *Contemporary Practice of the United States Relating to International Law, Motor Vehicles: Traffic Citations*,

79 Amer. J. Of Int'l L. 1044, 1048 - 1049 (1985))

NOTE: U.S. State Department driver's licenses have a hologram over a portion of the photograph. It will turn dark if tampered with.

- (4) The United States Department of State issues motor vehicle plates (license tags) for vehicles operated by persons entitled to diplomatic or consular immunity. (*Id.*)
- (a) These tags are red, white and blue in color. The status of the vehicle is indicated by a letter code:
- D = diplomatic vehicle
S = diplomatic staff vehicle
C = consular vehicle
- (b) Information regarding the vehicle and registered owner is available through NLET the same as out-of-state license plates. Use State code "US".
- (c) In addition, the Georgia Department of Revenue may issue consular license plates for vehicles registered and operated in Georgia by career or honorary consuls. (22 U.S.C. 454e (Supp. 1994)).
- (d) License plates issued by the Department of State or the State of Georgia will not be relied on as conclusive proof of the immunity of the bearer but only as an indication that the vehicle may be operated by someone entitled to diplomatic or consular immunity. (State Dept. Guidance, 16)
- (5) In any situation in which an official asserting immunity cannot produce satisfactory evidence thereof, or the officer wishes to confirm the status claimed, the United States Department of State should be contacted:
- (a) Regular Hours:
- Diplomats and families: 202-647-4510 Diplomatic employees & families: 202-647-1405. Consular personnel & families: 202- 647-1404.
International organizations: 202-647-1402.
- (b) After Hours:
- All: 202-647-7277
- (6) Verification of Department of State Drivers Licenses and motor vehicle registrations may be obtained through NLET (State Code is "US") or by calling:
- Registrations: 202-895-3532
Drivers Licenses: 202-895-3512
After Hours: 202-647-7277

H. Official Guests of the United States

Official Guests of the United States are foreign nationals who are in the United States and are so designated by the U.S. Secretary of State. (*Id.*)

NOTE: Except at large events such as the Olympics, persons designated as Official Guests of the United States may be accompanied by a representative of the U.S. State Department.

1. Official Guests can or may include:
 - a. Foreign government officials;
 - b. Olympic athletes, coaches and trainers;
 - c. Members of the International Olympic Committee accredited to the Games;
 - d. Members of national Olympic committees accredited to the Games;
 - e. Members of the international sports federations accredited to the Games;
 - f. Immediate family members of official guests; and
 - g. Foreign officials accredited to the Games.
2. Official Guests do not have immunity but will be treated with courtesy and respect. The Chief Marshal should be contacted immediately for any incident involving an Official Guest. The Chief Marshal will, in turn, contact the District Attorney's office or, in the case of misdemeanors, the Solicitor of State Court.
3. The Chief Marshal will submit a report of any incident in which a person designated as an Official Guest of the United States is involved (either as an accused, victim or witness) through the chain of command to:

United States State Department 101 Marietta Street, N.W. Suite 1010
 Atlanta, Georgia 30303
 Telephone: 404-331-3521 or 331-3522 or 331-3523
 or Contact: 202-647-7277

4. Verification of an individual's status as an Official Guest may be obtained from:

U.S. State Department
 Telephone: 404-331-3521
 After Hours: 202-647-7277

I. Diplomats, Consuls or Official Guests as Victims or Witnesses to a Crime

1. If a diplomat, consul or official guest of the United States is a victim of a crime, the officer will immediately contact the Chief Marshal.
2. It is the responsibility of the Chief Marshal to immediately contact:
 - a. In the case of diplomats or official guests (U.S. Dept. of State, "RECOMMENDED PROCEDURES FOR SERIOUS/ARRESTABLE TRAFFIC OFFENSES."), the regional office of the F.B.I. and the U.S. State

Department command post at 202-663-0812. The F.B.I. has primary jurisdiction over offenses committed against diplomats and official guests. (18 U.S.C. 112). The District Attorney should also be contacted.

- b. In the case of a consul, the District Attorney and the U.S. State Department. If the consul is a career consul, the F.B.I. should also be contacted.
3. If a diplomat, career consul or official guest is a witness to a crime, a supervisor will be notified.
 - a. A person entitled to diplomatic or consular immunity may not be detained as a witness, but the officer should promptly obtain the witness's name and a telephone number where the official may be contacted later.
4. By law, diplomats and consuls can appear as a witness only with the prior consent of their government. (7 Digest of Int'l L., 8, p. 108)

J. Foreign Nationals as Victims or Witnesses to a Crime

1. If a foreign national is a victim or a witness to a crime, the investigating officer will determine if the individual anticipates traveling out of the State of Georgia within the next six (6) months. If the foreign national indicates that they will be traveling out of Georgia or the officer has reason to believe that the individual may depart the State, the District Attorney's office will be immediately contacted in order that the testimony of the individual may be taken by video tape. (*Vienna Convention on Diplomatic Relations*, Art. 32; *Vienna Convention on Consular Relations*, Art. 44; see *United States v. Wilburn*, 497 F.2d 946 (5th Cir. 1974)).
2. If the foreign national is unable to communicate in English, the Chief Marshal will be contacted and every effort made to obtain a translator. The investigating officer will include the name, address, telephone number and relationship of the translator to the victim, witness in the Incident Report.

K. Defection and Requests for Asylum

1. Defections and requests for political asylum by foreign nationals are highly sensitive and may affect the relations between a foreign government and the United States as well as the treatment of U.S. citizens who travel outside the United States. It is the policy of the Dacula Marshal's Office that all officers will handle any request for asylum or a defection with speed, tact and resolution.
2. If an officer is approached by a foreign national who: (1) requests asylum in the United States, or (2) indicates that he or she wants to defect to the United States, the officer will:
 - a. Contact the Chief Marshal and request that the he or she come to the scene immediately. If communication is by non-secure means (i.e., radio) do not indicate the reason;
 - b. Take the person into protective custody and permit no one to interfere with the situation. It is important that the officer protect the person from harassment or forceful repatriation.

- c. Release the person only to the Chief Marshal or representative from a Federal agency approved by the Chief Marshal.
 - d. Prepare a written report on the incident.
3. The Chief Marshal, upon learning that a foreign national has approached an officer and (1) requested asylum in the United States, or (2) indicated that he or she wants to defect to the United States will:
- a. Immediately contact by secure means the U.S. Immigration and Naturalization Service at:

77 Forsyth Street Suite G-89
Atlanta, Georgia 30303
Phone: 404-331-2765 or 404-331-2762 (24-hour number))
 - b. Take the person into protective custody and transport the person to a secure located by INS or to the Gwinnett County Police Department.

L. Members of Congress

U.S. Senators and Representatives are free from arrest during their attendance at Congress and in going to and from sessions of Congress except for “treason, felony, or breach of the peace.”

M. Members of the Georgia General Assembly

The members of the Georgia General Assembly are free from arrest during their attendance at the General Assembly and in going to and from sessions except for “treason, felony, or breach of the peace.”

N. Others Exempt from Civil Arrest

- 1. Georgia National Guard Members of the Georgia Army National Guard and the Georgia Air National Guard are privileged from arrest, except in cases of treason, felony, or breach of the peace, under the following circumstances:
 - a. While attending drill;
 - b. During parades;
 - c. When attending meetings, encampments, and election of officers, and;
 - d. While going to, during and returning from the performance of active duty.

NOTE: National Guard officers are no longer elected but are appointed the same as other officers of the armed forces.

In any incident in which a person asserts immunity based on membership in the National Guard, a full report of the incident will be submitted. It is the policy of the Dacula Marshal’s Office that all incidents in which a member of the National Guard asserts immunity from arrest will be reported to the Adjutant General of the Georgia National Guard for appropriate action under the Georgia Code of Military Justice.

2. Poll Officers

Registrars and deputy registrars appointed by the board of registrars or board of elections of the county or the Secretary of State are immune from arrest on primary and election days, except for fraudulent misconduct of duty, felonies or breach of the peace.

NOTE: O.C.G.A. 21-5-215 only refers to registration officials, not poll officers.

3. Voters

Citizens are immune from arrest on Election Day while voting.

4. Witnesses

A person who has been subpoenaed as a witness is immune from arrest on civil process while going to or returning from court. A person asserting immunity as a witness should be able to produce either the subpoena or a court order in the case of witnesses appearing under the Uniform Act to Secure the Attendance of Witnesses as proof of his or her status. Verification may be requested from the Clerk of the Court that issued the subpoena.

DACULA MARSHAL'S OFFICE

~~2021-14~~: Disciplinary Procedures

PURPOSE: To establish and set forth procedures for the administration of discipline within the Dacula Marshal's Office. The primary objective of the Dacula Marshal's Office is the provision of services to the community. Employees who fail to follow the necessary rules and regulations governing conduct not only penalize themselves, but also do a disservice to all members of the Dacula Marshal's Office. This policy is established to ensure that when it becomes necessary to administer discipline within the Office, that it is done so in a fair, positive, and consistent manner.

POLICY: It shall be the policy of the Dacula Marshal's Office to administer discipline in fairness to the employee and agency. The Chief Marshal is responsible for the administration of the disciplinary process.

PROCEDURE:

A. Types of Discipline

Discipline may be administered in a positive, corrective, or punitive manner. The functions of discipline are:

1. **Positive:** Positive discipline is designed to stimulate the morale of the employee. Rewards such as incentive time off with pay; and letters of commendation are positive forms of discipline.
2. **Corrective:** Corrective discipline is designed to be constructive and to promote employee success. It gives employees the information necessary to understand what aspect of work performance, attendance or behavior is unacceptable, identifies the improvements that are expected, and provides the opportunity for employees to demonstrate the expected improvements. The goal is to improve performance, attendance, or behavior of employees and to assist employees in taking ownership of their performance, attendance, or behavior. When corrective discipline is administered, factual documentation of the infraction or unacceptable performance is required. Corrective discipline shall include the following:
 - a. **Documented Verbal Counseling:** A warning or indication of disapproval concerning a specific act, infraction or violation of a policy or procedure that is usually given by the Chief Marshal. Employee counseling shall be documented on the Office Employee Counseling/Guidance Documentation Form. The form is to be completed by the Chief Marshal. Any and all documentation becomes a part of the employee's personnel record. The form should be utilized by the Chief Marshal as documentation of employee counseling regarding disciplinary actions for future infractions which are similar in nature and as a reference when completing employee performance evaluations.

- b. Written Reprimand: A written statement concerning a specific act, infraction or violation of a policy or procedure, or unacceptable performance. A written reprimand should be utilized by the Chief Marshal for serious infractions, when there is evidence that the employee has received previous counseling regarding similar infraction(s), or repetition of minor infractions(s). Written reprimands shall be recorded on the City of Dacula Disciplinary Action Report and shall contain the following information:
- (1) A detailed description of the infraction or unacceptable performance requiring attention.
 - (2) Related Office or City of Dacula policy or procedure, if applicable.
 - (3) Reference to prior documentation of counseling with the employee concerning the infraction or unacceptable performance. Examples: Employee Counseling/Guidance Statement(s), Written Reprimand(s), City of Dacula Disciplinary Action Report(s), Performance Evaluation(s), etc.
 - (4) A detailed description of the required performance or remedy to correct the infraction or unacceptable performance.
 - (5) Employee's signature acknowledging receipt of the City of Dacula Disciplinary Action Report.
3. Punitive: Punitive discipline is designed to redirect unacceptable employee behavior through suspension, reduction in pay, demotion or discharge. When punitive discipline is administered, factual documentation of the infraction or unacceptable performance is required. Punitive behavior shall include the following:
- a. Suspension: The placing of an employee on disciplinary leave without pay status for a specified period of time. (Refer to City of Dacula Personnel Policies and Procedures Manual, ~~February 2016 Edition, Disciplinary Action No. 3.08~~, December 2023 Edition, Disciplinary Action No. 4.09)
 - b. Reduction in Pay: An employee's pay may be reduced for very serious rule infractions, and/or incidents of City property damage or liability, at the discretion of the Chief Marshal and/or City Administrator.
 - c. Demotion: An Employee may be permanently or temporarily demoted to a lower grade job with a correspondingly lower pay rate for unacceptable performance or for disciplinary reasons. The department director must submit a written recommendation for demotion to the Director of Human Resources who must concur with the recommendation. (Refer to City of Dacula Personnel Policies and Procedures Manual, ~~February 2016 Edition, Disciplinary Action No. 3.08~~, December 2023 Edition, Disciplinary Action No. 2.9)
 - d. Discharge: The removal of an employee from service to the City of Dacula for cause. An employee may be discharged at the discretion of the Chief

Marshal who will submit a letter to the Director of Human Resources for approval, and/or City Administrator. Any employee who is dismissed from service will be provided with the following information:

- (1) A statement citing the reason(s) for dismissal.
- (2) The effective date of the dismissal.
- (3) A statement of the status of fringe and retirement benefits after the dismissal.
- (4) Appeal procedures as established in the City Personnel Handbook.

Corrective and punitive disciplinary actions against an employee shall be initiated promptly when it is evident that such action is necessary to maintain an orderly, safe, and productive work environment. The severity of the disciplinary action imposed shall be determined after consideration of the nature and gravity of the offense, its relationship to the employee's assigned duties and responsibilities, the employee's work record and other relevant factors.

B. Supervisor Responsibilities in the Disciplinary Process

The Chief Marshal is responsible for the administration of discipline. The Chief Marshal has the continuing opportunity to observe employee conduct and appearance and must administer discipline where it will be most effective, whether positive, corrective, or punitive. The Chief Marshal shall take the following disciplinary measures:

1. Document Verbal Counseling:

The Chief Marshal should use verbal counseling as a function of discipline in those cases involving minor infractions. Criteria used to determine the necessity of counseling as opposed to other discipline may include:

- a Employee's past work record (including disciplinary record, attendance, job performance evaluations, etc.);
- b Employee's attitude (toward workplace, supervisors and other employees);
- c The severity of the offense in relation to Departmental or City of Dacula guidelines governing offenses.

2. Written Reprimand

The Chief Marshal should use a written reprimand for more serious infractions(s), when there is evidence that the employee has received previous counseling regarding a similar infraction(s), or repetition of minor infraction(s). A written reprimand must be discussed with the employee.

3. Suspension:

- a The Chief Marshal is delegated the authority to immediately relieve an employee from duty if the retention of such employee will cause or continue

a disruption of the work force and, within one workday, shall submit a recommendation for appropriate disciplinary action to the Chief Marshal.

- b. The Chief Marshal, when recommending the suspension of an employee to the Chief Marshal shall reduce the recommendation to writing in a memorandum format and shall include the following information:
 1. All Documentation concerning the disciplinary infraction
 2. The recommended duration of the suspension
 3. Documentation of previous employee counselling, if applicable
- c. Sworn officer who are serving a disciplinary suspension shall not retain the powers afforded to a law enforcement officer while such suspension is in effect.
- d. All employees serving a disciplinary suspension shall be required to relinquish City issued equipment (i.e., employee's badge, police identification card, assigned vehicle, firearms and ammunition, police radio and any assigned computer/electronic equipment, etc.)

C. Training as a Part of the Disciplinary Process

Training, as a component of the Department's disciplinary system, may be utilized alone or in conjunction with corrective or punitive disciplinary actions.

1. The Chief Marshal shall determine when an employee requires remedial training.
 - a. All circumstances surrounding an incident in question shall be carefully weighed.
 - b. The Chief Marshal shall review the member's personnel and/or training file to assist in determining training needs.
 - c. The Chief Marshal shall determine that additional or remedial training is available either in-house or by another training component.
2. The Chief Marshal shall make a recommendation for training (as well as any other discipline used in conjunction with training) in writing to the Chief Marshal. The Chief Marshal shall either approve or disapprove the recommendation.
 - a. The employee shall receive a copy of the Chief Marshal's recommendation from the Chief Marshal, as well as a copy of the final order regarding the training assignment.

D. Application of Disciplinary Measures

1. Employees of the Dacula Marshal's Office are expected to abide by and may be disciplined for violation of the rules and regulations of either the City of Dacula or the Dacula Marshal's Office.

2. Recognizing that each instance of misconduct may differ somewhat from similar accounts of misconduct, The Chief Marshal retains the right to treat each occurrence on an individual basis without creating a precedent for other cases, which may arise in the future. The rules and regulations in this policy are not to be construed as a limitation upon the retained rights of the Chief Marshal, but are to be utilized as a guide in the administration of the disciplinary process.
3. Nothing in the policy and procedure, however, requires the Chief Marshal to utilize any step or series of steps in disciplinary action. Any level of discipline may be imposed whether this is the employee's first unacceptable work performance, attendance or behavior and whether a less serious form of discipline has been imposed for any prior performance, attendance, or behavior issues. The Chief Marshal shall have the authority to take any disciplinary actions(s) provided for these regulations.

E. Administrative Duty/Leave

Dacula Marshal's Office personnel may be relieved from duty as follows:

1. Following the Use of Force:

Whenever an employee's use of force in an official capacity results in a death or serious bodily injury to another, they will be relieved of regular duties by the Chief Marshal. At the discretion of the Chief Marshal, the employee will be placed on either administrative duty or administrative leave with full pay and benefits pending the outcome of an internal review. Such assignment shall continue until otherwise ordered by the Chief Marshal.

2. Administrative Leave Pending an Internal Review:

Whenever an incident arises where public interest necessitates an employee's immediate removal from regular duty and subsequent internal review, the employee will be relieved of regular duties by the Chief Marshal and placed on administrative leave with full pay and benefits pending the outcome of the internal review. Such assignment shall continue until otherwise ordered by the Chief Marshal.

F. Disciplinary Records

All disciplinary reports, forms, and documents shall be indefinitely maintained in the employee's personnel file. Employees may review their individual personnel file at any time.

G. Appeals

All regular non-probationary employees are entitled to appeal any disciplinary action as allowed by the City of Dacula Personnel Handbook.

DACULA MARSHAL'S OFFICE
EMPLOYEE COUNSELING /GUIDANCE DOCUMENTATION

Date: _____

Employee Name: _____

Position: _____

Related Departmental Policy: _____

Supervisor Remarks: _____

Employee Remarks: _____

Satisfactory resolution of problem by supervisor and employee: _____

DACULA MARSHAL'S OFFICE

2021-15: Discretionary Authority

PURPOSE: To provide policy standards of authority regarding the use of discretion during the performance of official duties by sworn law enforcement officers of the Dacula Marshal's Office.

PROCEDURE:

- A. Sworn law enforcement members of the Dacula Marshal's Office will follow and adhere to all federal and state laws, as well as municipal ordinances, in carrying out official law enforcement duties.
- B. Sworn law enforcement members of the Dacula Marshal's Office are given discretion by law in the making of arrests. Limited discretion is given to sworn members by policy procedures and directives, general and special orders, based upon the seriousness of a violation, willingness of the District Attorney's Office, and the State and Municipal Court Solicitors to prosecute, and probability of a subject's appearance in court.
- C. Discretion may be limited by authority of the Chief Marshal.
- D. All sworn members of the Dacula Marshal's Office are given the authority by the Chief Marshal to make the decisions necessary to effectively execute their responsibilities. All members are held accountable for the use of their delegated authority as well as their failure to use it.
- E. Officers dealing with juvenile offenders have broad discretion in making dispositions when handling juvenile cases. Each case must be judged on its own merit and factual circumstance with dispositions made which meet the needs of the child and the community. Factors to be considered in each case should include the nature of the alleged offense, the age and circumstances of the alleged offender, the prior history and/or record of the alleged offender, if any, and the availability of community-based rehabilitation programs. A "juvenile" for the purposes of this policy shall be any individual who is:
 - 1. Under the age of 17 years;
 - 2. Under the age of 21 years who committed an act of delinquency before reaching the age of 17 years and who has been placed under the supervision of a court having jurisdiction or on probation to such court;
 - 3. Under the age of 18 years if alleged to be a "deprived child" - a juvenile who is without proper parental care or control, subsistence, education as required by law or other care necessary for his/her physical, mental or emotional health or morals, or one who has been placed for care of adoption in violation of law; abandoned or without parent, guardian, or custodian.

DACULA MARSHAL'S OFFICE

~~2021-16~~: Employee Performance Evaluations

PURPOSE:

A performance evaluation system is primarily a source of information which is used to determine how well an individual employee is doing their job. An evaluation system is a way to make sure this information is shared with department directors and decision makers, and with the individual employees. It also provides a checklist for the supervisor to help make sure that all important aspects of the employee's work are considered. Finally, a performance evaluation system allows comparisons among employees based on job performance.

POLICY:

Performance evaluations shall be conducted on all employees of the Dacula Marshal's Office annually. These reports shall be used as one of several instruments of consideration when the annual employee performance evaluation is completed. The Chief Marshal shall conduct the annual employee performance evaluations. Only job performance for that evaluation period shall be considered for the performance evaluation. Employees shall be counseled at the beginning of each rating period concerning:

1. Task of the position occupied;
2. Level of performance expected;
3. Evaluation rating criteria.

PROCEDURE:

A. Evaluation System

The City of Dacula Marshal's Office utilizes annual employee performance evaluations.

1. Annual Performance Evaluations: Annual employee performance evaluations shall be completed at the common review date for all employees covered by the system and shall be scheduled annually. A probationary employee will not be retained and given permanent status unless the overall ratings are satisfactory. A permanent employee serving a probationary period following a promotion will receive this type of evaluation.

B. Evaluation Follow-up

During the time periods between evaluations, the Chief Marshal should continue to have informal communications with subordinates regarding job performance on a regular basis. The Employee Performance Evaluation system is not intended to take the place of all communications between supervisors and employees; it should be an aid to communication and should help reinforce progress and work accomplished.

C. Certification

Employees will sign the completed evaluation form in the space provided and include any comments so desired after completion of the review with the Chief Marshal. The employee's signature only acknowledges that they have reviewed the evaluation and does not necessarily indicate agreement with the appraisal. The Chief Marshal shall also sign the evaluation in the space provided. The department director will also review the completed evaluation to ensure the rater remained fair and impartial and that ratings are being applied uniformly and then sign the evaluation in the space provided. The employee will be provided a copy of the completed and signed evaluation.

D. If a non-probationary employee is performing unsatisfactorily, they shall be notified of such performance in writing at least ninety (90) days prior to the end of the annual rating period by the Chief Marshal.

1. Such written notification shall be made with the approval of the department director.
2. Such written notification shall be signed by the employee and become a part of the employee's permanent personnel file.

E. Prior to presenting the evaluation to the employee for review, such evaluation must be reviewed by the department director. Such review by the department director shall ensure the following:

1. The Chief Marshal has remained fair and impartial.
2. The Chief Marshal applies ratings uniformly, and that the Chief Marshal has previously counseled the employee concerning low productivity in performance areas.

F. The evaluation shall be presented to the employee and reviewed by the employee and the Chief Marshal together and should include the following:

1. Results of the performance evaluation just completed;
2. Level of performance expected, rating criteria or goals for the new reporting period;
3. Career counseling relative to such topics as advancement, specialization, or training appropriate for the employee's position after which time the following will occur:
 - a. The employee shall be given a copy of the completed evaluation.
 - b. The Chief Marshal shall discuss the employee's career goals within the Office and indicate guidelines to achieve these goals through job performance and training.
 - c. The employee shall have the opportunity to sign the completed evaluation indicating that they have reviewed the evaluation and that they have received a copy.

- d. If the employee refuses to sign the evaluation in the space provided, the Chief Marshal shall indicate “refused to sign” in the space.
- G. After the annual evaluation process is completed and reviewed by the employee, it shall become part of the employee’s permanent personnel file.
- H. Post Evaluation Usage
 - 1. The Office may utilize past annual employee performance evaluations for the following reasons:
 - a. Determining suitability for future assignments;
 - b. Employee training needs;
 - c. Determining ability to accept additional responsibilities;
 - d. Effectiveness in the assigned position.
 - 2. The Chief Marshal may not obtain a personnel file or past evaluation form for personal use or any reason other than professional job-related use.
 - 3. The Director of Human Resources for the City of Dacula shall review the evaluation process and procedures periodically to determine the system effectiveness and will make appropriate recommendations to the Chief Marshal.

Recommendations may be to:

 - a. Leave the evaluation system as is;
 - b. Modify in some form the current system and make recommendations for such modifications;
 - c. Terminate the current system and make recommendations for a new system.

Objectives of the review shall be to:

 - a. Identify instances of extreme ratings and reasons for them.
 - b. Determine the number of contested evaluations and the reasons for them.
- J. Employees who, as part of their responsibilities conduct performance evaluations on subordinates, shall receive training in the following areas:
 - 1. General subordinate counseling and evaluation;
 - 2. Knowledge, skills and abilities assessment techniques;
 - 3. Use of the City of Dacula Employee Performance Evaluation and the Supervisor’s Guidelines for completion of Performance Evaluations.

DACULA MARSHAL'S OFFICE

~~2021-17~~: Enforcement Procedures

PURPOSE: To establish the proper procedure for taking enforcement action applicable to State and Federal law and violations of the Code of Ordinances within the jurisdictional boundaries of the City of Dacula.

POLICY: The responsibility for enforcing State and Federal law and City Code violations is shared by all certified law enforcement officers of the Dacula Marshal's Office. Members of the Office shall take appropriate enforcement action for each violation of law witnessed by them. Such action shall be accomplished in a business-like, firm, fair, impartial, and courteous manner using one of the following methods: physical arrest, issuance of a notice to appear (citation), issuance of a written warnings, verbal warnings, and administrative hearings. All new officers shall complete all State evaluations requirements and POST basic mandate training prior being sworn and prior to assuming any assignment requiring the carrying of weapons, enforcing the law, or making an arrest. Arrest warrants shall be executed by sworn law enforcement officers only. Training records shall be maintained on each employee. The Chief Marshal or designee shall update training records following employee's participation in training programs to include the date of the training, the type of training, any certificates received, and if available, any attendance and test scores should also be recorded. Any sworn personnel who fail to maintain minimum training requirements under law shall be removed from enforcement duties.

PROCEDURE:

A. Enforcement Action:

Officers are to use individual discretion, based upon professional judgment, while considering that the mission of the Dacula Marshal's Office is the enforcement of the ordinances of the City in determining what form of enforcement action will be taken. It is the goal of the Marshal's Office to seek voluntary city code compliance through counseling and education of the public. Sworn officers of the Dacula Marshal's Office shall have the authority to arrest for violations of City Ordinance or violations of State Law pursuant to the Official Code of Georgia Annotated, occurring within the jurisdictional limits of the City of Dacula, Georgia. This authority is outlined in the policies of the Dacula Marshal's Office as well as in the Official Code of Georgia Annotated. Full-time and Reserve officers who have not successfully completed POST mandate training will not be assigned to positions requiring the carrying of firearms, enforcing the law, or making arrest.

1. Physical Arrest: The primary responsibility of sworn officers of the Dacula Marshal's Office is the investigation of and enforcement of the Code of Ordinances of the City of Dacula and the investigation and enforcement of

criminal and traffic law violations. There may be incidences and circumstances where an officer of the Dacula Marshal's Office should arrest a violator of State or Federal laws. Officers of the Dacula Marshal's Office shall seek assistance from the Gwinnett County Police Department or other appropriate law enforcement agency with the physical arrest and detention of criminal and traffic law violators. Officers of the Dacula Marshal's Office may transport violators in office vehicles. The decision to arrest should be based upon sound ethical and legal principals, the seriousness of the violation, and whether a failure to arrest would result in a miscarriage of justice. Every person taken into custody for the first time will be assigned a booking number which is a jurisdictional number. Any existing State Identification number (SID#) will be correlated with this person and that booking number. All subsequent arrests and information concerning that person shall be referenced to his or her booking number and SID#.

2. Notice to appear (Citation or Summons): The issuance of a citation is applicable in practically all cases for violations of the city code. A supply of blank citations will be maintained in a secure location and distributed to officers by the Chief Marshal. Any lost or stolen citations will be reported to the Chief Marshal immediately. Information will include the citation number(s), officer's name, date of loss and any other pertinent information. Officers may void citations upon approval of the Chief Marshal. Citations may be amended or dismissed upon approval of the Chief Marshal by notifying the Municipal Court Clerk and/or the Municipal Court Solicitor. Citations will be filled out completely and legibly in ink and the violator's copy given to the violator along with a verbal explanation of the violation, the court date, and an explanation of what exactly the violator is supposed to do in response to the action taken and how this action will affect him or her. Once the citation is issued, the issuing officer will forward the original to the Municipal Court Clerk and initiate a case file. The issuance of the citation will also be logged in the Agency database. The issuing officer will retain a copy of the citation in the case file until the case is closed.
3. Written Warning: A written warning is a proper alternative by officers in response to a minor violation or for those violations which occur within tolerances generally allowed by the Dacula Marshal's Office and endorsed by the Municipal Court or in cases where a citation is not warranted but documentation is desired in cases where future violations are expected or may occur. The original of the written warning shall be given to the violator. The issuance of the written warning will also be logged in the Agency database. A copy of written warning shall then be given to the Chief Marshal for filing.
4. Verbal Warning: A verbal warning is appropriate when the violator commits an act which may be due to ignorance of a local ordinance of which the violator may not be aware. It is not necessary to initiate written incident/complaint form following a verbal warning. But in all instances the violator will be issued one of the Warning Notices that have the most common violations noted and their definitions. If the officer feels it is necessary, they will also issue the proper paperwork that deals with the violation on hand.

5. Officer/Violator Relations: Officers of the Dacula Marshal's Office shall conduct themselves in a professional manner in both appearance and demeanor. The officer's professional image shall be reflected to the violator through the officer's dress, grooming, language, bearing and emotional stability. Officers will be certain of the accuracy of violations before initiating enforcement action.

DACULA MARSHAL'S OFFICE

~~2021-18~~: Equal Employment Opportunity

PURPOSE: To establish an equal employment opportunity plan to ensure equal opportunities for employment and employment conditions for the Dacula Marshal's Office.

POLICY: The Policy of the Dacula Marshal's Office is to provide fair and equal employment opportunities to all persons, including applicants for employment and employees, without regard to race, gender, color, national origin, religion, age, disability, or protected class status as established by law. This policy relates to all phases of employment in all positions including, but not limited to recruitment, employment, placement, upgrading, demotion, transfer, layoff, recall, termination, rates of pay and other compensation and benefits, training, use of facilities, and participation in City-sponsored employee activities. The Dacula Marshal's Office is committed to maintaining a work environment that is free of unlawful conduct. In keeping with this commitment, the Dacula Marshal's Office will not tolerate harassment, discrimination, or the unlawful treatment of employees by anyone, including any supervisor, co-worker, vendor, client, or citizen. The Chief Marshal shall conduct an annual analysis of the Office's employment policies, practices and procedures relevant to their effective impact on the employment and utilization of all employees including civilian employees.

PROCEDURE:

- A. Public Announcements of job vacancies shall specify the job title, salary range, general duties to be performed, essential job functions, deadline on which applications must be received, a statement that the Dacula City Government is an Equal Opportunity Employer, and that applications are subject to public disclosure under the Georgia Open Records Law.
- B. The Dacula Marshal's Office Personnel Program shall, at all times, be conducted in accordance with applicable law. Any provision of this policy, which is inconsistent with applicable law, shall be interpreted to be consistent with applicable law.
- C. It is the intention of the Dacula Marshal's Office to fully comply with the Americans with Disabilities Act of 1990 (ADA) in providing reasonable accommodations whenever and wherever necessary. The Dacula Marshal's Office will not discriminate against qualified individuals on the basis of a disability in consideration of any of the terms and conditions of employment or in admission and access to programs, services, and activities. Any concerns or questions regarding ADA compliance should be directed to the City's Director of Human Resources.

- D. No individual shall be denied the right to file an application for employment for any open position; however, the Chief Marshal and/or the Director of Human Resources may establish a system for the acceptance of applications. Certain classified positions may be regarded as open for continuous recruitment of qualified applicants, while other positions may be classified as closed until such time as there is an announced vacancy.
- E. The Dacula Marshal's Office will not tolerate conduct on the basis of a protected class status that impacts tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or offensive working environment. Any employee who believes he/she has been subjected to such conduct should utilize the complaint procedures outlined in this policy manual. Refer to City of Dacula Personnel Handbook.
- F. In the Dacula Marshal's Office commitment to address the seriousness of sexual harassment, the Dacula Marshal's Office has adopted a specific policy and listing of complaint procedures as outlined in the City of Dacula Personnel Handbook.

DACULA MARSHAL'S OFFICE

~~2021-19~~: Extra/Off Duty Employment

PURPOSE: To establish guidelines and procedures which govern, extra/off duty employment, by sworn and non-sworn members of the Dacula Marshal's Office.

POLICY: The Chief Marshal of the Dacula Marshal's Office may prohibit an employee from engaging in extra/off duty employment that constitutes a conflict of interest or would tend to bring discredit to the Dacula Marshal's Office. No employee may engage in any employment or outside business which interferes with the efficient performance of his/her duties while employed by the City of Dacula Marshal's Office. If outside employment, in the opinion of the Chief Marshal, creates a conflict of interest or would tend to bring discredit to the department, the employee will be expected to resign one of the positions he/she holds.

DEFINITIONS:

EXTRA DUTY EMPLOYMENT: Any employment that is conditioned on the actual or potential use of law enforcement powers by a sworn member of the Dacula Marshal's Office.

OFF DUTY EMPLOYMENT: Any employment that will not require the use or potential use of law enforcement powers by the off-duty employee.

PROCEDURE:

A. Approval

As per the Official Code of the State of Georgia, Section 16-10-3, sworn employees must obtain approval of the Chief Marshal, in writing, prior to engaging in any extra duty employment where the member may be required to exercise their law enforcement powers. It shall be the policy of the Dacula Marshal's Office that all members obtain the approval of the Chief Marshal prior to engaging in any extra/off duty employment, as defined in this General Order.

1. The Chief Marshal shall have responsibility for coordination of the departmental extra/off duty employment process. Approval for extra/off duty employment shall be documented on the departmental form entitled "Request for Extra/Off Duty Employment".
 - a. Employees shall forward the completed form to the Chief Marshal for review and approval or disapproval.
 - b. The Chief Marshal shall return a copy of the form to the requesting employee indicating approval or disapproval of the employment. The original form shall be maintained on file by the Chief Marshal.

2. Sworn members of the department are prohibited from engaging in extra duty employment until they have successfully completed the Dacula Marshal's Office Field Training Program.
3. The Chief Marshal may, in the exercise of his reasonable judgment and discretion, revoke approval for extra/off duty employment based upon sufficient grounds.
4. Request for extra/off duty employment which is made directly to the Dacula Marshal's Office, from the private sector, shall be forwarded to the Chief Marshal for review and approval or disapproval.
 - a. After approval, extra/off duty employment announcements shall be posted in the department. The announcement shall include a schedule to be signed by interested employees.
 - b. When the schedule is completed, the Chief Marshal shall maintain the original on file and forward a copy to the requesting employer.
5. A request for extra duty employment shall include an indication if property or equipment belonging to the City of Dacula will be utilized. If property or equipment belonging to the City is utilized the type of property or equipment shall be indicated on the request form.

B. Conduct

1. Employees who are engaging in extra duty employment shall conduct themselves in a manner so as not to tend to bring discredit to the office or themselves.
2. Employees are expected to adhere to the Policy and Procedures Manual of the Dacula Marshal's Office when engaging in extra duty and off duty employment.
3. Reported misconduct shall be subject to internal investigation by the Office and appropriate disciplinary action when applicable.
4. Employees who make a commitment to work extra/off duty employment shall report to the location at the date and time specified on the schedule, failure to do so without making prior arrangements may subject the employee to office disciplinary action.
5. Employees who wear the office uniform while engaged in extra duty employment may wear their issued primary duty firearm in compliance with the provisions of the Policy and Procedures Manual.
6. Employees while working approved extra duty employment shall retain full arrest powers in accordance with State law and the Policy and Procedures Manual.
7. The employees' primary responsibilities shall be to the City of Dacula Marshal's Office and secondary to that of the extra duty employer.

C. Prohibited Employment

1. Employees shall not engage in or be employed by establishments that:
 - a. Sell pornographic books, magazines, sexual devices, videos or that otherwise provide entertainment or services of a sexual nature.
 - b. As a process server, reposessor or bill collector, towing of vehicles or in any other employment in which police authority might tend to be used to collect money or merchandise for private purposes.
 - c. Personnel investigations for the private sector or any employment which might require the officer to have access to police information, files, records or services as a condition of employment.
 - d. In office uniform in the performance of tasks other than that of a police nature.
 - e. Which assists, in any manner, the case preparation for the defense in any criminal or civil action or proceeding where there is the appearance of impropriety or conflict of interest.
 - f. For a business or labor group that is on strike.
2. Extra duty employment by sworn ~~employees is prohibited outside of the jurisdictional boundari~~, ~~deputized employees is limited to a 10-mile radius es~~ of the City of Dacula. Further distance requires Chief Marshal and Mayor approval. (Refer to the section of this Policy and Procedures Manual entitled “Agency Jurisdiction”.)
3. Employees are prohibited from engaging in more than thirty (30) hours of extra/off duty employment during a regular scheduled work week. Time taken off for regular off days, vacation, holidays, or compensatory time during which the employee is engaged in extra/off duty work is excluded from the thirty (30) hour stipulation.
4. Employees are prohibited from engaging in any type of extra/off duty employment at the same time that such employee is actually working in an on-duty status for the City of Dacula.

D. Reporting

Employees who engage in extra duty employment shall document all significant aspects or incidents which occur. Reporting shall be consistent with established departmental procedures. Examples of incidents which would require reporting include but are not limited to:

1. Arrests;
2. Traffic accidents;
3. Thefts;
4. Assaults;

5. On the job injury.

E. Exigent Circumstances

Any designee of the Chief Marshal shall have the authority to approve extra/off duty employment during exigent circumstances.

Example: During hours when the Chief Marshal is unavailable and a condition exists that requires immediate approval. A completed approval form will be forwarded to the Chief Marshal for notification and filing.

REQUEST FOR EXTRA/OFF DUTY EMPLOYMENT

TO: CHIEF MARSHAL

FROM: _____

DATE: _____

AS PER OFFICE POLICY AND OCGA 16-10-3, THIS REQUEST IS MADE TO ENGAGE IN
EXTRA/OFF-DUTY EMPLOYMENT.

Type work/activity to be performed: _____

Location: _____

Employer: _____

Contact Person: _____

Phone: _____

Date/Hours Involved: _____

Will this employment be recurrent? _____ Yes _____ No

Will City-owned equipment be utilized? _____ Yes _____ No

If Yes, identify City-owned equipment to be utilized: _____

I understand that The City of Dacula will not be liable for any injuries that might arise from this
extra/off-duty employment; that it is my responsibility to ensure that I am covered under the
Worker's Compensation plan of the extra/off-duty employer.

Signature of Requesting Employee:

Chief Marshal or Designee

Mayor or Designee

Required if location exceeds 10-mile radius

() Approved

() Disapproved

Date: _____

NOTE: Signed copy to be returned to Requesting Employee

Original filed by Chief Marshal

DACULA MARSHAL'S OFFICE**2021-20:** Field Interviews and Investigatory Stops

PURPOSE: To establish guidelines and procedures for the making of investigatory stops for the purpose of field interviews.

POLICY: Officers of the Dacula Marshal's Office shall be provided with field interview cards (refer to attached example) to be utilized in documenting investigatory stops. The cards shall be completed with the information obtained during the field interview.

PROCEDURE:

- A. Officers shall comply with all applicable laws and office procedures in making investigatory stops.
- B. Terry v. Ohio, 392 U.S. 1 (1968) recognized that a brief detainment of persons based on an officer's reasonable suspicion was permitted. Such detainment is not an arrest and the detainment must be reasonable. In those circumstances when the officer does not have enough reasonable suspicion to detain under Terry v. Ohio, the subject cannot be detained if he chooses to leave.
- C. Examples of circumstances under which field interviews may be appropriate are:
 - 1. Persons located in the area where a crime has just been committed.
 - 2. Persons located in areas where numerous crimes have been committed over a period of time.
 - 3. Persons located in areas where their appearance does not fit the area.
 - 4. Persons reported by citizens as exhibiting suspicious behavior.
 - 5. Persons fitting description of suspects in crimes.
 - 6. Persons occupying vehicles matching descriptions of vehicles involved in criminal activity.
 - 7. Persons, who, after being stopped for other legitimate purposes, exhibit suspicious behavior,
 - 8. Persons in the company of individuals arrested for crimes.
- D. Completed field interview records shall be retained and filed at City Hall. A copy shall also be maintained in a chronological file at the Dacula Marshal's Office. The file shall be available to all department personnel.
- E. In all cases, pictures need to be taken, all interviews recorded and then retained in a case file.

DACULA MARSHAL'S OFFICE FIELD INTERVIEW CARD

DATE _____ TIME _____

NAME

ADDRESS

DOB _____ RACE _____ SEX _____ HT. _____ WT. _____

DRIVER LIC. # _____

S.S. # _____

LOCATION

VEHICLE DESCRIPTION

TAG # _____

REMARKS

OFFICER _____

DACULA MARSHAL'S OFFICE

~~2021-21~~: Field Training and Evaluation Program

PURPOSE: To establish a program of Field Training within the Dacula Marshal's Office to provide recruit trainees with "on street" experiences and classroom training. The Field Training Program also establishes career opportunities within the Office. It provides incentive for the demonstration of proficiency in the skills, knowledge and abilities needed to perform the functions of a Marshal.

POLICY: It is the policy of the Dacula Marshal's Office to maintain a Field Training Program with the goal of the process being to improve the overall effectiveness and efficiency of code enforcement services of newly hired officers. When completed by a trainee, he/she will be familiar/proficient with the duties required of a Dacula Marshal. The trainee will become familiar with all aspects of the agency to produce a well-rounded and cross-trained officer. All new employees will attend the City of Dacula orientation upon being hired. All new employees will be given access to the agency's Policy and Procedures Manual.

PROCEDURE:

A. Non-Certified Officers

Non-certified officers will not be sworn in, make any arrests; or be issued any uniforms, firearms, or police identification until they have successfully completed Mandate Training for Peace Officers as required by P.O.S.T. non-certified officers will wear civilian attire consistent with Departmental General Order entitled "Code of Appearance" for plain clothed officers. Prior to receiving verification of acceptance to the Regional Academy, the trainee will be assigned a Field Training Officer (FTO). The FTO will act as a liaison between the agency recruit trainee and the academy. The FTO will assist the trainee with the transition to the local academy. Immediately upon entering the FTO program and prior to the trainee's acceptance to the Regional Academy, the FTO and/or a P.O.S.T Certified Training Instructor will begin firearms training to successfully qualify the recruit trainee with Office firearms.

B. Certified Officers

New employees who are certified Peace Officers will not make any arrests; and will not be issued any firearms, or police identification until after being sworn in. After being sworn in, the new trainee will be assigned to an FTO. The newly hired certified officer trainees will be required to successfully qualify with the agency firearms, immediately upon entering the FTO program.

All new trainees will be assigned to the FTO program for a minimum of four (4) weeks. During the four-week program, the new trainee will be introduced to

training in all aspects of code enforcement, being rotated to work with different FTO's and/or other Marshals of the Department. No trainee will be allowed to work any outside employment where the trainee is required to use his/her law enforcement authority until graduating from the FTO Program unless approved by the Chief Marshal. The trainee will follow normal procedures involving secondary employment (non- law enforcement).

C. Evaluation Subject Matter

The probationary officer will receive training and be evaluated in all aspects of his/her knowledge in but not necessarily limited to the following areas: Policies and Procedures of the Dacula Marshal's Office; alcoholic beverage laws; business/occupation tax; adult entertainment; excise tax collections; traffic enforcement; code enforcement as it relates to dilapidated and substandard housing; junk and abandoned vehicles; overgrown lots and public nuisances. Evaluations will be conducted on at least a weekly basis by the FTO to assess the job knowledge of the probationary employee. The evaluations will be comprised of both written test and oral interviews.

D. Field Training Officer Responsibilities

The FTO is responsible for providing constant supervision of each trainee, acquainting the trainee with the agency's policies and procedures, pin- pointing any areas of deficiency; and reporting on the trainees' progress. The FTO should instill a positive and professional attitude to all his/her trainees. Each FTO assigned a new trainee will be required to evaluate him/her on a weekly basis and provide a written report to the Chief Marshal. The FTO and the trainee will discuss the evaluation at the end of each week. If a trainee is unable to meet the training objectives for any training session, the FTO and Chief Marshal will notify the trainee in writing. The Chief Marshal will meet with all parties and discuss the deficiencies. The Chief Marshal will have final approval of all recommendations. Upon completion of the FTO Program, the FTO will make a recommendation of graduating the trainee to the Chief Marshal with final approval being the Chief Marshal's. The FTO will retain all records of evaluations in file.

1. Extension of training

The recruit officer's Field Training and Evaluation period may be extended, upon the recommendation of the FTO and with the approval of the Chief Marshal.

The FTO will also assist the agency with remedial training of personnel having difficulty with any program of instruction, at any level of training, and for personnel who show a lack of understanding in the application of Office policy and procedures. The FTO will meet with the Chief Marshal and employee and discuss the deficiencies. If remedial training is necessary, the employee will be assigned an FTO for training in the specified areas. Remedial training should begin as soon as possible following identification of the deficiencies and will continue as reasonably necessary. Participation shall be required and nonparticipation will subject the employee to disciplinary actions.

E. Employment Status Process:

1. At any time during the probationary period a recruit is not performing at a satisfactory level, a recommendation for termination may be initiated.
2. Memorandums and recommendations for termination are forwarded by the FTO to the Chief Marshal.
3. The Chief Marshal will affect the administrative decision reference to the requested dismissal.
 - a. If the Chief Marshal concurs with the recommendation of the FTO the recruit shall be administratively relieved of duty in accordance with established procedures.

F. Disposition of Field Training Evaluations:

Upon completion of FTO training, the recruit officer's Field Training and Evaluation Program reports will be filed as follows:

1. Office personnel file:
 - a. Report of recommendation of graduation by FTO
2. All other Field Training and Evaluation Program files
 - a. Shall be maintained in the Office training files by officer name.
 - b. Field Training and Evaluation Program files are confidential and shall be reviewed only by persons with a "need to know" upon approval of the Chief Marshal.

G. Selection and Training of Field Training Officers

The Field Training Officers will come under the direct supervision of the Chief Marshal.

1. Field Training Officers will be required to have the following minimum qualifications to apply:
 - a. At least one years' experience in law enforcement.
 - b. Good standing within the Dacula Marshal's Office.
 - c. Must have overall "Meeting Standards" rating on the last employee performance evaluation.
 - d. The Chief Marshal has final approval of appointment to FTO.
 - e. Appointment to an FTO position shall be temporary and on an "as needed" basis.

H. Release from Field Training Duties

1. A Field Training Officer may be released from field training and evaluation

duties as follows:

- a. At the request of the individual assigned
- b. At the discretion of the Chief Marshal.

DACULA MARSHAL'S OFFICE

2021-22: Firearms

PURPOSE: To establish procedures for firearm training, qualification, carry, approval and maintenance.

POLICY: This policy establishes guidelines and procedures to be followed for firearms use, display, method of carry, maintenance, training, and qualification for on duty and extra duty firearms, including primary and any other departmentally issued, as well as secondary firearms, and shotguns. Officers of the Marshal's Office will only carry those firearms on duty which they are authorized to carry.

Officers will strictly adhere to the policies and procedures which are established in the departmental General Order entitled "Officer's Response to Resistance and Aggression" as it relates to firearms use.

This directive is for office use only and is not intended to supersede any existing law(s) pertaining to the use of a firearm by a law enforcement officer. The office policy should not be construed as a creation of a higher standard of safety or care in an evidentiary sense with respect to third party claims. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

DEFINITIONS:

AUTHORIZED AMMUNITION: Firearms ammunition that has been approved by the criteria contained and outlined in this policy for on duty and off duty use by officers of the ~~Gwinnett County Police Department and~~ Marshal's Office.

AUTHORIZED FIREARM: Any firearm which meets Office regulations and approval of the Chief Marshal as set forth in the contents of this policy.

FIREARM CARRY: A method of carrying an approved firearm on duty or off duty as set forth in the contents of this policy.

HANDGUN: A firearm without a stock capable of being functioned and fired with one hand.

OFF DUTY: That period of time during which an officer or member of the ~~Gwinnett County Police Department or~~ Marshal's Office is not expected to perform his or her duties in a specified duty assignment.

OFF DUTY AMMUNITION: Firearms ammunition carried in all approved off duty firearms at the individual officer's expense meeting the criteria set forth in this policy.

OFF DUTY FIREARM: A firearm carried by a sworn police officer of the ~~Gwinnett County Police~~

~~Department or~~ Marshal's Office while not on active duty which meets the criteria for an authorized firearm as set forth in this policy.

ON DUTY: That period of time during which an officer or member of the ~~Gwinnett County Police Department or~~ Marshal's Office is expected to perform his or her duties in a specified duty assignment.

ON DUTY AMMUNITION: Firearms ammunition purchased and issued by the ~~Gwinnett County Police Department or~~ Marshal's Office, and carried by methods and in quantities set forth in this policy.

PRIMARY FIREARM: An Office owned and issued firearm approved by the Chief Marshal for each officer of the ~~Gwinnett County Police Department or~~ Marshal's Office to carry while performing a law enforcement function.

QUALIFICATION: A level of acceptable proficiency with a firearm according to established Office guidelines and standards.

RANGE: The area designated for Office firearms qualification.

REVOLVER: A handgun characterized by having a rotating cylinder.

SECONDARY FIREARM: Office authorized individually owned firearm carried in addition to Office issued primary firearm which meets criteria and guidelines set forth in this policy.

SELECT-FIRE WEAPON: A firearm with a selector lever to regulate single fire, multi-shot burst or full automatic modes of the trigger function.

SEMI-AUTOMATIC PISTOL: A self-loading handgun which loads cartridges from a magazine located in the grip of the firearm.

PROCEDURE:

A. ASSISTANCE: GWINNETT COUNTY POLICE DEPARTMENT

By agreement between the City and/or the Sheriff, the County Police Department or Sheriff's Department Training Staff, Range Master, Firearms Instructors or Certified Weapons Instructors, and Armorer will provide assistance, information, facilities and certain materials and supplies as necessary to accommodate training and education of firearms, use and proficiency, maintenance and inspection of firearms, instruction on legal guidelines regarding the use of force, and the safety required for the use of firearms. All weapons intended for use by each employee in the performance of duty, prior to carrying, shall be reviewed, inspected and approved by the Chief Marshal and/or a qualified weapons instructor or Armorer. Unsafe weapons shall immediately be removed from service. The Chief Marshal shall maintain a record on each firearm approved for official use. The record shall include the make model, serial number and identity of the assignee.

B. FIREARMS TRAINING

1. The Marshal's Office shall abide by Georgia POST Rule 464-5-.03.1 which states:

Each person employed or appointed as a peace officer shall, as part of the annual training required by O.C.G.A. § 35-8-21, satisfactorily complete during each calendar year the annual firearms training mandated by this rule. The failure by any peace officer to attend and successfully complete the training required by this rule shall result in the loss of that officer's power of arrest, as set forth in O.C.G.A. § 35- 8-21(d).

Annual firearms training shall, at a minimum, consist of two hours of training provided by a POST-certified firearms instructor, which training shall include, but not be limited to:

- a. Training on the Constitutional and legal limitations on the use of deadly force.
- b. Training on the agency's policies regarding the use of deadly force.
- c. A demonstration of proficiency in the safe and effective use of the primary firearm carried and/or used by the particular officer, to include a course of fire that meets or exceeds the minimum standard set forth in the basic training course for which the officer was initially trained and is currently employed.

In any instance where an officer has more than one peace officer certification, the higher standard shall apply. Any officer failing to achieve the required score in the above training may undergo additional courses of fire under the direction of a POST-certified firearms instructor in order to achieve a passing score.

2. In addition to their primary firearm, officers shall also be required to qualify a minimum of once per year with all other firearms they have been authorized to carry on duty.
3. At the time of qualification, an inspection of the firearm shall be conducted by a qualified weapons instructor or armorer. Firearms found to be unsafe shall not be carried by the officer until the firearm has been rendered operational.
 - a. Any primary firearm found to be unsafe or otherwise in need of repair, or is unserviceable, shall be removed immediately from service. The officer shall be issued an Office issued serviceable firearm for use on duty until such time that their assigned firearm has been repaired, corrected, or otherwise placed back into a serviceable condition.
 - b. Any additional office issued firearm found to be unsafe or otherwise in need

of repair, or is unserviceable, shall be removed immediately from service. The officer shall be issued a serviceable firearm, if available, for use on duty until such time that their assigned firearm has been repaired, corrected, or otherwise placed back into a serviceable condition.

- c. Any secondary firearm or individually owned rifle found to be unsafe or otherwise in need of repair, or is unserviceable, shall be removed immediately from service and the officer shall be responsible for repairing or correcting the secondary firearm or individually owned rifle and any expense which might be incurred. The secondary firearm or individually owned rifle shall be re-inspected before being placed back into service.

4. Safety

It is imperative that each individual officer exercise extreme care in the handling of all firearms. This is especially true during firearms qualification.

Range Safety Rules:

- a. Treat all guns as though they are loaded.
- b. Never point a firearm at anyone unless you are justified in killing that person.
- c. All firearms training must be properly and adequately supervised and monitored by a certified weapons instructor. Training and proficiency must be documented. All safety precautions must be adhered to and enforced at all times.
- d. Strict discipline must be maintained at all times during the course of qualification. Carelessness cannot and must not be tolerated during firearms training.
- e. Immediately on picking up a firearm, open the cylinder or action and check to see that it is unloaded - **CHECK TWICE TO BE SURE.**
- f. Never give a firearm to or take a firearm from anyone unless the cylinder or action is open.
- g. Never anticipate a command from the Firearms Instructor.
- h. Be sure there is no obstruction in the barrel of a firearm before loading.
- i. Load only after position is taken on the firing line and the command to do so is given by the Firearms Instructor.
- j. Unload when and as instructed.

- k. Keep the firearm pointed down range at all times.
- l. Never draw a firearm from the holster or re-holster with the finger in the trigger guard.
- m. No smoking on the firing line by the shooter or the instructor
- n. No talking on the firing line except by the instructor
- o. Never let the hammer of a revolver down on a live cartridge without placing the thumb in front of the hammer and releasing the trigger.
- p. Never permit the muzzle of a firearm to touch the ground.
- q. In case of a misfire, keep the firearm pointed down range and notify the Firearms Instructor.
- r. Never fire a succeeding shot after a malfunction without first unloading and checking the barrel for obstructions.
- s. Never leave the firing line without first unloading your firearm.
- t. Never go in front of the firing line until the firing line has been cleared and the command to do so is given by the Firearms Instructor.
- u. Never carry a loaded firearm on the range except when on the firing line.
- v. Never dry fire on the range except under the supervision of an instructor.
- w. Pay strict attention to the Firearms Instructor. The Firearms Instructor will instruct you on exactly what to do. The Firearms Instructor running the firing line is the absolute authority in charge.

VIOLATIONS: The aforementioned rules are hereby adopted by the Marshal's Department and will be strictly adhered to and enforced by anyone firing on the range. Failure to do so could result in loss of firing time and/or disciplinary action against the violator.

5. Authorized Firearms

- a. Officers employed by the Marshal's Office, after demonstrating proficiency, are authorized to carry the following weapons:
 - (1) Primary firearm – as approved by the Chief Marshal.
 - (2) Secondary firearms as outlined in section B.7 of this policy.

- b. Only authorized firearms may be used for regular firearms qualification courses.
- c. Conversely, an officer must qualify on specified courses of fire to gain authorization for a specific firearm he or she desires to carry, if carried within a situation where he or she may have to take action as a law enforcement officer, within the jurisdictional boundaries of the City of Dacula. The course of fire is to be determined by a certified weapons instructor and the Chief Marshal. Also refer to General Order entitled "Agency Jurisdiction".

6. Course of Fire

a. On Duty Firearms

- (1) Sworn personnel shall be required to qualify as directed by a certified weapons instructor and the Chief Marshal.
- (2) Personnel shall be required to qualify at a minimum of once per year with their primary firearm and any secondary firearms which they are authorized to carry on duty. Additional qualification and training may be directed by the Chief Marshal.
- (3) Any personnel who miss a qualification, and have not been properly excused from that qualification will be reported in writing by the certified weapon's instructor to the Chief Marshal for possible disciplinary action.

b. Failure to Qualify

Any member who fails to attain a qualifying score will be reported in writing by the Firearms Instructor to the Chief Marshal. If personnel fail to achieve the minimum score at the time of the qualification, the Firearms Instructor should conduct additional training at this time and attempt to achieve a minimum score for qualification.

After additional training, if the shooter still fails to achieve a minimum score for qualification, the Firearms Instructor will contact the Chief Marshal. Any personnel who fail to qualify with their primary firearm shall be removed from active service until such time as compliance with this requirement has been met. At this time, the Chief Marshal should take charge of the shooter's primary duty firearm and place him or her in a non-hazardous duty assignment.

The Chief Marshal should report such in writing to a certified weapons instructor, who will as soon as possible, schedule remedial training and attempt to achieve a minimum score for qualification and re-authorize the shooter to carry his or her primary firearm. If the shooter is still unable to

achieve a minimum score for qualification, the certified weapons instructor will report same in writing to the Chief Marshal, and will conduct an interview with the shooter for determination of facts causing the shooter's failure to qualify and then file a written report to the Chief Marshal outlining the results of the shooter's qualifying efforts, the findings of the certified weapons instructor conducting that particular shooting course of instruction, and recommendations based upon all of the above procedures, as well as the shooter's interview. The recommendation of the certified weapons instructor may include termination, re-assignment of duties for the shooter, and/or a prescribed course of remedial training.

7. Secondary Firearms

Officers of the Marshal's Office, who choose to carry a secondary firearm, must qualify on a firearms training course, set forth by a certified weapons instructor and the Chief Marshal, a minimum of once per year, meeting all guidelines and standards mandated by this policy for departmentally issued firearms. In the event an officer does not wish to requalify or participate in remedial training for their secondary firearm(s) and/or individually owned rifle, the officer shall immediately notify the Chief Marshal in writing to document the officer will not be using the firearm or rifle while in the performance of their duties. Ammunition must be supplied by the shooter. At the time of qualification, the method of carry which is being utilized by the officer must be inspected and approved by a certified weapons instructor. The firearm must be carried in a secure holster which is designed for the particular firearm and method of carry being utilized. The firearm must be carried in a concealed manner.

In the event that the secondary firearm is involved in a shooting, the secondary firearm shall be turned over to the investigating agency, if requested. It shall be the officer's responsibility from retrieving his/her personally owned secondary firearm from the investigating agency and not the Marshal's Office once the investigation is complete.

- a. Secondary firearms must meet the following criteria to be eligible for approval:
 - (1) The firearm must be in a good, serviceable and working condition.
 - (2) The firearm must be of a double action revolver or double action pistol design.
 - (3) The firearm must be chambered in one of the following calibers, .380, .38, .357, .40, .45 Auto, 9mm or 10mm.
 - (4) Barrel length must not exceed four- and one-half inches.
 - (5) The firearm shall have a minimum first trigger pull of 5 pounds or greater.

C. FIREARMS TRAINING RECORDS

A Georgia POST certified Range Master shall maintain a permanent certification log for firearms training on each individual officer of the Marshal's Office which shall consist of:

1. Officer's name.
2. Copy of certification on issued and secondary firearm(s) including make, model, caliber, serial number, ammunition description, date of the qualification, time, results of shooting test, instructor's name, course of fire, and written test results, if any.

D. EXTRA / OFF-DUTY FIREARMS

1. It is required that all officers who are authorized to carry a firearm must carry their Office issued primary firearm when performing an approved law enforcement related extra duty work assignment outside the normal hours of their on-duty status. The provisions for secondary firearms as previously discussed shall also apply.
2. The Office neither encourages nor discourages the carrying of a firearm by sworn officers when they are off duty. Sworn officers who choose to carry a firearm while in the off-duty status outside the State of Georgia shall follow the departmental procedures as outlined in Section G of this policy.
3. OCGA 16-11-130 establishes exemptions for peace officers regarding weapons carry permits when in the off-duty status within the State of Georgia. Officers of the Marshal's Office carrying concealed firearms in accordance with OCGA 16-11-130 are further restricted by the department to carry only their issued primary firearm and ammunition or a firearm and ammunition which has met the criteria established for secondary firearms within this General Order and which they are currently qualified to use.

E. METHOD OF CARRY FOR FIREARMS AND AMMUNITION

1. All firearms, (on duty, primary; off duty and secondary) shall be carried in the following manner:

- a. Uniform Carry

Uniformed officers of the Marshal's Office shall carry their primary firearms in the department authorized, owned, and issued holster.

- b. Plain Clothes Carry

Officers assigned to wear plain clothing shall make every attempt to conceal

their weapon when in public. Plain clothed officers not wearing their primary duty weapon shall have it readily available or in their immediate possession. In a circumstance when the weapon is worn unconcealed, the badge shall be worn on the belt clip holder in view at all times. Likewise, when articles of clothing are worn identifying the officer as law enforcement officer, the member shall be suitably armed. Weapons worn in a shoulder holster shall remain concealed while the officer is in public. Female officers may carry their primary firearm in an alternate method of carry, i.e., purse. The primary carry of the primary weapon and any alternate method of carry must be inspected by a certified weapons instructor and approved by the Chief Marshal.

c. Secondary Carry

Sworn officers of the Marshal's Office, who at their own discretion, choose to carry a secondary firearm shall carry that firearm in a secure and safe fashion which is approved by a certified weapons instructor and Chief Marshal.

d. Off Duty Carry

Officers of the Marshal's Office who choose, at their own discretion, to carry an off-duty firearm shall carry that firearm in a secure manner at all times.

e. Exceptions to Methods of Carry

The Office recognizes that due to the nature of law enforcement it may be necessary at certain times for an officer to carry his/her firearm in a manner not described as appropriate in the above sections of this policy, such as special undercover assignments. It is the intent of this policy to allow for those incidents by requiring approval of the Chief Marshal prior to using an alternate method of carry when feasible.

2. Ammunition Carry

- a. On duty ammunition carried in an officer's primary firearm shall be that ammunition which has been approved, owned and issued by the Office.
- b. Ammunition shall be carried in the quantities approved by the Chief Marshal.
- c. Secondary ammunition shall be approved by caliber, type, grain, weight, and jacket by the Chief Marshal and/or a certified weapons instructor and shall be the individual officer's financial responsibility, as well as the frequent change of this ammunition to insure freshness.

F. RETENTION / STORAGE

1. Retention

At no time shall an officer of the Marshal's Office surrender his or her firearm or any instrument capable of inflicting great bodily harm or death to a suspect/perpetrator of a crime or any other person while engaged in the performance of his/her official duties except as provided by this policy in matters of inspection by supervisory personnel, during a course of training, and/or securing the weapon prior to entering a detention or mental health facility.

2. Storage

- a. Off-Duty

Marshal's Office employees have the responsibility for the safe and proper storage of their Office issued firearms when not being carried. The Office recommends the utilization of trigger locks when the firearm is being stored. The Office also recommends that the firearm be stored in a manner that would decrease the chance of persons, especially juveniles, from coming into contact with the firearm.

- b. Marshal's Office

Inventoried departmental authorized weapons shall be stored in the Marshal's Office with access limited to the Chief Marshal.

- G. H.R. 218

1. Officers in an off-duty status may choose to abide by H.R. 218 in regards to the carrying of concealed firearms. H.R. 218 exempts qualified active law enforcement officers from local and state prohibitions on the carrying of concealed firearms. However, the following laws are still applicable to qualified active law enforcement officers:
 - a. Federal laws or regulations governing the carrying of firearms onto aircraft, federal buildings, federal property and national parks;
 - b. State laws which prohibit the carrying of firearms onto state or local government property;
 - c. State laws which allow private entities to prohibit firearms on their private property.
2. The Law Enforcement Officers' Safety Act excludes machine guns, firearm silencers and other destructive devices from the definition of firearms.
3. In order to qualify for H. R. 218, an officer must have his/her department issued

ID card on his/her person. Therefore, if an officer's police powers have been suspended for any reason, he/she will not be in compliance with H.R. 218. Additionally, an officer will not be covered under this act if he/she is under the influence of alcohol or drugs.

4. Officers carrying concealed firearms in accordance with H. R. 218 are further restricted by the department to carry only their issued primary firearm and ammunition or a firearm and ammunition which has met the criteria established for secondary firearms within this General Order and which they are currently qualified to use.

DACULA MARSHAL'S OFFICE

~~2021-23~~: Reserved

DACULA MARSHAL'S OFFICE

~~2021-24~~: Reserved

DACULA MARSHAL'S OFFICE**2021-25: Internal Affairs**

PURPOSE: To establish procedures for receiving, investigating and processing complaints against members of the Marshal's Office.

POLICY: The Internal Affairs function is important for the maintenance of professional conduct in a law enforcement agency. The integrity of the agency depends on the personal integrity and discipline of each employee. To a large degree, the public image of the agency is determined by the quality of the Internal Affairs function in responding to allegations of misconduct by the agency or its employees, thereby instilling public confidence in the agency. Since the ultimate responsibility of integrity and conduct of all members of the Marshal's Office lies with the Chief Marshal, it shall be the policy that all complaints be forwarded to the Chief Marshal as stipulated in this Office Policy. Internal Affairs investigations shall be conducted by the Chief Marshal. The primary responsibilities of the Chief Marshal when handling an internal affairs investigation is to ensure the integrity of the Office by performing/supervising thorough and impartial investigations of members of the Marshal's Office, to ensure that every investigation withstands the test of fairness, and that all members are treated equally.

PROCEDURE:

- A. Internal Investigations Review, Assignment and Staff Control
1. The Internal Affairs component of the Marshal's Office shall be responsible for:
 - a. Recording, registering and controlling the investigation of complaints against officers.
 - b. Controlling the investigation of alleged or suspected misconduct within the agency.
 - c. Maintaining the confidentiality of internal affairs investigations and records.
 2. Each complaint shall be reviewed and investigated by the by the Chief Marshal.
 - a. The Chief Marshal shall assume responsibility for the administrative investigation of the following:
 - (1) Commission of a crime.
 - (2) Corruption.

- (3) Excessive force / brutality.
 - (4) Gross misconduct.
 - (5) Firearms discharges other than training.
 - (6) Other acts of a serious nature.
 - (7) Gross insubordination.
 - (8) Incidents of domestic violence involving officers.
 - (9) Administrative inquiries as directed by the Chief Marshal.
 - (10) Where the Chief Marshal is involved in a complaint, the City Administrator or other designee will assume investigative responsibility.
- b. The Chief Marshal will assume responsibility for the administrative investigation of the following allegations of misconduct:
- (1) Discourtesy;
 - (2) Harassment;
 - (3) Sleeping on duty;
 - (4) Disrespect towards citizens;
 - (5) Absence without leave;
 - (6) Neglect of duty;
 - (7) Insubordination; and
 - (8) Other acts of minor misconduct.

The Chief Marshal shall be notified of the above stipulated complaints and results of internal investigations as further stipulated in this policy.

3. Complaint Processing

- a. Receipt of a complaint may be in the form of a letter, a phone call or in person. Any employee receiving a complaint about a Marshal's Office member shall direct the information to the Chief Marshal who will assign the complaint a control number and direct the investigation accordingly.
- b. The Office shall investigate all complaints against the agency or its members. A complaint shall be defined as an allegation against an employee of this Office which constitutes a violation of law, rule or regulation of any governing authority. Complaints shall also include alleged inadequate or inappropriate service. Allegations not meeting the criteria for either a

violation of law, rule, regulation or service complaint shall be handled tactfully by the receiving employee. Complaints shall be classified and handled as follows:

- (1) Formal Complaint: A complaint received and documented on a Office Complaint Form.
- (2) Verbal Complaint: A complaint received verbally, in person or by telephone, from a citizen that is of a minor nature; will be forwarded to the Chief Marshal. The Chief Marshal will record in writing, the nature and disposition of the complaint. If the verbal complaint is of a more serious nature, the complainant shall be encouraged to make a formal complaint.

4. Responsible Investigator's Duties

- a. The Chief Marshal has the responsibility to assist any citizen in resolving complaints.
- b. The Chief Marshal shall determine whether, due to the nature or urgency of a complaint, it should be brought to the immediate attention of the City Administrator.
- c. The complainant shall be given a copy of any written formal complaint or statement. The copy will not contain any follow-up investigation information. The original and investigative attachments shall be immediately forwarded to the Chief Marshal.
- d. All available, applicable arrest reports, incident reports, investigative memoranda, statements, dispatch printouts, booking reports, or other relevant information shall be attached to the complaint form by the responsible employee receiving the complaint.
- e. Where allegations of force resulting in injury have occurred, the responsible employee accepting the complaint shall obtain evidence surrounding the allegation. The evidence shall include, but not limited to, a detailed description of the incident, photographs, medical reports, etc.
- f. Complaints that are resolved shall be reported in the following manner:
 - (1) Typed memorandum format;
 - (2) Listing of complainant information, name of accused member and allegation;
 - (3) Synopsis of incident; with information and reports of all those involved;
 - (4) Investigation results; and
 - (5) Findings, conclusions, recommendations.

- g. All complaints and investigations shall be reviewed by the Chief Marshal.
- (1) Any citizen making a formal complaint against the agency or its members shall be provided with:
 - (a) A copy of the written formal complaint or statement.
 - (b) A letter from the Chief Marshal acknowledging receipt of the complaint.
 - (c) Information on the status of the investigation.
 - (d) Written notice advising final disposition.
 - (2) Once a formal complaint has been received or forwarded to the Chief Marshal, the accused employee shall be informed, in writing, of the allegation/complaint against him/her. In addition, the employee shall be informed of his/her rights and responsibilities in regards to the investigation. No employee shall be disciplined for failure to make a statement(s) where the statement could be incriminating unless the employee has been given the Garrity admonition. The Garrity warning informs the employee:
 - (a) They are required to respond to the allegations or submit to tests or examinations regarding the allegations of violations or administrative rules and regulations
 - (b) Failure to respond or submit can result in disciplinary action up to and including; termination
 - (c) Such questions, tests or examinations will be narrowly and specifically related to their performance of duties or fitness for office
 - (d) Such statements, tests or examinations results cannot and will not be used against the employee in any future criminal investigation or criminal matter
 - (3) The complainant will be advised of OCGA 16-10-20 and 16-10-26, concerning false statements and false reporting of a crime, prior to signing the complaint form.
 - (a) If it is determined that a citizen has knowingly made a false report against a member, the Chief Marshal will pursue the filing of a case against the citizen for false reports;
 - (b) The guilt or innocence of the complainant is to be decided by the legal system. The Marshal's Office will not consider the dismissal of criminal charges in exchange for dropping internal complaints.

- B. Office owned desks, lockers, storage space, rooms, offices, equipment, work areas, computer, workstations and vehicles are the sole property of the City of Dacula and subject to inspection at any time deemed necessary by the Chief Marshal or other competent authority. Private property can be stored in areas mentioned above, but privacy should not be expected. No one who is not acting in his or her official capacity shall be authorized to search the areas assigned to others.
- C. Office members should be aware that due to the very nature of the complex problems facing law enforcement and the need for accuracy in reporting, those using police telephone lines (including portable telephones), and radio transmissions, diminish their expectation of privacy. Monitoring or review of recorded phone messages, computer generated messages or e-mails, radio transmissions may be involved in the internal investigative process.
- D. Employee Rights and Responsibilities as related to an Internal Investigation Interview:
1. In an interview regarding an allegation of misconduct, the questions shall be narrowly and directly related to the matter under investigation.
 2. The interview shall take place at a location designated by the Chief Marshal, preferably at a facility of the Marshal's Office.
 3. The interview of any Marshal's Office member shall be conducted at a reasonable hour, preferably when the member is on-duty and during the daylight hours, unless the urgency of the investigation dictates otherwise. If such an interview occurs during off-duty time of the member being interviewed, the member shall be compensated for his/her off-duty time in accordance with Office procedure.
 4. The member being interviewed shall be informed of the name and rank of all persons present.
 5. As with formal interviews with the complainant(s) and witnesses, the interview with the accused member shall be recorded with audio equipment;
 6. When the accused member is being interviewed in a non-criminal administrative matter, he/she will not be allowed the presence of counsel; the member shall answer, truthfully, all questions concerning the investigation posed by the interviewing investigator; when the member refuses to answer such questions, he/she will be informed that such refusal to answer can become the subject for disciplinary action. However, no employee shall be disciplined for failure to make a statement(s) where the statement could be incriminating unless the employee has been given the Garrity admonition.
 7. If, as a result of interviews conducted with all concerned, criminal violations are apparent, the individual conducting the interview will immediately suspend the investigation and notify the City Administrator.
 8. The Chief Marshal shall make a determination as to whether an independent

criminal investigation shall be initiated by the District Attorney's Office or the Georgia Bureau of Investigation.

9. In the event an independent criminal investigation is initiated, the Department's administrative internal investigation shall be suspended until the criminal matter is completed.
10. A Marshal's Office member may, at any time, be ordered to submit to a physical lineup, photos taken, blood, breath or urine tests, ultraviolet light scan, handwriting exam, voice stress analysis, or other non-testimonial evidence test, which is specifically directed and narrowly related to an internal investigation. Refusal to submit may result in disciplinary action up to and including dismissal. However, no employee shall be disciplined for failure to make a statement(s) or submit to test where the statement or test could be incriminating unless the employee has been given the Garrity admonition. If criminal prosecution is contemplated, the Marshal's Office member shall be entitled to counsel.
11. A Marshal's Office member may, at any time, be ordered by the Chief Marshal to submit to a polygraph examination which is specifically directed and narrowly related to an internal investigation. Refusal to submit may result in disciplinary action up to and including dismissal. However, no employee shall be disciplined for failure to make a statement(s) or submit to test where the statement or test could be incriminating unless the employee has been given the Garrity admonition.
 - a. The complainant may also be requested to submit to a polygraph examination which is specifically and narrowly related to an internal investigation;
 - b. An accused Marshal's Office member may at any time request a polygraph examination during the investigation
 - c. These procedures will only be utilized to assist in establishing the truth or falsehood of facts regarding the investigation
12. A Marshal's Office member may also be required to furnish a financial disclosure statement; however, such statements must relate directly to the administrative investigation.
13. The accused Marshal's Office member being investigated may be relieved from duty with pay when it is determined to be in the best interest of the Department, the accused member and/or the public (for example, when a member reports to duty in an intoxicated condition).
 - a. The Chief Marshal and/or City Administrator have the authority to suspend a subordinate with pay pending an investigation. At the time of the suspension, the Chief Marshal or City Administrator shall obtain the member's badge, identification, and keys to Office facilities and vehicles, firearms and ammunition.

- b. If the Marshal's Office member is intoxicated or impaired by alcohol or drugs, the Chief Marshal will arrange transportation for the member
 - c. The Chief Marshal shall advise Information Technologies (IT) personnel of the suspension so that the suspended member's access to the in-house computer can be restricted.
 - d. The Chief Marshal shall advise Gwinnett Central Communications supervisor of the suspension so that the suspended member's access to computerized records can be restricted.
- E. Internal administrative investigations shall be completed within thirty (30) days of receipt of the complaint; unless extenuating circumstances dictate a concurrent criminal investigation will take precedence over an administrative investigation. Status reports will be given to the Chief Marshal, and the accused member in writing on a weekly basis.
- F. Internal investigation reports will be organized in the following manner:
- 1. Typed memorandum format, directed from the Chief Marshal
 - 2. Listing of complainant information, name of accused member, allegation and internal affairs control number
 - 3. Synopsis of incident
 - 4. Investigation (includes interviews with all those involved and the specific actions of the investigator);
 - 5. Conclusions and findings
- G. Classification of Findings
- 1. Unfounded: The evidence tends to disprove the allegation of misconduct;
 - 2. Not sustained/Insufficient Evidence: There is insufficient evidence, either to prove or disprove the allegation of misconduct;
 - 3. Sustained/Improper Conduct: The evidence tends to support the allegation of misconduct;
 - 4. Exonerated/Proper Conduct: The evidence tends to support factual occurrence, but conduct does not appear improper;
 - 5. Misconduct Not Based on Complaint/Sustained: Substantiated misconduct, not alleged in the complaint, but disclosed by investigation;
 - 6. Conduct may be improper, however there is no violation of law or policy: The incident may be forwarded to an executive staff meeting for review and possible implementation of policy to govern future incidents of a similar nature.

H. Administering Disciplinary Actions

1. Whenever an employee violates any provision of the Office Policy, Rules and Regulations of the Office and the City of Dacula, he/she shall be disciplined in accordance with Office General Order entitled "Disciplinary Procedures".
2. Upon the receipt of a sustained allegation of misconduct, the Chief Marshal shall review and make recommendations and forward the completed report to City Administrator for final disposition.
3. Concluding Administrative Duties: At the conclusion of all administrative investigations, the following shall occur:
 - a. The Chief Marshal shall notify the complainant by letter, the findings;
 - b. The affected employee shall be advised of the findings (if applicable, the disciplinary phase would be initiated at this time, corresponding according to Office General Order entitled "Disciplinary Procedures".
 - c. No record of any allegation of employee misconduct, excluding finalized disciplinary action, will appear in the employee's personnel files maintained in the Marshal's Office and the Human Resources Department.
 - d. All records of all allegations of employee misconduct will be filed in Internal Affairs files maintained by the Chief Marshal and copies of finalized disciplinary action shall be retained in the affected employee's personnel file maintained in the Marshal's Office and Human Resources Department.

I. Internal Affairs File Maintenance and Security

1. The Chief Marshal is responsible for the following files:
 - a. Allegations of employee misconduct;
 - b. Administrative and criminal investigation reports;
 - c. Non-formal inquiries into citizen complaints;
 - d. Officer Response to Resistance and/or Aggression incidents; and
 - e. Accident Review Panel Reports.
2. These files shall be segregated from all other Office files. These files shall be designated as confidential and secured at all times.
3. Unless required by law or a court ordered production of documents, access to the closed files shall be limited to:
 - a. The Department Director.

- b. The affected employee whom the allegation pertains to.
4. Review of the files by any other personnel either within or outside the Office shall be permitted only with the authorization of the Chief Marshal.

J. Statistical Reports

1. Statistical data concerning internal investigations may be compiled and made available by the Chief Marshal and shall address the internal investigations from the previous calendar year. At the Chief Marshal's discretion, reports may be released to the public and Marshal's Office members, and may be utilized for budgetary and/or training recommendations.
2. The disclosure of internal investigation statistics does not violate the confidential nature of the process. Such disclosure tends to dispel allegations of disciplinary secrecy voiced by some community elements.
3. Copies of the policy and procedures governing internal investigations are given to each member of the Marshal's Office. They are also available to members of the general public upon request to the Chief Marshal.
4. The Chief Marshal shall make information available to the public regarding procedures for registering a complaint against the agency or a Marshal's Office member.

DACULA MARSHAL'S OFFICE

2021-26: Job Functions / Summary of Duties and Qualifications

PURPOSE: To identify the job description and the minimum qualifications for each staff position in the Marshal's Office. Each employee shall be familiar with their job description and strive to fulfill all responsibilities of that position fully.

POLICY:

A. CHIEF MARSHAL

Summary of Duties:

Enforce the ordinances of the City of Dacula fairly and equitably through administrative, inspection, collection, and regulatory procedures. Serve as a legal enforcement arm for the City to ensure all ordinances passed by the City Council are implemented. Enforce state and local laws as well as City ordinances concentrating on areas including housing and zoning ordinances, fire codes, perform patrol to discover violations. Perform inspections to assure licensees are operating according to city and state laws and regulations; investigate, issue citations, and apprehend suspects when violations are found; work in both uniform and plain clothes Departments to conduct investigations; assists other local and state agencies. Prepare necessary documentation and evidence relating to violations; present cases to proper jurisdiction; carry out verdicts pertaining to violators. Counsel the public who are found in violation of the laws; reinvestigate ordinance violations before turning cases over to the District Attorney or Solicitor for prosecution; testify before the Grand Jury or in court as necessary. Plan, direct and control the work of subordinate professionals assigned to the Marshal's Office. Interview, make hiring recommendations, plan and assign work, and review and evaluate performance and provide training, counseling and discipline to staff. Develop formalized goals and objectives for budget preparation and employee job performance evaluation and monitor progress. Develop and implement Standard Operating Procedures (SOPs); keep abreast of current State and Federal laws and amends Standard Operating Procedures as needed. Review ordinances to insure they are properly updated to comply with current State laws and make recommendations for changes. Conduct group business and community training sessions concerning code compliance and regulatory topics. Provide law enforcement support at special events as necessary. Provide general assistance to other City departments such as building, zoning, and sanitation. Perform other related duties as required.

Minimum Qualifications Required:

High School Diploma or G.E.D. and three (3) years' experience in law enforcement or any equivalent combination of education and experience to meet the above stated qualifications. P.O.S.T. peace officer certification. Valid Class C Drivers' License and a satisfactory Motor Vehicle Record (MVR). Successful completion of state mandated Chief Executive Training. Knowledge of the state and local laws relating to arrest, evidence preparation and keeping, and property seizure. Knowledge of the principles and techniques involved in investigations. Knowledge of City and county geography and the location of all roads and streets. Ability to analyze situations quickly and effectively and to determine the proper course of action. Ability to

cope with situations firmly, tactfully, courteously, and with respect for the rights of others. Ability to communicate clearly and effectively, both orally and in writing. Ability to establish and maintain effective working relationships with citizens, fellow employees, management, and other City officials.

B. MARSHAL

Summary of Duties:

Enforces the City of Dacula municipal codes and issues citations for those in continuous violation. Ensures all businesses are treated equitably and fairly. Maintains and enforces zoning regulations, housing and property maintenance codes, and building and general nuisance ordinances and provides specialized support services to the public regarding local zoning regulations and other ordinances. Serves as a legal enforcement arm for the City to ensure all ordinances adopted by the City Council are implemented and enforced.

Major Job Responsibilities:

Enforces all State and local laws as well as City ordinances concentrating on areas including business occupation, housing and zoning ordinances, illegal signs, tampering with public utilities, hazardous wastes and public nuisances. Documents and investigates citizen complaints and determines the appropriate action(s) to take as allowed by State law and City ordinances. Performs inspections and acts upon complaints received by the public and assures that businesses are operated according to City and State laws and regulations. Issue's citations and stop work orders as necessary. Works in both uniform and plain clothes to perform patrol and assists with undercover compliance operations to discover violations. Apprehends or cites suspects when violations are found. Prepares necessary documentation and evidence relating to violations; presents cases to proper jurisdiction; carries out verdicts pertaining to violators. Counsels the public who are found in violation of the laws. Provides law enforcement support at special events as necessary. Assists other law enforcement agencies as needed. Makes inspections of dwelling units within the City for compliance of the minimum housing and property maintenance code; notifies owners of code violations and pursues corrections; initiates formal charges against violators. Performs group community and business regulatory training. Operates City vehicles and other equipment in a safe manner and ensures they are maintained in a safe and mechanically sound condition. Monitors the display of prohibited/illegal signage and effects the removal thereof. Provides general assistance to other City departments such as building, zoning, sanitation, police, and public utilities. Performs other related duties as required.

Minimum Qualifications Required:

High School Diploma or G.E.D. and ~~ten~~five years ~~three~~years in law enforcement or any equivalent combination of education and experience to meet the above stated qualifications. P.O.S.T. peace officer certification. Valid Class C Drivers' License and a satisfactory Motor Vehicle Record (MVR). Knowledge of the state and local laws relating to arrest, evidence preparation and keeping, and property seizure. Knowledge of the principles and techniques involved in investigations. Knowledge of City and county geography and the location of all roads and streets. Ability to analyze situations quickly and effectively and to determine the proper course of action. Ability to cope with situations firmly, tactfully, courteously, and with respect for the rights of others. Ability to communicate clearly and effectively, both orally and in writing.

DACULA MARSHAL'S OFFICE

~~2021-27~~: Juvenile Operations

PURPOSE: To establish guidelines and procedures for members of the Dacula Marshal's Office to use when dealing with juveniles as offenders.

POLICY: It shall be the policy of the Dacula Marshal to adhere to all existing laws and court practices presently in place pertaining to the detention of all juvenile offenders. The Gwinnett County Police Department is the primary law enforcement agency that responds to calls involving child abuse, juvenile traffic law violations, juvenile criminal activity and non-criminal misbehavior. Although it is always possible that a member of the Dacula Marshal's Office may become involved in a juvenile investigation; the Gwinnett County Police Department maintains trained juvenile investigators. Members of the Dacula Marshal's Office shall seek assistance from, and turn over all investigations involving child physical abuse and neglect or molestation of children, juvenile traffic law violations, juvenile criminal activity and non-criminal misbehavior to the juvenile investigators of the Gwinnett County Police Department. Once turned over to the Police Department, the juvenile investigator and/or the Criminal Investigation Department will handle all aspects the investigation including but not limited to the interviewing and reporting, use of anatomically correct dolls and drawings and taping and recording of interviews. All members of the Dacula Marshal's Office shall familiarize themselves with and comply with Title 15, Chapter 11, Juvenile Proceedings, of the Official Code of Georgia. The following guidelines will identify the responsibilities of members of the Dacula Marshal's Office.

DEFINITIONS:

JUVENILE: any individual who is:

1. Under the age of 17 years;
 - a. Any juvenile 13 to 16 years of age who is charged with any of the following offenses are subject to the exclusive jurisdiction of the Superior Court. These charges include: murder, voluntary manslaughter, rape, aggravated sodomy, aggravated child molestation, aggravated sexual battery, or armed robbery if committed with a firearm.
2. Under the age of 21 years, who committed an act of delinquency before reaching the age of 17 years, and who has been placed under the supervision of the court or on probation through the court.
3. Under the age of 18 years, if alleged to be a deprived child.

DEPRIVED CHILD: a juvenile who:

1. Is without proper parental care or control, subsistence, education as required by law, or other care necessary for his physical, mental, or emotional health or morals;
2. Has been placed for care or adoption in violation of law;
3. Has been abandoned by his parents or other legal custodian.

UNRULY CHILD: means a child who:

1. While subject to compulsory school attendance is habitually and without justification truant from school;
2. Is habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, or other custodian and is ungovernable;
3. Has committed an offense applicable only to a child;
4. Without just cause and without the consent of his or her parent or legal custodian deserts his or her home or place of abode;
5. Wanders or loiters about the streets of any city, or in or about any highway or any public place, between the hours of 12:00 Midnight and 5:00 A.M.;
6. Disobeys the terms of supervision contained in a court order which has been directed to such child, who has been adjudicated unruly; or
7. Patronizes any bar where alcoholic beverages are being sold, unaccompanied by such child's parents, guardian, or custodian, or possesses alcoholic beverages.

PROCEDURE

- A. It is the responsibility of all the Dacula Marshal's Office members to participate in and support the Gwinnett County Police Department's juvenile operations function.
 1. Departmental personnel shall be familiar with proper procedures for handling both criminal and non-criminal juvenile problems.
 2. Department personnel shall have, at the very least, referral knowledge relating to juvenile problems. Incidents and interviews with juvenile victims involving the abuse, neglect, or molestation of children shall be conducted by investigators who have received specialized training in:
 - a. Interviewing and report writing techniques;
 - b. Dealing with child victims of sexual abuse;
 - c. Dealing with victims of physical neglect and abuse;
 - d. Familiarity with the use of anatomically correct dolls/drawings;
 - e. The use of taping and recording devices.

The Dacula Marshal's Office members shall seek assistance from the Gwinnett

County Police Department in dealing with juvenile victims involving the abuse, neglect, or molestation of children. It is the intent of the Dacula Marshal to ensure that juvenile services are delivered by personnel who have received specialized training in these areas.

3. All members of the Dacula Marshal's Office shall pay particular attention to the differences between handling juvenile cases and adult cases as the differences relate to processing and preparing the cases. (Example: The potential for an extremely short time frame between arrest and trial.)

B. The Dacula Marshal's Office members dealing with juvenile offenders shall use the most appropriate alternative available, consistent with preserving public safety, order, and the individual rights of the juvenile. Alternatives, which may be considered, include, but are not limited to, the following:

1. Release with no further action;
2. Release with a verbal warning/reprimand;
3. Release to parent, guardian, or custodian and refer to appropriate agency, including juvenile court;
4. Detain and refer to appropriate agency, including juvenile court, or the assistant district attorney assigned to juvenile court;
5. Consultation and/or counseling with juvenile and/or parents.

NOTE: The Dacula Marshal's Office members dealing with juvenile offenders have broad discretion in making dispositions when handling juvenile cases. Each case must be judged on its own merit and factual circumstance with dispositions made which meet the needs of the child and the community. The factors to be considered in each case should include: the nature of the alleged offense; the age and circumstances of the alleged offender; the alleged offender's record, if any; and the availability of community-based rehabilitation programs.

C. A juvenile may be taken into custody:

1. Pursuant to an order of the court (Detention Order) to apprehend;
2. Pursuant to the laws of arrest;
3. If there are reasonable grounds to believe that the juvenile has committed a delinquent act or if there are reasonable grounds to believe that he/she is unruly;
4. If there are reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from his surroundings and that his removal is necessary;
5. If there are reasonable grounds to believe that the child has run away from his parents, guardian, or other custodian.

- D. A juvenile taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless:
1. His detention or care is required to protect the person or property of others, or of the child;
 2. The child may abscond or be removed from the jurisdiction of the court;
 3. He has no parent, guardian, custodian, or other person able to provide supervision and care for him and return him to the court when required;
 4. An order for his detention or shelter care has been made by the court.
- E. A member taking a child into custody shall without delay and with all reasonable speed and without first taking the child elsewhere, shall:
1. Contact the child's parent, guardian, or other custodian.
 2. Forthwith release without bond that child to his parents, guardian, or other custodian upon their promise to bring the child before the court when requested by the court.
 3. See that the child is forthwith delivered to a medical facility if the child is believed to suffer from a serious physical condition or illness that requires physical treatment and, upon delivery, shall promptly contact a juvenile intake officer. Immediately upon being notified by the person taking such juvenile into custody, the intake officer shall determine if such juvenile should be released, detained, or brought before the court.
 4. Bring the child immediately before the Juvenile Court or promptly contact a juvenile court intake officer.
 5. For those juveniles 13 to 16 years of age who are charged with the following offenses: murder, voluntary manslaughter, rape, aggravated sodomy, aggravated child molestation, aggravated sexual battery, or armed robbery if committed with a firearm, which are in the exclusive jurisdiction of the Superior Court, a Juvenile Court Intake Officer shall be contacted to authorize a space at the Regional Youth Development Center (RYDC), as the youth cannot be held in the jail. The Magistrate Court is authorized to conduct the first appearance and committal hearings in these cases.
- F. In determining the appropriate alternative for dealing with a juvenile offender, the member shall consider:
1. The needs and best interests of the juvenile;
 2. The record and background of the juvenile;
 3. The nature and circumstance of the offense, including whether any injury

involved was inflicted by the juvenile or another participant;

4. The need for protection of the community; the age and physical condition of the victim.

G. When a juvenile has been taken into custody for any offense, and is otherwise not released to a parent, guardian, or other responsible adult, or turned over to a juvenile investigator of the Gwinnett County Police Department, the member shall:

1. Have the juvenile transported to an approved intake facility. Transportation shall be arranged through the Gwinnett County Police Department. A juvenile intake officer must approve the detention prior to the officer arriving at the RYDC, notwithstanding the severity of the offense or at the officer's personal opinion about detention. A notarized Gwinnett County Juvenile Court Complaint form must be completed when officers have made a warrant-less arrest and subsequently receive authorization to detain a child at the RYDC. Both pages of this document must be filled out as completely as possible and should contain the essential elements of the alleged crime, which subsequently documents the officer's probable cause to make such warrant-less arrest. The document must then be signed by the arresting officer, before a notary. A copy of each page of the completed Juvenile Complaint Form will then be presented with the attendant at the RYDC when the detainee is incarcerated and the original complaint form forwarded to the Juvenile Court of Gwinnett County by no later than the next working day.

H. Juvenile Interrogations

1. When a juvenile that is 14 years of age or older is taken into custody for any offense and is to be interviewed the following must be strictly adhered to:
 - a. Advise the juvenile(s), prior to interrogation, of their constitutional rights (these rights must be explained in simple terms so that a child will understand them. Simply reading these rights to a juvenile probably will not suffice in showing that they were understood and voluntarily waived). A departmental Juvenile Rights form shall be used.
 - b. The juvenile should not be questioned outside of the presence of a parent or guardian unless the investigating officer has first attempted contact with a parent or guardian, secondly obtained permission from his/her supervisor, thirdly ensure that the juvenile has been qualified under the guidelines set forth by Riley v. State, 237 Ga. 124 (1976), and lastly that the totality of the statement is made voluntarily and knowing waiver of their constitutional rights -Attaway v. State, 244 Ga. App. 5 (2000). All above shall be noted in the investigating officer's report.
 - c. If the in-custody interrogation centers on criminal activity, the interview and follow up investigation will be turned over to and handled by members of the Gwinnett County Police Department.

- d. Under Riley v. State the following factors must be considered when interviewing a juvenile:
- (1) Age of the accused;
 - (2) Education of the accused;
 - (3) Knowledge of the accused as to both the substance of the charge and nature of his rights to consult with an attorney and remain silent;
 - (4) Whether the accused is held incommunicado or allowed to consult with relatives, friends or an attorney;
 - (5) Whether the accused was interrogated before or after formal charges had been filed;
 - (6) Methods used in interrogations;
 - (7) Length of interrogations;
 - (8) Whether accused refused to voluntarily give statements on prior occasions;
 - (9) Whether accused repudiated an extrajudicial statement at a later date. The investigating officer shall include in their supplemental how the previous factors under Riley v. State was met.
- e. Extra care must also be taken to show that no intimidation or coercion was used in obtaining any statement. The investigating officer must be aware of how his/her actions are being perceived by the juvenile. Loud, argumentative language shall be avoided.
- f. The investigating officer should also ensure that if the parent/guardian is present that the parent/guardian understands the juvenile's rights and is able to offer any advice or support to the juvenile. The investigating officer must note in their report that this was accomplished.
- g. Any juvenile under the age of 14 shall not be interviewed outside the presence of a parent or legal guardian.
- h. No more than two (2) officers may be present at the interrogation of a juvenile.
- i. Interrogations shall be limited to one (1) hour sessions between breaks.
- j. Any interviews/interrogations involving any juvenile shall be either video or audio taped.
- k. The member shall not refrain from offering legal advice to the juvenile and/or the parents or guardians, nor shall the member offer a possible disposition of the case at hand to the juvenile and/or the parent or guardian.

2. When a juvenile under the age of 14 is taken into custody the following must be strictly adhered to if the juvenile is to be interviewed:
 - a. The parent or guardian must be contacted and present for the interview.
 - b. The investigating officer must confer with the parents or legal guardian and explain the circumstances of the custody, conditions for release, and request permission to question the juvenile.
 - c. Advise and explain to the juvenile and parent/guardian in simple terms their constitutional rights. A Departmental Juvenile Rights form shall be used.
 - d. The investigating officer should ensure that the parent/guardian understands the juvenile's rights and is able to offer any advice or support to the juvenile. The Investigating Officer must note in their report that this was accomplished.
 - e. Explain to the juvenile the procedure that will be followed, as they relate to custody, release, transport to another facility, and/or detention hearing.
 - f. No more than two (2) officers may be present at the interrogation of a juvenile.
 - g. Interrogations shall be limited to one (1) hour sessions between breaks.
 - h. Any interviews/interrogations involving any juvenile shall be either video or audio taped.
 - i. The member shall refrain from offering legal advice to the juvenile and/or the parents or guardians, nor shall the member offer a possible disposition of the case at hand to the juvenile and/or the parent or guardian.

- I. The Gwinnett County Police Department shall maintain a record of juvenile offenders. The procedures for obtaining these records and information shall comply with the Official Code of Georgia, Sec. 15-11-82 and 15-11-83.
 1. Fingerprinting and photographing juveniles and the filing, processing along with publication of names and pictures of children are strictly governed under O.C.G.A. 15-11-83 and shall be abided with.

Every child charged with an act which would be a felony if committed by an adult, other than those status offender crimes as defined in Code Section 15-11-2, shall be fingerprinted and photographed upon being taken into custody (OCGA 15-11-83 (a))

2. Juvenile Arrests:
 - a. Incidents involving the arrest of a juvenile shall be referred to the juvenile investigator of the Gwinnett County Police Department and any Incident

Report generated by the Dacula Marshal's Office that contains arrest information on any juvenile will be forwarded to the juvenile investigator of the Gwinnett County Police Department.

- b. When juveniles are detained at the Regional Youth Development Center (RYDC) upon arrest, detention hearings must be held in Juvenile Court within forty-eight (48) hours (warrant-less arrest) or seventy-two (72) hours (with a warrant/detention order). Members shall assure that any documentation required by Juvenile Court for any court proceedings will be delivered to the Juvenile Court Assistant District Attorney or to the Juvenile Court within this time frame. The juvenile investigator or Criminal Investigations supervisor of the Gwinnett County Police Department shall assume this responsibility. Good communication with the Assistant District Attorney (ADA) is essential.
- c. On minor misdemeanor crimes, members of the Dacula Marshal's Office and the juvenile investigator of the Gwinnett County Police Department may recommend alternatives to filing criminal charges. This shall be after an Intake Officer or the Office of the District Attorney has been consulted and made aware of the incident and they concur with the recommendation.

J. Child Abuse Protocol

The Chief Marshal shall make available to all sworn personnel a copy of the Child Abuse Protocol for Gwinnett County, which details the procedures to be followed for processing cases involving abused and neglected children. Additionally, any officer who wishes to have his or her own printed copy of the document in its entirety may have one upon request.

While this agency is not dispatched to incidents involving child abuse, Dacula Marshals may have the opportunity to come in contact with children at their homes, usually unannounced. It is the policy of this agency that all officers shall report any incidents of child abuse or neglect as defined in O.C.G.A. § 19-15-1 immediately to the Gwinnett County Police Department. The officer will need to articulate the abuse or neglect. The officer shall notify the 911 Communications Center to have a Gwinnett County Police Officer respond and await his or her arrival. The Gwinnett County Police Department will notify The Department of Family and Children Services (DFACS) if necessary.

What is Abuse?

Physical Abuse: Non-accidental injuries that may include severe beatings, burns, fractures, bruises, welts, or other physical problems.

Physical Neglect: A parent or caretaker allows the child to experience avoidable suffering or fails to provide basic essentials for physical, social, and emotional development.

Sexual Abuse: Exploitation of a child for the sexual gratification of an adult or

older child. Sexual abuse included fondling, sodomy, child prostitution, incest, and encouraging or forcing a child to participate in pornographic activities.

Emotional Abuse: Emotional abuse exists when the parent creates a negative emotional atmosphere for the child. Examples are when the parent makes continued unfavorable comparisons to a sibling, when the parent makes the child feel bad because he/she is not perfect, or when the parent uses shameful forms of punishment.

While most children do not directly disclose that they have been abused, there are many indirect behaviors and characteristics that are commonly observed in abused children.

Physical Abuse Indicators

Unexplained bruises and welts: on face, lips, mouth on torso, back, buttocks, thighs in various stages of healing clustered, forming regular patterns reflecting shape of article used to inflict (e.g., electrical cord, belt)

Unexplained burns: cigar, cigarette burns, especially on soles, palms, backs, or buttocks, immersion burns (sock-like, glove-like, doughnut shaped on buttocks or genitals) infected burns, indicating delay in seeking treatment

Unexplained fractures/dislocations to skull, nose, facial structure in various stages of healing, multiple or spinal fractures

Behavioral Indicators

Wary of adult contact, frightened of parents, afraid to go home, reports injury by parents, vacant or frozen stare inappropriate or precocious maturity.

DACULA MARSHAL'S OFFICE
JUVENILE STATEMENT OF RIGHTS

DATE _____ TIME _____ PLACE _____

1. You have the right to remain silent. (You do not have to say anything.)
2. Anything you say can and will be used against you in a court of law. (Anything you say can be repeated in court to a judge.)
3. You have the right to talk to a lawyer and have him present with you while you are being questioned. (You can have a lawyer now before you say anything or at any time while we are asking you questions.)
4. If you cannot afford to hire a lawyer, one will be appointed to represent you, by the court, without any charge to you before any questioning, if you wish. (The court will get you a lawyer if you do not have enough money to pay for one.)
5. You can decide at any time to exercise these rights and not answer any questions or make any statements. (You can stop talking at any time.)

OFFICER'S SIGNATURE

INTERVIEWEE:

DATE OF BIRTH: _____ SOCIAL SECURITY #: _____

My name is _____

I am _____ years of age. My address is _____

I completed _____ years of school. I am not under the influence of alcohol or drugs. The above Statement of my Rights has been read to me, and I understand what my rights are. I have not been promised anything. I have not been forced in any way to answer any questions or make any statements. I understand that I may have a parent or guardian with me during questioning if I wish. Having the above rights in mind, I am willing to talk to _____ whom I know is a law enforcement officer about:

JUVENILE'S SIGNATURE

WITNESS, PARENT, OR GUARDIAN

RILEY V. THE STATE

1. The age of the juvenile.
2. The education of the juvenile.
3. The knowledge of the juvenile as to the substance of the charge (juvenile must understand what the charge against he/she is) and nature of his rights to consult with an attorney.
4. Whether the juvenile was held incommunicado or allowed to consult with relatives or an attorney.
5. Whether the juvenile was interrogated before or after formal charges had been filed.
6. Methods used in interrogation.
7. Length of interrogation.
8. Whether the juvenile refused to voluntarily give statements on prior occasions.
9. Whether juvenile repudiated an extrajudicial statement at a later date.

DACULA MARSHAL'S OFFICE

~~2021-28~~: Legal Process

PURPOSE: To establish procedures for the service and execution of the legal process functions which are the jurisdictional responsibility of the Dacula Marshal's Office.

POLICY: The Dacula Marshal's Office shall execute the service of legal process documents, which are the responsibility of the agency in a timely, efficient, and professional manner. The Chief Marshal shall be responsible for the maintenance of all Office legal process documents. The execution of service of legal process documents is the responsibility of all sworn members of the Dacula Marshal's Office.

The Gwinnett County Sheriff's Department shall have the primary responsibility for civil process service in Gwinnett County to include the City of Dacula.

The Gwinnett County Police Department shall have the secondary responsibility for civil process service in the City of Dacula.

The Dacula Marshal's Office shall have subsequent or subordinate responsibility for civil process service in the City of Dacula following the Gwinnett County Police Department.

DEFINITIONS:

CIVIL ARREST: Is made pursuant to a written order by a judge of a competent jurisdiction in a civil action or proceeding. Such written orders may be given by a supreme court, the family court, county court, district court, or the surrogate's court, depending upon the area of the country.

CIVIL PROCESS: Those writs, summonses, mandates, warrants, or other process issuing from a court of law or equity pertaining to a cause of action of a civil nature.

CRIMINAL PROCESS: Those writs, summonses, mandates, warrants, or other process issuing from a court of law compelling a person to answer for a felony or misdemeanor. The term also includes process issued to aid in crime detection or suppression, such as search warrants.

EXECUTION: The performance of an act required by the writ, warrant, or other process commanding the seizure of a person or thing, as opposed to mere delivery of an instrument without any concomitant seizure.

FOREIGN JURISDICTION: Another municipality, county, state, or nation. For the purposes of this General Order, a foreign jurisdiction is one in which the Dacula Marshal's Office has no legal authority to serve or execute process by use of its own personnel

FOREIGN PROCESS: Any writ, warrant, mandate, order, or other process, either civil or criminal, originating in a foreign jurisdiction and intended to be served or executed in the City of Dacula Marshal's jurisdiction.

LEGAL PROCESS: Any term of civil or criminal process, whether original, intermediate, or final that is valid on its face and is to be served or executed by the Office.

SERVICE: The delivery of any item of civil or criminal process.

PROCEDURE:

A. Records

1. The Gwinnett County Sheriff's Department shall have the responsibility for the maintenance of state warrants and warrant files which will allow access twenty-four (24) hours a day to authorized law enforcement officers.
2. With the exception of search warrants, state warrants and warrants which are immediately served at the time of issue, all warrants received by the Dacula Marshal's Office shall be delivered to the warrant office of the Gwinnett County Sheriff's Department for intake and recording.
3. Each item of civil and/or criminal process received by the Dacula Marshal's Office shall be recorded to include the following elements:
 - a. Date and time received;
 - b. Type of legal process, civil or criminal;
 - c. Nature of the document;
 - d. Source of the document;
 - e. Name of plaintiff / complainant or name of defendant / respondent;
 - f. Officer assigned for service;
 - g. Date of assignment;
 - h. Court docket number; and
 - i. Date service is due.
4. When service of a warrant is accomplished, the original warrant shall be forwarded to the appropriate agency with the completed Arrest and Booking Form.

B. Execution of Criminal Process

1. Planned Service

- a. ~~The Gwinnett County Police Department~~ Marshals -shall be responsible for the retention and service of all City of Dacula Municipal Court arrest warrants that are issued. Officers responding to incidents where a report is taken or the probability exists that the victim will initiate an arrest warrant shall supply the victim with the incident case number if requested to do so.
- b. The Gwinnett County Sheriff's Department shall be primarily responsible for the retention and service of all State Warrants to include those in which an officer(s) of the Dacula Marshal's Office is the affiant.
- c. Service of arrest warrants or writs requiring the seizure of real or personal property which are served by members of the Dacula Marshal's Office shall only be executed by sworn members of the Office.
- d. The Dacula Marshal's Office shall maintain a record on the execution or attempted service of legal process documents that includes:
 - (1) Date and time service was executed/attempted;
 - (2) Name of officer(s) executing/attempting service;
 - (3) Name of person on whom legal process was served/executed;
 - (4) Method of service/reason for non-service; and
 - (5) Address of service/attempt.

2. Warrant Verification

- a. No officer of the Dacula Marshal's Office will attempt to serve an arrest warrant unless:
 - (1) The officer has the original warrant in his/her possession; or
 - (2) Positive verification of the current existence of the warrant is received.

3. Forcible Entries

Officers of the Dacula Marshal's Office shall not forcibly enter a private residence to execute the service of an arrest warrant. Any forcible entry for warrant service will be performed by members of the Gwinnett County Police Department at their discretion and according to their departmental procedures.

4. Warrantless Arrest and Entries

- a. The Official Code of Georgia (OGGA) Title 17, Chapter 4, establishes provisions for arrest without a warrant and the proper judicial process to be followed after the arrest. Officers of the Dacula Marshal's Office shall thoroughly familiarize themselves with and adhere to this Code Section.

- b. OCGA 17-4-20 states an arrest for a crime may be made by a law enforcement officer either under a warrant or without a warrant if the offense is committed in his presence or within his immediate knowledge; if the offender is endeavoring to escape; if the officer has probable cause to believe that an act of family violence, as defined in OCCA 19-3-1, has been committed; or for other cause if there is likely to be failure of justice for want of a judicial officer to issue a warrant.

5. Warrantless Entries

- a. Officer(s) of the Dacula Marshal's Office are not permitted to execute forced warrantless entries of premises.

C. Execution of Legal Process in or Received from a Foreign Jurisdiction

1. Execution of Legal Process Documents in a Foreign Jurisdiction

- a. Extradition of defendants from outside of the jurisdictional boundaries of the State of Georgia is the responsibility of the Gwinnett County Sheriff's Department and the Office of the District Attorney. No attempt at the execution of legal process outside of the State of Georgia shall be attempted by any member of the Dacula Marshal's Office.
- b. Officers of the Dacula Marshal's Office shall not execute the service of any legal process document outside the jurisdictional boundaries of the City of Dacula. The agency having jurisdictional authority shall be contacted and requested to execute service of the legal process (refer to Departmental General Order entitled "Agency Jurisdiction"). The exceptions to this provision are:

- (1) An officer(s) of the Dacula Marshal's Office may accompany an officer of the jurisdiction in which the service of legal process is to be served. The Dacula Marshal shall act only as an observer. If the officer renders assistance it shall be as a private citizen under the following provision; the officer reasonably and in good faith believes that the jurisdictional law enforcement officer is being hindered in the performance of his/her official duties or the jurisdictional officer's life is endangered by the conduct of any person or persons while he/she is performing their official duties. The officer's actions would be that of a private citizen and not that of a law enforcement officer.

2. Execution of Legal Process Documents Received from a Foreign Jurisdiction

- a. No member of the Dacula Marshal's Office shall execute the service of any civil process document received from a foreign jurisdiction. The Dacula Marshal's Office, upon receiving a request for service of Civil Process from a foreign jurisdiction, shall forward the document to the Gwinnett County Sheriff's Department or to the Gwinnett County Police Department or

return the document to the originating agency.

- b. Officers of the Dacula Marshal's Office may detain a suspect for a reasonable amount of time based on information received from a GCIC/NCIC entry provided immediate GCIC/NCIC verification procedures are initiated to confirm the current status and validity of the entry.

D. Search Warrant Execution

Procedures for the execution of a search warrant are outlined in OCGA 17-5-20 and the Departmental General Order entitled "Search Warrant Execution"

E. Civil Process

- 1. The Gwinnett County Sheriff's Department has the responsibility for the execution of civil process documents in Gwinnett County, which includes the City of Dacula. The following relates to the receiving of civil process by a member of the Dacula Marshal's Office.
 - a. Civil process may be served on and shall be received by the employee/defendant named on the process. Any employee who is served and named as the defendant or witness to any civil action arising out of an action taken during the scope of his/her employment, shall immediately make a copy of the entire service and forward the copy to the Chief Marshal. The Chief Marshal shall notify the City Administrator of the service.
 - b. The service of civil process, in which the City of Dacula is named as the defendant, must be served to the City Administrator or his designee.

F. Subpoenas

- 1. Subpoenas Received by Departmental Members
 - a. Any Member of the Dacula Marshal's Office shall accept subpoenas for Departmental members in bulk, from the Grand Jury, Superior Court, Juvenile Court, Magistrate Court, and Municipal Court.
 - b. The receiving member, before acceptance, shall review each subpoena to ensure that the named Office member can be personally served a minimum of twenty-four (24) hours prior to the scheduled appearance indicated on the subpoena.
 - c. Upon being served a subpoena(s), the receiving Office member shall indicate acceptance by signature on the subpoena return.

- d. Any Office member who is properly served a subpoena must comply with the requirements of the subpoena. Failure to comply or an unexcused absence will subject the Office member to disciplinary action.

G. Service of Municipal Court Subpoenas

Officers of the Gwinnett County Police Department shall have the responsibility for the service of Municipal Court subpoenas.

DACULA MARSHAL'S OFFICE

2021-29: Limits of Authority

PURPOSE:

To define the legally mandated authority vested in sworn law enforcement officers employed by the Dacula Marshal's Office and to provide statutory and municipal ordinances of authority for same. It is not the intent nor purpose of this written directive to outline nor to ignore other existing rules and regulations as to the conduct of law enforcement officers in the performance of their duties such as may be contained within any other existing or future departmental policy, rules of courts, civil service rules and regulations, not in conflict with state statutes or local ordinance as may pertain to the vested authority or limitations of law enforcement officers in the performance of their official duties. It is solely the purpose of this directive to define and elaborate upon the scope and limits of law enforcement authority as it pertains to the enforcement of laws, statutes, and ordinances by members of the Dacula Marshal's Office

POLICY:

The City of Dacula, Georgia, a municipality and therefore a political subdivision of the State of Georgia is empowered by the Constitution of the State of Georgia Art. IX, sec. III, paragraph III to provide police services. Sworn law enforcement personnel of the Dacula Marshal's Office will follow the Official Code of Georgia - also referred to as the Criminal Code of the State of Georgia - as well as the statutes provided within the articles of the Uniform Rules of the Road for traffic enforcement and regulation, as well as all existing municipal ordinances of the City of Dacula, Georgia and all other applicable laws in carrying out their official law enforcement duties.

PROCEDURE:

- A. Introduction directives contained herein apply only to sworn personnel employed by the Dacula Marshal's Office, however, statutes and ordinances are included that apply to both on-duty and off-duty status.
- B. Legal mandates of authority vested to sworn law enforcement officers of a municipality in the State of Georgia by statute:
 1. Chapter 8 of the Official Code of Georgia (commonly referred to as the Criminal Code of the State of Georgia), Title 35-8-2 entitled Definitions sub-section 7(A) states: "Law Enforcement Unit means: any agency, organ, or department of this state, a subdivision or municipality thereof, or a railroad whose primary functions include the enforcement of criminal or traffic laws, the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime." Sub-section 8 (A) states: "Peace Officer means, for purposes of this chapter only: An agent, operative, or officer of this state, a subdivision or municipality thereof, or a railroad who,

as an employee for hire or as a volunteer, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws through the power of arrest and whose duties include the preservation of public order, the protection of life and property and the prevention, detection, or investigation of crime."

2. Chapter 8 of the Official Code of Georgia, Title 35-8-3 entitled Georgia Peace Officers Standards and Training Councils -establishment; membership - establishes the Georgia Peace Officer Standards and Training Council; and Title 35-8-7 entitled Same; functions and powers and Title 35-8-7.1 grants authority to the Georgia Peace Officer Standard and Training Council to refuse certification or to discipline peace officers to restore and/or reissue certificates. Procedures for same are enumerated within Title 35-8-7.2.
- C. Qualifications for peace officers are contained in Chapter 8 in Title 35-8-8 of the Official Code of Georgia entitled Qualifications for peace officers and Title 35-8-9 entitled Basic Course of Instruction. Peace officers appointed or employed in conformity with Georgia Code Annotated, (Title 35, Chapter 8) are generally those who, by virtue of Title 35-8-9, and Title 35-8-10, are either required to obtain POST certification or are exempt from certification because they commenced service prior to specified dates.
- D. Title 35 Chapter 8 of the Official Code of Georgia and Title 35-8-20 entitled Training of department head of each law enforcement unit and Wardens of state institutions establishes and mandates training required of every above-described officer in the State of Georgia, i.e., number of hours, curriculum, payment for same, loss of power to arrest, authority of POST to grant waivers for training requirements.
- E. Title 17 Chapter 4 Article 2 of the Official Code of Georgia as contained in the Georgia Criminal and Traffic Law Manual entitled "Arrest by Law Enforcement Officers Generally" section 17-4-20 outlines the authorization of arrests with and without warrants generally; use of deadly force; adoption or promulgation of conflicting regulations, policies, ordinances, and resolutions.
1. Section 17-4-21 of same describes the duty of arresting officer to take arrested person before judicial officer.
 2. Section 17-4-22 of same states "authority of peace officers to make arrests not to be denied because of race, creed, or national origin of peace officers or persons arrested."
 3. Section 17-4-23 of same outlines the procedure for arrests by citation for motor vehicle violations; issuance of warrants for arrest for failure of persons charged to appear in court; bond.
 4. Section 17-4-24 of same directs law enforcement officers to execute penal warrants.

5. Section 17-4-26 of same requires every law enforcement officer to bring persons arrested under a warrant before a judicial officer within 72 hours and to notify the accused as to when and where the commitment hearing is to be held and the effect of failure to notify.
 6. Section 17-4-27 of same requires all Sheriffs and Chief of Police to maintain information about persons arrested by law enforcement officers under their supervision and requires that these records be open for public inspection unless otherwise provided by law.
 7. Section 17-4-28 of same makes it a criminal offense for an arresting officer to advise or encourage the dismissal or settlement of any criminal warrant placed in his hands for execution either before or after an arrest is made or to procure or encourage the dismissal or settlement of such warrants by threats, duress, intimidation, promises, or any other artifice or means.
 8. Section 17-4-29 of same prohibits and defines it as a misdemeanor for any arresting officer who collects or receives any costs or other charges of a prosecutor or defendant in a case made on a state's warrant, or of anyone acting in the interest of either of them, before the warrant is returned to the court to which it is made returnable.
- F. Title 17 Chapter 4 Article 3 of the Official Code of Georgia as contained in the Georgia Criminal and Traffic Law Manual entitled "Warrants for Arrest" section 17-4-40 includes "any warrant for the arrest of a peace officer for any offense alleged to have been committed while in performance of his duties may be issued only by a judge of a superior court, a judge of a state court, or a judge of a probate court.
- G. Title 17 Chapter 4 Article 4 of the Official Code of Georgia section 17-4-62 requires the taking of every person arrested without a warrant before an authorized judicial officer within 48 hours.
- H. Title 17 Chapter 5 Articles 1, 2, and 3 of the Official Code of Georgia as listed in the Georgia Criminal And Traffic Law Manual authorizes search pursuant to lawful arrest, inventory of items seized without search warrant to be given to the arrested person and judicial officer before the person arrested is taken, searches with warrants and disposition of property seized including records keeping, ownership claims, use of photographs in lieu of original property, forfeiture of weapons used in commission of crime as well as motor vehicles, sale and destruction of weapons used in commission of crime, disposition of devices with historical or instructional value.
- I. Title 17 Chapter 6 Article 1 of the Official Code of Georgia as listed in the Georgia Criminal and Traffic Law Manual addresses, among many other laws; authorization of posting bail in misdemeanor cases; posting driver's license as collateral of bail, acceptance of cash bonds for violations of ordinances or other offenses against municipalities, etc.
- J. Title 17 Chapter 6 Article 2 Part 2 entitled "Sureties" section 17-6-52 under the

heading of "soliciting business or loitering around jails or courts to solicit business; giving of advice by law enforcement officers as to services of professional bondsmen" prohibits municipal law enforcement officers from suggesting or giving advice to, in any manner whatsoever, any prisoner regarding the services of a professional bondsman to writer a criminal bond of the appearance of a prisoner in any court at any time.

- K. Title 19 entitled "Domestic Relations" Chapter 7 entitled "Parent and Child Relationship Generally" Article 1 "General Provisions" section 19-7-5 requires the reporting of child abuse; when mandated or authorized; content of report; to whom made; immunity from liability; report based upon privileged communication; penalty for failure to report. Part (N) specifically list law enforcement personnel.
- L. Title 19 Chapter 13 entitled "Family Violence" Article 1 section 19-13-1 defines family violence as the occurrence of one or more of the following acts between past or present spouses, parents and children, step-parents and step-children, foster parents and foster children or other persons living in the same household:
1. Any felony; or
 2. Commission of offenses of battery, assault, criminal damage to property, unlawful restraint, or criminal trespass. "The term "family violence" shall not be deemed to include reasonable discipline administered by a parent to a child in the form of corporal punishment, restraint, or detention." Section 19-13-4 of same authorizes the granting of protective orders and approval of consent agreements; etc. and sub-part (d) of part 11 of this section authorizes the court issuing any protective order to order a municipal law enforcement officer to enforce or carry out such order.
- M. Offenses Against Public Administration
1. Title 16 Chapter 10 "Offenses Against Public Administration" Article 1 "Abuse of Governmental Office" section 16-10-2 "Bribery" defines bribery to include any person acting on behalf of any political subdivision of any agency thereof who solicits or receives any benefit, reward, or consideration to which he is not entitled with the purpose of influencing him in the performance of any act related to the functions of his office or employment.
 2. Title 16 Chapter 10 section 16-10-3 part (b) of same prohibits the use of private funds for law enforcement by officers or employees of political subdivisions, except as otherwise provided by this code section.
 3. Title 16 Chapter 10 section 16-10-4 part (b) states that any officer or employee of a political subdivision who asks for or receives anything of value to which he is not entitled in return for an agreement to procure or attempt to procure the passage or defeat the passage of any legislation by the legislative body of the subdivision of which he is an officer or employee shall, upon conviction thereof, be punished by imprisonment for not less than one nor more than five years.

4. Title 16 Chapter 10 section 16-10-5 part (b) prohibits the influencing of an officer or employee of political subdivisions of the State of Georgia by another officer or employee.
5. Title 16 Chapter 10 Section 16-10-6 prohibits the sale of real or personal property to political subdivision by local officer or employee; exemptions.
6. Title 16 Chapter 10 Section 16-10-8 states that "any officer or employee of the State or any political subdivision thereof or other person authorized by law to make or give a certificate or other writing who knowingly makes and delivers such a certificate or writing containing any statement which he knows to be false, shall upon conviction thereof, be punished by imprisonment for not less than one nor more than five years.

N. Obstruction of Public Administration and Related Offenses

1. Title 16 Chapter 10 Article 2 entitled "Obstructions of public administration and related offenses" section 16-10-20 prohibits false statements, concealment of facts, fraudulent writings, etc. in matters within jurisdiction of state or political subdivisions.
2. Title 16 Chapter 10 Article 2 section 16-10-21 of the Official Code of Georgia part (b) defines and prohibits conspiracy to defraud political subdivisions.
3. Title 16 Chapter 2 section 16-10-23 prohibits impersonating a peace officer.
4. Title 16 Chapter 10 Article 2 section 16-10-24 prohibits the obstruction or hindering of law enforcement officers in the lawful discharge of official duties.
5. Title 16 Chapter 10 Article 2 section 16-10-25 prohibits the giving of a false name, address, or date of birth to a law enforcement officer.
6. Title 16 Chapter 10 Article 2 section 16-10-26 states "a person who willfully and knowingly gives or causes a false report of a crime to be given to any law enforcement officer or agency of this state is guilty of a misdemeanor."
7. Title 16 Chapter 10 Article 2 section 16-10-30 prohibits the refusal to obey peace officers to move for the purpose of promoting public safety by dispersing those gathered in dangerous proximity to a fire or other emergency.

O. Escape and Other Offenses Related to Confinement Title 16 Chapter 10 Article 3 entitled "Escape and Other Offenses Related to Confinement" section 16-10-53 part (b) states that "a peace officer or employee of any place of lawful confinement who recklessly permits any person in his custody to escape is guilty of a misdemeanor."

P. Title 16 Chapter 10 Article 4 sections 16-10-70, 16-10-71, and 16-10-72 define perjury, false swearing and subornation of perjury or false swearing by persons to whom a lawful oath or affirmation has been administered, and sets punishments for each upon conviction thereof.

- Q. Invasions of Privacy Title 16 Chapter 11 Article 3 entitled "Invasions of Privacy" section 16-11-64 of the Official Code of Georgia provides for the legal interception of wire or oral transmissions by law enforcement officers in the performance of his official duties.
- R. Possession of Dangerous Weapons, Etc.
1. Title 16 Chapter 11 Part 2 entitled "Possession of Dangerous Weapons" under Definitions defines certain weapons and devices; sections 16-11-122 and 16-11-123 prohibit possession of said described weapons and/or devices; section 16-11-124 states exemptions to the above listed laws for law enforcement officers (peace officers) of any duty authorized police agency of the State of Georgia or any political subdivision thereof.
 2. Title 16 Chapter 11 Part 3 entitled "Carrying and Possession of Firearms, etc." section 16-11-126 prohibits the carrying of a concealed weapon with exemptions and section 16-11-127 parts (a) and (b) prohibit carrying deadly weapons to or at public gatherings part (c) permits law enforcement officers to carry pistols in publicly owned or operated buildings and section 16-11-30 exempt peace officers from code sections 16-11-126 through 16-11-128 of the Official Code of Georgia.
 3. Title 16 Chapter 11 Part 4 entitled "Anti-terrorist Training" sections 16-11-150 and 16-11-151 makes it unlawful for any person to:
 - a. "Teach, train, or demonstrate to any other person the use, application or making of an illegal firearm, dangerous weapon, explosive, or incendiary device capable of causing injury or death to persons if the person teaching, training, or demonstrating knows, has reason to know, or intends that such training will be in furtherance of a civil disorder, riot, insurrection; or
 - b. To assemble with one or more persons for the purpose of being taught, trained or instructed in the use of any illegal firearm, dangerous weapon, explosive or incendiary device capable of causing death or injury to persons if such person so assembling knows, has reason to know, or intends that such teaching, training or instruction will be unlawfully employed for use in or in furtherance of a civil disorder, riot, or insurrection. "Section 16-11-152 exempts any act of any peace officer which is performed in the lawful performance of official duties and also exempts any training for law enforcement officers conducted by or for any political subdivision of the State of Georgia.
 4. Title 16-11-8 requires police authorities to provide information regarding activities of subversive persons, subversive organizations or foreign subversive organizations to the special Attorney General of the State of Georgia and authorizes the Governor of the State of Georgia to establish special enforcement agencies.
- S. Municipal Ordinances

Sworn law enforcement officers of the Dacula Marshal's Office are required and authorize and empowered to enforce all current and applicable municipal ordinances as found contained within the Code of Ordinances of the City of Dacula.

- T. Although sworn law enforcement officers have greater powers of legal authority than the average citizen, these powers are not without limits. Article VI of the Constitution of the United States makes it mandatory that all executive and judicial officers, both of the United States and of States, shall be bound by oath or affirmation to support the Constitution of the United States. Thus, if in carrying out the police powers of the state or municipality, there is conflict between the enforcement of statutory laws and protection of the constitutional rights as interpreted by the Supreme Court, the former must give way. The provisions of the Bill of Rights establish the foundation for statutes and court decisions concerning search and seizure, arrest, questioning procedures, the right to counsel and other restrictions which limit action by public officials.
1. The Fourth Amendment prohibits unreasonable search and seizure of persons and property.
 2. The Fifth Amendment provides safeguards for persons accused of a crime. It provides, among other things, that no person shall be compelled in any criminal case to be a witness against himself and no person shall be deprived of life, liberty, or property without due process of law.
 3. The Sixth Amendment assures that in criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury, the right to be confronted by witnesses against him or her and the right to counsel. These three amendments are of primary concern to justice personnel but they would mean little without court interpretation. The facts of each individual case must be examined to determine the restrictions placed upon those charged with enforcing the law.
 4. Criminal justice personnel are required to enforce state, federal, and local laws and are bound by oath or affirmation to support the Constitution of the United States. Constitutional rights as interpreted by the United States Supreme Court take precedence in all conflicts between the Supreme Court's attempt to balance police power and individual rights.
 5. Many of the individual rights which must be protected are enumerated in the Bill of Rights. Although these rights, such as those of the Fourth, Fifth, and Sixth Amendments are now applicable to the states by way of the Fourteenth Amendment due process clause. The United States Supreme Court decisions must be searched to determine applicable standards in areas such as search and seizure, self-incrimination, and right to counsel. In addition to standards established by the Supreme Court, the state by way of its constitutional provision may establish additional requirements. This makes it mandatory that criminal justice personnel be familiar with both of the minimum standards required by Federal Courts as well as those required by state law or the State

Supreme Court based upon decisions of state constitutional provisions.

6. In the case of *United States v. Cortez* 1981, the United States Supreme Court indicated that when police have reasonable suspicion, based upon specific and articulate facts, that a person they encounter was involved in or was wanted in connection with a completed felony, then the same police authority allowable under the *Terry v. Ohio* case may be made to investigate that suspicion.
7. In 1979, the United States Supreme Court, in the case of *Delaware v. Prouse*, addressed the issue of routine police stops for the purpose of checking driver's license or vehicle registration certification. The court prohibited the indiscriminate stopping of automobiles to check driver's license and registration, yet approved the stopping of vehicles if there were articulate and reasonable suspicion that the driver was unlicensed or that the automobile was not registered. This case did not prevent states from developing methods for spot checks that involve less intrusion or do not involve the unrestrained exercise of discretion. This case and others have approved the use of roadblocks on highways to check license and registration of every motorist that passes by, e.g., *United States v. Pritchard* 1981.
8. Courts have not placed any definite time limitations on the detention in determining how long a detention can continue, they will look at the purpose of the detention and if police diligently pursue the investigation to confirm or dispel their suspicions.
9. In the case of *United States v. Place* 1983, the United States Supreme Court approved the detention of luggage when an officer's observations lead him or her to reasonably believe that the luggage contains contraband. In this case the court also reasoned that subjecting luggage to a "sniff test" by a well-trained narcotic detection dog does not constitute a search within the meaning of the Fourth Amendment.

DACULA MARSHAL'S OFFICE**2021-30: Missing Persons**

PURPOSE: To establish procedures for personnel of the Dacula Marshal's Office for handling missing persons.

POLICY: The Gwinnett County Police Department has the primary responsibility for handling missing person cases in the City. However, there may be situations where personnel of the Dacula Marshal's Office may need to respond to reports of missing persons or participate in a search. It is the policy of the Dacula Marshal's Office to be a supporting agency to the Gwinnett County Police Department in handling missing person cases.

PROCEDURE:**A. Initial Description and Information to be Gathered.**

When responding to a missing person case, the responding officer shall immediately gather the following information:

1. Complete description of the missing person:
 - a. Height/weight
 - b. Hair color/length
 - c. Eye color
 - d. Type of build
 - e. Complexion
 - f. Facial hair
 - g. Body markings (scars, tattoos, body-piercing)
 - h. Last known clothing description
 - i. Known companions
 - j. Date and time last seen by the complainant.
 - k. Location where last seen by the complainant.

B. Dissemination of Collected Information

Once the pertinent information has been gathered, the responding officer shall contact the 911 Communications Center and provide them with that information so that it may be broadcast to all personnel. The responding officer should at that time

request an officer of the Gwinnett County Police Department to respond.

C. Entry or Removal of Information

Entry or Removal of information in the Criminal Justice information System (C.J.I.S.) will be handled by the Gwinnett County Police Department.

D. Follow-up Contact with the Complainant

All follow-up contacts with the complainant or reporting person will be handled by the Gwinnett County Police Department.

E. Follow-up Investigation and Search

The follow-up investigation will be conducted by the Gwinnett County Police Department. The responding officer of the Gwinnett County Police Department shall be responsible for evaluating all known factors and for initiating a search, if necessary. Upon request of the Gwinnett County Police Department or when there is reason to believe that the missing person may be in immediate danger if not located, officers of the Dacula Marshal's Office shall assist in the search.

F. Searches for Juveniles and the Elderly

The Gwinnett County Police Department will be responsible for conducting a search that involves a missing child or elderly person. Upon request of the Gwinnett County Police Department officers of the Dacula Marshal's Office shall assist in the search for juveniles and elderly persons.

G. Special Considerations for At-Risk Persons

The Gwinnett County Police Department will determine if there are any special needs or considerations that need to be addressed.

DACULA MARSHAL'S OFFICE**2021-31: Neighborhood Code Compliance Inspections,
Called in Complaints and Officer Initiated Complaints**

PURPOSE: To establish procedures for conducting Neighborhood Code Compliance Inspections.

POLICY: Neighborhood Code Compliance Inspections shall be conducted to ensure compliance with City codes concerning property maintenance.

PROCEDURE:**A. Identification**

1. Prior to conducting a code compliance inspection, the officer assigned to the district to be inspected shall canvass the zone to identify the worst problem areas.
2. When identifying problem areas, the officer should pick a specific area within the district to conduct the code compliance inspection. The officer should use all data available to determine problem areas such as citizen complaints, prior citations and officer observations.
3. The Marshals will devise a plan to canvass the target area in the most efficient manner possible.

B. Neighborhood Sweep Plan

1. When conducting a code compliance inspection, officers will work in teams of two. This provides for the officers' safety as well as accurate documentation of problems.
2. All Officers shall be familiar with the City Code Sections which address overgrown lots, junk/salvage materials, and other hazardous situations.

C. Follow up

1. After the allotted compliance time, a re-check of the area shall be conducted.
2. If violations have not been corrected, then the officer may issue a court summons to the violator. If there are mitigating circumstances as to why the violation has not been corrected, the officer shall have the discretion to extend the compliance period.
3. Photographs of the uncorrected violations shall be taken and used to help facilitate prosecution in Municipal Court.

4. If a court summons is issued, the officer shall initiate a formal case. Photographs should be maintained by the prosecuting officer in the individual case file of each violation.
5. After adjudication, the officer shall monitor the violation locations to ensure they remain in compliance. If a location regresses into non-compliance during a probationary period, the officer shall refer the matter back to Municipal Court.

DACULA MARSHAL'S OFFICE

~~2021-32~~: News and Media Releases

PURPOSE: To establish procedures for the dissemination of information to the news media.

POLICY: All news media information releases will be done by the Chief Marshal or by a person particularly designated by the Chief Marshal to release information regard to specific information items.

PROCEDURE:

A. Requests For Information

All requests for information from members of the news media will be immediately forwarded to the Chief Marshal. The Chief Marshal will deal directly with the person or entity requesting the information unless the Chief Marshal designates other Divisional personnel to handle the specific request. Officers of the Dacula Marshal's Office shall not make statements at public gatherings concerning the plans, policies, or affairs of the administration of the Office unless directed by the Chief Marshal. Responsibility for publicity for the Marshal's Office shall be delegated by the Chief Marshal.

B. Press Releases

In the event the Marshal's Office has information which would be of public interest, a press release may be prepared by the Chief Marshal. The City Administrator or his designee may provide assistance to the Marshal's Office in preparing and disseminating press releases. Prior to dissemination, the press release must be approved by the Chief Marshal. In determining whether or not to release information to the news media, all local, state, and federal laws shall be complied with. This includes but is not limited to: Federal Right to Privacy Act, Georgia Open Records Act, Georgia Crime Information Center Rules and Regulations, Chapter 13 of Title 48 O.C.G.A. relating to Business Occupation Tax, City of Dacula Code Chapter 12. All requests for information under the Georgia Open Records Act will immediately be forwarded to the Chief Marshal.

C. Juvenile Proceedings

Juvenile Proceedings- O.C.G.A. 15-11-60(g)(1) The name or picture of any child under the jurisdiction of the court for the *first* time shall not be made public by any news media, upon penalty of contempt under O.C.G.A. Sec 15-11-62, except as authorized by any order of the court. It shall be mandatory upon the judge of the juvenile court to release the name of any child who is under the jurisdiction of the court for a second or subsequent time. No person, firm, or corporation shall be guilty of any offense by making public the name or picture of any such child.

D. Allowing Members of the Media to Enter Area of Serious Incident or Crime Scene

Police lines may be established to prevent persons from entering the area of serious incidents, natural disasters, or other catastrophic events and crime scenes. Dependent upon the tactical situation and the likelihood of jeopardizing police operations, members of the news media may or

may not be allowed in these areas. Authorization for entry into these areas is normally dependent upon the judgment of the supervisor present. While members of the media may be permitted in the area of a crime scene or serious incident, they do not have the authority to be within an area which has been secured to preserve evidence, or at any location where their presence jeopardizes police operations.

E. News Media Not Exempt from Laws

The primary responsibility of news professionals is to report the news by obtaining information and photographs of newsworthy incidents. Their opportunity to do so is frequently at an emergency scene. An officer sharing these circumstances with news people should not obstruct them in the performance of their duty. However, members of the news media are neither implicitly nor expressly exempt from the requirements of any municipal, state, or federal statute.

F. Requesting Withholding of Information

News professionals may photograph or report anything they observe when legally present at any public or private location or emergency scene. When publication of this coverage would interfere with an official investigation or place a victim, suspect or others in jeopardy, the withholding of a publication is based on the decisions of a cooperative press, not censorship by the Office. Under these circumstances, officers should advise news professionals or their superiors of the possible consequence of publication. However, officers may not interfere with news media activities as long as the news person's performance remains within the confines of the law.

DACULA MARSHAL'S OFFICE**2021-33: Oath of Office**

PURPOSE: To establish a uniform Oath of Office to be taken by sworn officers of the Dacula Marshal's Office

POLICY: All personnel prior to assuming the status of a sworn Marshal of the City of Dacula Marshal's Office will be required to take the Departmental Oath of Office.

PROCEDURE:

- A. The Oath of Office taken by a Dacula Marshal is a very solemn and necessary function and should not be taken lightly by the employee. The following procedures shall be followed in the giving of and taking of the departmental Oath of Office.
1. The Oath of Office shall be administered as soon as possible after employment or appointment, or the employee's status is changed to that of a sworn officer.
 2. The Oath of Office shall not be administered to a new employee until the employee has successfully completed P.O.S.T. basic mandate training.
 3. The officer shall not perform any law enforcement function under the color of a Dacula Marshal until after the oath has been administered.
 4. The Oath of Office shall be administered by the Mayor or his or her designee.
 5. The Oath of Office shall be in printed form and spaces provided for the signatures of the newly sworn Marshal, Chief Marshal, and City Clerk.
 6. All Oaths of Office shall be signed at the time that they are administered.
 7. A copy of the completed Oath of Office shall be made. The copy shall be for inclusion in the employee's inter-departmental personnel file, and the employee shall be provided with the original.

OATH OF OFFICE

I, _____, do hereby solemnly swear (or affirm) that:
I will support and defend the Constitution of the United States of America, the State of Georgia
and the Charter and Ordinances of the City of Dacula Georgia;

I am not the holder of any office of trust under the government of the United States, any other
state, or any other foreign state which I am, by the laws of the State of Georgia, prohibited from
holding;

I am otherwise qualified to hold the office of Marshal according to the constitution and the laws
of the State of Georgia;

I am not the holder of any unaccounted public money due this state or any other political
subdivision or authority thereof;

And, I will to the best of my ability, faithfully and justly perform the duties and obligations of a
Marshal. So, help me God.

Officer's Signature

Chief Marshal
City of Dacula, Georgia

Notary Public
Sworn to and subscribed before me this ____ day of _____ 20_____.

(SEAL)

DACULA MARSHAL'S OFFICE

~~2021-34~~: Officers Response to Resistance and / or Aggression

PURPOSE: To establish guidelines for the lawful response to resistance and/or aggression against officers of the Dacula Marshal's Office and the public and to provide officers with a framework within which they can properly and lawfully discharge their law enforcement duties; and to establish standard operating procedures for incidents involving an officer's response to resistance and/or aggression.

POLICY: The Dacula Marshal's Office recognizes and respects the value and integrity of human life. In vesting officers with the lawful authority to protect the public welfare, a careful balancing of human interests is required. Therefore, it is the policy of the Office for its officers to use only that force which is reasonable to effectively bring an incident under control, while protecting the lives of the officer and all others. In all cases, officers will only use the force that is reasonable when force is used to accomplish lawful objectives.

DEFINITIONS:

DEADLY FORCE: The intentional use of an action or instrument; the use of which would result in a high probability of death.

EXCITED DELIRIUM: A state of extreme mental and physiological excitement, characterized by extreme agitation and hyperactivity, overheating, excessive tearing of the eyes, hostility, superhuman strength, aggression, acute paranoia, and endurance without apparent fatigue.

EXIGENT CIRCUMSTANCE: Emergency circumstances that are outside the normal realm of standard operating procedures.

FORCE: Includes the unwanted contact directed toward another. This may involve the direct laying on of hands, placing an object in motion that strikes the individual, or the utilization of chemical agents.

FORCIBLE FELONY: Any felony which involves the use or threat of physical force or violence against a person.

LESS LETHAL FORCE: Force which is neither likely nor intended to cause serious bodily injury. Less lethal force shall include but not be limited to physical strength, physical skill, the use of chemical agents, the use of less lethal ammunition (i.e., pepper balls, bean bag rounds, rubber bullets) or the use of an authorized baton, as approved and in accordance with Divisional guidelines and training.

POSITIONAL ASPHYXIATION: Breathing capabilities greatly reduced due to body positioning, i.e., subject restrained, hobbled, and are lying in such a position that restricts the ability to breathe. Special attention should be given to subjects who have engaged in violent activities due to muscle fatigue or with subjects who are under the effects of drugs or alcohol.

REASONABLE BELIEF: The facts and circumstances officers know, or should know, that are such that would cause an ordinary and prudent peace officer to act or think in a similar way under similar circumstances.

SERIOUS BODILY INJURY (GREAT BODILY INJURY/SERIOUS PHYSICAL HARM): A bodily injury that creates substantial risk of death; causes serious, permanent disfigurement; or results in long-term loss or impairment of the functioning of any bodily member or organ.

PROCEDURE:

A. Each situation provides a different set of circumstances that officers must evaluate in order to determine appropriate responses to resistance and/or aggression. The below listed “Officer Response to Resistance and/or Aggression Intervention or Force” serves as a guide for officers in making “response to resistance and/or aggression” decisions. This is only a guide. Circumstances can indicate that officers **MODIFY THEIR DEGREE OF RESPONSE AS REASONABLY NECESSARY** as all actions by officers are predicated by the individuals with whom they are interacting and the totality of the circumstances of the incident. An officer is required to de-escalate anytime the subject’s resistance decreases or ceases. The officer’s control response should be based on: The severity of the crime at issue, and whether the suspect poses an immediate threat to the safety of officers and others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight as governed by Graham v. Conner 490 U.S. 3861

B. Notwithstanding exigent circumstances, only weapons and ammunition authorized by the Division may be used by officers while engaged in the performance of their official duties, both on and/or off duty. Officer response options to a subject’s resistance and/or aggression include, the following:

1. Officer Presence

Officers present themselves on a scene and their authority is recognized by their uniform, vehicles, equipment, or by verbal announcement of their identity as a Law Enforcement Officer.

2. Verbal Commands / Interaction / Communication

- a. Two-way, controlled non-emotional communication aimed at problem identification and resolution or,
- b. Lawful order designed to elicit voluntary compliance from an individual

3. Hand Control / Compliance and Restraint

a. Soft Hands

For use with individuals unable to comply due to intoxication and individuals demonstrating passive and/or defensive resistance. Restraint

techniques include those in which the individual would not experience any pain to moderate pain and should not sustain any injuries. These would include moderate escort techniques to physically maneuver or direct the individual from one location to another or pressure points and joint manipulation by officers trained to apply them.

b. Hard Hands

For use with uncooperative or aggressive individual(s) that refuse to be placed in custody. Restraint techniques include those used with sufficient force to inflict some degree of discomfort or pain to the individual, to force compliance and/or for the officer's self-defense. These may include strikes and kicks, take-downs, and holds. Due to the potential to cause serious bodily injury or death, unless exigent circumstances exist to prevent serious bodily injury or death to another, neck restraints are not authorized by this Office. In addition, officers shall not place a knee on the individual's neck/nape of neck when handcuffing an individual.

4. Temporary Incapacitation

Temporary incapacitation devices may be used on individuals who are aggressive or uncooperative. These devices are used to inflict some degree of discomfort or pain to force compliance and/or for the officer's self-defense or defense of others.

a. Oleoresin Capsicum (O.C.) Spray/Foam

Divisionally issued non-flammable, electronic immobilization device compatible, 10% Oleoresin Capsicum (O.C.) spray or foam as carried on the officers' duty belt.

b. Batons

Divisionally issued ASP or PR-24 carried by personnel who have received appropriate training. All strikes with a baton or ASP shall be targeted at the major muscle groups such as the forearms, thighs or calves.

5. Deadly Force

In situations where any person is endangered by the use or threatened use of deadly force, officers shall respond with like force in accordance with OCGA 16-3-21 and 17-4-20.

Again, all actions by officers are predicated by the individuals with whom they are interacting and the totality of the circumstances of the incident.

C. Use of Deadly Force

1. Dacula Marshals are authorized to use deadly force:

- a. Only if he or she reasonably believes that such force is necessary to prevent death or great bodily injury to himself or herself or a third person or to prevent the commission of a forcible felony;
 - b. In order to apprehend a suspected felon only when the officer reasonably believes that the suspect possesses a deadly weapon or any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury; when the officer reasonably believes that the suspect poses an immediate threat of physical violence to the officer or others; or when there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious bodily injury if the officer reasonably believes that the suspect's escape would create a continuing danger of serious physical harm to any person; [or](#)
 - c. To destroy animals which represent threats to public safety or as a humanitarian measure if animals are seriously injured.
2. Before using a firearm, officers shall identify themselves and state their intent to shoot, where feasible.
 3. Marshals shall adhere to the following restrictions regarding firearms:
 - a. Warning shots are prohibited.
 - b. Marshals shall not fire their weapons at or from a moving vehicle except as reasonably necessary to protect the officer or others from what is reasonably believed to be an immediate threat of death or serious bodily injury.
 - c. Except in the gravest of circumstances firearms shall not be discharged if it appears likely that innocent persons may be injured.

D. Use of Less Lethal Force

In instances when deadly force is not reasonable, officers shall assess the incident and determine which less lethal option is best suited to lawfully and effectively bring the incident under control.

- E. Excessive force or brutality by any member of the Office **shall not be tolerated**. When officers are affecting arrests, necessary force may be used as previously mentioned. The use of any piece of equipment and/or soft/hard empty hand control/compliance and restraint techniques must be used for its intended purposes with appropriate training/certification only. Although in exigent cases where officers must defend themselves against injury, they may make use of any available weapon for their protection.
- F. When violators are arrested or placed into custody and resistance by the individuals has ceased, officers shall immediately modify their response accordingly.

- G. When an officer is involved in a police action that results in physical injury or there is reason to believe there may be a physical injury, the officer, if tactically appropriate and feasible will:
1. Request EMS to evaluate and treat those persons involved and injured prior to removal from the scene.
 2. The officer will continually monitor the person for changes in skin or lip color, breathing and levels or consciousness. If any significant changes in any of these areas are observed the officer will notify EMS immediately.
 3. Have the person transported to a medical facility for additional treatment if recommended by EMS.
 4. Appropriate medical aid after any use of force incident may include monitoring the subject for any changes in condition, flushing chemical agents from the eyes, moving the subject to fresh air, applying first aid, or evaluation by EMS.
- H. Any officer involved in a situation which requires any use of force, whether on or off duty, shall report the incident immediately to the Chief Marshal.
- I. Training and Qualification for Less Lethal Weapons
1. Officers are not permitted to use or carry any less lethal weapon or other weapon unless authorized, trained and demonstrate an acceptable level of proficiency as determined by Divisional training procedures.
 2. The Office authorizes the use of the divisional issued non-flammable, electronic control device compatible, 10% Oleoresin Capsicum (O.C.) spray or foam after successful completion of the user familiarization course by a certified instructor. The use of the O.C. in field situations must comply with approved training.
 3. The Office authorizes the use of the divisionally issued "ASP Expandable Baton" and the "Monadnock PR-24" as approved impact weapons. Impact weapons are not to be carried until the officer successfully completes a divisionally approved training course by a certified instructor in the proper use of said impact weapon. The use of the impact weapon in field situations must comply with approved training.
- J. Use of Handcuffs and Flexcuffs
1. All suspects placed under arrest shall be handcuffed, with hands behind the back, prior to being transported to the Gwinnett County Jail for booking, or being transported to another facility. This policy applies to all suspects regardless of age, sex or outward demeanor. (Exceptions listed below.)

However, officers are exempt from the mandate of handcuffing and may use

their own discretion when arrestees are/have:

- a. Elderly;
- b. Have obvious physical limitation(s) or deformities and/or handicaps of their extremities;
- c. Medical conditions that prevent them from being handcuffed (whether obvious by the officer or after advised by the arrestee);

Officer's discretion may include handcuffing the subject in front.

Officers should be aware that numerous courts have cited that handcuffing a non-threatening, non-flight risk and cooperative arrestee who has been arrested for a minor crime and who has informed the officers of a pre-existing injury may constitute excessive force.

2. In all circumstances, officer safety is of primary concern. No officer shall be disciplined for handcuffing any lawfully arrested suspect in accordance with Office policies and procedures.
3. Handcuffs shall be secured on wrists of the suspect with a snug fit, but with sufficient slack to permit blood circulation and avoid unnecessary pain. The handcuffs shall then be double locked to prevent suspects from tightening the fit and injuring themselves. If a handcuffed person complains of tightness of the handcuffs, the handcuffs shall be checked with minimal delay to prevent injury to the person.
4. Flexcuffs issued by the Marshal's Office may be used in place of handcuffs in mass arrest situations. When utilized, the officer shall comply with the handcuff techniques described in this section. Flexcuffs shall not be used for the transport of arrestees/prisoners over an extended period of time.

J. Reporting Procedures

1. Every Response to Resistance and/or Aggression, as listed below (J.1.a-g), will require the completion of a "Response to Resistance and/or Aggression Report" (see attached) by the primary officer(s). Other officers involved or witnessing the incident shall complete an investigative report indicating their involvement or observation. This shall be completed by the end of the officer's tour of duty unless exigent circumstances are present or a serious bodily injury or deadly force incident has occurred. In the case of an exigent circumstance being present or a serious bodily injury or deadly force incident occurring, Response to Resistance and/or Aggression Report and interviews of officer(s) involved shall not be completed sooner than 24 hours after the occurrence of the incident and the time frame may be extended if dictated by the circumstances of the event. This time frame will allow the involved officer(s) time to recover from the incident and conduct a review/walk through of the incident location to gather required information to prepare the reports. Reports shall be forwarded for

review as outlined on the “Response to Resistance and/or Aggression Report”. Injuries sustained by the violator(s) or officer(s) shall be documented with photographs, which shall be submitted with copies submitted with the Officers Response to Resistance and/or Aggression Report to the Chief Marshal. Officer’s audio/video recordings of the incident, along with any audio/video recording of interviews the Chief Marshal had with the subject for whom the force was used against or of any witnesses to the incident, shall be filed with the Officers Response to Resistance and/or Aggression Report.

All documentation and recordings will be reviewed by the Chief Marshal. The Gwinnett County Police Department Internal Affairs may be requested to assist with any review or investigation depending on the severity of the force utilized. Recommendations for discipline, including remediation, may be made at any level of review.

The Chief Marshal shall be responsible for maintaining the Officers Response to Resistance and/or Aggression Report along with any attached documents to include any audio and/or video recordings. All reports and recordings shall be kept in accordance with the State or City of Dacula retention schedules, whichever requires the longest amount of time.

Incidents requiring the completion of such report shall include:

- a. Death, hospitalization, or medical treatment of either the officer or suspect, that occurs as a result of any arrest or confrontation between the officer and the suspect;
 - c. The striking of a suspect with hands, feet, or baton;
 - d. The presence of blood, broken skin, or visible bruises on the person of either the officer or suspect, that occurs as a result of any arrest or confrontation between the officer and the suspect;
 - e. Discharge of any firearm, except in training situations, authorized firearm competitions, humanitarian acts and ballistic examinations;
 - f. Discharge of chemical agents, except in training situations and testing;
 - g. Any complaint of physical injury made by a suspect in the presence of any officer, that arose as a result of any arrest or confrontation between the officer and the suspect; or
 - g. When an officer’s firearm is drawn and pointed at any person.
2. It shall be the responsibility of all officers witnessing an incident in which a Response to Resistance and/or Aggression Report should be filed to either complete such a report or to co-sign the primary officer's Response to Resistance and/or Aggression Report, if the co-signing officer is in agreement with, and is willing to be accountable for, the contents of the report.

3. In instances where any injuries or complaints of injuries to a suspect occurred prior to the officers' arrival, in a confrontation with non-Divisional personnel or were self-inflicted either before or after an arrest occurred, the officer shall fully document the details of same in the investigative section of the officer's incident report. Officers shall also thoroughly document when force was used resulting in no injury or complaint of injury to the suspect.
 4. The Chief Marshal shall conduct a documented annual analysis of all Response to Resistance and/or Aggression Reports. This analysis will be used to identify patterns or trends that may indicate training needs and/or policy modifications. Absent exigent circumstances this analysis should be completed by January 31st of each year.
- K. The Office shall conduct an administrative investigation into every incident of firearms discharge by Office members (other than during authorized training, authorized firearm competitions, or ballistics examinations) as well as other incidents where the use of force results in injury. This shall apply in both on duty and off duty incidents involving office issued/approved weapons.
1. Whenever members of the Marshal's Office discharge their weapons accidentally, intentionally or through mechanical malfunction of their weapons, or use any other type of force which results in injury or death they shall immediately:
 - a. Determine the physical condition of any injured person(s) and render appropriate first aid.
 - b. Notify Central Communications of the incident location and request necessary emergency medical assistance and back-up. Central Communications will be requested to notify the Chief Marshal and the on-duty watch commander of the Gwinnett County Police Department.
 - c. Remain at the scene, unless injured, until the arrival of the Chief Marshal or the on-duty watch commander. If the circumstances are such that the continued presence of the officer at the scene may cause a more hazardous situation, or violent crowd, the on-duty watch commander or Chief Marshal shall have the discretion to instruct the officer to respond to another location.
 - d. Protect all weapons for examination and submit said weapons to the appropriate investigator.
 - e. Prepare detailed reports of all incidents for review by the Chief Marshal. Recommendations for discipline, including remediation, may be made at any level of review.
 - f. Refrain from discussing the incidents with anyone other than the Chief Marshal and investigative personnel, and any attorney privately retained by

involved officers.

3. The Chief Marshal at the time of the incident shall immediately;
 - a. Notify the Gwinnett County Police Department Chief of Police to request investigative assistance;
 - b. Respond to the scene;
 - c. Determine the physical condition of all persons involved and determine whether additional medical or manpower assistance is required;
 - d. Secure the scene to be protected;
 - e. Begin a preliminary field investigation;
 - f. Render assistance to any assigned investigator;
 - g. Whenever an employee's action(s) or use of force in an official capacity results in death or serious bodily injury to another, the involved employee shall be immediately relieved of regular duties by the Chief Marshal pending an administrative review of the incident. This action shall not be interpreted to imply or indicate that the employee has acted improperly; and
 - h. Submit a detailed report of the results of the preliminary field investigation to the Chief of Police, who shall disseminate to appropriate personnel.
4. Internal Affairs Investigative Procedures:
 - a. Except when the discharge of a firearm occurred during training, authorized firearm competitions, humanitarian acts, or ballistic examinations the Chief Marshal shall request the Internal Affairs Unit of the Gwinnett County Police Department to conduct an administrative investigation of every incident of firearms discharge, subordinate to any criminal investigation, to determine:
 - (1) Whether the discharge and/or use of force was:
 - (a) Within policy;
 - (b) Not within policy; or
 - (c) Accidental.
 - (2) Evaluate training considerations:
 - (a) Drawing and exhibiting firearms;
 - (b) Firing of weapons; and

- (c) Tactics prior to drawing and discharging.
 - (3) The role of supervisors prior to, during, and after the shooting incident.
 - (a) The Internal Affairs Investigator shall advise the involved officer(s) of those rights to which the officer(s) is entitled during an internal administrative review.
 - (b) The Internal Affairs Investigator shall prepare a detailed report of facts relative to the incident to the Chief of Police.
 - b. If Internal Affairs Investigator from Dacula Department conducts an investigation for the Chief Marshal, the investigator shall forward a copy of the detailed report of findings to the Chief Marshal.
- L. Psychological Services

In all cases where any person has been seriously injured or killed as a result of use of force by officers, the involved officers shall be required to undergo a post-traumatic situation debriefing with a City of Dacula furnished psychologist or counselor within three (3) days of the incident. The session(s) shall be protected as privileged communication.

DACULA MARSHAL'S OFFICE SUPERVISORS' RESPONSE TO RESISTANCE AND/OR AGGRESSION REPORT

(To be completed, by the involved officer(s) supervisor)

CASE NUMBER _____ DATE OF INCIDENT _____

TIME OF INCIDENT _____ DATE OF THIS REPORT _____

1. Name _____ Rank _____
Badge # _____

2. Was this incident investigated at the scene? _____ Yes _____ No

If it was not investigated at the scene of the incident, why was it not?

If yes, who was it investigated by?

3. Was this incident investigated by the Gwinnett County Police? _____ Yes _____ No

4. Was this incident investigated at a medical facility? _____ Yes _____ No

If yes, which facility? _____

5. Was a complaint received? _____ Yes _____ No

If yes, how, when, where, and by whom was the complaint received?

Was a Divisional complaint form completed? If no, why not?

6. Were photographs taken? _____ Yes _____ No If yes, by whom? _____

7. Were witness statements taken? _____ Yes _____ No If yes, by whom? _____

8. Are there audio tapes of this incident? _____ Yes _____ No If yes, where are they? _____

9. Are there video tapes of this incident? _____ Yes _____ No If yes, where are they? _____

10. Supervisory recommendations:

Based on the circumstances of this incident and my investigation thereof, I recommend that this case be:

_____ Closed, with no further action necessary at the line level.

_____ Needs further investigation with the G.P.D. Internal Affairs Unit.

_____ Incident is not in compliance with Divisional policy and subsequent disciplinary action report is attached.

_____ All involved reports are attached to this document

11. Investigating supervisor's signature _____

DACULA MARSHAL'S OFFICE OFFICER RESPONSE TO RESISTANCE AND/OR AGGRESSION REPORT

(To be completed, by officer[s] involved in response to resistance incidents)

CASE NUMBER _____ DATE _____ TIME _____

1. Officer(s) name involved in the use of force:

_____ Badge # _____

_____ Badge # _____

_____ Badge # _____

_____ Badge # _____

2. Officer completing this report: _____ Badge # _____

3. Other officers or civilians present during the use of force:

4. Subject's Name: _____

5. Subject's Date of Birth: _____ Age _____

6. Incident information (Shade the applicable oval[s])

- 0 Traffic Stop 0 Traffic Accident
- 0 Domestic 0 Officer Initiated
- 0 Robbery 0 Field Interview
- 0 Burglary 0 Search Warrant
- 0 Simple Assault 0 Arrest Warrant
- 0 Aggravated Assault 0 Suspicious Person
- 0 Other, Describe: _____

Conditions present: (Shade the applicable oval [s])

- 0 Inside of a structure 0 Outside of a structure
- 0 Structure brightly lit 0 Day 0 Night
- 0 Structure dimly lit 0 Clear 0 Rain
- 0 Structure lit by flashlight 0 Fog 0 Snow
- 0 Other _____ 0 Sleet 0 Hail
- 0 Wind 0 Clear
- 0 Very hot 0 Very cold
- 0 Well Lit 0 Dimly lit
- 0 Darkness
- 0 Other _____

7. Level of the subject's resistance. (Explain all that may apply):

Psychological Intimidation _____

Verbal
Threats _____

Passive
Resistance _____

Defensive
Resistance _____

Active
Aggression _____

Aggravated Active Aggression

Type of Weapon (if applicable)

Did subject display a weapon? _____ Yes _____ No Did they point the weapon at an officer? _____ Yes _____ No

What officer(s) was it pointed at?

Did the subject point weapon at someone else? If yes, who?

8. Control methods used by officer(s). (Fully describe all that may apply):

Verbal commands:

Loud, repetitive verbal commands:

Soft, empty hand control/compliance and restraint (includes pressure points, joint manipulation)

Were chemical agents (O.C.) used? _____ Yes _____ No If yes, how many applications were delivered? _____

By who were they delivered?

Was the subject warned that chemical agents were about to be used? _____ Yes _____ No If no, why not? _____

Hard empty hand control/compliance (includes active countermeasures, stunning techniques, take-downs, compliance techniques, etc.,)

Divisionally approved impact weapon used? _____ Yes _____ No

What type of impact weapon was used? _____

Number of strikes _____ Where were the strikes delivered? _____

Use or potential use of deadly force by officer(s). (This includes the drawing or pointing of a firearm at the suspect):

Type of weapon used by the officer(s) (handgun, shotgun, rifle, other, describe) _____

Was the weapon fired? _____ Yes _____ No

If weapon was fired, how many times was it fired and by whom?

Weapon serial number(s)

Handcuffs applied? _____ Yes _____ No If no, why not? _____

Were handcuffs double locked? _____ Yes _____ No If no, why not? _____

9. Was the suspect injured? _____ Yes _____ No Were the injuries visible? _____ Yes _____ No

Was there a complaint of injury? _____ Yes _____ No

Extent of injuries to the suspect _____

Did the suspect receive medical treatment? _____ Yes _____ No

If yes, by whom? _____

Was the suspect transported to a medical facility? _____ Yes _____ No

If yes, by whom? _____

Name of the treating physician(s) (if applicable)

Did/was the suspect: (shade the applicable oval)

- Admitted to the hospital Treated and released
- Underwent surgery Die

10. Was the officer(s) injured? _____ Yes _____ No Were the injuries visible? _____ Yes _____ No

Was there a complaint of injury? _____ Yes _____ No

Extent of injuries to the officer(s) _____

Did the officer(s) receive medical treatment? _____ Yes _____ No

If yes, by whom? _____

Was the officer(s) transported to a medical facility? _____ Yes _____ No

If yes, by whom? _____

Name of treating physician(s) (if applicable)

Did/was the officer(s): (shade the applicable oval)

- Admitted to the hospital Treated and released
- Underwent surgery Die

11. Were other civilians injured? _____ Yes _____ No Were the injuries visible? _____ Yes _____ No

Was there a complaint of injury? _____ Yes _____ No

Extent of injuries to the civilians _____

Did the civilian(s) receive medical treatment? _____ Yes _____ No

If yes, by whom? _____

Name of treating physician(s) (if applicable) _____

Was the civilian(s) transported to a medical facility? _____ Yes _____ No

If yes, by whom? _____

Did/was the civilian(s): (shade the applicable oval)

- Admitted to the hospital Treated and released
- Underwent surgery Die

12. Alcohol/drug use by subject (shade the appropriate oval)

- Intoxicated from alcohol
- Suspected of intoxication from alcohol
- Intoxicated from the use of drugs
- Suspected of intoxication from the use of drugs
- Unknown

What evidence do you have of this?

13. Who monitored the subject after the use of force and where were they monitored?

14. Was a supervisor notified? _____ Yes _____ No

When? _____

If a supervisor was not notified, explain why not:

15. Names and ranks of on-duty shift supervisor AND watch commander:

_____ Badge # _____

_____ Badge # _____

16. Signatures of involved officers:

_____ Badge # _____

_____ Badge # _____

_____ Badge # _____

_____ Badge # _____

DACULA MARSHAL'S OFFICE

~~2021-35~~: Organization and Direction

PURPOSE: To establish and define the organizational structure of the City of Dacula Marshal's Office and to establish authority and responsibility.

POLICY: The Chief Marshal shall have the overall authority for management and shall oversee the daily operations of the Marshal's Office. In the absence of [the Chief Marshal](#), the City Administrator or other designee will supervise and oversee the daily operations of the Marshal's Office.

DEFINITIONS:

CHAIN OF COMMAND: Lines of communication going downward or upward within the organizational hierarchy through each successive level of command.

UNITY OF COMMAND: The concept that each individual in the organization has one, and only one, immediate supervisor.

POSITION: The duties and responsibilities, or work, assignable to one member. Any position may be filled at the discretion of the Chief Marshal.

RANK: A specific level of command within the official levels of hierarchy designating degrees of administration, supervision, and authority.

MEMBER: A sworn or non-sworn employee of the City of Dacula Marshal's Office.

SWORN MEMBER: A sworn officer of the City of Dacula Marshal's Office.

CERTIFIED SWORN MEMBER: Member who has received a Georgia P.O.S.T. certification.

P.O.S.T.: Peace Officer Standards and Training

PROCEDURE:

A. Organizational Chart

The Chief Marshal shall maintain an organizational chart on which the organizational structure of the Division is depicted. The organizational chart shall be updated at least annually and disseminated to all personnel within the Division.

B. Organizational Structure

The Dacula Marshal's Office is comprised of the Chief Marshal and Marshals. The

Marshals are under the direct command of the Chief Marshal.

C. Command Structure

The ~~order of precedence for~~ chain of command of the Dacula Marshal's Office to include civilian personnel is as follows:

1. Mayor and City Council Members
2. City Administrator, Assistant City Administrator

3. Chief Marshal

4. Marshals

D. Span of Control

1. Officers of the Dacula Marshal's Office shall obey any lawful order issued by the Chief Marshal.
2. Officers are accountable to only one supervisor at any given time. Employees who receive a conflicting or unlawful order, in the course of Departmental operations, shall utilize the following procedure to resolve the conflict:
 - a. Inform the supervisor or other person issuing the order of the conflict and request resolution. In the event that this is not practical or does not resolve the conflicting order, the employee shall follow the most recent lawful order or directive.
 - b. In the event that the conflicting order is not altered or retracted, the employee shall not be responsible for disobedience of the order or directive previously issued.
 - c. Employees who receive an unlawful order will not be responsible for disobedience or noncompliance of the unlawful order. It will, however, be the responsibility of the employee to make certain that the order is unlawful and if at a later time the order was established to be a lawful order, the employee may be held responsible for their action.

E. Unity of Command

1. The organization of the Dacula Marshal's Office is such that through the supervisory chain of command, employees are accountable to only one supervisor at any given time.
2. The organizational components shall be under the direct command of the Chief Marshal but shall obey the lawful order of any supervisor to include the City Administrator.

F. Authority and Responsibility

All members of the Dacula Marshal's Office are given the authority by the Chief Marshal to make the decisions necessary to effectively execute their responsibilities. Each employee is fully accountable for the use of their delegated authority, as well as for the failure to use it. (Refer to General Order entitled, "Discretionary Authority".)

G. Evaluation

The Chief Marshal shall monitor and review the organizational structure of the Office on a continuous basis. The Chief Marshal may modify the organizational structure or staffing assignments of the Marshal's Office as necessary to insure efficient and effective operations.

DACULA MARSHAL'S OFFICE**2021-36: Orientation and Office Provided Employee Training**

PURPOSE: To establish guidelines for the provision of orientation training to all new members and to establish guidelines for establishing in-house departmentally provided training for both sworn and civilian members.

POLICY: The Dacula Marshal's Office will provide orientation sessions to all new members, and make available or provide both formal and in-house job-related training to all sworn and civilian personnel.

PROCEDURE:

- A. Orientation sessions may be formal or informal in nature, but will provide general information concerning:
1. The Dacula Marshal's Office; its organization, role, purpose and goals;
 2. Policies and procedures;
 3. Work conditions, schedules, duty hours, etc.;
 4. Member responsibilities and rights;
 5. Member benefits;
 6. Issuance of equipment and clothing allowance or uniforms; and
 7. Other pertinent issues
- B. Training:
1. All newly appointed members shall receive orientation training as specified in Section A.
 2. All personnel shall attend all formal and Office in-house training provided or deemed necessary which prepares them for specific assignments or use of specialized equipment. Training shall be job related.
 3. All personnel shall receive job related training to include, but not be limited to the following:
 - a. Office policies and procedures;
 - b. Enhancement of skills required for the operation of Office equipment which is applicable to the job assignment;
 - c. P.O.S.T. training for sworn personnel

4. Training manuals available to all personnel shall include, but not be limited to:
 - a. Marshal's Office Policy and Procedures Manual;
 - b. City of Dacula Personnel Policies and Procedures Manual;
5. Testing
 - a. Testing and actual performance measures may be utilized as a means to measure the proficiency or effectiveness of the training process.

DACULA MARSHAL'S OFFICE

~~2021-37~~: Personnel Selection Process

PURPOSE: To set forth guidelines and standards related to the recruitment and selection of Office personnel.

POLICY: The Dacula Marshal's Office shall recruit, identify and select the best candidates available to fill position vacancies, ensuring equal opportunity for all applicants and employees without regard to race, gender, color, national origin, religion, age, or disability.

DEFINITIONS:

EMOTIONAL STABILITY / PSYCHOLOGICAL FITNESS EXAMINATION: Professional screening designed to identify candidate behavior patterns and/or personality traits that may prove either deleterious or advantageous to successful job performance and retention.

FORMAL APPLICATION: A written form used to express interest in employment and to request information on a person's basic occupational qualifications, work experience, educational background, training, and specific knowledge, skills and abilities.

JOB TASK ANALYSIS: A systematic examination of the functions and objectives of each job to be performed as it relates to the skills, knowledge, and abilities required to perform the tasks or duties of the job.

PROBATIONARY PERIOD: A period of time, usually one year, after initial employment or placement in new classification (Officer Trainee to Marshal).

RECRUITMENT ACTIVITIES: A systematic method of seeking potentially qualified job applicants.

SELECTION PROCEDURE: Any established method or combination of methods used in any way as the basis for an employment decision.

UTILITY/USEFULNESS: An assessment of the practical value of a component of the selection process based upon considerations of validity, selection/appointment ratio, the number of candidates to be selected, and the nature of the job.

VALIDITY: Proof through statistical data that a given component of the selection process is job-related either by predicting a candidate's job performance or by detecting important aspects of the work behavior related to the position.

PROCEDURE:

A. Administrative Practices and Procedures

1. The Human Resources Department shall be vested with the authority and responsibility of administering the recruitment and selection process, under

control of the Director, such as physical examinations, drug screens, credit history, and education and certification verifications.

2. The Chief Marshal will make final selection decisions for recommendation to the City Administrator.
3. The Chief Marshal shall manage aspects of the process that are under the authority and control of the Marshal's Office, which may include the background investigation, polygraph examination, psychological examinations, and oral interviews.
4. The Chief Marshal shall coordinate with the City Administrator those matters relating to recruitment, applicant selection and recommendations for hiring procedures.
5. This General Order shall serve as a manual for the recruitment and selection process.

B. Recruitment Procedures

1. Personnel who are fluent in the community's languages and aware of the cultural environment shall participate in recruitment and selection activities whenever possible. All members of the Office are encouraged to seek out and identify potential applicants and encourage them to apply.
2. The Human Resources Department advertises for recruitment of personnel for the Marshal's Office as the need arises.
 - a. Advertisements for personnel may appear in local newspapers, magazines, or those local publications in other jurisdictions where recruiting will take place, the City's website, and City/County bulletin boards.
 - b. Advertisements for vacancies shall be publicized at least ten (10) working days prior to the application-filing deadline. The deadline shall be indicated in bold type on the job announcement.
3. The Human Resources Department shall conduct job task analysis, position descriptions, and class specifications for Marshal's Office positions. When deemed necessary by the Human Resources Department Director and the Chief Marshal, the existing class specifications/position descriptions may be updated and/or revised.

C. Job Announcements, Publicity and the Application Process

1. Whenever applicants are needed for specific vacancies, job announcements shall be published for dispersal throughout the Office, and possibly published in local newspapers as well as through other media formats available. The vacancy will be publicized at least ten (10) working days prior to any official application-filing deadline. The published announcement shall contain the following minimum information:

- a. Position title;
 - b. Annual salary for position;
 - c. Summary of duties;
 - d. Minimum qualifications required; and
 - e. A timetable detailing when applications shall be accepted, as well as the closing date for applications, if applicable
2. Any and all job applications, vacancy announcements, and recruitment literature for positions within the Office shall state the following: “An Equal Opportunity Employer”.
 3. The Human Resources Department will accept and prescreen applications for completeness and minimum qualifications of applicants. Applications will not be rejected because of omissions or deficiencies that can be corrected prior to the testing process.
 4. The following records shall be required of the applicant and become part of the application:
 - a. Certified copy of birth certificate;
 - b. Copy of High School Diploma or G.E.D. certificate;
 - c. Copy of College Transcript, Diploma, and/or Degree;
 - d. Federal Form DD214 indicating honorable service discharge, if applicable; and
 - e. Georgia Peace Officer Standards and Training certificate, if applicable.
 5. The Human Resources Department shall notify the applicant in writing of all components involved in the selection process at the time the applicant submits a formal application, as well as the expected duration.
 - a. Notification shall advise the candidate that if in the event that the candidate is not selected for employment, the candidate may reapply after one year from the date of the last application, or, if applicable, one year from the test date of the Law Enforcement Exam.
 - b. The applicant will be provided, at the time of formal application, with a list of areas from which polygraph questions will be drawn.

D. Selection Requirements and Process

1. The Human Resources Department and the Marshal’s Office share the responsibility for the administration of the selection process. That process

evaluates applicants and ensures the selection of those applicants who meet entrance requirements. All procedures used in the selection process shall be administered in a uniform fashion, to include evaluation, scoring and interpretation of results of the process.

2. Selection Material Requirements

- a. All elements of the selection process, including written exams, oral boards, and physical/medical testing shall test the applicant's ability to demonstrate specific tasks. These tasks shall be directly related to the position for which the applicant is testing.
- b. All elements of the selection process shall conform to the requirements of utility usefulness and validity. This shall also apply to private sector organization and vendors.

c. Validity Measurement

- (1) Skills, knowledge and abilities identified with successful job performance are correlated to the testing procedures in the selection process. High correlation between successful job performance and test results should be an indicator of an acceptable job candidate.
- (2) Context validity is demonstrated by a candidate through practical application of previously identified performance in simulated job exercises, such as in report writing and interview techniques.
- (3) Construct validity demonstrates that a selection procedure measure underlying human traits or characteristics, such as honesty, and that characteristic is important for job performance.
- (4) Selection material validation shall be based on at least one or more of these validation measurements.

3. Human Resources Department Responsibilities: The Human Resources Department will administer and coordinate the application process. They will be responsible for the following activities:

- a. The announcement of job vacancies;
- b. Coordinating the acceptance and review of all applications;
- c. Requesting and reviewing the applicant's criminal history;
- d. Administering written examinations, typing tests, etc., if applicable; and
- e. Coordinating the physical and drug screens.
 - (1) A medical examination and a drug screen may be required for any candidate under consideration for a sworn position. These examinations are necessary to screen out applicants who might not be able to carry

out their responsibilities or endure the stress of working conditions

- (2) Only qualified professionals may be utilized to interpret examination results.
 - (3) The examinations will be based upon valid, useful and non-discriminatory methods and procedures.
 - (4) Medical examinations will be administered by licensed physicians and/or medical practitioners.
 - (5) Examinations required by the Department will be conducted at the Department's expense. Results of the psychological fitness/emotional stability and medical examinations will be retained on file by the Human Resources Department.
- f. A complete check of credit history may be required.
- g. Verification of certificates and education.
4. Marshal's Office Responsibilities: The Chief Marshal will conduct a screening process of the eligible candidates to determine their suitability for employment. The Chief Marshal will be responsible for the following:
- a. Coordinating the entry level oral interviews designed in such a way as to adequately measure personal attributes, characteristics, qualities, knowledge, skills and abilities (for non-sworn positions, the Human Resources Department may conduct entry level interviews prior to sending an eligibility list to the Marshal's Office).
 - (1) Only individuals who are knowledgeable in the personnel process and the requirements of utility, and validity may be utilized to score, evaluate, interpret or administer components of the selection process.
 - (2) Whenever possible, personnel representative of race, gender, religion, and ethnic origin of the Office's service area will be utilized in the personnel process.
 - b. Coordinating the background investigations
 - (1) A complete background investigation will be conducted on each candidate for all sworn positions and all full time civilian positions prior to appointment to probationary status to ensure that only highly qualified individuals of proven ability and high moral character are selected for employment.
 - (2) Any member of the Office assigned to conduct background investigations shall be trained in collecting the required information.
 - (3) Elements of the investigation shall include, but not limited to, the following:

- (a) Verification of the candidate's qualifying credentials, educational achievements, employment history, residence, citizenship, and driver's license.
 - (b) Review of the candidate's criminal and traffic history, if any.
 - (c) Interviews with prior and current employers and at least three (3) personal references.
- (4) The Chief Marshal shall review the background and criminal history information to determine the suitability of the candidate for further consideration.
 - (5) A record of each candidate's background investigation will be retained for five (5) years for rejected candidates and seven (7) years after separation of accepted candidates.
- c. Coordinating psychological fitness/emotional stability examination(s)
- (1) All psychological fitness/emotional stability examinations shall be conducted by an examiner certified by the State of Georgia.
 - (2) Examinations required by the Department will be conducted at the Department's expense and results of the examinations will be retained by the Marshal's Office.
 - (3) Psychological fitness/emotional stability examinations will be required for any candidate under consideration for a sworn position. These examinations are necessary to screen out applicants who might not be able to carry out their responsibilities or endure the stress of working conditions.
 - (4) The examinations will be based upon valid, useful and non-discriminatory methods and procedures.
 - (5) The examinations will be administered under direction of a licensed psychologist.
- d. Coordinating polygraph/voice stress examination(s)
- (1) All polygraph/voice stress examinations shall be conducted by an examiner certified by the State of Georgia.
 - (2) The polygraph/voice stress component of the selection process shall include a pre-polygraph/voice stress interview of the candidate, conducted by the examiner.
 - (3) The candidate shall be provided with a list of areas from which polygraph/voice stress questions will be drawn.

- (4) Admissions concerning illegal activities made during polygraph/voice stress testing will be reviewed as to their acceptability.
 - (5) The results of polygraph/voice stress tests shall not be used as the single determinant of employment status, although deception to relevant questions during any part of the polygraph examination that is corroborated by other investigative means may eliminate the candidate from further consideration.
- e. Other factors beyond that of the tests and evaluations conducted by the Marshal's Office and the Human Resources Department in considering an applicant for employment may include, but not limited to:
- (1) The applicant's current status as to certification as a Peace Officer by the State of Georgia (for sworn law enforcement positions);
 - (2) Previous law enforcement/public safety experience;
 - (3) Education and training level beyond high school;
 - (4) Areas in which education and training was received;
 - (5) Expertise in skills, knowledge and abilities applicable to law enforcement or support functions;
 - (6) Past work experience;
 - (7) Knowledge of the service area;
 - (8) Other factors appropriate to law enforcement or support functions.
- f. Lateral Entry: May be utilized for the selection of certain sworn and civilian positions at the specialist, managerial, administrative and chief executive level.
- (1) Any candidate for a lateral entry position must meet the minimum qualifications as set forth in the position classification for that position.
 - (2) The selection process for lateral entry positions may utilize any or all of the aforementioned selection components, and may include an assessment center.
 - (3) Members of the Department may be required to test for positions with outside applicants. When equally qualified candidates are available both within and outside the Department, the selection decision should favor the Department member.
- g. Interview with the Chief Marshal
- (1) The Chief Marshal will assemble all pertinent information regarding qualified applicants for specific position vacancies.

- (2) Qualified candidates for employment will be scheduled for an interview with the Chief Marshal.
- (3) After the interview(s), the Chief Marshal will offer conditional employment to candidate(s) she feels will be viable and productive employee(s) based upon the test results, evaluations conducted during the selection process, qualifications, and experience of the individual candidate(s). This offer will be conditional pending successful completion of a medical examination, to include drug screening, as well as a polygraph/voice stress examination, and a psychological fitness/emotional stability examination.

E. Probationary Periods

1. All members appointed to positions in the Marshal's Office shall be considered on probationary status for a period of one year from the date of employment or one year from the date of appointment to a new classification (Civilian to Marshal.).
 - a. All entry-level training must be complete, where applicable.
 - b. All other qualifications must have been met and the job tasks performed in a satisfactory manner as reflected in performance evaluations.
 - c. Sworn members of the Office shall be in probationary status for one (1) year from the date of successful completion of Basic Mandate Training.
2. Upon successful completion of the probationary period, members are classified as permanent status employees. Permanent status is granted upon receiving satisfactory performance evaluations during the probationary period.
3. Unsatisfactory performance evaluations during the probationary period may be grounds for disciplinary action, up to and including termination.
4. The work performance of each probationary employee will be evaluated using valid, useful and non-discriminatory procedures.
5. Extensions or exceptions to the probationary period may be granted at the discretion of the Chief Marshal. Utilizing documented performance indicators, the Chief Marshal may extend the probationary period of an employee and provide remedial services, such as professional counseling or specialized instruction.

F. Non-Selected Candidates

1. Hiring decisions are most often based upon a number of different factors. The nature of the selection process enables a single procedure (test scores, background investigation, etc.) to result in the elimination of a candidate for further consideration.
2. Candidates not selected on the basis of a single test, examination, interview or

investigation are informed, in writing, within thirty (30) calendar days of the decision, by the Chief Marshal.

3. Candidates not selected, but otherwise qualified are informed, in writing, within thirty (30) calendar days of the decision, by the Chief Marshal.
4. All rejected applications will be maintained in a secure file by the Human Resources Department for a period of one year.

DACULA MARSHAL'S OFFICE

2021-38: Preliminary and Follow-Up Investigation Procedures

PURPOSE: To provide guidelines and procedures concerning preliminary investigations and/or follow-up investigations as pertaining to personnel assigned to the Dacula Marshal's Office.

POLICY: It is the policy and responsibility of the Marshal's Office to provide primary "preliminary and follow-up" investigative services involving criminal activity. Likewise, it is the policy and responsibility of the Dacula Marshal's Office to provide primary "preliminary and follow-up" investigative services involving code enforcement violations. In preliminary and follow-up investigation of incidents involving violations of State or Federal law, personnel of the Dacula Marshal's Office will be a supporting agency and assist at the request and direction of the ~~City of~~ Gwinnett County Police Department. Whether a case is assigned or self-initiated, officers of the Dacula Marshal's Office shall provide preliminary and follow-up investigative services.

DEFINITIONS:

PRELIMINARY INVESTIGATIONS: any and all code violations reported to the Dacula Marshal's Office or scenes of crimes when a member of the Dacula Marshal's Office is the initial officer to arrive at the scene and where services include, but are not limited to:

1. Observing all conditions, events and remarks;
2. Locating and identifying the complainant, witnesses, and suspects;
3. Maintaining and protecting the crime scene and arranging for collection of evidence;
4. Interviewing the complainant, witnesses, and suspects;
5. Initial description and information to be gathered;
6. Dissemination of collected information;
7. Evidence gathering and preservation;
8. Any special procedures applicable to juveniles;
9. Detention or arrest of suspects or issuance of citations;
10. Report writing.

FOLLOW-UP INVESTIGATIONS: follow-up investigations are an extension of the initial preliminary investigation where services include but are not limited to:

1. Reviewing and analyzing previous reports, records and information from other various sources;

2. Conducting additional interviews;
3. Seeking additional information from other officers and informants;
4. Planning, organizing, conducting searches and collecting evidence;
5. Identifying, locating and issuing citations and/or arresting suspects;
6. Determining involvement of suspects in other code violation matters;
7. Follow-up contact with the reporting persons;
- ~~7.8.~~ Re-checking properties and complaints assuring current and future code compliance;
- ~~7.9.~~ Checking criminal histories; and
- ~~8.10.~~ Preparing cases for court presentation.

PROCEDURE:

A. Preliminary Investigations

Calls for service involving documentation in the form of a written report of a code violation or the scene of a crime will be handled by the assigned member of the Dacula Marshal's Office. Said officer will be responsible for the content of the report body, narrative, supplemental reports, statements, pictures, and audio recordings etc., obtained at the time of the call. The responding officer shall make an initial determination as to the need or the immediacy of a follow-up investigation. The preliminary investigation may be sufficient to bring the case to a satisfactory conclusion, or the case may be turned over to the Gwinnett County Police Department thus obviating the need for a follow-up investigation. Initial response to all assigned cases and citizen complaints of code violations shall be made by the assigned Marshal within (1) one business day after receipt of the complaint. If the nature of a report by the severity of the code violation or criminal law violation dictates that additional personnel should be immediately notified and involved, the preliminary Marshal should advise the Chief Marshal of this fact. The Chief Marshal will then respond so a determination may be made to the extent of involvement of additional personnel in the preliminary investigation. The authority for all actions or subsequent actions concerning preliminary investigations shall be the sole responsibility of the Chief Marshal. All code violations involving alcoholic beverages or adult entertainment shall require immediate notification of the Chief Marshal who in turn will notify the City Marshal.

B. Follow-Up Investigations

Each Marshal shall be responsible for conducting follow-up investigations and re-checks on properties in their assigned district and on every case whether assigned or self-initiated. All complaints other than self-initiated complaints such as those

received from the general public; another governmental agency or employee; Mayor and City Council; or City Administrators shall be promptly and completely documented on violation logs and/or the Marshal's database. Follow-up investigations and rechecks of properties and complaints shall be the responsibility of the Marshal and shall be conducted on each and every complaint. The purpose of follow-ups and rechecks are to assure that code compliance is met immediately, and that compliance is maintained in the future. It shall be the responsibility of the case investigator to assure all violations on problem properties are corrected and compliance is maintained. Follow-ups and rechecks of properties and closed complaints shall be conducted as soon as reasonably necessary and prudent and then appropriately documented on violation logs and/or the Marshal's database. Digital recordings of all investigations shall be down loaded on a daily basis and if necessary downloaded into a case file for the violation location. Every case will differ but the following shall serve as an example: a follow-up on an overgrown property should be conducted no longer than 14 calendar days after the overgrowth has been cut; but a follow-up after a warning to remove illegal signage should be conducted within one (1) business day; and a follow-up on a warning to remove a junk vehicle should be conducted no longer than 5 business days following the notice to remove it. Except under exigent circumstances it shall be the responsibility of the Marshal to assure that rechecks on problem properties are conducted on at least a weekly basis. Repeat code violation offenders and violators who fail to achieve and maintain code compliance shall be issued court appearance citations. Maintaining contact with the complainants in any investigation is valuable in building public confidence in the agency as well as indicating that the personnel of the City of Dacula Marshal are genuinely concerned about the outcome associated with the case. The case investigator shall ~~continuously~~ keep the complainant updated on the status of the investigation, if requested.

DACULA MARSHAL'S OFFICE

~~2021-39~~: Promotional Process

PURPOSE: To establish guidelines and procedures to ensure a fair, valid and useful promotional process.

POLICY: It shall be the policy of the Dacula Marshal's Office to utilize a promotional process which will identify qualified candidates for promotion. The Office shall make a commitment to the development of potential candidates from within the Office for promotion.

The Chief Marshal shall be responsible for the coordination of the promotional process, as promotional vacancies occur within the organizational structure of the Office. The Chief Marshal shall recommend an eligible candidate(s), as determined by the promotional process, to the City Administrator who has final authority in the promotional process.

All procedures and instruments utilized in the promotional process shall be job-related and non-discriminatory. This General Order and the City of Dacula Personnel Policies and Procedures Manual shall be utilized as a manual for the promotional process.

PROCEDURE:

- A. At the time of a promotional opening, an announcement will be posted along with the salary and job description. Anyone interested will have five working days to submit a letter of interest to the Chief Marshal through the chain of command. All elements of the promotional process will be job-related and non-discriminatory. The following elements will be used in the promotional process:
1. Years in Law Enforcement: Experience, as law enforcement is directly job related as a tool to measure one element of proficiency.
 2. Post-Secondary Education: Studies have shown that law enforcement officers with college experience usually perform better regarding written communication skills and interpersonal skills.
 3. Advanced/Specialized Training: Advanced/Specialized training will better equip the officer to handle the responsibilities associated with a supervisory position.
 4. Performance Evaluations: Past performance on the most current level should be a true indicator of the officer's future performance.
 5. Testing: Oral and written examinations may be utilized to measure competency, proficiency, and expertise in job related areas.

6. Chief Marshal's Interview: As part of the promotional process, each candidate shall undergo an oral interview with the Chief Marshal. The Chief Marshal shall ask each candidate general questions regarding why that candidate should be promoted over the other candidates and whether they would be willing to serve anywhere in the agency.
 7. Lateral Entry: May be utilized for sworn and non-sworn positions at the specialist, managerial, administrative, and chief executive levels. When qualified personnel are available both within and outside the department, the selection decision should favor current members of the Office.
- B. The Marshal's Office shall use only those promotional procedures, which test all eligible personnel in a uniform manner. The following describes the promotional process.
1. Evaluation of the Promotional Potential of Personnel: Only those persons who have at least one (1) year in grade may participate in the promotional process for the next highest rank. All eligible personnel who wish to compete for any promotion shall complete an internal City job application and submit an updated resume to the Human Resources Department. They shall also provide a letter to the Chief Marshal containing a brief discussion as to why they believe they are the best candidate for the position and the following information which shall be used to evaluate the promotional potential of the candidate.
 2. Number of years of law enforcement and experience.
 3. Number of years as a Marshal.
 4. Number of hours of advanced/specialized training (excluding basic training and in-service training).
 5. College/university credits (from accredited institutions only).
- C. Oral and Written Examinations
1. An oral or written examination may be utilized as an initial screening tool for the promotion. The following guidelines will be adhered to:
 - a. Any examination will be directly related to the position for which is being tested;
 - b. Any written examination may be comprised of multiple choice, true or false, fill the blank, essays, or any combination thereof;
 - c. Selection, administration and scoring of examinations shall be conducted through the authority of the Chief Marshal and in accordance with any criteria established by the Director of Human Resources.
 - (1) Outside agencies, both public and private, may be used to administer examinations at the discretion of the Chief Marshal;

- (2) Test results, including answer keys, cutoff scores, numerical rankings and the actual test papers shall be maintained in a secure and confidential manner by the Human Resources Department or the Chief Marshal as long as the subsequent eligibility list is maintained.

D. Assessment Center

Assessment centers may be used as part of the promotional process at the discretion of the Chief Marshal.

E. Seniority

A candidate's seniority with the Office may be utilized in a tie breaker in cases where the total score of the candidates are equal.

F. Oral Interviews

Each candidate will undergo an oral interview with the Chief Marshal and City Administrator. Each appointment to a new position will carry with it a minimum one (1) year probationary period

G. After each component of the promotional process is complete and a numerical weight is established, the candidate's score for each component is totaled.

1. Numerical weights and percentages may be modified for each position vacancy to fit the needs of the Office;
2. The sum total of all components then determines the ranking of a candidate on an eligibility list;
3. The eligibility list shall remain in effect for one year from the date it is established;
4. When the eligibility list is completed, the Director of Human Resources for the City of Dacula shall review the process, the components, and the list to ensure fairness, validity and reliability. The Director of Human Resources shall certify the process and the list. The Human Resources Department for the City of Dacula shall maintain a copy of the eligibility list along with all testing instruments, score grids, applications, etc.
5. Once the process and the list have been certified, the Chief Marshal shall release the list of those candidates eligible for promotion.

H. All members promoted to a new rank or positions are subject to a normal initial probation period of one year from the date of appointment.

1. Members promoted from within the Office are considered full time regular employees. In the event the member does not successfully complete the normal initial probation period, the member shall be reinstated in the member's former classification;

2. Members appointed from outside of the Office who successfully complete the initial probation period shall be considered full time regular employees (not to include part-time positions).

I. Review and Appeal of Promotional Results

Appeals must be based upon merits and objective criteria rather than subjective feelings. If an employee determines that an appeal is warranted, the appeal must be written and filed with the Chief Marshal within 10 days of the promotion.

J. Procedures for Reapplication, Re-testing, Re-evaluation

Any reapplication, retesting or reevaluation regarding an appeal of the promotion process is done solely at the discretion of the Chief Marshal. If the Chief Marshal believes that an error was made during the promotional process after reviewing an appeal by a candidate, the candidate may reapply for promotion and shall be re-tested and re-evaluated.

K. Lateral Entry

Positions where lateral entry is permitted shall be announced to all personnel at the time of the vacancy. Positions in which lateral entry is applicable may be filled by persons from either outside the Office, or by current members of the Office. These persons must meet the minimum requirements as described in the applicable job description of the open position.

L. Promotional Material

A copy of the job posting and letters of interest will be kept until the expiration of the appeal period.

DACULA MARSHAL'S OFFICE

~~2021-40~~: Reserved

DACULA MARSHAL'S OFFICE**~~2021-41~~: Race or Ethnic Profiling**

PURPOSE: To establish a written policy that prohibits the use of racial or ethnic profiling by members of the Dacula Marshal's Office.

POLICY: It is the policy of the Dacula Marshal's Office that the practice of racial or ethnic profiling by members and officers of this agency is strictly prohibited.

DEFINITION:

This agency defines "racial profiling" as any law enforcement-initiated action that relies upon the race or ethnicity of an individual, rather than the behavior of that individual. Racial profiling does not include circumstances where the officer has information that includes a racial or ethnic descriptor concerning a suspect for a specific crime where that information is reliable and is likely to lead to the discovery of that individual.

PROCEDURE:**A. Exercise of Duty**

All officers and members of this agency shall exercise their duties and law enforcement powers in a manner that does not unlawfully discriminate against individuals based on race or ethnicity. No officer of this agency shall endorse or act upon stereotypes, attitudes or beliefs that a person's race or ethnicity increases the probability that the person will act unlawfully. Officers of this agency may consider race and ethnicity in deciding to take law enforcement action only when the officer possesses specific suspect information that is reliable and is likely to lead to the discovery of that individual.

B. Training

This agency shall provide training to all officers to provide guidance regarding the consideration of race and ethnicity in the agency's law enforcement activities.

C. Disciplinary Action

Officers and members of this agency found to be in violation of this policy will be subject to disciplinary action administered in accordance with Office Policy entitled "Disciplinary Procedures".

DACULA MARSHAL'S OFFICE

~~2021-42~~: Radio and Mobile Phone Communications

PURPOSE: To establish procedures and guidelines for radio and mobile phone communications between officers of the Dacula Marshal's Office, fellow officers, and other agencies.

POLICY: It is the policy of the Dacula Marshal's Office to set and maintain procedures for radio and mobile communications for procedural, officer safety, continuity of communication, and professional standards.

PROCEDURE:

A. Radio And Mobile Phone Access

1. Each officer will be provided with a portable (walkie-talkie) radio and a cell phone.
2. Portable radios should be turned off during certain job duties. When the use of the radio in the sending or receiving mode may jeopardize a task or the officer's life or the life of others.

Examples:

- a. Stakeouts, building clearing, or other similar incidents where receiving of radio transmissions would reveal the precise or general location of an officer to a suspect.
- b. Bomb locations should be approached without radio transmissions from the officer until it is determined that the bomb is not a radio or frequency-initiated device. The Gwinnett County Police Department shall be first responders to all bomb calls.

B. Officer Radio and Mobile Phone Transmissions

Each officer, being in constant radio or mobile phone contact with others, should keep their supervisors, fellow officers and other employees appraised of his/her status, intent, circumstances, or disposition at all times while on active duty. These include, but are not limited to:

1. Availability for receiving calls for service or recording the status of an officer when out of service.
2. Any pertinent information upon arrival which might indicate need for assistance, support services or supervisory presence, medical personnel or fire personnel, etc.
3. On officer-initiated calls if the officer should request additional officers to respond and report a minimum of the following information:

- a. Activity engaged in
- b. Location of activity

B. Communications Identification Procedures

1. All officers of the Dacula Marshal's Office shall identify themselves an assigned radio number.
2. Communications, when initiating contact, will make use of the badge number of the officer being called. When calling a double unit, the badge number of only one officer of the double unit is required.
3. If assigned to a double unit, the officer using the radio will identify themselves by badge number. Providing badge numbers of both officers is not required.
4. Officers will contact dispatch by badge number and shall stop transmitting and wait for dispatch to acknowledge before proceeding with message. Exemptions would include events/emergencies in which time is a critical factor.

C. Communications Procedures with Other Agencies

1. Communications section and member identification procedures shall be followed when initiating radio communications with other agencies.
2. If possible, radio communications with other agencies should be initiated on the Gwinnett County Police Department frequency.
3. If radio communications must be initiated on another agency's frequency, the following procedures shall be followed:
 - a. No interagency transmissions will be interrupted.
 - b. Radio communications shall be as condensed as possible.
 - c. The frequency shall be vacated as information/response is obtained.
4. Radio communications should only be initiated on another agency's frequency when telephone or other means of communication are not practical.

D. Professional Standards

A department's professional level is most often exhibited continuously through their radio and mobile phone communications. Given the fact that many agencies as well as private citizens monitor police communications, officers should always maintain a professional posture while engaged in radio and mobile phone transmissions. The following guidelines should be used in all communications:

1. Be brief, yet concise.

2. Reflect a pleasant voice and attitude.
3. Use plain talk as often as possible.
4. Hold microphone close to and directly in front of mouth to insure clarity.
5. Try to maintain a monotone voice while transmitting.
6. Refrain from using slang, buzz, or catchwords.
7. Never use the radio or mobile phone to chastise, reprimand, or correct a subordinate or fellow officer.
8. Never express anger, frustration, disgust, or any other negative emotion while transmitting.
9. Never use a police radio to communicate personal messages unless it's an emergency.
10. Never use personal names on the police radio unless it is pertinent and necessary information. Officers shall be identified during radio transmissions by use of their assigned identification number. In instances where more than one officer is assigned to a departmental vehicle, only one identification number shall be utilized.

D. Personal Phone Calls

All personal calls shall be very limited especially when using wireless cellular communication. Employees should understand that office phones and cellular phones are provided for use in business transactions or business communications for the City of Dacula. However, from time to time this equipment may be used for personal use to make personal calls. Employees who utilize cellular telephone communication devices while operating a departmental vehicle should move their vehicle out of the flow of traffic and stop or incorporate the use of a hands-free device. Personal solicitation such as soliciting want ads, sale of products, or services, and any business for private income or similar activities are prohibited. City employees are accepting public funds and are expected to spend their time on their public employment and not on activities that produce private income. Personal phone calls shall be placed on hold or terminated when attention should be directed toward conducting City business or attending to customers.

DACULA MARSHAL'S OFFICE

~~2021-43~~: Responses to Resistance and Apprehension Techniques

PURPOSE: To prescribe the policies and procedures of the Dacula Marshal's Office regarding Responses to Resistance and Apprehension Techniques.

POLICY: Officers of the Dacula Marshal's Office shall adhere to all current legal requirements when responding to resistance and apprehending persons and taking them into custody.

DEFINITIONS:

ACTIVE RESISTANCE: The subject's actions are intended to facilitate an escape or prevent an arrest. The action is **not** likely to cause injury.

AGGRESSIVE RESISTANCE: The subject has battered or is about to batter a person or a Marshal and the subject's action is likely to cause injury.

APPROVED WEAPONS AND EQUIPMENT: Any Office-issued weapons or equipment or personally-owned weapons or equipment approved by the appropriate Office authority.

AREA TREATMENT: The delivery of a chemical agent to an area, directly or indirectly, to cause people to leave the area or deny access to an area. This delivery method does not include delivery directed at a specific subject.

CHOKEHOLD: Any technique used to restrain an individual which restricts the flow of air by compressing the windpipe or occludes both carotid blood vessels simultaneously.

DEADLY FORCE: Any action, by a subject or a Marshal, that is likely to cause death or great bodily harm.

DEADLY FORCE RESISTANCE: The subject's actions are likely to cause imminent danger of death or great bodily harm to the Marshal or another person.

DE-ESCALATION TECHNIQUES: Techniques utilized to avoid or reduce the intensity of a conflict or potentially violent situation using the least amount of force necessary, including where appropriate, slowing the momentum, communicating calmly and clearly with the individual and reducing the immediacy of any threat so that more time, options and resources are available to the officer to resolve the situation with the least amount of force possible.

DIRECT APPLICATION: The delivery of a chemical agent to a specific person or persons to modify their behavior.

EMPLOYEE: Any employee of the City of Dacula Marshal's Office (sworn/non-sworn) who has been trained by the Office with any approved weapon or equipment, is authorized to carry such approved weapon or equipment, and is authorized to use force subject to this policy.

FORCE: As it relates to this policy, the tactics and/or techniques utilized by an employee to control or regain control of a subject, in self-defense, in the defense of others, to counter resistance by a subject, or when objectively reasonable.

FORCIBLE FELONY: Murder, armed robbery, armed sexual battery, arson or use of explosive devices to a structure occupied or presumed to be occupied, kidnapping, burglary armed with a firearm, and any felony that involves the threat of or the use of deadly force against an individual.

GREAT BODILY HARM: Permanent disfigurement, serious bodily injury, or death.

HARD CONTROL: The employee applies techniques that could result in greater injury to the subject should the subject resist their application by the employee.

IMMINENT DANGER: Imminent threat of great bodily harm.

INTENSIFIED TECHNIQUES: Those techniques necessary to overcome the actions of the subject, short of deadly force. If the subject resists or continues to resist these techniques, there is a strong probability of injury being incurred by the subject.

MEMBER: Any duly-appointed Marshal in the Office.

OBJECTIVE REASONABLENESS: The constitutional standard for using any force based upon the totality of circumstances (from the perspective of a reasonable officer on the scene) known to or considered by the employee at the moment force is used.

PASSIVE RESISTANCE: The subject fails to obey verbal direction, preventing the employee from taking lawful action.

SOFT CONTROL: The employee applies techniques that have a minimal potential for injury to the subject should the subject resist the technique.

THE "RESPONSE TO RESISTANCE CONTINUUM" (APPENDIX A): A training guide to assist employees in determining the force that may be objectively reasonable. It takes into consideration the resistance that may be encountered, responsive techniques, and other factors or special circumstances.

TOTALITY OF CIRCUMSTANCES: The various factors known to or considered by an employee at the time law enforcement action was taken.

PROCEDURE:

A. Response to Resistance

A Marshal who must respond to resistance by using some form of force shall use objective reasonableness in determining the amount of force to use to effectively control the subject(s) during a lawful seizure or arrest. Objective reasonableness is based upon the totality of circumstances known to or considered by the employee

at the moment force was used and may include, but is not limited to, severity of crime; whether the subject is an immediate threat to the safety of the employee or any individual; whether the subject is resisting arrest or attempting to evade arrest by flight; the number of subjects and employees involved; the size, age, and condition of employees and subjects; the duration of the law enforcement action; injury; known violent history of any subject; known or suspected use of intoxicants by subject; known or apparent mental or psychological condition(s); environmental factors; and any other factor or circumstances that may be relevant to the response to resistance that is known to or considered by the employee at the time such force is applied (refer to Appendix A “Response to Resistance Continuum”).

Though many employees may be at the scene of an incident where force is being used, some employees may not be directly involved in taking law enforcement action. As employees, there is an obligation to protect the public and other employees. Therefore, it shall be the duty of every employee present at any scene where force is being applied, to either stop or attempt to stop another employee when force is inappropriately used and/or no longer required. Officers who witness inappropriate or excessive force or force that otherwise may be in violation of policy or training have a duty to report violations immediately to a supervisor or Internal Affairs.

The “Response to Resistance Continuum Guideline” provides a training guide to assist employees in determining their response to meet the resistance encountered by a subject. This “Response to Resistance Continuum” is a guideline only; every response to resistance is unique to its own circumstances. The Continuum Guideline shall not limit the employee’s response or permit greater response than objectively reasonable under the totality of circumstances.

All non-sworn employees who must use some form of force shall do so for self-defense purposes only. The non-sworn employee(s) shall immediately call for additional members and shall not attempt to affect an arrest. When possible, the non-sworn employee will leave the area and allow responding members to affect the arrest.

The employee must monitor the affected subject for breathing irregularities and level of consciousness. The employee must call the Gwinnett County Fire Department if there is any sign or reason to believe that a subject’s condition is deteriorating and will provide aid until relieved by medical authorities. If multiple employees used force on a subject, then one employee shall be designated to monitor the subject until medical personnel arrive.

B. Deadly Force

A Marshal is justified in the use of deadly force only when he or she reasonably believes such force is necessary to prevent imminent danger of death or great bodily harm to the employee or any individual; or when the employee has probable cause to believe a subject is committing or has committed a forcible felony (as outlined in this directive) and the subject’s actions, to include escape, pose imminent danger to any individual if apprehension is delayed. Any non- deadly force alternative that

can safely resolve the situation should be utilized before deadly force is authorized.

Deadly force shall not be used when there is a likelihood of serious injury being inflicted upon persons other than the individual against whom the member is authorized to use deadly force. The safeguarding of other human lives shall outweigh all other considerations.

Any Marshal whose actions result in death or serious bodily injury to another person will be temporarily relieved from duty until a preliminary administrative review is conducted. The employee's supervisor may grant additional time off in a relief of duty status for reasons related to the death or serious bodily injury of another person caused by the Marshal.

C. Restraining Tools and Techniques

Only restraining tools and techniques meeting Agency approval are to be used in the performance of an employee's duty (both on and off duty). Subjects shall be restrained in a manner so as not to injure themselves or any individual.

1. Handcuffs

Members responsible for the custody and safe handling and transporting of subjects are strongly urged to utilize their Office-issued handcuffs as a primary restraining device. Subjects should be handcuffed to ensure the security of and prevent injury to the subject. The handcuffs should be double-locked, behind the subject's back. Consideration may be given to a subject's age, physical condition or disability, and mental capacity regarding the decision to utilize handcuffs. In the event the decision is made not to handcuff a subject, another member should be assigned to assist in transporting the subject to the final destination.

When dealing with handcuffed detainees/prisoners, prudence and discretion should be used in deciding to use elevated levels of force. This may be in the form of any of the taught hard-control techniques in response to active resistance by the detainee/arrestee. Physical response to resistance from a handcuffed detainee/arrestee should be reserved for extreme situations and circumstances where injury to the officer, innocent party, or the detainee/arrestee is prevented or minimized by taking the prescribed action. When this action is taken, it must provide specific reasons that delineate that the action was necessary. As in all cases, officers should be as detailed as possible as to the facts of the case, noting comments, resistive actions, and known experiences that provide insight into the decision-making process to take action. In this manner, the officer and the Office are offered a level of protection in carrying out the law enforcement function. Members shall maintain physical control over any handcuffed subject to ensure the safety of the subject and other individuals, including the member. Non-compliance of a handcuffed subject shall be handled in a manner that is objectively reasonable under the circumstances.

Subjects may only be handcuffed to a fixed object designed for temporary restraint when it is necessary to protect any individual from harm or in completion of the member's duties (i.e., booking procedures, medical).

2. Flexcuffs

Members may use flexcuffs in lieu of handcuffs when appropriate. Subjects should be flexcuffed in such a manner as to ensure the security of and prevent injury to the subject. Flexcuffs shall be removed using flexcuff cutters, ~~which are available in the Quartermaster Unit, CID, patrol cars, and the Patrol off-going squad room.~~ In cases of emergency only, flexcuffs may be removed with other cutting instruments. When using other cutting instruments, extra care should be given to removal of the flexcuffs to ensure that injury does not occur to the subject during the removal process.

3. Ripp-Hobble

Members may use a Ripp-Hobble as an additional restraining tool. Most often the Ripp-Hobble will be utilized in applying a four-point restraint. Subjects should be Ripp-Hobbled in such a manner as to ensure security of and prevent injury to the subject. ~~Ripp-Hobbles are available in patrol vehicles for members' use.~~

4. Four-Point Restraint

When a subject resists and creates an imminent danger to the subject, member, or any individual, members may utilize a four-point restraint. A four-point restraint is the securing of the subject's feet to his or her hands from the rear, using handcuffs, flexcuff, and/or a Ripp-Hobble.

When it is necessary to utilize a four-point restraint on a subject, members shall not "cinch" down the handcuffs, flexcuffs, or Ripp-Hobble. The feet should not be brought past a 90-degree angle to the body. This ensures the safest method of utilizing this restraint technique.

Two members should transport a four-point-restrained subject for member and subject safety, whenever possible. The member shall monitor the subject at all times while in a four-point restraint.

5. Chokeholds

Chokeholds may not be utilized except in situations where deadly force is authorized.

D. WEAPONS

Only weapons (lethal and non-lethal) and ammunition meeting Agency approval are to be used in the performance of an employee's duty (both on and off duty). Marshals are restricted from carrying any weapon (lethal and non-lethal) for which they have not proven proficiency. A record on each approved firearm, Office or personally owned, will be maintained by the Training Unit. Furthermore, Office employees shall not carry any weapons (lethal or non-lethal) that have not been authorized, reviewed, inspected, and approved by proper authority. The Office Range Master will review, inspect and approve all firearms. If an Office firearm is deemed unsafe by the Range Master, he or she will ensure that the firearm is repaired or properly disposed/destroyed. The Office Range Master will maintain a list of all approved firearms and ammunition (both on and off duty). A record on each approved firearm, Office or personally owned, will be maintained by the Training Unit. All employees who carry lethal or less than lethal weapons will be issued copies of, and be instructed on, the Agency's Response to Resistance policy before they are assigned and authorized to carry the weapon. A list of approved non-lethal weapons may be obtained from the Chief Marshal. Supervisors will inspect and document, on a yearly basis, the condition of all non-lethal weapons carried by their employees and ensure that expiration dates are not exceeded. Each employee should also ensure that the expiration dates of their non-lethal weapons are not exceeded. NOTE: A common pocket knife is not considered a weapon for purposes of this policy.

1. Chemical Agents

Department-issued chemical agents may be used when necessary to stop passive or greater resistance. The purpose of the chemical agent is to minimize the potential threat of resistance by the subject. Chemical agents will cause burning and tearing of the eyes, heavy discharge from the nose, difficulty in breathing, disorientation, panic, and uncontrollable sneezing. The effects of the chemical agent alone do not classify as an injury. The appropriate use of a chemical agent without injury and when spray is the sole tactic used will require an incident report and/or charging affidavit and completion of a Response to Resistance report.

Chemical agents should only be used in a direct application in those situations in which an arrest is likely. If an arrest is not made, the Chief Marshal shall be notified as soon as possible, and an Incident Report shall be completed concerning the incident.

Authorized employees will be trained in the use of chemical agents prior to its issuance.

All employees in uniform authorized to carry an approved chemical agent shall carry that agent while performing on-duty or extra-duty work assignments. Members who wear plain clothes and members in limited-duty status shall carry their approved chemical agent, concealed, while performing their assigned duties. Members may carry their chemical agent in an off-duty status. Non-

sworn employees shall not carry their chemical agent in an off-duty status.

a. Clear Out

“Clear Out” is a non-lethal, non-flame-creating chemical irritant that is contained in an aerosol canister and has the same effects as chemical agents. Clear Out is designed to force a subject from a confined area or to disperse large crowds. It is to be used when verbal methods of persuasion have failed and there is an anticipated danger to members if Clear Out is not used to extract the person(s). The authorization to use Clear Out shall be given by the Chief Marshal.

The decision to use Clear Out may be based on the physical sighting of a subject in a structure, on eyewitness statements to the fact that a subject was sighted in the structure, or any other information that establishes a high degree of likelihood that a subject is inside, e.g., Sonitrol. The subject must be offered an exit, not “locked” in a structure. It may be necessary to utilize two or more cans in a structure. Allow sufficient time (at least five minutes) for the gas to expand throughout the structure. If the subject has not exited the structure, the Chief Marshal will determine how to secure the structure.

2. Impact Weapons

a. Baton

The baton is the primary law enforcement impact weapon. Members shall complete the Office’s training course and demonstrate proficiency prior to carrying the baton. The Office-approved baton may be carried by members on their person while in uniform. Members in plain clothes may carry their batons concealed when working on duty, extra-duty, or when off duty.

The purpose of using the baton is to stop active resistance or when it is an objectively reasonable and necessary option under the circumstances. Using the baton to target the shaded areas (Appendix B) below the shoulders shall be in response to aggressive resistance or deadly force. Using the baton to target the head or neck shall be in response to deadly force resistance only.

The flashlight is designed to be used as an illumination device. Its use as a defensive impact instrument shall be prohibited except in cases of aggressive resistance when the baton is not practical. If the flashlight is used as an impact instrument, the same techniques set forth in this policy with respect to the use of the baton shall apply.

3. Firearms

Marshals may discharge an approved firearm only under the following circumstances:

- a. When the member reasonably believes the subject poses imminent danger of death or great bodily harm to an employee or any individual.
- b. When the member has probable cause to believe a subject is committing or has committed a forcible felony (as outlined in this directive) and the subject's actions pose imminent danger of death or great bodily harm if apprehension is delayed.
- c. For firearm practice at an approved gun range.
- d. For the purposes of test firing.
- e. To give an alarm or to call for assistance, for an important purpose when no other means is possible, and the round may be fired safely into the ground.
- f. To kill a dangerous animal or one that humane consideration requires release from further suffering, when no other means of disposition is available.
- g. For the purpose of this section, a moving vehicle alone does not constitute a threat that justifies a member's use of deadly or potentially deadly force, particularly if the sole objective of the driver is to evade capture. Members are **prohibited** from discharging their firearms at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle.

A member shall not intentionally position himself/herself in the path of a moving vehicle, or approach in the vehicle's potential path of escape, either front or rear, creating circumstances where the use of deadly force is the probable outcome. A member in the path of an approaching vehicle will attempt to move to a position of safety rather than discharging a firearm at the vehicle or any occupants of the vehicle.

The prohibitions regarding moving vehicles exist for the following reasons:

- (1) Moving to cover to gain and maintain a superior tactical advantage maximizes officer safety;
- (2) Bullets fired at moving vehicles are extremely unlikely to disable or stop a moving vehicle; and
- (3) Disabling the driver of a moving vehicle creates unpredictable circumstances that may cause the vehicle to crash and injure other members or innocent citizens.

Members should always use extreme caution when attempting to apprehend the occupants of any vehicle and be cognizant of all other available options including tire deflation devices, dynamic vehicle takedowns (only by those members who are trained and authorized), GPS launcher (StarChase), and

investigative resources.

It is understood that this policy may not cover every situation that may arise. Shooting at moving vehicles is highly discouraged and must be the only objectively reasonable and necessary option under the circumstances. If a member shoots at a moving vehicle, their actions will be examined rigorously on a case- by-case basis and subjected to strict scrutiny.

- h. Members may not use deadly force to apprehend escapees or other wanted individuals based solely on the individual's original charges or convictions.
- i. Members shall identify themselves as Marshals and issue a verbal warning prior to using deadly force, unless such identification and warning would jeopardize their safety or the safety of another person or is impractical under the circumstances.

(1) Prohibitions

The following practices are strictly forbidden:

- a. Firing into or over the heads of crowds.
- b. Firing warning shots.
- c. Firing into buildings, enclosures, or through doors when a subject is not visible.
- d. Firing at a moving vehicle solely to disable the vehicle.
- e. Cocking the hammer of a weapon except to improve aim immediately prior to firing.

(2) Handguns

The Office-approved handgun may be utilized when a member perceives imminent danger to the member or any individual.

When the handgun is outside the holster in a tactical situation, the weapon shall be pointed down at a 45-degree angle (ready gun position) or indexed down with the muzzle pointed in a safe direction; trigger finger outside the trigger guard, until there is a need to fire or the member is at risk.

(3) Shoulder-Fired Weapons

Shoulder-fired weapons are to be considered supplemental weapons and may be utilized in those situations where the trained/certified members deem such use necessary and prudent.

Some factors to be considered when deciding on the use or deployment of shoulder-fired weapons are:

- a. Whether deadly force is appropriate in the situation.
- b. Shoulder-fired weapons are, by design, more accurate than the handgun.
- c. Most shoulder-fired weapons have lights mounted on them for use in low-light areas.
- d. The probability of hitting an intended target is much higher when using a shoulder-fired weapon.

Some factors that might make carrying a shoulder-fired weapon impractical are:

- a. Foot pursuits.
- b. Close quarters where maneuvering with the weapon is a disadvantage.
- c. Climbing over obstacles where controlling the weapon may prove difficult.

Shoulder fired weapons shall not be placed in the vehicle weapon rack with a round in the chamber.

Only members who have completed Office-approved shoulder-fired weapon training classes and demonstrated proficiency may utilize these weapons. Members trained/certified to carry and deploy the shoulder-fired weapons shall inspect their designated weapons prior to each tour of duty. Shoulder-fired weapons shall not be used or carried in an off-duty status.

4. Tire Deflation Devices

Tire deflation devices such as Stop Sticks, Piranha, Terminator, Barracuda and Road Spike are devices comparable to a Hard Control response to Active Resistance on the Response to Resistance Continuum.

a. Stop Sticks

The deployment of Stop Sticks will be based on the following:

- (1) Felony vehicles – the decision to deploy Stop Sticks will be at the discretion of any member who can safely deploy the device.
- (2) Misdemeanor vehicles or felony “Fleeing and Eluding” vehicles – Stop Stick deployment requires the approval of a supervisor or manager.

As a reminder, once the driver of a subject vehicle that has been “Stop Sticked” takes evasive action in an effort to distance him- or herself from the Marshal’s division, the member shall immediately discontinue

following the vehicle unless it meets the criteria for a vehicle pursuit as described in the current issue the Marshal's SOP Manual.

Furthermore, any subsequent use of Stop Sticks after the first attempt to stop the vehicle with this device must be approved by a supervisor, except in a situation that meets vehicle pursuit criteria.

The use of tire deflation devices requires the documentation on a Response to Resistance report. Only those Marshals who are trained by the Training Unit in the use of Stop Sticks will deploy/activate them.

Members must make every effort to avoid collateral damage to citizens' property that could result from the target vehicle's impact with tire deflation devices.

Before deploying Stop Sticks on roadways, members must accomplish the following:

- (1) Select a location with minimal anticipated and actual pedestrian and bystander presence.
- (2) Position employees and bystanders in a safe location away from the point of impact and potential flying debris.

NOTE: Stop Sticks will not be deployed on motorcycles or bicycles.

When used in a pursuit, members other than those operating the primary and secondary pursuit vehicles will be responsible for deployment of Stop Sticks and should deploy the devices in the roadway ahead of the target vehicle they are attempting to stop.

Position Stop Sticks to minimize the ability of the target vehicle to avoid or evade the device.

Deploy Stop Sticks as a single unit or in combination of two or more sets depending on the width of the roadway to be covered and available time to deploy them.

Assisting employees will prevent traffic from entering the target roadway and redirect traffic on the target roadway away from the deployment area.

Deploying and assisting members can use patrol vehicles to channel the fleeing vehicle toward the path of the Stop Sticks, provided the following:

- (1) Emergency equipment is activated.
- (2) At least two traffic lanes are available for the target vehicle and pursuing members without crossing a grass or elevated concrete median.

(3) Members have exited their patrol vehicles and assumed a safe position.

Deploying members should immediately remove Stop Sticks from the roadway when no further need for deployment exists and it is safe to do so.

The assigned supervisor will ensure that a Tire Deflation Device Deployment Reporting Form is completed and turned in to the Quartermaster Unit with the damaged Stop Sticks by the end of their tour of duty.

5. Dynamic Vehicle Takedown

Dynamic Vehicle Takedowns are pre-planned coordinated efforts utilizing multiple vehicles and members who are trained in this tactic to “block” a vehicle and arrest a felony suspect. Dynamic vehicle takedowns are used on suspect vehicles that are stationary (parked in a parking lot, stopped at an intersection) and should not be used on moving vehicles or for routine traffic stops. The dynamic vehicle takedown, or any modified version of this technique, shall only be used by members who have been trained and who receive continuous training in this technique.

6. Vehicle Block

Blocking a vehicle on a traffic stop is a tactic sometimes used to prevent a vehicle from fleeing. Blocking may only be used on a suspect vehicle when the member believes that the suspect vehicle may attempt to flee. This tactic may only be used during a traffic stop using emergency equipment. Once the emergency equipment has been activated, position the primary patrol vehicle behind the suspect vehicle. When the suspect vehicle comes to a stop, the secondary patrol vehicle may pull in front of the suspect vehicle blocking its path. Members should communicate with each other and confirm that this tactic will be used. Blocking may not be used on moving vehicles.

E. Maintaining Proficiency

Employees shall maintain and demonstrate proficiency with Office-authorized techniques, restraining tools, and weapons as determined by the Chief Marshal. ~~Less lethal weapon training will be conducted annually on the following less lethal weapons in the discretion of the Chief Marshal.~~

Firearms training will be conducted at least twice annually subject to the terms of any applicable collective bargaining provision. The Chief Marshal shall be responsible for establishing standards of proficiency, ensuring compliance by all members, and maintaining proficiency records.

Failure of an employee to demonstrate and maintain acceptable standards of proficiency shall be cause for remedial training. Remedial training shall be coordinated with the Chief Marshal and shall be completed within seven days. An

employee's continued inability to maintain proficiency standards shall cause the employee to be placed on an alternative assignment pending a final determination as to their job fitness, in accordance with the current issue of Marshal's SOP Manual.

Employees who are unable to participate in training and/or evaluation sessions that qualify them to carry weapons and employ force (e.g., during an extended leave of absence, physical disability, etc.) shall be restricted as to their use of force until they return to regular status.

F. Reporting Requirements

Once a response to resistance has occurred, and it meets the criteria for the completion of a response to resistance investigation, the involved employee will notify his or her immediate supervisor as soon as possible. The use of a tactic or techniques not requiring notification will be documented in charging affidavits, incident reports, and/or supplemental reports by the involved employee. If it occurs during an extra-duty work assignment or off duty, an on-duty supervisor will be notified to conduct the investigation. In those instances where the involved employee is a supervisor, another uninvolved on-duty Marshal or another agency will be notified to conduct the investigation.

Once notified, the supervisor shall respond to the scene as soon as possible and interview all involved employees, witnesses, and subjects. The supervisor will be responsible for reviewing, approving, and obtaining copies of all reports, affidavits, witness statements, and available video and audio recordings for inclusion in the Response to Resistance report. The Chief Marshal or In-Service Training supervisor is responsible for maintaining the software.

Employees who have used a technique or weapon requiring a Response to Resistance investigation shall complete an Incident Report by the end of their tour of duty, except in misdemeanor cases where the use of chemical agent is the sole response to resistance and there are no injuries claimed or evident. Supervisors will ensure that these reports are completed within the prescribed timeframe. Supervisors will ensure that members involved in a response to resistance incident view video of the incident, if available, prior to the completion of reports. If video of the incident is known but not available in a timely manner, then the general account of the incident (elements of crimes, probable cause) shall be documented on charging affidavits and incident reports. Supplemental reports will be generated to supply greater details of the incident once video becomes available and has been viewed.

1. Response to Resistance Reporting

A supervisor shall complete a Response to Resistance investigation and complete a Response to Resistance report under the following circumstances:

(NOTE: A sworn supervisor shall complete Response to Resistance reports for CSOs and CSIs.)

- a. Use of chemical agent.
- b. Use of tire deflation devices.
- c. Use of impact weapons (baton, SAGE SL6, etc.).
- d. K-9 dog bites, other than accidental.
- e. Forearm/knee/open and closed hand strikes.
- f. Kicks.
- g. Use of a tactic and/or technique used on a handcuffed subject.
- h. Use of any technique or the application of any weapon that results in actual or claimed (evident or non- evident) injury.

(NOTE: When a firearm is discharged, or an employee applies any technique or weapon that results in death, an Initial Notice of Inquiry shall be generated in lieu of the Response to Resistance report. The only exception is when an employee utilized deadly force in the killing of a dangerous animal or one that humane consideration requires release from further suffering, when no other means of disposition is available. In this case the employee shall complete an Incident Report in lieu of an Initial Notice of Inquiry or Response to Resistance report.)

The supervisor shall ensure that photographs are taken of any injury, actual or claimed, by either the subject or the employee, that result from an application of force by the employee in response to a subject's resistance. If available, a CSI or forensic photographer will take the photographs of all injuries requiring hospitalization and/or treatment at a medical facility. If no CSI or forensic photographer is available, the Marshal will take the photographs, which shall be maintained in accordance with standard policies regarding crime scene photos. In those instances where the assigned supervisor photographs the injury, the supervisor will only utilize a digital camera. The photographs will document the reported injury as well as the overall condition and/or appearance of the subject.

The Chief Marshal or one of his/her designees may authorize an investigator participating in an official Department investigation of a personnel complaint, claims investigation, administrative inquiry, or criminal investigation access to review specific incidents contained on BWC recordings. Access for any other purpose shall require the express approval of the Chief Marshal.

The Response to Resistance report is structured except for the narrative section. The supervisor shall separate the employees involved into two categories: Principal employees and assisting employees.

A principal employee is any employee who encounters physical resistance or force from a subject and must use a technique or weapon to overcome it.

Assisting employees shall be listed and are defined as those using controlling techniques or restraint holds while assisting the principal employee.

The narrative portion is to be completed by the supervisor and should include:

- a. A statement indicating a review of a charging affidavit and/or incident report for probable cause or reasonable suspicion.
- b. The specific resistance the employee encountered and the specific response of the employee.
- c. Employee/subject factors and special circumstances
- d. How the injuries were incurred and a description of the extent of the injuries. This includes both employees and subjects.
- e. Synopsis of witness and subject statements, if any.
- f. Statement indicating if video and/or audio was reviewed, saved as evidence, and is consistent with the statements made by involved employees and witnesses.
- g. A statement by the supervisor indicating whether the employee's response was in keeping with Office policy.

APPENDIX A

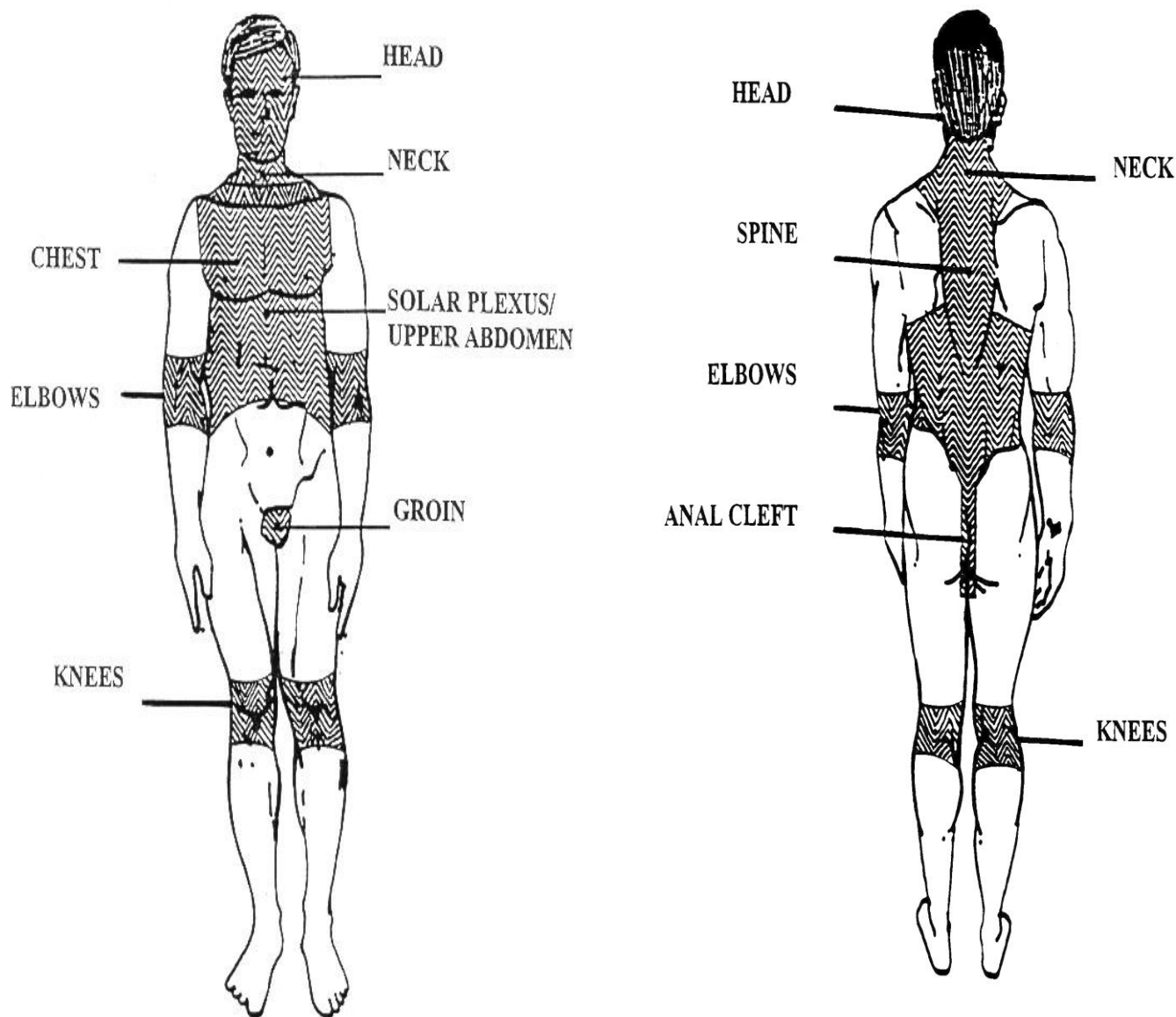
RESPONSE TO RESISTANCE CONTINUUM GUIDELINE
(TRAINING AND TECHNIQUE GUIDELINE ONLY; SHALL NOT LIMIT THE EMPLOYEE'S
RESPONSE OR PERMIT GREATER RESPONSE THAN OBJECTIVELY REASONABLE UNDER
THE TOTALITY OF CIRCUMSTANCES.)

EMPLOYEE/SUBJECT FACTORS TO BE CONSIDERED		ADDITIONAL FACTORS/SPECIAL CIRCUMSTANCES
<ul style="list-style-type: none"> ➤ Severity of Crime ➤ Threat to the employee or any individual ➤ How subject is resisting arrest ➤ How subject was attempting to evade arrest by flight ➤ Age ➤ Sex ➤ Size ➤ Skill Level ➤ Multiple subjects or members 		<ul style="list-style-type: none"> ➤ Known or perceived physical abilities ➤ Known violent or mental history ➤ Known or perceived mental incapacity ➤ Close proximity/availability to firearms or weapons ➤ Special knowledge ➤ Injury or exhaustion (employee or subject) ➤ Known or perceived disability or special needs ➤ Imminent danger to employee or any individual ➤ Characteristics of being armed ➤ Subject's level of agitation ➤ Alcohol/drug influence ➤ Subject handcuffed ➤ Environmental factors
SUBJECT'S RESISTANCE	EMPLOYEE'S RESPONSE In every response, the employee should call for additional members	TECHNIQUES
<p style="text-align: center;">PASSIVE RESISTANCE</p> <p>The subject fails to obey verbal direction preventing the employee from taking lawful action</p>	<p style="text-align: center;">SOFT CONTROL</p> <p>The employee applies techniques that have a minimal potential for injury to the subject, if the subject resists the technique.</p>	<ul style="list-style-type: none"> • Pressure Points • Wrist Locks • Arm Bars • Compression Techniques • Chemical Agents • Diversionary Device
<p style="text-align: center;">ACTIVE RESISTANCE</p> <p>The subject's actions are intended to facilitate an escape or prevent an arrest. The action is not likely to cause injury.</p>	<p style="text-align: center;">HARD CONTROL</p> <p>The employee applies techniques that could result in greater injury to the subject, if the subject resists their application by the employee.</p>	<ul style="list-style-type: none"> • Forearm and knee strikes • Open and closed hand strikes • Baton strikes • Kicks • Takedowns • Impact Weapons • Tire Deflation Devices • K-9 Apprehension <p>*See Appendix B for Hard Control Techniques target areas.</p>
<p style="text-align: center;">AGGRESSIVE RESISTANCE</p> <p>The subject has battered or is about to batter a person/employee and the subject's action is likely to cause injury.</p>	<p style="text-align: center;">INTENSIFIED TECHNIQUES</p> <p>Those techniques necessary to overcome the actions of the subject, short of deadly force. If the subject resists or continues to resist these techniques, there is a strong probability of injury being incurred by the subject.</p>	<ul style="list-style-type: none"> • Techniques necessary to overcome actions of a subject short of deadly force. <p>* Intensified techniques may target shaded areas indicated in Appendix B.</p>

<p>DEADLY FORCE RESISTANCE The subject's actions are likely to cause imminent danger of death or great bodily harm to the employee or another person</p>	<p>DEADLY FORCE Employee's actions may result in death or great bodily harm to the subject.</p>	<ul style="list-style-type: none">• The application of deadly force is not limited to the use of a firearm and may include application of other techniques and/or weapons
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APPENDIX B

ANATOMICAL ILLUSTRATION (FOR USE OF HARD CONTROL TECHNIQUES, INTENSIFIED TECHNIQUES, AND DEADLY FORCE)



IMPACT WEAPONS: Avoid indicated shaded areas unless intensified techniques or deadly force is warranted. Targeting the head or neck with the baton or SAGE SL6 projectiles is acceptable in deadly force situations only.

STRIKES (forearm, knee, hands/fist, or kicks) shall not be targeted above the shoulders, to the spine, groin or solar plexus unless intensified techniques or deadly force is warranted.

**DACULA MARSHAL'S OFFICE
TIRE DEFLATION DEVICE DEPLOYMENT REPORTING
FORM**

Date of Deployment _____ Case Number: _____

1. Originating Agency: _____ Case Number: _____

2. Assisting Agencies: _____

3. If Vehicle Pursuit: Time Started: _____ Time Ended: _____
Miles Covered During Pursuit: _____

4. Initial Case of Incident:
Traffic _____ Drunk Driving _____ Warrant _____ Felony Vehicle _____ Other _____

5. Additional Charges:

6. Which tire deflation device was used:
Stop Stick _____ Terminator _____ Piranha _____ Barracuda _____

7. Make / Model of Target Vehicle _____

8. Estimated MPH of vehicle when tire deflation device was struck. _____

9. Distance vehicle traveled after striking tire deflation device:

10. Which tires were flattened on target vehicle?
Right Front _____ Left Front _____ Right Rear _____ Left Rear _____

11. Road Surface at Deployment
Asphalt _____ Concrete _____ Other _____

12. Weather Conditions: _____

13. Is the Incident on Video? Yes _____ No _____

14. Property Damage: _____

15. Personal Injury: _____

16. Affix serial number sticker(s) from damaged tire deflation device(s) or, if sticker is damaged, write serial number, located below bar code, on sticker.

17. Comments: _____

Deploying Marshal

Employee #

Date

DACULA MARSHAL'S OFFICE

~~2021-44~~: Inspection and Search Warrant Execution

PURPOSE: The purpose of this policy is to provide law enforcement officers of the Dacula Marshal's Office with guidelines for the execution of inspection and search warrants.

POLICY: It is the policy of the Dacula Marshal's Office to:

1. Provide techniques to accomplish a thorough and legal inspection.
2. Observe the constitutional rights of the person(s) named in the warrant.
3. Minimize the level of intrusion experienced by those who are having their premises inspected.
4. Provide for the highest degree of safety for all persons concerned.
5. Establish a record of the entire execution process.

DEFINITIONS:

INSPECTION SITE: The premises or person to be inspected/searched, as explicitly stated in the inspection/search warrant.

INSPECTION PERSONNEL: Law enforcement officers and supporting personnel taking part in the execution of an inspection/search warrant.

EVIDENCE COLLECTOR: Member of the inspection/search team responsible for possession, packaging, sealing, and marking of all items seized.

CASE OFFICER: Inspection/search team member most knowledgeable about the case and/or responsible for the investigation.

SUPERVISING OFFICER: Highest ranking member of the inspection/search team.

PROCEDURE:

A. Uniform and Equipment Requirements

1. The inspection/search team shall at all times include at least one uniformed officer. All non-uniformed officers shall be clearly identified as law enforcement officers by wearing a badge, a distinctive jacket or vest, or some other indicator of office.
2. All members of the inspection/search team should be equipped with body armor, duty weapon and police radio.

B. Time Limitations on Inspection Warrant Execution

1. An inspection/search warrant shall, be executed as soon as practicable within the conditions stated in state law. Circumstances that may necessitate a delay

in executing an inspection/search warrant include, but are not limited to:

- a. The need to have many inspections/searches occur at the same time, which requires coordination and mobilization of law enforcement resources.
- b. The sizable items have not arrived at the inspection/search site.
- c. The probability that substantial resistance will be encountered.
- d. A particular person(s) is absent from the inspection/search site, and the supervisory officer feels that the inspection/search would best be conducted if that person were present;
- e. The need to protect an informant's identity.

C. Preparation for Execution of Warrant

1. Prior to entering the premises, the supervisory officer shall conduct a pre-entry briefing of the execution process with all inspection/search team personnel. The briefing shall include a review of the actual order of operations and procedures the inspection personnel will follow, a simulation of the conditions of the inspection/search site (using maps, charts, and diagrams, when appropriate) and tactics and equipment to be used in the event of forced entry.
2. The initiating officer shall attempt to determine if any circumstances have changed that make executing the inspection/search warrant at that time undesirable.
3. The initiating officer shall ensure that the entire inspection/search warrant execution process is documented, from beginning to end, and continued until the inspection/search team leaves the premises. A written record shall be supported by photographs and, if practical, a videotaping of the entire inspection site from start to finish.

D. Entry Procedures

1. If a pre-execution surveillance team is on the scene, radio contact shall be made to ensure that it is an appropriate time to serve the inspection/search warrant.
2. The initiating officer shall be responsible for ensuring that the inspection/search warrant is valid and that the property about to be inspected is the property listed on the warrant.
3. The initiating officer shall ensure that the entry is tape and video recorded.
4. The inspection/search personnel shall position themselves in the following manner:
 - a. Exits from the premises shall be covered.
 - b. Uniformed officers should be the most visible members of the

inspection/search team, and should conduct the entry.

- c. Non-uniformed officers shall be the last members to enter the inspection/search site.

5. Notification

- a. The initiating officer, or a uniformed officer, shall notify persons inside the inspection/search site, in a voice loud enough to be heard inside the premises, that he/she is a police officer and has a warrant to inspect/search the premises, and that he/she demands entry to the premises at once.
- b. No-knock entries shall be made in accordance with state law.

E. On Premises Activity

1. The initiating officer shall ensure that a member of the inspection/search team conducts a security sweep of the inspection/search site.
2. After the inspection/search site has been secured, inspection/search personnel shall develop a prioritized strategy that details the likely whereabouts of the items to be seized and an order of operation for conducting the inspection.
3. One person shall be designated as responsible for collecting, preserving and documenting all items seized.
4. If damage occurs during an entry to premises that will be left vacant, and the damage may leave the premises vulnerable to security problems, arrangements shall be made to guard the premises until it can be secured, or relinquished to an appropriate person.
5. If damage occurs, a special report shall be prepared on the actions that caused the damage and a detailed description of the nature and extent of the damage.

DACULA MARSHAL'S OFFICE

~~2021-45~~: Searches without Search Warrants

PURPOSE: To prescribe the policies and procedures of the Dacula Marshal's Office regarding Search and Seizure.

POLICY: Officers of the Dacula Marshal's Office shall adhere to all current legal requirements when conducting searches without a search warrant. Searches and seizures must be conducted in a manner that provides for the highest degree of safety for the officer(s) and the individuals(s) concerned and in a way that minimizes the level of intrusion experienced by those whose person(s) or property is being searched. Whenever possible, the search of an individual's property will be conducted with a search warrant. Officer must recognize that the burden for thoroughly justifying searches without a warrant falls on them and that any misuse of authority may result in criminal or civil liability and/or the contamination of a criminal investigation.

PROCEDURE:

A. Field Interviews or Investigative Stops (Stop and Frisk)

1. In 1968 the Supreme Court of the United States declared in the case of Terry v. Ohio that a police officer may stop a person for questioning if the officer reasonably suspects that the person has committed, is committing, or is about to commit a crime. It is not necessary that the officer have probable cause to arrest the individual at the time that the stop is made. All that is required is that the officer has a reasonable suspicion that the individual is involved in criminal activity.

However, to be reasonable, this suspicion must be based on articulable facts that would lead a reasonable person to suspect the individual being stopped of being involved in criminal activity. "Feelings" or "gut instincts" are not sufficient; the stop must be based on observable facts that can be described to others to be lawful. (Also, refer to General Order entitled, "Field Interviews and Investigatory Stops").

The Supreme Court further declared in Terry v. Ohio that an officer who has stopped a suspect may "...search for weapons for the protection of the police officer, where he has reason to believe that he is dealing with an armed and dangerous individual."

The definition of a field interview is a non-consensual detention based upon reasonable suspicion. However, to avoid what could be considered by the courts as an unlawful arrest, officers of the Dacula Marshal's Office shall:

- a. Avoid intimidating behavior by displaying a professional demeanor and avoiding intimidating or threatening behavior or conversation.

- b. Minimize physical contact.
- c. Avoid detaining the suspect any longer than absolutely necessary.
- d. Avoid any unnecessary movement of the suspect from the point of initial contact. This should be limited to that which is reasonably necessary for officer safety and the determination of criminal involvement.
- e. If the suspect provides appropriate responses to questions, does not resist or refuse to respond, provides innocent explanations for observed facts that are reasonable under the circumstances, and there are no other unexplained facts which would cause a reasonable person to suspect the person of involvement in criminal activity, the contact shall be terminated and the suspect permitted to leave.

2. Pat-Down Searches during Field Interviews

If the initial stop is not valid, the pat-down search is also invalid. The right to stop the suspect for questioning does not automatically give the officer the right to conduct the pat-down search. Known factors by the officer at the time of the stop must be present to justify the pat-down search.

- a. Examples of these are:
 - (1) The type of crime the officer believes to be committed.
 - (2) The circumstances of the stop (number of suspects, number of officers present, the time of day, location of the stop, and the commission of any criminal activities in the presence of the officer).
 - (3) The behavior of the suspect.
 - (4) Any visual indication that the suspect may be carrying a weapon (such as a bulge in the clothing).
 - (5) Any prior knowledge that the officer may have that this particular individual carries weapons or is prone to violence.
- b. The officer's belief that the suspect may be armed and dangerous must be both reasonable and actual.
- c. Pat-down searches should, whenever practical, be conducted by officers of the same gender as the suspect.

3. Limitation of Pat-Down Searches

Pat down searches are limited to a "frisk" or checking the outer clothing of a suspect for weapons. It is not a full-scale search that is conducted after a valid arrest. Officers may not reach into the suspect's clothing or pocket unless and until there is a reasonable belief a weapon has been detected by the initial pat-

down search.

Containers such as sacks, briefcases, handbags, or other containers that a suspect may be carrying should not be searched without the consent of the suspect. These items should be placed out of the reach of the suspect during the field interview. This will ensure the officer's safety while avoiding the risk of an unlawful search.

B. Consent Searches (for vehicles see section C.4.)

1. Individuals can waive their rights against searches as long as their consent is given voluntarily, without threat or coercion and as long as they have the authority to give consent.
 - a. The burden of proof in court that the consent was given voluntarily rests with the officer obtaining the consent and will be based upon the totality of circumstances surrounding the encounter. The facts and circumstances concerning the consent must be fully documented with audio recording and/or video recordings with audio, in the officer's ~~Tidemark~~ report and a signed Consent to Search Form must be obtained from the individual authorizing the search prior to beginning a consensual search. If a signed Consent to Search Form was not obtained, the reason for failure to obtain a signed form must be documented in the officer's report. In the event a report is not completed, the Consent to Search Form must be filed in the officer's case file.
2. The consenting individual may give restrictions as to the areas to be searched. If no restrictions are given, it can be assumed that all areas can be searched, to include locked containers, as long as the consenting individual has common authority over the locked container.
3. Miranda warnings are not necessary to give before requesting consent nor is it necessary to advise the individual that they have the right to refuse consent.
4. A search will not be performed based upon the consent of a juvenile unless it is necessary to proceed with the search prior to the arrival of an adult. When a juvenile is confronted, the following consent factors should be considered to determine the validity of the search:
 - a. Whether the juvenile lives on the premises;
 - b. Whether the juvenile has the right of access and the right to invite others into the premises;
 - c. Whether the juvenile is of an age which she/he could be expected to exercise minimal discretion;
 - d. Whether the officer reasonably believes the minor has sufficient control over the premises to give a valid consent to search.

5. When two or more individuals jointly occupy the premises or area to be searched, any one of the individuals has the right to permit the search, without first obtaining the permission of the other individual(s) but the individual permitting the search may only consent to a search of the area he/she has direct control over or an area in the premises that is considered a common area for all individuals occupying it.
 - a. If both individuals are present that jointly occupy the premises or area to be searched, then both individuals must give consent. If one of the individuals denies consent, the premise or area may not be searched under consent.
 - b. A person may not be removed from the premises to avoid obtaining their denial of consent or to coerce consent.
6. Consent can be withdrawn at any time following the initiation of the search. When this occurs, the search must stop immediately.

C. Vehicle Searches

1. If officers reasonably believe that their safety is threatened by the presence of weapons in a legally detained vehicle, they may search the vehicle under the *Terry v. Ohio* rule. To search a vehicle for weapons there must be specific, articulable facts that reasonably justify the officer's conclusion that their safety is threatened.

The scope of the search in a vehicle is limited to within the suspect(s) reach or immediate control, since this is the only area of the vehicle in which a weapon would be immediately accessible to the occupants. In addition, it is limited to those areas of the passenger compartment in which a weapon could be hidden/concealed.

2. Full Investigatory Vehicle Searches

Under the proper circumstances, an officer may conduct a complete search of the entire vehicle, including not only the passenger compartment but also a locked glove compartment, the trunk, the areas under the hood, and any other portion of the vehicle. Such a search must be based upon a warrant, or in the absence of a warrant, upon consent or probable cause. Refer to section B.1. in reference to documentation.

3. Warrant

As with any other type of search, a warrant may be obtained for the search of a motor vehicle. Although there are exceptions to the warrant requirement, as will be noted, whenever time and circumstances permit a warrant shall be obtained.

4. Consent

A motor vehicle may be searched with the consent of the owner or operator of the vehicle. It has been held that in the case of an abandoned leased vehicle, the lessor's consent is sufficient. Consent is not valid if obtained by coercion or duress, so care shall be taken that the consent is indeed voluntary and is not obtained as a result of threats or intimidation. All voluntary consents to search a vehicle shall be documented with audio recording and/or video recording with audio, or a Consent to Search Form prior to beginning a consensual search. In the event a report is not completed, the Consent to Search Form shall be placed in the officer's case file.

5. Probable Cause

Motor vehicles may be searched without a warrant when there is probable cause to believe that the vehicle contains fruits, instrumentalities, or evidence of a crime or contraband.

This rule known as the "Carroll Doctrine" is based at least in part upon the mobility of the vehicle and the difficulty in obtaining a warrant before the vehicle is moved and the evidence is lost. The diminished expectation of privacy when a vehicle is used on public highways is also a factor. For this and other reasons, where probable cause to search is present the warrant requirement is waived. The "Carroll Doctrine" applies only when true probable cause is present - when the facts are such that if presented to a judicial official, they would justify the issuance of a warrant for the search of the vehicle. The "Carroll Doctrine" has been applied to several court cases and some of these decisions have stated that "exigent circumstances" must exist before the "Carroll Doctrine" can be used. Absent probable cause and exigent circumstances, a warrant must be obtained.

In a probable cause search (Carroll Doctrine), officers may search containers wherever they are found provided they could contain the item being searched for. If the object being searched for could not fit in a particular container, that container may not be opened or searched.

D. Inventory of Vehicle Contents

Officers of the Dacula Marshal's Office shall inventory all vehicles that are impounded and in divisional custody. The purpose of this is:

1. To protect the contents from loss;
2. To protect the Marshal's Office against civil claims for loss; and
3. To protect officers and the general public by determining whether there are any hazardous substances in the vehicle.

E. Crime Scene Search

1. The search of a crime scene requires probable cause and a search warrant unless

there is one of the following factors that would permit a legally recognized exception to this requirement:

- a. Exigent Circumstance – whereby law enforcement officer enter a crime scene area under an emergency situation, especially in those circumstances involving injury or death and it may become necessary to provide immediate aid to a victim or it becomes necessary to prevent the loss or destruction of evidence;
 - (1) Once the exigent circumstance no longer exists and the initial entry period has terminated, a search warrant must be obtained unless consent has been obtained.
 - (2) A search under exigent circumstance to prevent the loss or destruction of evidence shall be used sparingly. To justify such a search, the officer must have a good faith basis for believing that a person in the home is actively attempting to destroy evidence.
 - (a) Consent – whereby entry to a crime scene is freely granted by one or more individuals who have authority over the property and are in some way affiliated with the crime scene.
 - (b) Where evidence or contraband is seized that is in plain view of officer during their initial entry of the crime scene.
2. Officer shall maintain control over the crime scene area, once the emergency is over, until a search warrant is obtained.
3. No unauthorized persons will be allowed to enter the crime scene or be permitted to remove any item from the crime scene without the approval of the lead investigator/officer.

F. Search Incident to an Arrest

1. When officer make an arrest, they shall search the person and the area within the person's immediate control or within his/her lunging area (*Chimel v. California*), for the purpose of:
 - a. Protecting the officer from attack.
 - b. Preventing the person from escaping.
 - c. Discovering or seizing the fruits of the crime for which the person has been arrested.
 - d. Discovering or seizing any instruments, articles, or things, which are being used or may have been used, in the commission of the crime for which the person has been arrested.

Refer tot Section F.4 in regard to search of a vehicle incident to arrest.

(O.C.G.A 17-5-1)

2. If the individual is arrested within a building or dwelling, the area where the arrest occurs may be automatically swept to check for persons. This protective sweep is to protect officers from persons that may be hiding. This is not to be considered a full search but only a visual inspection of immediately adjoining areas, such as closets or other rooms, where individuals may be hiding.
3. If the arrest occurs outside a building, then no search may be conducted in the building unless a search warrant or consent is obtained or exigent circumstances exist.
4. Officers may search a vehicle incident to a recent occupant's arrest only if:
 - a. The arrestee is unsecured and within reaching distance of the passenger compartment when the search is conducted or;
 - b. It is reasonable to believe that evidence relevant to the crime of arrest might be found in the vehicle. (*Arizona v. Gant.*)

When these justifications are absent, a search of the arrestee's vehicle will be unseasonable unless a warrant has been obtained or the officer can show another exception to the warrant requirement. Exceptions to the warrant requirement include consent to search, Carroll Doctrine and Administrative Vehicle Inventories. The contents of any containers, whether open or closed found within the passenger compartment may also be searched when the arrest justifies/supports the need for the examination of such containers. The fact that the officer has seized the container from the arrestee, thus gaining exclusive control over it, does not alter this rule. Containers found in or near a vehicle that do not meet the requirements of a probable cause search or a search incident to arrest shall be secured but not searched until a warrant is obtained to search them.

Although the search incident to arrest may be conducted for both weapons and evidence, it is limited in its scope. Only areas within the "reach and control" of the person arrested may be searched. For this reason, the search of a motor vehicle incident to the arrest of an occupant is limited to the passenger compartment. The trunk, with the exception of hatchback vehicles, and engine compartment are not generally considered to be within "reach and control" and therefore may not normally be searched incident to an arrest of a vehicle occupant (*New York v. Belton*).

The arrest of one occupant of a vehicle does not automatically justify the search of the persons or the other occupants of the vehicle. Such persons may be ordered out of the vehicle and may be subject to a weapons "frisk" if the proper justification exists, but a full search of their persons may not be conducted unless they have also been arrested.

5. All other searches incident to an arrest must be conducted immediately. Searches that do not take place at the time of arrest may require a search

warrant.

G. Exigent Circumstances

1. Warrantless search can be conducted if the exigencies of the situation make the needs of law enforcement so compelling to be objectively reasonable under the Fourth Amendment. Such circumstances allowing a search without a warrant are:
 - a. The existence of a grave emergency where the lives or physical safety of others are in immediate danger. The search must end as soon as the emergency is over. Only items of contraband and evidence in plain view may be sized.
 - b. Hot pursuit situations when four elements are present:
 - (1) The arrest process has already begun;
 - (2) The offender knows she/he is being placed under arrest;
 - (3) The offender takes action to avoid the arrest by going into a private place;
 - (4) There is no break in contact between the offender and the pursuing officer.
2. In circumstances involving the possible destruction/removal of evidence, the following should be considered:
 - a. The amount of time necessary to obtain a warrant;
 - b. Reasonable belief that evidence/contraband is about to be destroyed or removed;
 - c. The possibility of danger to law enforcement personnel guarding the site while a search warrant is obtained;
 - d. Information that the possessors of the contraband are aware that agency personnel are in pursuit;
 - e. The ready destructibility of the contraband and the knowledge that efforts to dispose of narcotics and to escape are characteristic behavior of persons engaged in narcotics traffic.

H. Residence of Building Searches

1. Plain View Doctrine

The majority of American courts have permitted law enforcement officers to seize evidence observed by them in “plain view” if the following conditions are met:

- a. The officers must be in a place where they have a right to be; for example, in a public place or on other premises following a lawful entry based upon a search warrant, consent, exigent circumstances or the like.
- b. The evidentiary nature of the item discovered must be “immediately apparent” to the officers without having to touch or alter the item in any way.

As a result of this decision, officers may lawfully seize evidence discovered in plain view even though:

- a. They expected to find it during the search, but
- b. Failed to include it in the warrant application.

Note: however, that the plain view doctrine still applies only if the officers are “where they have a right to be”, conducting a lawful search in a lawful manner in the portions of the premises where their presence is authorized by a warrant or by other circumstances. If the officers exceed the permissible scope of the search by entering or prying into spaces or area not included in their authority to search, they are not “where they have a right to be,” and any resulting discovery and/or seizure will be improper.

I. Protective Sweeps of Buildings

1. When law enforcement officers find it necessary to enter a house or other premises to arrest an individual, several types of Fourth Amendment problems are presented. First, the officers must gain entrance to the premises. Next, they may have to search the premises to find the individual to be arrested. Then, following the arrest, the arresting officers may conduct a search of the arrestee’s person and of some portion of the premises upon which the arrest occurred. In addition, the officers may (and in many cases should) conduct a “protective sweep” of the premises to make sure that no other persons are hiding upon the premises that might represent a threat to the safety of the officers.

The Supreme Court of the United States set guidelines for officers to follow in searching premises in connection with an arrest. According to the Court, officers possessing an arrest warrant but not a search warrant may proceed as follows:

- a. When executing the arrest warrant, officers may search the premises until the arrestee is located.
- b. Even after the arrestee is located, officers may make a “protective sweep” of the premises. This sweep is for the limited purpose of discovering persons on the premises who might present a danger to the officers. It shall be narrowly confined to a cursory visual inspection of those places in which a person might be hiding.

- c. In conducting this “protective sweep” incident to the arrest, the officers may “look in closets and other spaces immediately adjoining the place of arrest from which an attack could be immediately launched”.
- d. In addition, officers may conduct the “protective sweep” through portions of the premises other than the “closets and other spaces immediately adjoining the place of arrest” if there are: articulable facts which, taken together with the rational inferences from those facts, would warrant a reasonably prudent officer in believing that the area to be swept harbors an individual posing a danger to those on the arrest scene.

2. Also, refer to General Order entitled, “Legal Process”.

J. Entry into a Residence for Exigent Circumstances

1. Officers of the Dacula Marshal’s Office may be called upon to enter a private residence for exigent medical emergencies. This is to ensure the well-being of residents that may be unconscious in the residence or elderly residents who may be injured.

Officers of the Dacula Marshal’s Office shall contact the Gwinnett County Police Department and wait for uniformed police assistance then make every attempt to contact someone inside the residence or someone who can enter the residence without using force. Examples of this are:

- a. Checking with all surrounding neighbors and known relatives to see if a key can be obtained to make entry into the residence.
 - b. Contact the local telephone company for a listing of the phone number of the residence to make phone contact.
 - c. Knocking on all exterior doors and windows of the residence to see if contact can be made with anyone inside the residence.
2. All attempts to contact the residents shall be documented. If all attempts to make contact with a resident fail and the officers have a strong reasonable belief that a person may be gravely ill or unconscious in a locked residence, the highest-ranking supervisor on duty with the Gwinnett County Police Department will be on scene to assess the situation and may order that a residence be forcibly entered.
 3. Entry shall be made into the residence through the safest possible means. Officer(s) shall announce themselves in a loud voice prior to entering any residence. If the officers believe that the subjects in the residence are non-English speaking this announcement will be made in both English and whatever language it is believed the residents understand, when possible. As with any forced entry officer safety is paramount.

**DACULA MARSHAL'S OFFICE
CONSENT TO SEARCH**

I, _____, DO HEREBY VOLUNTARILLY AUTHORIZE,

_____,
WHO IS IDENTIFIED TO ME AS A MEMBER OF THE DACULA MARSHAL'S OFFICE
AND OTHER LAW ENFORCEMENT OFFICERS TO SEARCH THE FOLLOWING
PROPERTY, WHICH IS UNDER MY CONTROL:

AND I FURTHER AUTHORIZE SAID OFFICERS TO REMOVE WHATEVER
DOCUMENTS OR ITEMS THEY DEEM PERTINENT TO THEIR INVESTIGATION, WITH
THE UNDERSTANDING THAT A RECIEPT WILL BE PROVIDED TO ME FOR ANY
ITEMS WHICH ARE REMOVED.

I AM GIVING THIS WRITTEN PERMISSION TO THESE OFFICIALS FREELY AND
VOLUNTARILLY, WITHOUT ANY THREATS OR PROMISES HAVING BEEN MADE,
AND AFTER HAVING BEEN INFORMED BY SAID OFFICER THAT I HAVE THE RIGHT
TO REFUSE THIS SEARCH AND/OR SEIZURE.

SIGNATURE

WITNESS: _____

DATE: _____

TIME: _____

DACULA MARSHAL'S OFFICE

~~2021-46~~: Sexual Harassment

PURPOSE: To establish policy and procedures for the Dacula Marshal's Office regarding Sexual Harassment.

POLICY: Sexual Harassment deserves special mention. The Marshal's Office remains committed to maintaining a work environment that is free of harassment or intimidation and will not tolerate harassment of employees by anyone.

DEFINITION:

Any unwelcomed sexual advance, request for sexual favors, and other physical, verbal or visual conduct based on sex constitute sexual harassment when:

1. Submission to the conduct is an explicit or implicit term or condition of employment.
2. Submission to or rejection of the conduct is used as the basis for an employment decision.
3. The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual Harassment may include implicit sexual propositions, sexual innuendo, suggestive comments, sexually oriented kidding or teasing, practical jokes about gender specific traits, foul or obscene language or gestures, displays of foul or obscene printed or visual materials, and/or physical contact, such as patting, pinching, or brushing against another person's body. Every employee or member of this Office is responsible for reporting any occurrence of sexual harassment or inappropriate conduct as outlined below.

PROCEDURE:

- A. All employees are responsible for helping to assure that the Dacula City Government avoids any form of unlawful treatment. If you believe that you have experienced, witnessed, or have been notified of harassment, discrimination or unlawful treatment, you are to notify the Human Resources Department immediately, preferably within 24 hours of the incident.
- B. The Director of Human Resources will investigate all complaints if the allegations warrant.
- C. To the extent practicable and appropriate, the City shall keep complaints and the terms of their resolution confidential.
- D. If an investigation confirms that misconduct has occurred, the City will take corrective action, including such discipline up to and including immediate termination of employment, as appropriate.
- E. The City recognizes that intentional or malicious false accusations of misconduct

can have a serious effect on innocent men and women. Individuals falsely accusing another of misconduct will be disciplined in accordance with the nature and extent of his or her false accusation.

- F. The City encourages any employee to raise questions he/she may have regarding misconduct or this policy with his or her immediate supervisor, a higher-level manager, or the appropriate Human Resources Department representative.
- G. Harassment, discrimination and or improper conduct consist of misconduct that includes unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's protected status, such as race, gender, color, national origin, religion, age, disability, or protected class as established by law.
- H. The City will not tolerate conduct that impacts tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile or offensive work environment.
- I. City employees are expected to conduct themselves in a courteous and professional manner. Employees shall not use an inflammatory, provocative, or profane language, sexual slurs, racial slurs, demonstration of an unresponsive attitude, or be disrespectful or unresponsive to the public, supervision, or fellow employees.
- J. All contractors, vendors, service providers and maintenance personnel are expected to abide by the City's established non-harassment policies.
- K. The City will not tolerate supervisors dating employees they supervise.
- L. Social interaction with others that negatively impacts job performance will not be tolerated.

DACULA MARSHAL'S OFFICE

~~2021-47~~: Sign Removal Procedures

PURPOSE: To establish the proper procedure for taking enforcement action applicable to State and Federal law and violations of the Code of Ordinances within the jurisdictional boundaries of the City of Dacula.

POLICY: The responsibility for enforcing State and Federal law and City Code violations is shared by all certified law enforcement officers of the Dacula Marshal's Office. Members of the Office shall take appropriate enforcement action for each violation of law *witnessed* by them. Such action shall be accomplished in a business-like, firm, fair, impartial, and courteous manner using one of the following methods: verbal warning, issuance of a written warning, and issuance of a notice to appear (citation).

PROCEDURE:

A. Enforcement Action

Officers are to use individual discretion, based upon professional judgment, while considering that the mission of the Dacula Marshal's Office is the enforcement of ordinances of the City when determining what form of enforcement action will be taken. It is the goal of the Dacula Marshal's Office to seek voluntary City code compliance through counseling and education of the public. Sworn officers of the Dacula Marshal's Office shall have the authority to arrest for violations of City Ordinance or violations of State Law pursuant to the Official Code of Georgia Annotated, occurring within the jurisdictional limits of the City of Dacula, Georgia. This authority is outlined in the policies of the Dacula Marshal's Office as well as in the Official Code of Georgia Annotated.

1. **Sign Removal:** Any sign that is in violation of the City Code and the Official Code of Georgia Annotated shall be enforced by the Dacula Marshal's Office.
Right of Way and the Site Triangle: Any sign that is placed in the right of way or site triangle shall be removed by officers of the Dacula Marshal's Office.
2. **Verbal Warning:** A verbal warning is appropriate when the violator commits an act which may be due to ignorance of a local ordinance of which the violator may not be aware. It is not necessary to initiate written incident/complaint form following a verbal warning. As in all cases all officers will record their contact with the violators.
3. **Written Warning:** A written warning is a proper alternative by officers in response to a minor violation or for those violations which occur within tolerances generally allowed by the Dacula Marshal's Office and endorsed by the Municipal Court, or in cases where a citation is not warranted but

documentation is desired in cases where future violations are expected or may occur. A written warning shall be given to the violator and then recorded.

4. Notice to appear (Citation or Summons): The issuance of a citation is applicable in practically all cases for violations of the City code. A supply of blank citations will be maintained in a secure location and distributed to officers by the Chief Marshal. Officers may void citations upon approval of the Chief Marshal. Citations may be amended or dismissed upon approval of the Chief Marshal by notifying the Municipal Court Clerk and/or the Municipal Court Solicitor. Citations will be filled out completely and legibility in ink and the violator's copy given to the violator along with a verbal explanation of the violation, the court date, and an explanation of what exactly the violator is supposed to do in response to the action taken and how this action will affect him. Once the citation is issued, the issuing officer will forward the original to the Municipal Court Clerk. The issuance of the citation will ~~also be logged on the "Issued Citation" log form by the issuing officer. The officer's copy of the citation will then be turned over to the Chief Marshal to be filed with all other issued citations. The issuing officer will retain a photocopy of the citation in the case file until the case is closed and filed.~~ Cases shall be retained for five (5) years after they are closed according to the Records Management Policy.
5. Officer/Violator Relations: Officers of the Dacula Marshal's Office shall conduct themselves in a professional manner in both appearance and demeanor. The officer's professional image shall be reflected to the violator through the officer's dress, grooming, language, bearing and emotional stability. Officers will be certain of the accuracy of violations before initiating enforcement action.
6. In all cases, pictures need to be taken, all interviews recorded and then downloaded into the case file.

DACULA MARSHAL'S OFFICE

~~2021-48~~: Officers Response to Sovereign Citizens

PURPOSE: To provide guidelines and procedures for officers of the Dacula Marshal's Office who encounter persons claiming to be "Sovereign Citizens" in the line of duty.

POLICY: The "Sovereign Citizen" movement is a relatively new phenomenon for law enforcement; which, by its very nature, poses unique challenges to Marshals in the field. Therefore, it is the policy of the Office to ensure citizen safety as well as officer safety when encountering persons identifying themselves as Sovereign Citizens.

DEFINITIONS:

SOVEREIGN CITIZEN: An individual who does not recognize the legitimacy or authority of the United States Government.

ANARCHIST: A person who rebels against any authority, established order, or ruling power.

POSSE COMITATUS (GROUP): Latin, ("force of the county") is a loosely organized, far-right, social movement whose members spread a conspiracy-minded, anti-government and anti-Semitic message in the name of white Christians to counter what they believe is an attack on their social and political rights.

PROCEDURE:

- A. When a member of the Dacula Marshal's Office encounters an individual claiming to be a Sovereign Citizen, he or she shall immediately call for back-up and notify the Chief Marshal.
- B. Each Marshal, when encountering Sovereign Citizens, shall activate his or her digital tape recorder and/or body camera. Marshals should expect to be recorded, filmed or photographed by the Sovereign Citizen in return.
- C. Sovereign Citizens may utter false or fictitious identification to officers. If the identification IS NOT issued by a legal authority (federal government, a state agency or local jurisdiction) then the officer should assume the individual may misrepresent his or her name, date of birth and/or address.
- D. When dealing with suspected Sovereigns, the Marshal must maintain a professional demeanor, communicate in a decisive manner and be on guard for distractions. Expect the Sovereign to inundate you with "official" looking paperwork or

verbalize legal terms and/or procedure. It is imperative that officers exercise good officer safety tactics.

- E. Once an encounter with a Sovereign is over, the Marshal shall prepare a detailed report (if enforcement action was taken) backed up by audio/video recordings and photographs of any forms presented during the encounter. In the Marshal's report, it is of the utmost importance to clearly establish your legal authority for all stops and arrests (if applicable) – articulable reasonable suspicion and/or probable cause. It is highly suggested that the officer file a detailed, official report even if no enforcement action was taken.

- F. Sovereign Citizens have used various tactics to intimidate and/or harass law enforcement officers who have crossed them; however, the most common tactic is to place bogus liens on an officer's property. If a member of the Marshal's Office receives, via certified mail, a "First Notice and Demand for Settlement" document, or any other suspicious quasi-legal looking document, the officer shall contact the Chief Marshal immediately. The Chief Marshal shall then contact the City Administrator and City Attorney for guidance.

DACULA MARSHAL'S OFFICE

~~2021-49~~: Special Threats and Unusual Occurrences

PURPOSE: To establish guidelines, procedures, and contingency plans for responding to certain types of incidents, special threats and unusual occurrences which require specialized operations.

POLICY: Personnel of the Dacula Marshal's Office shall respond to special threats and unusual occurrences and take the appropriate actions to contain property damage, injury and loss of life.

PROCEDURE:

A. Bomb Threats

All reports of bomb threats shall be handled as a potentially life-threatening situation. If our agency personnel receive a threat, the receiving employee should remain calm and do as follows:

1. Record every word, verbatim, if possible.
2. Record the telephone number, if your phone has this function.
3. Pay attention to any strange or unusual background noises.
4. Listen closely to the voice, male or female, accents and speech impediments.
5. Ask specific questions, if the information is not volunteered.
 - a. Where is the bomb?
 - b. When is it going to explode?
 - c. What does it look like?
 - d. Why did you place the bomb?
 - e. Inform the caller the building is occupied and a lot of innocent people will be injured, if not killed.
 - f. Immediately after the caller hangs up, notify the Chief Marshal.

It will be the Chief Marshal's responsibility to notify the Gwinnett County Police Department and Gwinnett 911. If the Chief Marshal is unavailable, the receiving employee shall notify the Gwinnett County Police Department and Gwinnett 911 personally. The person who received the call should complete the bomb threat report form and remain available to be interviewed by an investigator of the Gwinnett County Police Department. The scene will be turned over to the Gwinnett

County Police Department.

Notification of a bomb disposal unit will be handled by the Gwinnett County Police Department. The Gwinnett County Police Department will establish a safe distance perimeter around the scene. The Marshal's Office will assist with any means necessary at the direction of the Gwinnett County Police Department.

Responding units to assist need to be aware that the use of portable radios and cellular phones shall be turned off within one-half mile radius of the incident location. Responding units should also be aware of the possible placement of secondary devices. Assembly areas should be inspected in advance to determine whether any suspect items have been placed there.

Report to the command post, if established by the Gwinnett County Police Department, for further directions.

All requests for information by the media will be referred to the command personnel of the Gwinnett County Police Department.

B. Response to Civil Disturbance/Emergency Situations

1. **Civil Disturbance:** An unlawful assembly that constitutes a breach of the peace. Any assembly of persons where there is imminent danger of collective violence, destruction or property or other unlawful acts.
2. **Emergency Situations:** Agency personnel shall use all reasonable measures to control and defuse unruly crowds or illegal gatherings in order to contain property damage, injury and loss of life. Members of the Dacula Marshal's Office are always subject to duty and shall be available to respond to emergencies in the city of Dacula 24 hours a day, seven days a week. They shall always respond to the lawful orders of The Chief Marshal and other proper authorities, as well as calls for police assistance from citizens. Proper police action must be taken whenever required. Members assigned to special duties are not relieved from taking proper action outside the scope of their specialized assignment when necessary. All officers and employees of the Department shall discharge their duties with calmness, firmness and in a professional manner. They shall act together; assist and protect each other in the maintenance of peace and order, and in the performance of their duties.

It shall be the policy of the Dacula Marshal's Office to maintain current addresses and telephone numbers of all employees. This is essential because of emergencies, court appearances, or other requirements necessitating immediate contact with the employee. It is the responsibility of each employee to inform the Chief Marshal in writing immediately of any changes in their address, current phone number, or emergency contact person. In an emergency situation, the department should be able to contact all personnel to respond.

3. **Communications:** The 911 Center shall provide support and activate emergency procedures as directed by an incident commander. Agency

personnel will be advised where to report and which channel to monitor. Agency personnel will restrict radio communications on emergency channels to necessary traffic.

4. **Situation Maps:** Blueprints of City buildings can be obtained from City Hall. Detailed maps of the City are maintained at the 911 Center and in City Hall.
5. **Field Command Post:** The Command Post, if necessary, will be established by the Gwinnett County Police Department. All responding personnel will be notified on the location. The Gwinnett County Police Department's senior ranking personnel will assume the responsibilities of Incident Commander.
6. **Chain of Command:** The Marshal's Office will be a supporting agency to the Gwinnett County Police Department. The Marshal's Office will maintain personnel as required at the Command Post to coordinate accountability and deployment of agency personnel.
7. **Community Relations/Public Information:** All requests made by the news media or release of information will be directed to the Incident Commander or Public Information Officer of the Gwinnett County Police Department.
8. **Court/Prosecutorial Liaison:** In the event a civil disturbance occurs within Municipal Court, an appropriate liaison shall be established with all court officials so that necessary security arrangements may be initiated.
9. **Other Law Enforcement Agency Support:** All requests for outside agency support shall be handled by the Gwinnett County Police Department.
10. **Military Support:** All requests for assistance from the National Guard or other military personnel will be initiated by the Gwinnett County Police Department.
11. **Public Facility Security:** Security of all possible target buildings will be directed by the Gwinnett County Police Department.
12. **Traffic Control:** The perimeter of the disturbance area and other traffic control will be secured at the direction of the Gwinnett County Police Department. Agency personnel assigned to these duties will adhere to traffic control procedures, especially the wearing of the reflective vest.
13. **Equipment Requirements:** All agency personnel shall report in uniform with normal items of equipment. Any additional needed equipment will be assigned.
14. **Post-Occurrence Duties:** At the direction of the Gwinnett County Police Department, all agency personnel will assist in the transition to normal operations. Any borrowed equipment will be turned over to the appropriate agency. After being released by the Gwinnett County Police Department, all agency personnel will report back to the Chief Marshal for accountability. The Chief Marshal will release agency personnel.
15. **After Action Reports:** Any after action reports will be handled by the Gwinnett

County Police Department. The Marshal's Office will provide the Gwinnett County Police Department with a list of all personnel involved in the operation. The Chief Marshal will hold a briefing to critique the Office performance.

16. Transportation: At the direction of the Gwinnett County Police Department, the Marshal's Office will assist in any transport of personnel involved in the operation. All Office vehicles will be available.

C. Hostage / Barricaded Persons Situations

All attempts shall be made to peacefully resolve the incident through communications with the suspect. In the event that a Dacula Marshal is the first officer on the scene, the Chief Marshal should be notified immediately with all pertinent information. If the Chief Marshal is unavailable, the Marshal shall notify the Gwinnett County Police Department personally.

1. Avoiding Confrontation: Every reasonable effort shall be made to affect the safe release of the hostages. All reasonable attempts shall be made to avoid confrontation in favor of controlling and containing the situation until the arrival of a trained hostage negotiator from the Gwinnett County Police Department.
2. Notification of Tactical and Hostage Negotiation Personnel: Responding personnel will report all pertinent information to the Chief Marshal and shall also be responsible for notification of the Gwinnett County Police Department. The first officer on scene will update the supervisors of the Gwinnett County Police Department with all necessary information. The situation will be turned over to the Gwinnett County Police Department. The Marshal's Office will assist as needed by the Gwinnett County Police Department.
3. Interaction/Responsibilities of Tactical and Hostage Negotiation Personnel: The Gwinnett County Police Department will direct all tactical decisions and hostage negotiations
4. Initiate Notification of Appropriate Persons: All responding personnel will update the Chief Marshal. The Chief Marshal will notify other departments as needed. Once the Gwinnett County Police Department has taken over the situation, they will handle all further notifications for assistance, to include dog handlers, a bomb disposal unit, and air support from the State Patrol, if needed.
5. Communications with Other Agencies: The 911 Center shall provide support as directed by the on-scene incident commander of the Gwinnett County Police Department.
6. Establishing Perimeters: Inner and Outer perimeters will be secured at the direction of the Gwinnett County Police Department. The Marshal's Office personnel will assist as needed.

7. Evacuation of Bystanders: The first officer on the scene shall, whenever possible, evacuate bystanders and direct them to a safe location outside the incident area.
 8. Evacuation of Injured Person: The first officer on scene shall evacuate injured persons, if the situation permits. If the circumstances do not allow for the removal of injured persons, this information should be relayed to the Gwinnett County Police Department and 911 Center as soon as possible.
 9. Establishment of Command Post/Chain of Command: A Command Post, if necessary, will be established by the Gwinnett County Police Department. All responding personnel will be notified on the location. The Gwinnett County Police Department's senior ranking personnel will assume the responsibilities of Incident Commander. The Marshal's Office will maintain necessary personnel at the Command Post to coordinate accountability and deployment of agency personnel. The Marshal's Office will be a supporting agency to the Gwinnett County Police Department.
 10. Request for Ambulance, Fire, Rescue, etc.: The first officer on the scene shall evaluate the situation and determine the need, if any, for ambulance, fire or rescue. If there is a need, the 911 Center will be notified.
 11. Authorization for News Media Access and News Media Policy: All news media request for access will be directed to the Gwinnett County Police Department Incident Commander or Public Information Officer. The Gwinnett County Police Department Incident Commander or Public Information Officer will also handle the release of information.
 12. Authorization for Use of Force and Chemical Agents: Marshal's Office personnel shall be governed in the use of force by the procedures outlined in the agency's SOP manual "Officer's Response to Resistance and Aggression". Once the Gwinnett County Police Department has moved into place, any further authorization for use of force and chemical agents will need the approval of the senior-ranking officer of the Gwinnett County Police Department.
 13. Use of Trained Negotiator and Support Staff: Whenever possible only trained negotiators shall be used to communicate with a hostage taker or barricaded suspect. The Gwinnett County Police Department has trained negotiators and will address this function.
 14. After Action Reports: The Gwinnett County Police Department will be responsible for the final report of the situation. The first Marshal's Office personnel on the scene will provide a written statement to the Gwinnett County Police Department after the situation has been resolved.
- D. Response to Natural Disasters, Incidents of Terrorism/Weapons of Mass Destruction, Violence at Educational Facilities

Regardless of the situation, incidents of disaster require similar response. During

any unusual occurrence either the Gwinnett County Police Department or the Emergency Management Agency will assume the duties of Incident Commander. The Marshal's Office will be a supporting agency to the Gwinnett County Police Department.

1. Communications: Officers shall use their portable radio or cell phone for communication between agencies and the 911 Center. Personnel will be advised by the 911 Center of the appropriate channel to monitor.
2. Situation Maps: Detailed maps of the City are maintained by Emergency Management at the 911 Center and in City Hall.
3. Field Command Post: The command post will be established, if necessary, by the Gwinnett County Police Department.
4. Incident Command: The Marshal's Office will maintain personnel at the Command Post to coordinate accountability and deployment of agency personnel. The Marshal's Office will be a supporting agency to the Gwinnett County Police Department.
5. Casualty Information: Requests for information shall be directed to the Gwinnett County Police Department.
6. Community Relations/Public Relations: All disseminated information will be released by the Gwinnett County Police Department.
7. Court/prosecutorial Liaison and other legal considerations: In the event that an incident occurs within Municipal Court, an appropriate liaison shall be established with all court officials so that necessary security arrangements may be initiated.
8. Other Agency Support: The Gwinnett County Police Department shall be the primary provider of law enforcement services. The Marshal's Office will be a supporting agency to the Gwinnett County Police Department. At the discretion of the Gwinnett County Police Department other law enforcement agencies will be contacted in accordance with the Georgia Mutual Aid Act.
9. Military Support: The Gwinnett County Police Department shall make the request for additional assistance from local military support or National Guard.
10. Public Facility Security: When sufficient manpower is available, it may become necessary to arrange security for possible targeted public facilities.
11. Traffic Control: All traffic control measures and perimeters will be established by the Gwinnett County Police Department. Agency personnel directing traffic will be required to wear a reflective vest. During unusual occurrences involving wide-spread damage, control measures will be heightened to protect property, prevent looting and other criminal activity.
12. Equipment Requirements: Agency personnel are to report for duty with normal

duty equipment. Any additional equipment required will be assigned.

13. De-escalation Procedures: Once the situation is brought under control, all agency personnel will assist in the transition to normal operations.
14. Post-Occurrence Duties: Upon being released by the Gwinnett County Police Department, all agency personnel will report back to the Chief Marshal for accountability. Any damaged equipment should be reported. Any borrowed equipment will be turned over to the appropriate agency. The Chief Marshal will release agency personnel.
15. After Action Reports: Immediately after an unusual occurrence situation, the Chief Marshal will hold a briefing to critique the agency's performance. The Gwinnett County Police Department will file a final overall report.
16. Transportation: At the direction of the Gwinnett County Police Department, the Marshal's Office will assist in any transport of personnel involved in the operation. All agency vehicles will be available.

DACULA MARSHAL'S OFFICE

~~2021-50~~: Threat and Terrorism Prevention Plan

PURPOSE: To establish a threat and terrorism prevention plan for the Dacula Marshal's Office. Security procedures serve as an effort to prevent an incident from occurring, minimize the effect of an incident, and reduce the potential for disruption of governmental services and functions.

POLICY: It is the responsibility of the Gwinnett County Police Department to establish and maintain a threat and terrorism prevention plan for the City as a whole. It shall be the policy of the Dacula Marshal's Office to develop, establish and maintain a threat and terrorism prevention plan for City Hall.

PROCEDURE:

A. Threat Alert Response System

The Dacula Marshal's Office shall utilize a Security and Threat Alert Response System similar to the one developed by the Georgia Homeland Security Task Force and the National Homeland Security Agency. This alert system is based on two alert levels based on intelligence information and the potential impact that a threat may have on the community. By utilizing this system, we will ensure consistency of operations throughout the Office. General Office operations shall be conducted according to the threat level existing at that time.

B. Threat Level Plan

The two nationally established threat levels are Elevated and Imminent Threat Alerts. The Office will utilize the Gwinnett County Emergency Management Agency's Emergency Operational Plan, in addition to the guidelines outlined in this policy. Specifically, the Marshal's Office will take the following actions in response to each of the threat alerts as follows:

1. Elevated Threat Action warns of a credible terrorist threat

Actions

- a. The Chief Marshal will notify the City Administrator of threat level.
- b. Update Marshals on status
- c. Review and update emergency response plans
- d. Monitor events and information closely

- e. Employees should be observant and follow established security measures, such as immediately reporting suspicious activities and phone calls to the Chief Marshal.
 - f. Increase surveillance at City Hall.
 - g. All Marshals on 2-hour call-out status.
2. Imminent Threat Alert warns of a credible, specific, and impending terrorist threat.

Actions

- a. The Chief Marshal will notify the City Administrator of the threat level.
- b. Notify Marshals of threat level
- c. Curtailed daily operations
- d. Relocate operations, if necessary
- e. Close non-essential departmental facilities
- f. Limit access to City Hall to employees and elected officials
- g. Provide extra security at City Hall
- h. Marshal's Office personnel will be on stand by and in a high state of readiness
- i. Implement security plan by providing on-site security to City Hall.
- j. All Marshals on 1 hour recall
- k. Coordinate with the Gwinnett County Police Department. Advise of specific security actions to be taken with regard to City Hall

If information is provided that a specific threat or type of threat is credible, Dacula Marshal's Office personnel will provide assistance as necessary to the Gwinnett County Police Department to help provide maximum security and surveillance at the site or sites.

C. Specific Sites

The following locations are identified as high-risk targets in the City limits. These locations have been identified as risk locations due to the service(s) that each provide to the community's infrastructure.

1. Government
 - a. Dacula City Hall
 - b. School located within the City limits (All Campuses)
 - c. Parks located within the City limits
2. Public Safety
 - a. Gwinnett County Police Department
 - b. Fire Stations located within the City limits
3. Water and Waste Treatment Facilities
4. Private
 - a. Georgia Power sub stations
 - b. Jackson EMC sub stations
 - c. Gas Pipeline
 - d. Rail Road

DACULA MARSHAL'S OFFICE

2021-51: Traffic Direction and Control

PURPOSE: To establish uniform guidelines and procedures for manual direction and movement of vehicular and pedestrian traffic.

POLICY: Officers of the Gwinnett County Police Department shall have primary responsibility for traffic direction and control within the City. However, it is the policy of the Dacula Marshal's Office to manually direct and control traffic to insure the safe and efficient movement of vehicles and pedestrians when conditions or emergency situations dictate. These duties are performed by sworn officers of the Dacula Marshal's Office as authorized by Georgia Law.

O.C.G.A Section 40-6-2 states: "Obedience to authorized person directing traffic-no person shall willfully fail or refuse to comply with any lawful order or direction of any Police Officer, Fireman, or School Crossing Guard designated by a local Law Enforcement Agency invested by law with authority to direct, control, or relocate traffic".

PROCEDURE:

- A. Identification of Locations Where Point Traffic Control is Required
1. It is the duty and responsibility of each officer of the Dacula Marshal's Office to report any traffic engineering related problems they encounter, such as street lights out, street signs down, traffic signal problems, street design problems, or any information that would improve conditions and safety for the general public.
 2. Any engineering problem, which presents an immediate hazard, will be promptly reported to the 911 Communications Center to be relayed to the Traffic Engineering Department. Officers will take immediate steps to make the situation safe.
- B. Locations Where Manual Direction of Traffic Will Be Performed
1. Scenes of Traffic Accidents: Officers of the Dacula Marshal's Office arriving at the scene of an accident shall position their vehicle (activating emergency lights) so as to protect the scene and allow movement of traffic. The officer should park at the end of the accident scene so as not to disturb any evidence. The officer shall check the conditions of all parties, and notify 911 Central Communications. If necessary, direct traffic around the accident scene until an officer from the Gwinnett County Police Department arrives.

2. Scenes of Fires: Upon arrival, check with the fire personnel in charge to see what their needs are. If it is necessary to close the road, notify 911 Central Communications and re-route traffic around fire scene so that hoses are not run over by vehicles, and vehicles or crowds that may gather do not obstruct the firefighters. Officers shall carry out any instructions given to them by Police or Fire Supervisors on the scene. Officers of the Gwinnett County Police Department should assume the responsibility for traffic control at fire scenes as soon as possible.
3. Adverse Weather Conditions: During adverse weather, roadway conditions can quickly deteriorate. Notify 911 Central Communications immediately concerning any hazard. If warranted direct unsuspecting motorists around the hazard until an officer of the Gwinnett County Police Department arrives.
4. Traffic Control at Special Events: Upon request of the Gwinnett County Police Department, officers of the Dacula Marshal's Office may assist with traffic control at special events.

C. Temporary Traffic Control Devices

Temporary traffic control devices such as portable signs, barricades, flashing lights, and traffic cones may be used to expedite the flow of traffic and promote safety. The use of these devices will be used at the direction of the Gwinnett County Police Department who shall also direct their removal at the appropriate time.

D. Manual Operation of Traffic Control Devices

It may become necessary for manual operation of traffic control devices due to a sharp increase in traffic, usually following special events and in the case of malfunction of the traffic control device. Supervisors of the Gwinnett County Police Department have access to traffic signal box keys and can attempt to re-set the traffic control device. Officers will immediately report any malfunctions to the 911 Communications Center. The 911 Communications Center will immediately report the malfunction to the Traffic Engineering Department.

E. Procedures for Manual Traffic Direction (Hand Signals, Whistle Signals and Flashlight Signals)

1. When an officer is directing traffic, it is necessary that the people using the highway know they are there for that purpose and that the officer knows and uses standardized appropriate hand/flashlight and audible signals to stop, start, and turn traffic.
2. To ensure that traffic direction and control techniques are standardized, officers will use currently approved training methods applicable to traffic direction and control.

3. Orders or directions to a motorist or pedestrian should never be vocal except in an emergency. Simple hand/flashlight signals that are clearly visible and readily understandable, emphasized by the whistle, and will conform to the instructions given below:

- a. Hand / Flashlight Signals

- (1) Stop Signals - Arm extended, hand up and palm/flashlight pointing at approaching traffic.
- (2) Proceed Signal - Point at the driver or pedestrian you want to move and establish eye contact. Bend arm at elbow indicating "proceed" in the direction intended.
- (3) Left Turn - Ensure conflicting traffic is stopped. Point at driver you want to move and establish eye contact. Indicate the turn by exhibiting a proceed signal and pointing/signaling to the left turn direction.
- (4) Right Turn - Ensure that the turn can be made safely. Point at the driver you wish to move and establish eye contact. Exhibit proceed signal and point/signal to the right turn direction.

- b. Whistle Signals

Whistle signals may be coordinated with hand/flashlight signals and of sufficient volume as to be audible with respect to surrounding conditions. Use one long whistle blast to command, "Stop". Two short whistle blasts to command "proceed or go" and a series of short whistle blasts to command "attention".

- c. Best Position to Direct Traffic

To provide his/her personal safety and for the ability to best observe the traffic flow, the center of an intersection is often the best position.

- F. Use of Reflective Vest or Other High Visibility Clothing When Directing Traffic

1. Officers of the Dacula Marshal's Office will wear the high visibility issued vest when engaged in manual direction of traffic.

DACULA MARSHAL'S OFFICE

2021-52: Vehicle Operation and Usage

PURPOSE: To provide guidelines and procedures for the use of Dacula Marshal's Office vehicles.

POLICY: Operation of Office vehicles shall be in strict accordance with Dacula Marshal's Office policy and procedure. All personnel operating Office vehicles shall exercise due regard for the safety of all persons, including themselves. No assignment shall be of such importance, and no task shall be expedited with such emphasis, that the principles of safety become secondary. There is no task in the Office that justifies the reckless disregard or safety of others.

This policy is intended for Office use only and is not intended to supersede any existing law(s) pertaining to the use and operation of vehicles or to supersede any applicable City of Dacula vehicle use policy.

PROCEDURE:

A. Response to Calls for Service

Marshals responding to non-emergency calls shall proceed accordingly, unless they are sent or redirected to a higher priority call, and shall obey all traffic laws. Marshals responding to emergency calls shall proceed immediately and shall continuously operate the emergency vehicle lighting and siren as required by law (O.C.G.A. 40-6-6) Marshals should only respond to a call as an emergency response when circumstances reasonably indicate an emergency response is required. This includes, but not limited to:

1. When in pursuit or apprehending a violator or suspected violator.
2. When responding to a reported emergency involving possible personal injury, death or significant property damage.
3. When immediate assistance is requested by marshal or other law enforcement agency.

If a marshal believes an emergency response to any call is appropriate, the marshal shall immediately notify the dispatcher.

Marshals not responding to a call as an emergency response shall observe all traffic laws and proceed without the use of emergency lights and sirens.

B. Seat Belts

1. All drivers and passengers (all occupants) in all Office vehicles shall wear seat belts while the vehicle is in operation.
2. There are no allowable exemptions to the above directive regarding the mandatory use of seat belts by all occupants of Office vehicles, other than for medical reasons which require a physician's statement disallowing the officer(s) and/or other front seat occupants from seat belt restraints. In no case, shall an officer be allowed to drive a vehicle owned by the City of Dacula Marshal's Office while under a medical exemption from the use of seat belt restraints.

C. Traffic Stops

It is the primary role and duty of the Gwinnett County Police Department to enforce the criminal and traffic laws within the City of Dacula. Likewise, the primary duty and role of the Dacula Marshal's Office is to enforce the Code of Ordinances of the City.

D. Vehicle Pursuits / Roadblocks

Dacula Marshal's Office may engage in limited vehicular pursuit, stationary/rolling roadblocks, or any other vehicle immobilization tactic or maneuver designed to slow or stop a pursued vehicle. The importance of apprehending suspects who unlawfully flee from law enforcement should be weighed against the risk associated with vehicle pursuits. Pursuits will only be authorized for violent crimes which pose an immediate threat to public safety.

Marshals may attempt to maintain sight of the suspect, if possible, to do so in a safe manner and in conjunction with the policies and procedures set forth in this and other applicable directives.

E. Vehicle Inspections

The day-to-day condition of a vehicle is of paramount importance for safe operation, with the final responsibility for care resting on the officer who operates the vehicle. Each marshal who will operate a vehicle during his/her tour of duty shall inspect the vehicle prior to use for: damage to the exterior or interior of the vehicle; proper inflation and condition of the tires; obvious mechanical defects; and cleanliness of the interior and exterior of the vehicle.

F. Maintenance

Employees are required to properly maintain their vehicles at all times. Vehicles should not be operated with any defect that would prohibit safe operation during current and foreseeable weather and light conditions. Preventive maintenance, such as regular oil changes, lubrication, and tire pressure and fluid checks determine, to a large extent, whether employees will have a reliable and safe vehicle to drive to support Office activities. Employees shall have preventive maintenance

completed on their assigned Office vehicle as scheduled by the City maintenance shop or by the vendor supplying the City's fleet maintenance. Employees operating vehicles shall keep the vehicle exterior clean by having the vehicle washed at reasonable intervals, shall not keep trash and clutter inside, and have the interior vacuumed at reasonable intervals. Defects shall be pointed out and discussed with the Chief Marshal immediately. An employee shall not operate an unsafe vehicle.

G. Liability

Marshals can be held accountable for driving violations that result in accidents and for damage caused by abuse or careless handling of vehicles involved in any accident.

H. Traffic Violations

Violations, citations, fines, or other actions taken by any law enforcement jurisdiction against any employee while driving a City vehicle shall be the responsibility of the employee. Each driver is required to report all moving violations incurred to the Chief Marshal within one working day. This requirement applies to violations involving the use of any vehicle (city owned, or personal or other).

1. Loss of Driver's License:

Revocation or suspension of a driver's license for any reason and for any length of time must be reported to the Chief Marshal within one working day of the loss or notification. The employee must not drive a City vehicle or personal vehicle on City business under any circumstances until the license is reinstated.

I. Accidents

All vehicle accidents involving Office or personal vehicles regardless of severity while on City business shall be immediately reported to the Chief Marshal and City Administrator. In the event of an accident:

1. Call or radio Dispatch immediately. If injuries are involved, report that to the dispatcher.
2. Contact the Chief Marshal and give the accident location and other important information.
3. Get the name, address and phone number of all people involved and/or any witnesses.
4. Obtain insurance, tag, and license information of the other driver(s).
5. Do not admit liability or negligence. Do not discuss the accident with anyone except the police and the Chief Marshal.

6. All accidents involving City owned vehicles should be investigated by the Gwinnett County Police Department or other agency. In some cases where the City vehicle was clearly at fault, the State Patrol may defer the investigation to the Sheriff's Department or the Gwinnett County Police Department.
7. A City of Dacula Incident Report shall be completed within one business day by the Chief Marshal or the employee involved in the accident. The City Administrator shall be notified immediately.
8. Photographs of the scene and any damage shall be taken regardless of who is at fault.
9. A copy of the official accident investigation report shall be obtained from the investigating agency. This report as well as copies of all other reports, witness statements and photographs shall be forwarded to the Chief Marshal as soon as possible.
10. Any employee who is involved in a motor vehicle accident in a City vehicle will be escorted by the Chief Marshal to a medical facility approved by Human Resources to complete a drug and alcohol screening.
11. Any employee who is injured in an accident and requires medical attention will be required to obtain a return-to-work release from the treating physician before returning to work.
12. In addition to normal reporting/handling procedures, an internal investigation will be made of all Office vehicle accidents resulting in damage or injury. In instances where personnel are found to be at fault, disciplinary measures may be taken.

J. Tobacco Products

Use of tobacco products, including smokeless tobacco in City vehicles is strictly prohibited.

K. Vehicle Keys

Leaving ignition keys and/or gas keys in an unattended vehicle is not permitted.

L. Policy Violations

Violations of any portion of this General Order or the City of Dacula Vehicle Use Policy will result in appropriate disciplinary action, from removal of driving privileges up to and including termination of employment.

J. Take Home Cars

Marshals will be assigned a patrol vehicle. Vehicles may be taken to the marshal's place of residence to facilitate quick response in an emergency. The take home radius will be not more than 30-mile radius of the City of Dacula jurisdiction.



MEMO

TO: Mayor and City Council of the City of Dacula
FROM: Stephen Mayer, Director of Finance
DATE: March 7, 2024
SUBJECT: Authorization to contract with Delinquent Tax Services, Inc.

The City replaced the Gwinnett County Tax Commissioner's Office as the service provider for property tax billing and collections starting in Fiscal Year 2022. Property tax bills were due to the City December 1, 2022, and December 1, 2023. Some bills are past due and have been delinquent since the 2022 billing cycle.

Delinquent tax bills are a normal part of annual collections for any local government. State law permits taxing authorities to file tax liens (Fi.Fa.), pursue collection efforts, and conduct tax sales to collect any delinquent ad valorem property taxes owed that authority. The laws in place are to protect local governments by helping ensure the collection of vital revenue used in its operations.

The City has been working on its own to collect delinquent tax bills for Fiscal Year 2022 and Fiscal Year 2023. The time and effort required to collect on delinquent bills is often significant. The City has had success in these collection efforts, but many tax bills remain delinquent.

Staff believes partnering with an experienced firm in the delinquent tax collections industry is in the best interest of the City and its constituents. An experienced firm will give the City more resources and provide compliance services to help ensure a more effective collections process. Staff has interviewed and recommends Delinquent Tax Services Inc. out of Monroe, Georgia. More information on the scope of services can be found in Exhibit A.

Staff is requesting that the Mayor and City Council give authorization to contract with Delinquent Tax Services, Inc. to assist in the delinquent tax collections process moving forward.



CITY OF DACULA

STATE OF GEORGIA

AGREEMENT FOR THE COLLECTION OF
DELINQUENT TAXES

This Agreement for the Collection of Delinquent Taxes (hereinafter the “Agreement”) is made and entered into this _____ day of _____, 2024, by and between the City of DACULA (hereinafter the “City”), and DELINQUENT TAX SERVICES INCORPORATED, a Georgia corporation (hereinafter “DTS”).

WHEREAS, the City is charged with collecting taxes as provided by Georgia law; and

WHEREAS, DTS is in the business of providing services to governmental entities and agents such as the City in aid of collecting taxes; and

WHEREAS, the City wishes to obtain the services of DTS in an effort to quickly and efficiently collect delinquent taxes due the City; and

WHEREAS, DTS has submitted to the City its proposal for the collection of delinquent taxes due the City; and;

WHEREAS, DTS’s Proposal has been accepted and approved by the City and is hereby incorporated into this Agreement, by reference, as if fully reproduced herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

1. Term

This Agreement shall begin on the _____ day of _____, 20____, and shall terminate absolutely and without further obligation on the part of the City on December 31, 20__ and on December 31st of each one-year renewal term thereafter, provided that this Agreement shall automatically renew on January 1 of each subsequent year for a term of one (1) year unless terminated by either party upon sixty (60) days written notice. In no event shall the duration of this Agreement exceed _____ one-year terms.

2. Obligations of the City

The City shall supply DTS with a list of properties the City wishes taxes to be collected upon. Said list shall include the following information with respect to each property:

- a. Property address
- b. Name(s) and address(es) of the property owner(s) of record (when available)
- c. Map and parcel numbers
- d. Copies of the respective tax executions (“fi. fa.”) for each year of collection

It is understood that DTS will act in reliance on the accuracy of the information provided by the City, and DTS is instructed to accept such information as true and correct.

The City further agrees:

- a. To “flag” the respective properties in its computer system at the time the property is turned over to DTS for collection to ensure that the applicable penalties, interest charges and administrative fees are collected.
- b. To provide DTS with such access to its tax and real estate records, such access to include mapping and records of prior appeals, as is necessary to accomplish the ends of this Agreement.
- c. To provide copies of relevant tax records to the owner(s) of record where requested without charge to DTS.
- d. To promptly notify DTS upon receipt of any notice of filing of an owner of record’s petition in bankruptcy.

3. Obligations of DTS

Upon receipt of the information as provided in section two (2) above, DTS agrees to use its best efforts to notify the owner(s) of record of the delinquent taxes due and to attempt to collect the same without the necessity of levy and sale of the property. Where required, collection letters will be sent to the owner(s) of record and any newly acquired addresses in relation to the collection process. This period shall be known as “Stage One” and shall conclude within thirty (30) days of the receipt of information by DTS.

In the event the delinquent taxes due are not collected during Stage One, upon receipt of instruction from the City, DTS agrees to take the following steps in an effort to collect the same:

- a. Run a computerized search of the bankruptcy records under the name(s) of the owner(s) of record.
- b. Run an examination of the real estate records to determine the current ownership and interest(s) of the property in question and all parties entitled to receive notice of levy and sale.

- c. Prepare a notice of levy to the defendant in fi. fa., the current owner(s) of record, the current mortgage and/or other interest holder(s).
- d. Conduct a diligent search of the general execution docket and lien index maintained by the Clerk of Superior Court and federal and state tax records.
- e. Prepare and submit the legal advertisements to the proper legal organ for advertisement of the impending tax sale.

Provided that the city elects to proceed with levy and sale, DTS, as instructed by the City, will supply the necessary information to the City and/or any other person(s) authorized to conduct the sale to begin the levy and sale process. This period shall be known as “Stage Two”.

DTS hereby agrees to abide by all applicable state and federal laws, including, but not limited to, the Fair Debt Collection Practices Act, in carrying out the terms of this Agreement.

The obligations of DTS and the City are set forth in more detail in Exhibit “A,” attached hereto and incorporated herein by reference.

4. Payment of Services Rendered.

Payment to DTS for services rendered shall not be due and payable until such time that payment for the delinquent taxes has been received by the City. It is the intent of the parties that any compensation paid pursuant to this Agreement be construed as conditional rather than contingent. Any compensation paid pursuant to this Agreement is not to be determined based on the amount of delinquent taxes collected but shall instead be based on a predetermined fee based upon if and when the collection of delinquent taxes occurs. It is further agreed that any fees due DTS under this Agreement shall be satisfied out of the delinquent taxes collected as a result of DTS’s efforts. The fees due DTS shall be determined as follows:

For delinquent taxes collected during Stage One, DTS shall receive the sum of sixty-five dollars (\$65.00) as compensation for services rendered for each property on which taxes are collected whereby the total amount collected is greater than or equal to fifty dollars (\$50.00). Where the total amount collected is less than fifty dollars (\$50.00), DTS shall receive the sum of thirty dollars (\$30.00) for each property on which taxes are collected as compensation for services rendered.

For delinquent taxes collected during Stage Two, DTS shall receive the sum of two hundred dollars and thirty dollars (\$230.00) for each property on which taxes are collected as compensation for services rendered. The Stage Two fee shall include all research and notification costs incurred by DTS, including costs of certified mail. DTS shall not be responsible for costs incurred in connection with legal advertisement, sheriff services, recording fees, and deed preparation. Should the City request DTS to prepare tax deeds a cost of \$50.00 shall be applied.

5. Payments Made by Taxpayers/Owner(s) of Record.

All payments made in satisfaction of delinquent taxes due and owing shall be made to the City. Under no circumstance will DTS accept such payments on behalf of the City.

6. Legal Representation; Indemnification.

In the event a lawsuit is filed against the City as a result of the collection efforts of the City and/or the collection efforts of DTS on behalf of the City, the City shall be represented by its own legal counsel at the City's expense and DTS shall have no obligation to voluntarily join in any such lawsuit or provide the City with legal representation. DTS does however agree to assist the City in the defense of any such lawsuit by turning over a copy its file to the City and any information DTS has obtained in the connection with its collection efforts. DTS further agrees to provide the City with access to DTS's legal counsel at DTS's expense to assist the City in the defense of any such lawsuit.

The City shall defend, indemnify and hold harmless DTS and its agents, successors and assigns from and against any and all claims, threats, liabilities, fines, penalties, suits, actions, proceedings, demands, damages, losses, costs and expenses (including attorneys' and experts' fees and court costs) of every kind and nature directly or indirectly arising out of, resulting from, or in connection with DTS's reasonable collection efforts taken in accordance with the terms of this Agreement to the extent allowable by law, with the exception of those matters arising out of the negligence or willful act of DTS. DTS shall defend, indemnify and hold harmless the City and its agents, successors and assigns from and against any and all claims, threats, liabilities, fines, penalties, suits, actions, proceedings, demands, damages, losses, costs and expenses (including attorneys' and experts' fees and court costs) of every kind and nature which results directly or indirectly from any negligent or willful act of DTS.

7. Entire Agreement.

This Agreement constitutes the sole and entire agreement among the parties hereto and no modification of this Agreement shall be binding unless attached hereto and signed by all parties hereto. No representation, promise or inducement not included in this Agreement shall be binding on any party hereto.

8. Notice.

Any notices which may be permitted or required hereunder to be given to the parties hereto shall be in writing and shall be deemed to have been duly given as of the date and time that such notice(s) is hand delivered or mailed to the below address or such other address as the parties hereto shall from time to time designate to the others by

notice in writing as herein required. Provided, however, that if notice is given by mail, the time period for any such notice shall be extended by three (3) days.

If to the City: Mayor of Dacula
442 Harbins Road
Dacula, Georgia 30019

With a copy to: Robert Jackson Wilson, City Attorney
(shall not constitute 295 S. Culver St. Suite C
notice) Lawrenceville, Georgia 30046

If to DTS: Delinquent Tax Services Incorporated
Attention: Jonathan Watson
133 East Church Street
Monroe, Georgia 30655

With a copy to: Russell W. Wall, Esq.
(shall not constitute Post Office Box 336
notice) Greensboro, Georgia 30642

9. Miscellaneous.

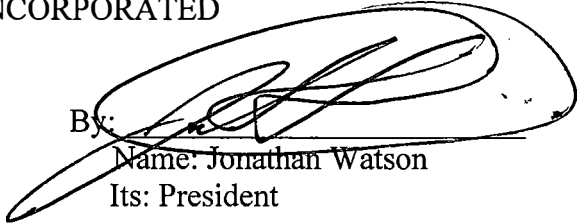
Time is of the essence of this Agreement. The section headings of this Agreement are for convenience sake only and shall not limit or otherwise affect any of the terms hereof. The laws of the State of Georgia shall govern this Agreement. The parties hereto agree that jurisdiction and venue of any litigation between the parties regarding this Agreement shall be Gwinnett County, Georgia. As used herein, the singular number shall include the plural, the plural the singular, and the use of the masculine, feminine, or neuter gender shall include all genders, as the context may require, and the term "person" shall include an individual, a corporation, an association, a partnership, a trust, an organization and a governing body. Invalidation of any one or more of the provisions hereof shall not affect the validity of the remainder of this Agreement, which shall remain in full force and effect. Title to any supplies, materials, equipment, or other personal property shall remain in DTS until fully paid for by the City.

IN WITNESS WHEREOF, the parties have set their hands and seals this 7th
day of March, 2024.

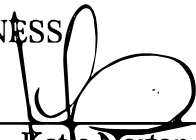
CITY OF DACULA

DELINQUENT TAX SERVICES,
INCORPORATED

By: _____
Name: Hugh D. King, III
Its: Mayor

By: 
Name: Jonathan Watson
Its: President

ATTEST:

WITNESS

Katie Norton, Executive Assistant

Brittini Nix, City Administrator

“Exhibit A”

DETAILED SCOPE OF SERVICES

Local Account Representative and Project Manager: DTS shall provide the City with an experienced account representative (the “Representative”). The Representative shall serve as DTS’s project manager for all work performed for the City. The Representative shall have experience and expertise in handling all aspects of delinquent collection programs and shall be immediately accessible to the City by office and cell phone as well as email. The Representative shall give immediate response and priority handling to any request or inquiry made by the City.

Planning: The Representative shall meet with the City to review account volumes and the status of delinquent receivables. Collection goals and objectives will be established according to the needs and desires of the City. Certain accounts may be flagged for removal from the collection process such as debtors under bankruptcy relief and senior exemptions (at the discretion of the City). Planning work will include addressing special needs, project management, communication hot-lines and desired customization of any work processes. A work calendar, suitable to the City, will be developed with work volumes and critical target dates to achieve desired goals.

Stage One (Notice of Delinquency) Production: The City will first issue a fifa as a prerequisite to Stage One processing. At the discretion of the City, fifas may be issued and maintained as either a hard copy document or in an electronic format with a print on demand feature. Fifas that are issued in an electronic format will contain a fifa issue date. A statutory fifa fee will be posted to each delinquent fifa account by the City and included in the due amounts. As a best business practice and when feasibly possible, the City will record each fifa on the lien docket (GED) in the Office of the Clerk of Superior Court as a prerequisite to Stage One Processing.

DTS shall obtain a listing or electronic file of delinquent fifa accounts to be serviced from the City. Delinquent fifa account information will contain tax parcel ID, property street address if available, fifa defendant name and address, fifa issuance date, fifa account number, current owner(s) name and address if different from the fifa defendant, and the year(s) and amount(s) owed. DTS will load the listing or file to its data processing system and aggregate all delinquent years under the respective tax parcel ID. DTS will review all records for completeness of addresses to affect postal delivery. Partial addresses (needing city, state, and zip) will be researched and updated.

DTS will produce a Stage One letter and mail to every defendant in fifa listed in the file provided by the City. The text and wording of the delinquent notice may be customized according to the desire and needs of the City. Any returned mail will be processed to verify a new address and re-mailed within a time frame agreed upon by the City. DTS will utilize a variety of skip tracing methods and proven industry tools such as internet search engines and “people-finder” databases to determine a correct and valid address for

re-mailing. A list of all new address(es) will be maintained in Microsoft Excel, Word, or PDF format and supplied to the City upon request.

If requested, DTS will assist the City in adding a standard service fee to the delinquent fifa account records through manual entry or electronic batch updating.

During Stage One Production, DTS shall provide prompt customer support to the City on any aspect of notice mailings, address corrections, or tax payer concerns.

Stage Two (Levy and Tax Sale) Production: DTS will review all unpaid accounts with the City prior to Stage Two Production. At the discretion of the City, DTS shall prepare an execution of levy notice with a referenced tax sale date against any and all remaining delinquent parcels. Parcels identified for tax sale will be scheduled for levy, notification, advertisement, and sale according to work calendars and legal time frames to affect a non-judicial tax sale. DTS will develop a calendar of critical time frames and dates, to assist the City in adding additional service fees to the fifa account records.

For each delinquent parcel, DTS will prepare a limited abstract of title (“Limited Title Exam”) through deed records to determine the current owner(s), lien holder(s), and mortgagee(s) of record. DTS will verify the correct defendant in fifa for each delinquent year. The Limited Title Exam shall include any and all parties with recorded interest as shown by deed, General Execution Docket, Lis Pendens Docket, and Probate Court records. DTS will also verify that the delinquent tax parcel matches the legal description of the corresponding deeds of record. Parcels that contain ownership and legal description errors, or do not correspond to tax maps, will be returned to the City with corrective information. DTS will assist the City with amending executions on the GED as would be necessary to correct ownership names containing nonentity terms such as “Et al.” or “Estate”.

DTS shall prepare a statutory notice of execution of tax levy in compliance with applicable statutory provisions directed to the current owner(s), lien holder(s), mortgagee(s), defendant in fifa, tenant in possession and other parties with recorded interests. The levy notice will contain a legal description of the property and the necessary recitals so as to be in compliance with all legal requirements for providing written notice of levy on land. DTS will affect service of process by certified mail, return receipt requested, to all parties with recorded interests as identified by the Limited Title Exam including State and Federal taxing authorities. DTS will consult financial directories and databases to insure proper notifications to banks and lending institutions that may have merged or changed names due to acquisitions.

DTS shall monitor files and prepare legal advertisements for all parcels levied for tax sale that remain unpaid. DTS will submit legal advertisements the City legal organ according to critical timeframes and dates.

DTS will assist the City, if so desired, with procedures for physically posting the delinquent property including geographical order of postings for efficiency, time/date stamping, recording pictures and preparing affidavits of posting. Physical property posting is not a legal requirement under current law but serves as an excellent collection tool, a deterrent to future

delinquencies, and a means of performing due diligence when levy notices are returned by the post office as undeliverable or unclaimed.

DTS shall monitor files, update the Limited Title Exam and prepare a statutory notice of pending tax sale for all parcels remaining unpaid. The notice of pending tax sale will be sent by DTS as regular first class mail and certified mail, return receipt requested, to all parties that were listed for service of levy including any municipalities if unpaid tax executions are issued and recorded in the clerk of superior court's office against the delinquent parcel. The notice of pending tax sale shall be mailed according to critical timeframes and dates.

DTS shall prepare and submit the legal advertisements to the proper legal organ for advertisement of the impending tax sale. It shall be up to the city to collect any cost associated with the advertisement of each delinquent tax parcel and pay the legal organ for said legal advertisement. All ads shall run for a minimum of four consecutive weeks prior to the sale unless the tax indebtedness is paid in full to meet the statutory requirements set forth by Georgia law.

Prior to tax sale, DTS shall review each levied parcel according to stringent quality control standards for accuracy, correctness, and due diligence. A final updated Limited Title Exam will be prepared and reviewed to ensure notification of all parties including those that may have entered the chain of title during the interim time period after the effective date of the original Limited Title Exam.

If required, DTS will assist the City with preparing beginning bids including all applicable legal costs, fees, and commissions. DTS, if required by the City, shall also assist with conducting tax sales and issuing bid receipts on the Courthouse steps or other location as officially designated by the City.

DTS shall deliver to the City all title research, notices and return receipt copies at the time of either the first advertisement, 10-day notice of sale or at such time that the City specifies. The complete hard copy files will be delivered to the City on any parcel taken to tax sale.

Tax Sales Files shall contain copies of the following:

- a) Limited Title Exam and any updates
- b) Vesting Deeds, Security Deeds and Liens
- c) Notice of Execution of Tax Levy
- d) 10-Day Notice of Tax Sale
- e) Certified Mail Receipts
- f) Due Diligence Research
- g) Legal Advertisement
- h) File Review and Due Diligence Check List
- i) All notes and comments

The City will place a copy of the executed and recorded tax deed, bid receipt and publisher's affidavit in the file for post sale retention.

Post Sale Processing: During Stage Two Production, DTS will provide prompt customer support to the City on any aspect of the levy and tax sale proceedings as well as post sale

matters. If requested, DTS will assist the City in preparing and reviewing tax deeds and also assist with preparing and mailing post sale notices of excess funds to the record property owner and holders of security or equity interest according to statutory requirements. DTS will assist the City with procedures for making entries on the tax execution(s) and GED reflecting the tax sale with appropriate cross-reference to the recorded tax deed. If desired, DTS will further assist the City with procedures for establishing and maintaining a Sale Docket or similar such docket as exists under the rules of the pertinent jurisdiction.

DTS will assist the City with procedures for holding and distributing excess funds received from tax sales according to fiduciary requirements established by the courts and general law. DTS will review claims in conjunction with the City to determine entitlement according to the order of priority of the claimant's interest, or whether uncertainties or competing interests exist that require the claim to be forwarded to the City Attorney for filing of an interpleader or other action in the requisite court.



AIA[®] Document B101[®] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the seventh day of February in the year Twenty Twenty-Four
(*In words, indicate day, month and year.*)

BETWEEN the Architect's client identified as the Owner:
(*Name, legal status, address and other information*)

City of Dacula
442 Harbins Road
Dacula, GA 30019
770-963-7451

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

Lindsay Pope Brayfield & Assocs., Inc.
344 West Pike Street
Lawrenceville, GA 30046
770-963-8989

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

Dacula City Hall and mixed-use development
Sanjo Street
Dacula, GA 30019

The Owner and Architect 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.

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4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

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:

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

The Owner provided an approved site plan of the mixed-use development and design directions for the City Hall.

§ 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.)

The mixed-use development will be situated on the 12+ acres of land located between Harbins Road, McMillan Road, and Sanjo Street.

The Project will be designed and constructed in several phases.

The first phase will include the 3-story City Hall and adjacent Parking Deck with a secure connecting bridge as well as the construction of the open Amphitheater and the Stage.

The following phase may include adjacent retail, office buildings, and restaurants.

This project aims to create a walkable urban development that serves the economy, community, public health, and the environment. The development will include the Dacula City Hall, parking deck, and may encompass office and retail buildings, and entertainment venue.

The program provided by the Owner will be developed into a schematic layout by the Architect and reviewed by the Owner. This design process will include several meetings reviewing the site and building planning through an interactive discussion with the Owner representatives.

§ 1.1.3 The Owner’s budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

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

- .1 Design phase milestone dates, if any:
 - For Municipal Building and Parking Deck **TBD**
- .2 Construction commencement date:
 - For Municipal Building and Parking Deck **TBD**
- .3 Substantial Completion date or dates:
 - For Municipal Building and Parking Deck **TBD**
- .4 Other milestone dates:
 - For Municipal Building and Parking Deck **TBD**

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Competitive Bid

§ 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.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner’s Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Brittni Nix, AICP
City Administrator City of Dacula
442 Harbins Road, PO Box 400
Dacula, GA 30019
770-963-7451

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

(List name, address, and other contact information.)

N/A

§ 1.1.9 The Owner shall retain the following consultants and contractors:

(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

GeoHydro Engineers, Inc.
190 Ben Burton Road, Suite C
Bogart, GA 30622
jredding@geohydro.com

.2 Civil Engineer:

Bowman Consulting Group
4174 Silver Peak Parkway
Suwanee, GA 30024
770-932-6550

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

Roofing Consultant:
Reeves Consulting, Inc.
3195 Abbots Pointe Drive
Duluth, GA 30097
404-285-0848

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:

(List name, address, and other contact information.)

Lindsay Pope Brayfield & Assocs., Inc.
344 West Pike Street
Lawrenceville, GA 30046
770-963-8989

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:

(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Lindsay Pope Brayfield & Associates, Inc.
344 West Pike Street
Lawrenceville, GA 30046
770-963-8989

.2 Mechanical Engineer:

Lindsay Pope Brayfield & Associates, Inc.
 344 West Pike Street
 Lawrenceville, GA 30046
 770-963-8989

.3 Electrical Engineer:

Lindsay Pope Brayfield & Associates, Inc.
 344 West Pike Street
 Lawrenceville, GA 30046
 770-963-8989

§ 1.1.11.2 Consultants retained under Supplemental Services:

N/A

§ 1.1.12 Other Initial Information on which the Agreement is based:

N/A

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use 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.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

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§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than (\$ 1,000,000) for each occurrence and (\$ 2,000,000) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than (\$1,000,000) 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.

§ 2.5.3 The Architect 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 such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, 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.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than (\$ 1,000,000) each accident, (\$ 1,000,000) each employee, and (\$) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than (\$ 1,000,000) per claim and (\$2,000,000) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies 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 Architect'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.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The 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 Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The

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schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe

the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and

shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Owner and Architect
§ 4.1.1.2 Multiple preliminary designs	Architect (As basic service)
§ 4.1.1.3 Measured drawings	NP
§ 4.1.1.4 Existing facilities surveys	Owner
§ 4.1.1.5 Site evaluation and planning	Owner
§ 4.1.1.6 Building Information Model management responsibilities	NP
§ 4.1.1.7 Development of Building Information Models for post construction use	NP
§ 4.1.1.8 Civil engineering	Owner (Bowman)
§ 4.1.1.9 Landscape design	Owner (Bowman)
§ 4.1.1.10 Architectural interior design	Architect (As basic service)
§ 4.1.1.11 Value analysis	NP
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	NP
§ 4.1.1.13 On-site project representation	NP
§ 4.1.1.14 Conformed documents for construction	Architect (As basic service)
§ 4.1.1.15 As-designed record drawings	Architect (As basic service)
§ 4.1.1.16 As-constructed record drawings	NP
§ 4.1.1.17 Post-occupancy evaluation	Architect (As basic service)
§ 4.1.1.18 Facility support services	NP
§ 4.1.1.19 Tenant-related services	NP
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect (As basic service)
§ 4.1.1.21 Telecommunications/data design	Architect (As basic service)
§ 4.1.1.22 Security evaluation and planning	NP
§ 4.1.1.23 Commissioning	NP
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	NP
§ 4.1.1.25 Fast-track design services	NP
§ 4.1.1.26 Multiple bid packages	NP
§ 4.1.1.27 Historic preservation	NP
§ 4.1.1.28 Furniture, furnishings, and equipment design	Hourly
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 Other Supplemental Services	Owner

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services at the prior approval of the City after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.
- .12 Interior Design.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the

Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 One (1) weekly visits to the site by the Architect during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within forty-eight (48) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe 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 inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner 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.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 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.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include land disturbance, contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work,

and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's

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consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 N/A

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator’s fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box.)

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: (Specify)

Litigation in Superior Court of Gwinnett County, GA

If the Owner and Architect 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, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 Paragraph deleted.

§ 8.3.1.1 Paragraph deleted.

§ 8.3.2 Paragraph deleted.

§ 8.3.3 Paragraph deleted.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Paragraph deleted.

§ 8.3.4.2 Paragraph deleted.

§ 8.3.4.3 Paragraph deleted.

§ 8.4 Paragraph deleted.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect’s option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days’ written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect’s services. The Architect’s fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect’s services. The Architect’s fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days’ written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days’ written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

N/A

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

N/A

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

N/A

.2 Percentage Basis

Five (5) % of the cost of construction.

.3 Other
(Describe the method of compensation)

Hourly for Interior design above and beyond basic services.

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

See Paragraph 11.7

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

See Paragraph 11.7

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus
(Paragraphs deleted)
Fifteen percent (15%),

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	percent (15	%)
Design Development Phase	percent (20	%)
Construction Documents Phase	percent (35	%)
Procurement Phase	percent (5	%)
Construction Phase	percent (25	%)
<hr/>			
Total Basic Compensation	one hundred percent (100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category	Rate (\$0.00)
Principal	\$200.00
Project Architect	\$160.00
Technical III	\$150.00
Technical II	\$112.00
Technical I	\$ 93.00

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect’s consultants directly related to the Project, as follows:

- .1 N/A
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 N/A
- .9 N/A
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,

.12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus fifteen percent (15 %) of the expenses incurred.

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

N/A

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of Not Applicable (\$ N/A) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of Not Applicable (\$ N/A) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid sixty (60) 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 Architect.

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

Twelve % 12

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

1. No change order which increases the contract price by more than \$15,000 shall not be effective unless approved in advance by Mayor and City Council of the City of Dacula.

2. This contract is contingent upon and subject to the City approving and appropriating funds for this work described herein.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect

(Paragraphs deleted)

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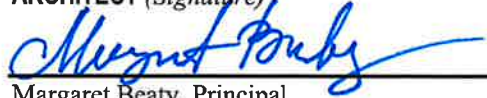
(Paragraphs deleted)

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

City of Dacula
OWNER (Signature)

LINDSAY POPE BRAYFIELD & ASSOCS., INC.

ARCHITECT (Signature)



Margaret Beaty, Principal



Eric Phan, Project Architect

(Printed name and title)

(Printed name, title)

Init.



MEMO

TO: Mayor and City Council of the City of Dacula
FROM: Brittni Nix, City Administrator
DATE: February 9, 2024
SUBJECT: CDBG Subrecipient Agreements for the McMillan Road improvement project

The Gwinnett County Board of Commissioners approved reprogramming unspent Community Development Block Grant (CDBG) funds to the City of Dacula for the McMillan Road improvement project. Funding for the subject project has been allocated from five years of CDBG funding (2018, 2019, 2020, 2021 and 2022). Each funding year requires a separate subrecipient agreement.

The City was awarded \$525,175.68 of CDBG funds for asphalt milling and repaving, sidewalk, curb ramp and guardrail replacement, and stormwater improvements along McMillan Road between Harbins Road and Stanley Road/Church Street. Project funds must be spent no later than December 31, 2024 to be reimbursed. The Subrecipient Agreements between the City of Dacula and Gwinnett County have been provided for your consideration.

Staff requests a motion granting the Mayor and City Administrator the authorization to sign the provided Subrecipient Agreements as required.



Opinion of Probable Construction Cost Date: **March 18, 2022**
 2023 CDBG City of Dacula - McMillan Road Paving, Drainage, and Sidewalk Improvements

Activity		Unit	Labor \$ or LumpSum	Subtotal	Total	Misc Notes
McMillan Road					\$ 458,360.00	* McMillan Road - 24' wide ep/ep (2,820 L.F. +/-)
Bond and Traffic Control/Signage	1	Ls	25,000.00	\$ 25,000.00		
Traffic Control	1	Ls	15,000.00	\$ 15,000.00		
Demolish/Remove/Install Curb & Gutter	400	LF	50.00	\$ 20,000.00		
Demoilsh/Remove Trees near Sidewalk	3	Ea	2,000.00	\$ 6,000.00		
4' Wide Sidewalk Replacement	1,500	Sf	12.50	\$ 18,750.00		
Concrete Handicap Ramps	10	Ea	1,000.00	\$ 10,000.00		
Concrete Driveway Apron Replacement	2,500	Sf	12.50	\$ 31,250.00		
Crosswalk Striping	300	Lf	10.00	\$ 3,000.00		
Traffic Stop Bar	60	Lf	10.00	\$ 600.00		
Double Yellow Centerline Striping	2,820	Lf	3.00	\$ 8,460.00		
Guardrail removal and replacement	200	Lf	55.00	\$ 11,000.00		
Asphalt Milling (2-1/2")	8,000	Sy	8.50	\$ 68,000.00		
Asphalt Tack Coat	16,000	Sy	0.80	\$ 12,800.00		
Asphalt 'D' Mix (1")	8,000	Sy	10.00	\$ 80,000.00		
Asphalt 'F' Mix Surface Course 9.5 mm (1-1/2")	8,000	Sy	12.00	\$ 96,000.00		
Asphalt Deep Patch Milling (4")	1,500	Sy	10.00	\$ 15,000.00		
Asphalt Deep Patch Filling (4") 19.5 mm	1,500	Sy	25.00	\$ 37,500.00		
Storm Improvements					\$ 18,050.00	
Concrete Headwalls	2	Lf	3,000.00	\$ 6,000.00		
RCP Pipe	20	Lf	65.00	\$ 1,300.00		
Concrete SWCB Top Replacement	4	Ea	2,000.00	\$ 8,000.00		
Rip Rap	50	Tn	55.00	\$ 2,750.00		
Erosion Control					\$ 7,325.00	
Inlet Protection (Sd2-F)	10	Ea	400.00	\$ 4,000.00		
Silt Fence (Sd1-C)	100	Lf	12.00	\$ 1,200.00		
Sod	2,500	Sf	0.85	\$ 2,125.00		
					Cost: \$ 483,735.00	
					15% Contingency: \$ 72,560.25	
					Total Cost: \$ 556,295.25	

*MDA, a Bowman Company makes no guarantee as to the accuracy or inaccuracy of the figures above. Rather these costs are for budgeting purposes only. All final costs are subject to change.
 * All quantities listed are preliminary and approximate and shall be verified by the Contractor during Bidding. Areas for repair are marked with paint by the City.
 * No Utility Modifications are not included in cost of OPCC.



February 7, 2024

Trey King, Mayor
City of Dacula
442 Harbins Road
Dacula, GA 30019

RE: FFY 2022 CDBG Public Facilities Award Notice

Dear Mayor Trey King:

Thank you for submitting a FFY 2022 application for the Community Development Block Grant (CDBG) program. We are pleased to announce the **City of Dacula** received grant funds in the amount of **\$107,070.00** to administer the McMillan Road Improvements.

Attached are three copies of your FFY 2022 CDBG Public Facilities Subrecipient Agreement. The termination of this Agreement is **December 31, 2024**. Please sign, date, seal, and return to our office by **April 7, 2024**.

Sherry Akhimie, Program Analyst, will be your primary contact for this grant award. If you have any questions concerning your grant, please contact Sherry Akhimie at 678.518.6073 or via e-mail at Sherry.Akhimie@gwinnettcountry.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt Elder".

Matt Elder
Division Director, Housing and Community Development

STATE OF GEORGIA
COUNTY OF GWINNETT

**SUBRECIPIENT AGREEMENT
FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (CDBG)
PUBLIC FACILITIES: INFRASTRUCTURE IMPROVEMENTS**

Between

**GWINNETT COUNTY *and*
CITY OF DACULA**

Federal Fiscal Year 2022 Funds

HUD GRANT NO: B-22-UC-13-0004
GWINNETT COUNTY AGREEMENT NO.: CDBG-PF-CD-221

SUBRECIPIENT AGREEMENT FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS
CFDA # 14.218
BETWEEN
GWINNETT COUNTY, GEORGIA
AND
City of Dacula
442 Harbins Road
Dacula, GA 30019

THIS AGREEMENT, made and entered into on the 6th day of February 2024, by and between Gwinnett County, a political subdivision of the State of Georgia acting by and through its duly elected Board of Commissioners, hereinafter referred to as the "County", and City of Dacula a CDBG subrecipient organization (either a participating municipality in the Gwinnett County Urban County CDBG Program, a quasi-local government agency, a local housing authority, or a private non-profit organization), hereinafter referred to as the "Subrecipient," located within the confines of the Gwinnett County, Georgia, and/or serving CDBG-eligible residents of Gwinnett County; The approval of the award of CDBG funds included in this Agreement by the County occurred on the 2nd day of November, 2021 and represents a subaward of federal funds, as defined in 2 CFR 200.92.

WITNESSETH:

WHEREAS, Gwinnett County has received an FFY 2022 Community Development Block Grant, hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act of 1974, as amended, to carry out various housing and community development activities in its unincorporated areas and in municipalities participating in the County CDBG Program; and

WHEREAS, \$107,070.00, from FFY 2022 CDBG funds has been awarded to the Subrecipient; and

WHEREAS, the Subrecipient agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained in Exhibit 1; with the Scope of Services provided in Exhibit 2; with any amendments to this Agreement, included as Exhibit 3; with the Lease Agreement requirements included as Exhibit 4, if applicable; and, with the property use requirements included as Exhibit 5, if applicable; and with the applicable and non-applicable regulations included in Exhibit 6.

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

1. **Use of Funds** - The Subrecipient shall expend all or any part of its CDBG allocation only on those activities contained in the Scope of Services of this Agreement, which activities Gwinnett County Housing and Community Development shall determine to be eligible for CDBG funds, and shall notify the Subrecipient in writing, via this Agreement and/or subsequent amendments to this Agreement, of such determination of eligibility. Such CDBG funds provided through this Agreement must be fully expended not later than December 31, 2024.
2. **A. Uniform Administrative Requirements** - The Uniform Administrative Requirements, as promulgated in 24 CFR Chapter V [Subpart J] at 570.502 and in all sections of 2 CFR 200, shall apply to all activities undertaken by the Subrecipient with CDBG assistance provided via this Agreement and any subsequent amendments.

B. Other Program Requirements - The Subrecipient shall comply with all the requirements of Chapter V [Subpart K] at 570.600 - 570.614, as applicable to the Subrecipient's activity(s).

3. **Procurement** - The Subrecipient shall be responsible for procurement of all supplies, equipment, services, and construction necessary for implementation of its activity(s). Procurement shall be carried out in accordance with 2 CFR 200 Part 200.317 - 200.326, the procurement requirements of the Subrecipient, and all provisions of the CDBG Regulations [24 CFR Part 570].

The governing board of the Subrecipient shall formally adopt written procurement procedures which are at least as restrictive as those required in the aforementioned regulations [2 CFR 200, as applicable, and 24 CFR 570] and shall provide a copy of said procurement procedures and evidence of governing board adoption to the County at the time that this Subrecipient Agreement shall be returned to the County for signature by the Chairman of the Gwinnett County Board of Commissioners.

The Subrecipient shall prepare, or cause to be prepared, all advertisements, negotiations, notices, and documents; enter into all contracts; and conduct all meetings, conferences, and interviews as necessary to ensure compliance with the above-described procurement requirements.

4. **Property Acquisition and Relocation Services** - The Subrecipient shall be responsible for carrying out the acquisition of all real property necessary for the implementation of the activity(s), if applicable. The Subrecipient shall conduct all such acquisitions in its name and shall hold title to all properties purchased, [except in such cases as with long term leases (minimum term of 15 years)]. Lease requirements are addressed in Section 18 of this Agreement. The Subrecipient shall be responsible for the preparation of all notices, appraisals, and documentation required in conducting acquisitions under the latest applicable regulations of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 and of the CDBG Program. The Subrecipient shall also be responsible for providing all relocation notices, counseling, and services required by said regulations. Should the Subrecipient find it necessary to change the use of or dispose of the property acquired with CDBG funding assistance, the requirements of 24 CFR Part 570.505 governing change of use and/or property disposition shall apply. Such a change in use may also require an amendment to this Agreement, including changes in Exhibits 2, 3, 4, 5, and/or 6.

5. **"Force Account" Work** - The Subrecipient (limited to participating municipalities) may undertake public facility construction or renovation activities using municipal labor and equipment. Eligible costs of labor and equipment may be reimbursed by the County using CDBG funds, based upon submission of proper and acceptable invoice(s) and documentation of all costs as prescribed by the County.

6. **A. Financial Record Keeping** - The Subrecipient shall maintain records of the expenditure of all CDBG funds it receives, such records to be maintained in accordance with 24 CFR 570.503(B)2, as applicable. All records shall be made available, upon County request, for inspection(s) and audit(s) by the County or its representatives. If a financial audit(s) determines that the Subrecipient has improperly expended CDBG funds, resulting in the disallowance of such expenditures by the County and/or by the U.S. Department of Housing and Urban Development, the County reserves the right to recover from the Subrecipient other non-CDBG monies to fund such disallowed CDBG expenditures. Audit procedures for the Gwinnett County CDBG Program are specified in Section 19 of this Agreement.

B. Programmatic Record Keeping/Reporting - For limited clientele (including "Direct Service" and "Presumed Benefit") activities the Subrecipient shall provide, on a monthly basis, sufficient information to the County on services carried out for all persons served and on CDBG-eligible persons served by activities receiving CDBG assistance under this Agreement. The purpose of the monthly reporting is to enable the County to prepare and submit periodic and annual reports to the U.S. Department of Housing and Urban Development. These Subrecipient prepared reports shall be submitted in a format provided by the County [See Exhibit 2, if applicable to this Agreement] and at a time no later than the 10th calendar

day of each month of each year until all CDBG funds for the activity(s) shall be fully expended, plus five years. The five-year reporting period should not be confused with the "continued use" provisions of this agreement, as specified in Exhibit 2, "Scope of Services." The County shall provide reporting forms and technical assistance to the Subrecipient on the procedures to be followed to collect and report these programmatic data.

7. **Subrecipient's Obligation** - The Subrecipient shall be responsible for carrying out its actions in accordance with the certifications contained in Exhibit 1 of this Agreement. The Subrecipient shall take all necessary actions to comply with the requirements of the certifications/assurances in Exhibit 1, and to comply with any requests by the County in this connection; it being understood that the County has responsibility to the U.S. Department of Housing and Urban Development for insuring compliance with such requirements. The Subrecipient will also promptly notify the County of any changes in the scope or character of the activity(s) assisted through this Agreement.
8. **"Hold Harmless"** - The Subrecipient does hereby agree to release, indemnify, and hold harmless the County, its employees, and agents from and against all costs, expenses, claims, suits, or judgments arising from or growing out of any injuries, loss or damage sustained by any person or corporation, including employees of Subrecipient and property of Subrecipient, which are caused by or sustained in connection with the tasks carried out by the Subrecipient under this Agreement.
9. **Funding** - The County agrees to provide the Subrecipient with CDBG funds in such amounts as agreed upon in this Agreement to enable the Subrecipient to carry out its CDBG eligible activity(s). It is understood that the County shall be held accountable to the U.S. Department of Housing and Urban Development for the lawful expenditure of CDBG funds under this Agreement. Therefore, the County shall make no reimbursement of CDBG funds to the Subrecipient and draw no funds from HUD/U.S. Treasury on behalf of a Subrecipient activity(s), prior to having received proper invoice(s) and copies of supporting documentation from the Subrecipient for the expenses incurred, to ensure that the Subrecipient has complied with all applicable regulations and requirements.
10. **Environmental Clearance** - The County shall be responsible for carrying out environmental reviews and clearances on all activities. The Subrecipient shall be responsible for providing necessary information, in a timely manner, to the County to accomplish this task.

Funding provided through this agreement is "conditionally approved" subject to the completion of the Environmental Review Process by the County. Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the County of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58. The parties further agree that the provision of any funds to projects/activities included in this Agreement is conditioned on the County's determination to proceed with, modify or cancel the projects/activities based on the results of a subsequent environmental review.

The Subrecipient may not obligate or expend any funds provided through this Agreement until the County provides to the Subrecipient a "Notice to Proceed," which shall represent, in part, the completion of the environmental review process, and the Release of Funds by HUD for the projects/activities contained in this Agreement.

11. **Wage Rates** - The County shall be responsible for the preparation of all requests for wage rate determinations on CDBG activities, on behalf of the Subrecipient. The Subrecipient shall notify the County prior to initiating any activity, including advertising for contractual services, which will include costs likely to be subject to the provisions of the Davis-Bacon Act and its implementing regulations. The County will provide technical assistance to the Subrecipient to ensure compliance with these requirements.

12. **Technical Assistance** - The County agrees to provide technical assistance to the Subrecipient in the form of oral and/or written guidance and onsite assistance regarding CDBG procedures and project management. This assistance will be provided as requested by the Subrecipient, and at other times, at the initiative of the County, or when the County provides new or updated CDBG Program information to the Subrecipient.
13. **Review Authority** - The County shall have the authority to review any and all procedures and all materials, notices, documents, etc., prepared by the Subrecipient in implementation of this Agreement. The Subrecipient agrees to provide all information required by any person authorized by the County to request such information from the Subrecipient, for the purpose of reviewing the same.
14. **Agreement Suspension and Termination** - In accordance with the provisions of 2 CFR 200.338 – 200.342, suspension or termination of this Agreement may occur if the Subrecipient materially fails to comply with any term of this Agreement. This Agreement may be terminated with or without cause by either party, hereto, by giving thirty (30) calendar days written notice of such termination. However, CDBG funds allocated to the Subrecipient under this Agreement may not be obligated or expended by the Subrecipient following such date of termination. Any funds allocated to the Subrecipient under this Agreement which remain unobligated or unspent upon such date of termination shall automatically revert to the County.
15. **Agreement Amendment(s)** - This Agreement may be modified or amended by mutual agreement of the parties; however, no waiver, modification or amendment of any terms, conditions or provisions of this agreement will be valid, or of any force or effect, unless made in writing, approved by the respective parties' governing bodies, and properly executed by the authorized representatives of the parties. All amendments to this Agreement shall be made a part of the Agreement by inclusion in Exhibit 3, which will be attached at the time of any amendment(s). If the Subrecipient seeks an amendment to this agreement, the request for such amendment shall be submitted in written form to Gwinnett County Housing and Community Development in a format prescribed by the Division. If an amendment to the Gwinnett County Consolidated Plan is required, the Subrecipient shall be informed of such requirement and the steps required to effectuate such a Consolidated Plan amendment.
16. **Effective Date and Termination Date** - The effective date of this Agreement is the date specified on Page 1 of this Agreement. The termination date of this Agreement is **December 31, 2024**.
17. **Program Income** - If the Subrecipient generates any program income as a result of the expenditure of CDBG funds, the provisions of 24 CFR 570.504(c) shall apply, as well as the following specific stipulations:
- A. The Subrecipient acknowledges, by the executing this Agreement, that it must notify the County of the receipt of any program income during the calendar month that such program income is generated.
 - B. Any such program income must be paid to the County within seven calendar days following the end of the month in which the program income is generated. Such payment to the County must include any interest or other earnings generated from the program income during the time the program income was in the possession of the Subrecipient.
 - C. The Subrecipient further acknowledges, by executing this Agreement, that the County has the responsibility for monitoring and reporting to the U.S. Department of Housing and Urban Development (HUD) on the generation of any such program income. The Subrecipient acknowledges its responsibility for appropriate record keeping and reporting to the County on the generation and/or receipt of such program income.
 - D. In the event of close out or change in status of the Subrecipient, any program income that is on hand or received subsequent to the close out or change in status shall be paid to the County within thirty

(30) calendar days of the official date of the close out or change in status. The County agrees to notify the Subrecipient in writing, should close out or change in status of the Subrecipient occur as a result of changes in CDBG Program statutes, regulations, and/or instructions.

18. **Real Property** - The Subrecipient shall comply with the following standards contained in 2 CFR 200.310 – 200.311 for all activities involving real property. The following standards shall also apply to real property (within the control of the Subrecipient) acquired or improved, in whole or in part, using CDBG funds. The standards are:

A. The Subrecipient shall inform the County, in writing, at least thirty (30) calendar days prior to any modification or change in the use of the real property from that specified in this Agreement, at the time of acquisition or improvements, including disposition;

B. Change in Real Property Status

1. Sale of Property - The Subrecipient may sell the property acquired or improved with CDBG assistance at any time. If the Subrecipient sells the property or otherwise transfers ownership (title) to another entity that continues to use the property for an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will not require the Subrecipient to repay funds to the County's CDBG Program. If the Subrecipient sells the property or transfers ownership (title) to another entity that does not continue to use the property for an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will require the Subrecipient to repay to the County's CDBG Program the fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of and improvements to the property. However, prior to such sale of CDBG-assisted property the Subrecipient shall notify the County in writing of its intent to sell the property and shall determine the fair market value of the property by obtaining at least one appraisal and at least one review appraisal of the property performed by separate appraisers who are licensed by the State of Georgia.

If the Subrecipient sells or transfers ownership (title) to the property at a point in time five (5) years after the County receives its last increment of CDBG funding, the County will not require the Subrecipient to reimburse the County's CDBG Program.

2. Change in Use of Property - The Subrecipient may change the use of the property at any time provided it complies with the following stipulations:

(a) If the Subrecipient proposes to change the use of the property to an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will not require the Subrecipient to repay funds to the County's CDBG Program. However, prior to such change in use the Subrecipient shall notify the County in writing of its intent to change the use of the property to permit the County to notify affected citizens with reasonable notice of and opportunity to comment on the proposed change in use, as required by 24 CFR 570.505.

(b) If the Subrecipient proposes to change the use of the property to an activity that does not meet a CDBG National Objective or is not an eligible CDBG activity, the County will require the Subrecipient to reimburse the County's CDBG Program the fair market value of the property as adjusted for non-CDBG funds. However, prior to such change in use the Subrecipient shall notify the County in writing of its intent to change the use of the property and shall determine the fair market value of the property by obtaining at least one appraisal and at least one review appraisal of the property performed by separate appraisers who are licensed by the State of Georgia.

- (c) If the Subrecipient proposes to change the use of the property at a point-in-time five (5) years after the County receives its last increment of CDBG funding, the County will not require the Subrecipient to reimburse the CDBG Program.
- C. Any program income generated from the disposition or transfer of property prior to or subsequent to the closeout, change of status or termination of the Subrecipient Agreement between the County and the Subrecipient shall be repaid to the County at the time of disposition or transfer of the property.
- D. A lease agreement, in a format prescribed by the County, must be executed between the County and the Subrecipient for any County CDBG-assisted Subrecipient activity which is to be carried out wholly, or in part, on County-owned real property. The lease agreement shall be included in this Subrecipient Agreement as Exhibit 4. Said lease agreement must contain, at a minimum, the following items and other items determined by the County to be applicable to the specific lease:
- (1) The beginning and ending dates of the lease (at least five (5) years to be eligible for CDBG funding assistance).
 - (2) Identification of the parties to the lease; i.e., the Lessor shall be the County and the Lessee shall be the Subrecipient.
 - (3) Identification of the precise land parcel(s) and/or structure(s), which constitute the subject of the lease.
 - (4) Identification of the CDBG-eligible use of the real property(s) and/or structure(s).
 - (5) A termination statement acceptable to the County and the U.S. Department of Housing and Urban Development.
 - (6) The lease must contain a regulatory compliance statement indicating that the terms are in conformance with all applicable Federal, State, and Gwinnett County rules, regulations, and requirements.
 - (7) The lease must contain maintenance of property statement indicating that the property(s) and/or structure(s) which is the subject of the lease agreement will be maintained in conformance with all applicable Federal, State, and Gwinnett County rules, regulations, and requirements.
 - (8) The lease must contain a non-assignability clause indicating that the lease may not be assigned to any other party(s) without prior written approval by the County and subsequent execution of an amendment to the lease and to this Subrecipient Agreement.
 - (9) The lease must contain an insurance certification statement indicating that the lessee will maintain appropriate types of insurance, as specified in the lease, on the property(s) and/or structure(s) which is the subject of the lease.
 - (10) The lease must contain an indemnification statement, as specified by the County.
 - (11) The lease must contain a statement as to governance, performance, and enforcement under the laws of the State of Georgia.
 - (12) The lease may contain special conditions unique to the specific lessor/lessee circumstances and/or unique to the specific property(s) and/or structure(s).
- E. If the Subrecipient wishes to carry out its CDBG-assisted activity on real property(s) and/or in a structure(s) which is owned neither by the Subrecipient nor by the County, a long-term lease (minimum

fifteen (15) years) must be executed which meets the standards specified in Section 18(d), above. However, prior to execution of said lease, the County must approve the form and content of the Lease Agreement to ensure its compliance with the terms of this Agreement.

- F. Private non-profit subrecipient organizations must also execute a real property use document(s) with the County. Such a document(s) provides the County with a mechanism to ensure its fiduciary interest in the property(s) and/or structure(s) for which the County provided CDBG funds to the private non-profit organization via this Agreement.
- G. In the event of the dissolution or change in status of the private non-profit organization or change in scope of the CDBG-assisted activity -- resulting in the CDBG-assisted activity becoming an ineligible CDBG activity, as defined by CDBG rules and regulations applicable at the time of such dissolution or change in status -- the County shall, at its option, exercise its right to obtain its appropriate share of the value of the CDBG-assisted property, as permitted by the rules and regulations governing the CDBG Program at the time of such an occurrence, and as specified by this Agreement. The real property-use documents referenced, herein, shall be appended to this Agreement and shall constitute Exhibit 5.

19. **Audits** - The Subrecipient agrees to comply with the requirements of:

- A. The "Government Auditing Standards, Standards for Audit of Governmental Organizations, Programs, Activities and Functions," 1994 Revision or its successors, ["The Yellow Book"] issued by the Comptroller General, United States General Accounting Office.
- B. The "Single Audit Act of 1984" [P.L. 98-502], as amended by the Single Audit Act Amendments of 1996 [P.L. 104-156], requires that States, local governments, and nonprofit organizations which receive federal funds must have audits performed in conformance with the Single Audit Act, as amended, and with implementing Circulars issued by the Office of Management and Budget. Subrecipient entities must have their audits prepared consistent with the requirements of 2 CFR 200.500 - 200.513. If a Subrecipient's expenditures trigger the requirement to prepare a Single Audit, three (3) copies of the audit must be submitted to the County not later than six (6) months following the final date of the Subrecipient's fiscal year that is the subject of the audit.

If the minimum monetary amounts requiring the preparation of the Single Audit, as stated in 2 CFR 200.501, are not to be triggered, the Subrecipient shall provide to Gwinnett County Housing and Community Development three (3) copies of its normal independent auditor's report, as soon as practicable following the close of its fiscal year, but not later than nine (9) months following the close of each such year. The independent audit, which addresses the Community Development Block Grant funds received/expended by the Subrecipient shall conform to the Gwinnett County Audit Standards, described in Section 19.C. of this Agreement.

C. Gwinnett County Audit Standards for CDBG Subrecipients Where Single Audit Act Requirements Do Not Apply

Because Gwinnett County is responsible for any grant funds provided to all subrecipients, any organizations or cities which expend a total of more than \$0.00, but less than \$500,000.00 of CDBG funds, in any fiscal year from this agreement must have an independent audit of those funds performed annually or shall follow procedures specified, herein, as if all funds were subject to the requirements below.

- (1) A statement by the executive financial official of the organization or city that they have read and adhered to the requirements of 2 CFR 200.500 - 200.520 and have met those requirements as they are applicable to their organization. This statement should be in written form and submitted to Gwinnett County within thirty (30) calendar days following the end of the fiscal year of the Subrecipient;

- (2) All requests to the County for CDBG reimbursements shall be approved by an individual at least one level above the person who prepares the reimbursement request. If the reimbursement request is prepared by the Chief Financial Administrator of the organization, the request shall be approved by a Chairperson or other designated member of the organization's governing board;
- (3) For all CDBG requests for reimbursement, the invoice and accompanying copies of checks and other supporting documentation shall be submitted with the reimbursement request;
- (4) Gwinnett County shall periodically perform program reviews of Subrecipient financial records and systems not less often than one time during the Subrecipient's fiscal year, including the review of Subrecipient records, at least annually, at the offices of the Subrecipient. This review should include procedures to request and verify documentation of all expenditures requested in a single reimbursement request;
- (5) Any appropriate corrective action for instances of noncompliance as a result of these program reviews has been taken within six (6) months of notification by Gwinnett County that these reportable conditions exist;
- (6) At each fiscal year end, the Subrecipient shall submit to Gwinnett County a financial statement prepared from the Subrecipient's financial records that presents the revenues received from the Gwinnett County Community Development Block Grant Program and the expenditures for which these funds were used; and

The above procedures will provide the County's independent auditor with sufficient information to determine whether the Subrecipient has materially complied with the applicable laws and regulations, as they govern their programs. If any of the above procedures provide less information than is already required by this agreement, then the applicable procedures already stated in the agreement shall govern the Subrecipient's responsibilities to Gwinnett County.

- D. The Subrecipient agrees to have its Single Audit or other independent audit performed, in conformance with these Federally required and Gwinnett County stipulations, at its own cost and not payable with CDBG funds.
- E. The Subrecipient further agrees to send three (3) copies of its Single Audit Report or independent auditor's report to Gwinnett County Housing and Community Development as soon as practicable following the close of the Subrecipient's fiscal year, but in no case shall the audit report be submitted to Gwinnett County Housing and Community Development Office later than nine (9) months following the close of the Subrecipient's fiscal year which is the subject of the audit in question.
- F. The County reserves the right to recover from non-CDBG sources of the Subrecipient, any CDBG expenses of the Subrecipient which are questioned or disallowed by the Subrecipient's independent auditor or by Gwinnett County's independent auditor as a part of their review of the Subrecipient's audit.

The Subrecipient shall comply with all the applicable requirements of 24 CFR 570 [CDBG Regulations] and 2 CFR 200, as applicable. These documents are incorporated as a part of this Agreement by reference, herein. The referenced documents are also available from Gwinnett County Housing and Community Development, upon request.

20. Faith-based activities

- A. Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.
- B. Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.
- C. A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.
- D. An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- E. CDBG funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to CDBG funds in this part. Sanctuaries, chapels, or other rooms that a CDBG-funded religious congregation uses as its principal place of worship, however, are ineligible for CDBG-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85). If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.
- F. In accordance with 24 CFR 570.607 Employment and contracting opportunities, as amended by 68 FR 56404, Page 53405, to the extent that they are otherwise applicable, the Subrecipient shall comply with: Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964-1965 Comp. p. 339); 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264 (Equal Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60; and (b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701(u) and implementing regulations at 24 CFR part 135.

21. **Recognition of CDBG Program Funding from Gwinnett County** - The Subrecipient shall ensure that the Gwinnett County Board of Commissioners' Community Development Block Grant Program is provided proper recognition, as follows:

(1) CDBG Public Facilities, Capital Public Services Projects, Other Funded Activities

- a. Subrecipient will affix proper signage in a prominent location inside/outside of the administrative offices and outside of all project sites, which signage will include language recognizing the role of Gwinnett County and its CDBG funds in the acquisition, and/or construction and/or rehabilitation of the public facility or of the purchase of capital equipment, or other CDBG funded activities.
- b. Subrecipient will have as its contact point with Gwinnett County Housing and Community Development to arrange any events related to project groundbreaking, dedications, or similar ceremonies for activities receiving Gwinnett County CDBG Program funds; and, the Subrecipient agrees to provide Gwinnett County Housing and Community Development with adequate lead time to permit proper planning and scheduling for such events. Event notifications to Gwinnett County Housing and Community Development should occur not less than six (6) weeks prior to the date of any event, to permit adequate event planning and scheduling.
- c. Subrecipient agrees to contact Gwinnett County Housing and Community Development to arrange such events, rather than contacting the Gwinnett County Board of Commissioners, directly, individually, or collectively, to initiate or arrange such events. This procedure is being used by Gwinnett County government to avoid scheduling conflicts, and to provide a consistent method of planning all such events.
- d. Subrecipient agrees to schedule such events on days other than regular meeting days [Tuesdays] of the Gwinnett County Board of Commissioners or to schedule such events late in the afternoon on Tuesday meeting days of the Gwinnett County Board of Commissioners.
- e. Subrecipient agrees that all reports, media releases, media stories, media articles, brochures, newsletters, advertisements, and other published materials shall contain statements which provide adequate recognition of the financial support provided by the Gwinnett County Board of Commissioners, through Gwinnett County CDBG Program funds.

22. **Conflict of Interest** - In accordance to 2 CFR 200.317 and 200.318, no person who is an employee, agent, consultant, officer, or elected or appointed official of a Subrecipient who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this Agreement, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

Subrecipients will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, or agent of the Subrecipient shall participate in the selection, or in the award or administration of a contract supported by Federal funds awarded through this Agreement if a conflict of interest, real or apparent, would be involved.

Subrecipients must be mindful of any relationship employees, officials, board members, consultants, and/or volunteers may have with Gwinnett County employees, board members, consultants, or elected officials, where a real or apparent conflict of interest that might be realized or perceived with respect to

a CDBG funded project or activity awarded through this Agreement. All relationships between representatives of the Subrecipient and Gwinnett County must be transparent and must comply with Gwinnett County's Code of Ethics. This Code was developed by the County to establish ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are compatible with the best interests of the County. The Code directs disclosure by such officials and employees of private financial or other interests in matters affecting the County and by directing disclosure of their business relationships. Subrecipient officials who carefully follow the Gwinnett County Code of Ethics and the language of this Section are less likely to have conducted themselves or participated in activities which can be construed as real or apparent conflicts of interest.

If any situation arguably falls within the conflicts prohibited by 2 CFR 200.112 or 24 CFR 570.611 the Subrecipient should immediately contact Gwinnett County Housing and Community Development for guidance. Copies of the Gwinnett County Code of Ethics are available from Gwinnett County Housing and Community Development.

IN WITNESS WHEREOF, the parties hereunto have affixed their signatures the year and dates specified below and the Official Seal of the Subrecipient has been affixed.

FOR: City of Dacula:

FOR: GWINNETT COUNTY:

Signature
Trey King, Mayor

Signature
Buffy Alexzulian, Director
Gwinnett County Department of Financial Services

Signature Date

Signature Date

[Impress Corporate Seal Here]

Signature
Matthew Elder, Division Director
Gwinnett County Housing and Community
Development

Signature Date

ATTEST:

ATTEST:

Signature
Brittni Nix, City Administrator

Signature
Tina King, County Clerk

Signature Date

Signature Date

Approved: **Subrecipient Governing Body**

Approved: **Gwinnett County Board of Commissioners**

Date of Approval

Date of Approval: February 6, 2024

[See Also Attached Exhibit(s)] Note: No Signatures shall be placed within this document on a date prior to action by the governing board of the Subrecipient, approving acceptance of these funds, and authorizing execution of this document. The Resolution of the Governing Board is presented in Exhibit 1.

RESOLUTION OF THE GOVERNING BOARD

City of Dacula

WHEREAS, **City of Dacula** requested FFY 2022 Community Development Block Grant [CDBG] Program funding from the Gwinnett County Board of Commissioners; and

WHEREAS, the Gwinnett County Board of Commissioners has awarded **\$107,070.00** from FFY 2022 CDBG Program funds to **City of Dacula** for **McMillan Road Improvements**.

NOW, THEREFORE, the Governing Board of **City of Dacula** does hereby resolve and authorize the following, as a result of an affirmative majority vote of the Governing Board at a meeting of said Governing Board which was held on _____.

Date of Governing Board Action

1. Acceptance of an FFY 2022 Community Development Block Grant [CDBG] Program award of **\$107,070.00** from the Gwinnett County Board of Commissioners to **City of Dacula**.
2. Authorize the **Mayor** and the **City Administrator** of the Subrecipient's Governing Board to execute the Community Development Block Grant [CDBG] Program Subrecipient Agreement used by Gwinnett County to award the CDBG Program funds to **City of Dacula**.

Certified as accurate and true:

Signature – Trey King, Mayor

Signature Date

[IMPRESS CORPORATE SEAL HERE]

EXHIBIT 1
CERTIFICATIONS

EXHIBIT 1
COMMUNITY DEVELOPMENT BLOCK GRANT
GRANTEE CERTIFICATIONS

In accordance with the Housing and Community Development Act of 1974, as amended, ("the Act") and with 24 CFR 570 of the Community Development Block Grant regulations, the Subrecipient certifies that:

- (a) It possesses legal authority to accept and execute a Community Development Block Grant award from Gwinnett County;
- (b) Its governing body has duly adopted or passed, by at least a majority vote, as an official act a resolution, motion or similar action authorizing the acceptance of this grant for the purposes specified in this Agreement and directing and authorizing its appropriate personnel to execute and implement this Agreement and to provide to the County such additional information as may be required;
- (c) Provides for and encourages citizen participation, with particular emphasis on participation by persons of low- and-moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used, and provides for participation of residents in low- and moderate-income neighborhoods, as defined by the County;
- (d) Provides citizens with reasonable and timely access to local meetings, information, and records relating to the Subrecipient's use of funds, as specified in this Agreement,
- (e) Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for persons with disabilities;
- (f) Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate;
- (g) The grant will be conducted and administered in compliance with:
 1. Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 U.S.C. Sec. 2000d et seq.); and
 2. The Fair Housing Act (42 U.S.C. 3601-20);
- (h) It will affirmatively further fair housing;
- (i) It will carry out the activities specified in this Agreement consistent with the goals, objectives, and strategies of the Gwinnett County Consolidated Plan;
- (j) It will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds provided under section 106 of the Act or with amounts resulting from a guarantee under section 108 of the Act by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 1. Funds received under section 106 of the Act are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Act; or
 2. For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under section 106 of the Act to comply with the requirements of subparagraph (1) above;

- (k) Its notification, inspection, testing, and abatement procedures concerning lead-based paint will comply with 24 CFR Part 570.608;
- (l) It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, as required under 24 CFR Part 570.606;
- (m) It has adopted and is enforcing:
1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
 2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;
- (n) To the best of its knowledge and belief:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
 3. It will require that the language of paragraph (n) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly;
- (o) It will or will continue to provide a drug-free workplace by:
1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 2. Establishing an ongoing drug-free awareness program to inform employees about -
 - a. The dangers of drug abuse in the workplace;
 - b. The grantee's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

- 3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph I;
- 4. Notifying the employee in the statement required by subparagraph 1 that, as a condition of employment under the grant, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
- 5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- 6. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
 - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- 7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

The site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

**City of Dacula
442 Harbins Road
Dacula, GA 30019**

(p) It will comply with the other provisions of the Act and with other applicable laws.

[CDBG CERTIFICATION SIGNATURE PAGE – PROVIDED ON NEXT PAGE]

COMMUNITY DEVELOPMENT BLOCK GRANT

GRANTEE CERTIFICATIONS

SUBRECIPIENT SIGNATURE PAGE

SIGN:

Signature - Subrecipient Chief Elected Official/Board Chair/Other Authorized Official

Trey King

Name - Subrecipient Chief Elected Official/Board Chair/Other Authorized Official

Mayor

Title

Signature Date

ATTEST:

Signature of Person Attesting Signature by Subrecipient's Chief Elected Official or Board Chair

Brittini Nix

Name - Person Attesting Signature by Subrecipient's Chief Elected Official or Board Chair

City Administrator

Title

Date of Attesting Person's Signature

APPENDIX TO CDBG CERTIFICATIONS

INSTRUCTIONS CONCERNING LOBBYING AND DRUG-FREE WORKPLACE REQUIREMENTS

A. Lobbying Certification - Paragraph n

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

B. Drug-Free Workplace Certification - Paragraph o

1. By signing and executing this Agreement, the Subrecipient is providing the certification set out in paragraph (o).
2. The certification set out in paragraph (o) is a material representation of fact upon which reliance is placed when the County awards the grant. If it is later determined that the Subrecipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under this Agreement shall be identified in this Agreement. Failure to identify all known workplaces constitutes a violation of the Subrecipient's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place.
5. If the workplace identified to the County changes during the performance of the grant, the Subrecipient shall inform the County of the change(s), if it previously identified the workplaces in question (see paragraph three).
6. Definitions of terms in the Non-procurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Subrecipient's attention is called, in particular, to the following definitions from these rules:
 - a. "Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C.812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);
 - b. "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;
 - c. "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;
 - d. "Employee" means the employee of a Subrecipient directly engaged in the performance of work under a grant provided through this Agreement, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are not on the Subrecipient's payroll. This definition does not include workers not on the payroll of the Subrecipient (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the Subrecipient's payroll; or employees of subrecipients or subcontractors in covered workplaces).

EXHIBIT 2
SCOPE OF SERVICES

EXHIBIT 2

SCOPE OF SERVICES

The following activities and/or projects shall be carried out by the Subrecipient, under the terms of this Agreement and its accompanying certifications and reporting requirements:

Agency:	City of Dacula
Activity Name:	McMillan Road Improvements
Gwinnett Co. CDBG Objective(s):	
CDBG Eligibility Citation:	570.201(c)
CDBG National Objective Citation:	570.208(a)2
HUD CDBG Activity Type:	03K
HUD CDBG Activity Name:	Street Improvements
HUD IDIS Number:	XXXX
HUD Objective:	Suitable Living Environment
HUD Outcome:	Improving Sustainability

ACTIVITY DESCRIPTION

CDBG funds were awarded to the City of Dacula for the project titled **McMillan Road Improvements**, in the amount of **\$107,070.00** for Infrastructure Improvement activities as defined in Table 1 in the Activity Description Section of this Exhibit. The Subrecipient shall contribute non-CDBG funds for this activity, if needed, to permit the project to be completed by the termination date, **December 31, 2024**.

Expenditure Requirements

Gwinnett County reserves the right to recapture CDBG grant funds based on the time periods and expenditure rate schedule for grant amounts set forth in this agreement.

Expenditure Period	Expenditure Rate
February 2024 – March 2024	0-25%
April 2024 – June 2024	26-50%
July 2024 – September 2024	51-75%
October 2024 – December 2024	76-100%

Beneficiary Requirements

The Subrecipient shall use the CDBG funds, and other non-CDBG funds, if needed, to carry out eligible activities based on the approved budget. Total persons to be served: **795** of whom **795 [100%]** CDBG income eligible as defined by CDBG Program. At least 51% of the households served must have total household incomes - from all Households living in their respective households - which do not exceed the CDBG Maximum Income Limits applicable at the time the service is provided.

General Requirements

A **Monthly Report** shall be submitted by the **10th calendar day of the month** following the initial month of operation to Gwinnett County Housing & Community Development. One copy of each monthly report shall be emailed cdbgps@gwinnettcountry.com by the 10th calendar day of each month for all months CDBG Public Service funds are being utilized (for services provided during the prior month). The Subrecipient may stop submitting Monthly Service Reports once all Gwinnett County CDBG Public Service funds have been expended

reimbursement has been requested, and the beneficiary goal listed above is met. The monthly reports retained in the Subrecipient's files and filed with Gwinnett County Housing and Community Development. The beneficiary data must be received from the Subrecipient to permit Gwinnett County to record services delivered by the Subrecipient into the HUD Integrated Disbursement and Information System, or any successor or replacement computer system at HUD.

Funds from these grant awards shall not be used to provide any services not associated with activities identified in this Scope of Services. No involuntary displacement of persons, businesses, or agencies will occur as a result of this CDBG assisted activity. Any changes in this agreement shall be requested by the Subrecipient, in writing, and must be approved by Gwinnett County.

The information obtained from the monthly Subrecipient reports will be compiled by Gwinnett County Housing and Community Development and will be reported to local elected officials and managers to document the impact of CDBG job creation/retention and to catalogue the actual non-CDBG funding leveraged by the CDBG expenditures.

Reimbursement Process

Each request for reimbursement for **Infrastructure Improvements** must be submitted to Gwinnett County Housing and Community Development, which shall review and recommend reimbursement to the Subrecipient by the Gwinnett County Department of Financial Services.

Each request for reimbursement submitted to Gwinnett County Housing and Community Development by the Subrecipient shall consist of:

- (1) A letter from your agency requesting reimbursement, identifying the activity and the amount of reimbursement requested; and
- (2) Copies of vendor(s) invoices, your agency's payment voucher(s) (if used by your agency), and your agency's check(s) issued to vendor(s) for expenditures contained in the requests for reimbursement; and
- (3) All payments to vendors(s) shall be reviewed and approved, in writing, by an authorized official of the Subrecipient; and
- (4) No reimbursement requests shall be submitted to Gwinnett County Housing and Community Development without the review and written approval by an authorized official of the Subrecipient; and
- (5) No reimbursement requests shall be submitted to Gwinnett County Housing and Community Development until the Subrecipient has issued its check(s) payable to the vendor(s) identified in the requests for reimbursement.
- (6) The Subrecipient shall maintain documentation in its files to substantiate all expenditures/reimbursement requests, and to demonstrate that it has followed its written procurement procedures [see Item 3, of this Agreement] to obtain the goods and/or services associated with the completion of the activity identified in this Scope of Services.



**WINNETT COUNTY
HOUSING & COMMUNITY DEVELOPMENT
MONTHLY EXPENDITURE REPORT**

Submit this form by the 10th of each month, for the month prior.

Approved FFY2022 CDBG Budget:	\$107,070.00
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Organization Information			
Subrecipient:	City of Dacula		
Address:	442 Harbins Road, Dacula, Georgia 30019		
Project Description:	McMillan Road Improvements		
Vendor Number:		Contract Number:	

Invoice Date:	
Invoice Number:	

Financial Information					
Budget Categories	Approved Budget	Prior Expenses	Current Expenses	Cumulative Expenses	Remaining Budget
A. Labor & Materials					
B. Design Services					
C. Construction Supervision					
D.					
E.					
Total:					

Subrecipient Signature:		Date:	
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For Housing & Community Development Use Only							
WBS Element	Shopping Cart #	Purchase Order #		Goods Receipt #		Voucher #	
Program/Year	Cost Center Routing	Payment Method		Single Check		Process Type	
		Check	EFT	Yes	No	FV60	MIRO

HCD Program Analyst Signature:		Date:	
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HCD Financial Analyst Signature:		Date:	
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WINNETT COUNTY
HOUSING & COMMUNITY DEVELOPMENT
MONTHLY BENEFICIARY REPORT

Submit this form by the 10th of each month, for the month prior. Only report new households and individuals each month.

Grant Information	
Agency Name:	City of Dacula
Activity Name:	McMillan Road Improvements
Activity Description:	Street Improvements
IDIS #:	
Matrix Code:	03K
Month/Year:	

1. New Households Served by Income Groups - % of Median Household Income	
	Number of Households
A. New Households Served [Extremely Low Income: 0% - 30% Median Household Income]	
B. New Households Served [Very Low Income: 31% - 50% Median Household Income]	
C. New Households Served [Low Income: 51% - 80% Median Household Income]	
D. New Households Served [Over 80% Median Household Income]	
Total:	

2. New Individuals Served - Listed by Race/Sex/Ethnicity						
Race	Sex			Ethnicity		
	Male	Female	Other	Hispanic/Latino	Non-Hispanic/Non-Latino	Other
A. White						
B. Black/African American						
C. Asian						
D. American Indian/Alaskan Native						
E. Native Hawaiian/Other Pacific Islander						
F. Multi-Racial/Other						
Total:						

3. New Female Head of Households Served ----->	
--	--

4. Presumed Benefit Groups Served	
Presumed Benefit Group (Income Group)	Number Served
A. Elderly - 62+ (Senior Center: LI, Non-Senior Center: VLI)	
B. Severely Disabled (VLI)	
C. Homeless Persons (ELI)	
D. Abused Spouses (VLI)	
E. Abused/Neglected Children (VLI)	
F. Illiterate Adults (VLI)	
G. Persons Living with AIDS (VLI)	
H. Migrant Farm Workers (VLI)	
Total:	

Subrecipient Signature:		Date:	
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HCD Program Analyst Signature:		Date:	
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**GWINNETT COUNTY CDBG PROGRAM
MONTHLY SERVICES NARRATIVE**

Submit by 10th Calendar Day After Month Ends

Provide Narrative Describing Monthly Accomplishments:

EXHIBIT 3

AGREEMENT AMENDMENTS

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 4

LEASE AGREEMENT

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 5

PROPERTY USE REQUIREMENTS

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 6

FEDERAL REGULATIONS

2 CFR Part 200

“Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”

24 CFR Part 58

“Environmental Review Procedures”

24 CFR Part 570

“Community Development Block Grant”



February 7, 2024

Trey King, Mayor
City of Dacula
442 Harbins Road
Dacula, GA 30019

RE: FFY 2021 CDBG Public Facilities Award Notice

Dear Mayor Trey King:

Thank you for submitting a FFY 2021 application for the Community Development Block Grant (CDBG) program. We are pleased to announce the **City of Dacula** received grant funds in the amount of **\$75,003.71** to administer the McMillan Road Improvements.

Attached are three copies of your FFY 2021 CDBG Public Facilities Subrecipient Agreement. The termination of this Agreement is **December 31, 2024**. Please sign, date, seal, and return to our office by **April 7, 2024**.

Sherry Akhimie, Program Analyst, will be your primary contact for this grant award. If you have any questions concerning your grant, please contact Sherry Akhimie at 678.518.6073 or via e-mail at Sherry.Akhimie@gwinnettcountry.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt Elder".

Matt Elder
Division Director, Housing and Community Development

STATE OF GEORGIA
COUNTY OF GWINNETT

**SUBRECIPIENT AGREEMENT
FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (CDBG)
PUBLIC FACILITIES: INFRASTRUCTURE IMPROVEMENTS**

Between

**GWINNETT COUNTY *and*
CITY OF DACULA**

Federal Fiscal Year 2021 Funds

HUD GRANT NO: **B-21-UC-13-0004**
GWINNETT COUNTY AGREEMENT NO.: **CDBG-PF-CD-211**

SUBRECIPIENT AGREEMENT FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS
CFDA # 14.218
BETWEEN
GWINNETT COUNTY, GEORGIA
AND
City of Dacula
442 Harbins Road
Dacula, GA 30019

THIS AGREEMENT, made and entered into on the **6th day of February 2024**, by and between Gwinnett County, a political subdivision of the State of Georgia acting by and through its duly elected Board of Commissioners, hereinafter referred to as the "County", and **City of Dacula** a CDBG subrecipient organization (either a participating municipality in the Gwinnett County Urban County CDBG Program, a quasi-local government agency, a local housing authority, or a private non-profit organization), hereinafter referred to as the "Subrecipient," located within the confines of the Gwinnett County, Georgia, and/or serving CDBG-eligible residents of Gwinnett County; The approval of the award of CDBG funds included in this Agreement by the County occurred on the **3rd day of November, 2020** and represents a subaward of federal funds, as defined in 2 CFR 200.92.

WITNESSETH:

WHEREAS, Gwinnett County has received an FFY 2021 Community Development Block Grant, hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act of 1974, as amended, to carry out various housing and community development activities in its unincorporated areas and in municipalities participating in the County CDBG Program; and

WHEREAS, **\$75,003.71**, from FFY 2021 CDBG funds has been awarded to the Subrecipient; and

WHEREAS, the Subrecipient agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained in Exhibit 1; with the Scope of Services provided in Exhibit 2; with any amendments to this Agreement, included as Exhibit 3; with the Lease Agreement requirements included as Exhibit 4, if applicable; and, with the property use requirements included as Exhibit 5, if applicable; and with the applicable and non-applicable regulations included in Exhibit 6.

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

1. **Use of Funds** - The Subrecipient shall expend all or any part of its CDBG allocation only on those activities contained in the Scope of Services of this Agreement, which activities Gwinnett County Housing and Community Development shall determine to be eligible for CDBG funds, and shall notify the Subrecipient in writing, via this Agreement and/or subsequent amendments to this Agreement, of such determination of eligibility. Such CDBG funds provided through this Agreement must be fully expended not later than **December 31, 2024**.
2. **A. Uniform Administrative Requirements** - The Uniform Administrative Requirements, as promulgated in 24 CFR Chapter V [Subpart J] at 570.502 and in all sections of 2 CFR 200, shall apply to all activities undertaken by the Subrecipient with CDBG assistance provided via this Agreement and any subsequent amendments.

B. Other Program Requirements - The Subrecipient shall comply with all the requirements of 24 CFR Chapter V [Subpart K] at 570.600 - 570.614, as applicable to the Subrecipient's activity(s).

3. **Procurement** - The Subrecipient shall be responsible for procurement of all supplies, equipment, services, and construction necessary for implementation of its activity(s). Procurement shall be carried out in accordance with 2 CFR 200 Part 200.317 - 200.326, the procurement requirements of the Subrecipient, and all provisions of the CDBG Regulations [24 CFR Part 570].

The governing board of the Subrecipient shall formally adopt written procurement procedures which are at least as restrictive as those required in the aforementioned regulations [2 CFR 200, as applicable, and 24 CFR 570] and shall provide a copy of said procurement procedures and evidence of governing board adoption to the County at the time that this Subrecipient Agreement shall be returned to the County for signature by the Chairman of the Gwinnett County Board of Commissioners.

The Subrecipient shall prepare, or cause to be prepared, all advertisements, negotiations, notices, and documents; enter into all contracts; and conduct all meetings, conferences, and interviews as necessary to ensure compliance with the above-described procurement requirements.

4. **Property Acquisition and Relocation Services** - The Subrecipient shall be responsible for carrying out the acquisition of all real property necessary for the implementation of the activity(s), if applicable. The Subrecipient shall conduct all such acquisitions in its name and shall hold title to all properties purchased, [except in such cases as with long term leases (minimum term of 15 years)]. Lease requirements are addressed in Section 18 of this Agreement. The Subrecipient shall be responsible for the preparation of all notices, appraisals, and documentation required in conducting acquisitions under the latest applicable regulations of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 and of the CDBG Program. The Subrecipient shall also be responsible for providing all relocation notices, counseling, and services required by said regulations. Should the Subrecipient find it necessary to change the use of or dispose of the property acquired with CDBG funding assistance, the requirements of 24 CFR Part 570.505 governing change of use and/or property disposition shall apply. Such a change in use may also require an amendment to this Agreement, including changes in Exhibits 2, 3, 4, 5, and/or 6.
5. **"Force Account" Work** - The Subrecipient (limited to participating municipalities) may undertake public facility construction or renovation activities using municipal labor and equipment. Eligible costs of labor and equipment may be reimbursed by the County using CDBG funds, based upon submission of proper and acceptable invoice(s) and documentation of all costs as prescribed by the County.
6. A. **Financial Record Keeping** - The Subrecipient shall maintain records of the expenditure of all CDBG funds it receives, such records to be maintained in accordance with 24 CFR 570.503(B)2, as applicable. All records shall be made available, upon County request, for inspection(s) and audit(s) by the County or its representatives. If a financial audit(s) determines that the Subrecipient has improperly expended CDBG funds, resulting in the disallowance of such expenditures by the County and/or by the U.S. Department of Housing and Urban Development, the County reserves the right to recover from the Subrecipient other non-CDBG monies to fund such disallowed CDBG expenditures. Audit procedures for the Gwinnett County CDBG Program are specified in Section 19 of this Agreement.

B. **Programmatic Record Keeping/Reporting** - For limited clientele (including "Direct Service" and "Presumed Benefit") activities the Subrecipient shall provide, on a monthly basis, sufficient information to the County on services carried out for all persons served and on CDBG-eligible persons served by activities receiving CDBG assistance under this Agreement. The purpose of the monthly reporting is to enable the County to prepare and submit periodic and annual reports to the U.S. Department of Housing and Urban Development. These Subrecipient prepared reports shall be submitted in a format provided by the County [See Exhibit 2, if applicable to this Agreement] and at a time no later than the 10th calendar

day of each month of each year until all CDBG funds for the activity(s) shall be fully expended, plus five years. The five-year reporting period should not be confused with the "continued use" provisions of this agreement, as specified in Exhibit 2, "Scope of Services." The County shall provide reporting forms and technical assistance to the Subrecipient on the procedures to be followed to collect and report these programmatic data.

7. **Subrecipient's Obligation** - The Subrecipient shall be responsible for carrying out its actions in accordance with the certifications contained in Exhibit 1 of this Agreement. The Subrecipient shall take all necessary actions to comply with the requirements of the certifications/assurances in Exhibit 1, and to comply with any requests by the County in this connection; it being understood that the County has responsibility to the U.S. Department of Housing and Urban Development for insuring compliance with such requirements. The Subrecipient will also promptly notify the County of any changes in the scope or character of the activity(s) assisted through this Agreement.
8. **"Hold Harmless"** - The Subrecipient does hereby agree to release, indemnify, and hold harmless the County, its employees, and agents from and against all costs, expenses, claims, suits, or judgments arising from or growing out of any injuries, loss or damage sustained by any person or corporation, including employees of Subrecipient and property of Subrecipient, which are caused by or sustained in connection with the tasks carried out by the Subrecipient under this Agreement.
9. **Funding** - The County agrees to provide the Subrecipient with CDBG funds in such amounts as agreed upon in this Agreement to enable the Subrecipient to carry out its CDBG eligible activity(s). It is understood that the County shall be held accountable to the U.S. Department of Housing and Urban Development for the lawful expenditure of CDBG funds under this Agreement. Therefore, the County shall make no reimbursement of CDBG funds to the Subrecipient and draw no funds from HUD/U.S. Treasury on behalf of a Subrecipient activity(s), prior to having received proper invoice(s) and copies of supporting documentation from the Subrecipient for the expenses incurred, to ensure that the Subrecipient has complied with all applicable regulations and requirements.
10. **Environmental Clearance** - The County shall be responsible for carrying out environmental reviews and clearances on all activities. The Subrecipient shall be responsible for providing necessary information, in a timely manner, to the County to accomplish this task.

Funding provided through this agreement is "conditionally approved" subject to the completion of the Environmental Review Process by the County. Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the County of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58. The parties further agree that the provision of any funds to projects/activities included in this Agreement is conditioned on the County's determination to proceed with, modify or cancel the projects/activities based on the results of a subsequent environmental review.

The Subrecipient may not obligate or expend any funds provided through this Agreement until the County provides to the Subrecipient a "Notice to Proceed," which shall represent, in part, the completion of the environmental review process, and the Release of Funds by HUD for the projects/activities contained in this Agreement.

11. **Wage Rates** - The County shall be responsible for the preparation of all requests for wage rate determinations on CDBG activities, on behalf of the Subrecipient. The Subrecipient shall notify the County prior to initiating any activity, including advertising for contractual services, which will include costs likely to be subject to the provisions of the Davis-Bacon Act and its implementing regulations. The County will provide technical assistance to the Subrecipient to ensure compliance with these requirements.

12. **Technical Assistance** - The County agrees to provide technical assistance to the Subrecipient in the form of oral and/or written guidance and onsite assistance regarding CDBG procedures and project management. This assistance will be provided as requested by the Subrecipient, and at other times, at the initiative of the County, or when the County provides new or updated CDBG Program information to the Subrecipient.
13. **Review Authority** - The County shall have the authority to review any and all procedures and all materials, notices, documents, etc., prepared by the Subrecipient in implementation of this Agreement. The Subrecipient agrees to provide all information required by any person authorized by the County to request such information from the Subrecipient, for the purpose of reviewing the same.
14. **Agreement Suspension and Termination** - In accordance with the provisions of 2 CFR 200.338 – 200.342, suspension or termination of this Agreement may occur if the Subrecipient materially fails to comply with any term of this Agreement. This Agreement may be terminated with or without cause by either party, hereto, by giving thirty (30) calendar days written notice of such termination. However, CDBG funds allocated to the Subrecipient under this Agreement may not be obligated or expended by the Subrecipient following such date of termination. Any funds allocated to the Subrecipient under this Agreement which remain unobligated or unspent upon such date of termination shall automatically revert to the County.
15. **Agreement Amendment(s)** - This Agreement may be modified or amended by mutual agreement of the parties; however, no waiver, modification or amendment of any terms, conditions or provisions of this agreement will be valid, or of any force or effect, unless made in writing, approved by the respective parties' governing bodies, and properly executed by the authorized representatives of the parties. All amendments to this Agreement shall be made a part of the Agreement by inclusion in Exhibit 3, which will be attached at the time of any amendment(s). If the Subrecipient seeks an amendment to this agreement, the request for such amendment shall be submitted in written form to Gwinnett County Housing and Community Development in a format prescribed by the Division. If an amendment to the Gwinnett County Consolidated Plan is required, the Subrecipient shall be informed of such requirement and the steps required to effectuate such a Consolidated Plan amendment.
16. **Effective Date and Termination Date** - The effective date of this Agreement is the date specified on Page 1 of this Agreement. The termination date of this Agreement is **December 31, 2024**.
17. **Program Income** - If the Subrecipient generates any program income as a result of the expenditure of CDBG funds, the provisions of 24 CFR 570.504(c) shall apply, as well as the following specific stipulations:
- A. The Subrecipient acknowledges, by the executing this Agreement, that it must notify the County of the receipt of any program income during the calendar month that such program income is generated.
 - B. Any such program income must be paid to the County within seven calendar days following the end of the month in which the program income is generated. Such payment to the County must include any interest or other earnings generated from the program income during the time the program income was in the possession of the Subrecipient.
 - C. The Subrecipient further acknowledges, by executing this Agreement, that the County has the responsibility for monitoring and reporting to the U.S. Department of Housing and Urban Development (HUD) on the generation of any such program income. The Subrecipient acknowledges its responsibility for appropriate record keeping and reporting to the County on the generation and/or receipt of such program income.
 - D. In the event of close out or change in status of the Subrecipient, any program income that is on hand or received subsequent to the close out or change in status shall be paid to the County within three

(30) calendar days of the official date of the close out or change in status. The County agrees to notify the Subrecipient in writing, should close out or change in status of the Subrecipient occur as a result of changes in CDBG Program statutes, regulations, and/or instructions.

18. **Real Property** - The Subrecipient shall comply with the following standards contained in 2 CFR 200.310 – 200.311 for all activities involving real property. The following standards shall also apply to real property (within the control of the Subrecipient) acquired or improved, in whole or in part, using CDBG funds. The standards are:

A. The Subrecipient shall inform the County, in writing, at least thirty (30) calendar days prior to any modification or change in the use of the real property from that specified in this Agreement, at the time of acquisition or improvements, including disposition;

B. Change in Real Property Status

1. Sale of Property - The Subrecipient may sell the property acquired or improved with CDBG assistance at any time. If the Subrecipient sells the property or otherwise transfers ownership (title) to another entity that continues to use the property for an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will not require the Subrecipient to repay funds to the County's CDBG Program. If the Subrecipient sells the property or transfers ownership (title) to another entity that does not continue to use the property for an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will require the Subrecipient to repay to the County's CDBG Program the fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of and improvements to the property. However, prior to such sale of CDBG-assisted property the Subrecipient shall notify the County in writing of its intent to sell the property and shall determine the fair market value of the property by obtaining at least one appraisal and at least one review appraisal of the property performed by separate appraisers who are licensed by the State of Georgia.

If the Subrecipient sells or transfers ownership (title) to the property at a point in time five (5) years after the County receives its last increment of CDBG funding, the County will not require the Subrecipient to reimburse the County's CDBG Program.

2. Change in Use of Property - The Subrecipient may change the use of the property at any time provided it complies with the following stipulations:

(a) If the Subrecipient proposes to change the use of the property to an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will not require the Subrecipient to repay funds to the County's CDBG Program. However, prior to such change in use the Subrecipient shall notify the County in writing of its intent to change the use of the property to permit the County to notify affected citizens with reasonable notice of and opportunity to comment on the proposed change in use, as required by 24 CFR 570.505.

(b) If the Subrecipient proposes to change the use of the property to an activity that does not meet a CDBG National Objective or is not an eligible CDBG activity, the County will require the Subrecipient to reimburse the County's CDBG Program the fair market value of the property as adjusted for non-CDBG funds. However, prior to such change in use the Subrecipient shall notify the County in writing of its intent to change the use of the property and shall determine the fair market value of the property by obtaining at least one appraisal and at least one review appraisal of the property performed by separate appraisers who are licensed by the State of Georgia.

- (c) If the Subrecipient proposes to change the use of the property at a point-in-time five (5) years after the County receives its last increment of CDBG funding, the County will not require the Subrecipient to reimburse the CDBG Program.
- C. Any program income generated from the disposition or transfer of property prior to or subsequent to the closeout, change of status or termination of the Subrecipient Agreement between the County and the Subrecipient shall be repaid to the County at the time of disposition or transfer of the property.
- D. A lease agreement, in a format prescribed by the County, must be executed between the County and the Subrecipient for any County CDBG-assisted Subrecipient activity which is to be carried out wholly, or in part, on County-owned real property. The lease agreement shall be included in this Subrecipient Agreement as Exhibit 4. Said lease agreement must contain, at a minimum, the following items and other items determined by the County to be applicable to the specific lease:
- (1) The beginning and ending dates of the lease (at least five (5) years to be eligible for CDBG funding assistance).
 - (2) Identification of the parties to the lease; i.e., the Lessor shall be the County and the Lessee shall be the Subrecipient.
 - (3) Identification of the precise land parcel(s) and/or structure(s), which constitute the subject of the lease.
 - (4) Identification of the CDBG-eligible use of the real property(s) and/or structure(s).
 - (5) A termination statement acceptable to the County and the U.S. Department of Housing and Urban Development.
 - (6) The lease must contain a regulatory compliance statement indicating that the terms are in conformance with all applicable Federal, State, and Gwinnett County rules, regulations, and requirements.
 - (7) The lease must contain maintenance of property statement indicating that the property(s) and/or structure(s) which is the subject of the lease agreement will be maintained in conformance with all applicable Federal, State, and Gwinnett County rules, regulations, and requirements.
 - (8) The lease must contain a non-assignability clause indicating that the lease may not be assigned to any other party(s) without prior written approval by the County and subsequent execution of an amendment to the lease and to this Subrecipient Agreement.
 - (9) The lease must contain an insurance certification statement indicating that the lessee will maintain appropriate types of insurance, as specified in the lease, on the property(s) and/or structure(s) which is the subject of the lease.
 - (10) The lease must contain an indemnification statement, as specified by the County.
 - (11) The lease must contain a statement as to governance, performance, and enforcement under the laws of the State of Georgia.
 - (12) The lease may contain special conditions unique to the specific lessor/lessee circumstances and/or unique to the specific property(s) and/or structure(s).
- E. If the Subrecipient wishes to carry out its CDBG-assisted activity on real property(s) and/or in a structure(s) which is owned neither by the Subrecipient nor by the County, a long-term lease (minimum

fifteen (15) years) must be executed which meets the standards specified in Section 18(d), above. However, prior to execution of said lease, the County must approve the form and content of the Lease Agreement to ensure its compliance with the terms of this Agreement.

- F. Private non-profit subrecipient organizations must also execute a real property use document(s) with the County. Such a document(s) provides the County with a mechanism to ensure its fiduciary interest in the property(s) and/or structure(s) for which the County provided CDBG funds to the private non-profit organization via this Agreement.
- G. In the event of the dissolution or change in status of the private non-profit organization or change in scope of the CDBG-assisted activity -- resulting in the CDBG-assisted activity becoming an ineligible CDBG activity, as defined by CDBG rules and regulations applicable at the time of such dissolution or change in status -- the County shall, at its option, exercise its right to obtain its appropriate share of the value of the CDBG-assisted property, as permitted by the rules and regulations governing the CDBG Program at the time of such an occurrence, and as specified by this Agreement. The real property-use documents referenced, herein, shall be appended to this Agreement and shall constitute Exhibit 5.

19. **Audits** - The Subrecipient agrees to comply with the requirements of:

- A. The "Government Auditing Standards, Standards for Audit of Governmental Organizations, Programs, Activities and Functions," 1994 Revision or its successors, ["The Yellow Book"] issued by the Comptroller General, United States General Accounting Office.
- B. The "Single Audit Act of 1984" [P.L. 98-502], as amended by the Single Audit Act Amendments of 1996 [P.L. 104-156], requires that States, local governments, and nonprofit organizations which receive federal funds must have audits performed in conformance with the Single Audit Act, as amended, and with implementing Circulars issued by the Office of Management and Budget. Subrecipient entities must have their audits prepared consistent with the requirements of 2 CFR 200.500 – 200.513. If a Subrecipient's expenditures trigger the requirement to prepare a Single Audit, three (3) copies of the audit must be submitted to the County not later than six (6) months following the final date of the Subrecipient's fiscal year that is the subject of the audit.

If the minimum monetary amounts requiring the preparation of the Single Audit, as stated in 2 CFR 200.501, are not to be triggered, the Subrecipient shall provide to Gwinnett County Housing and Community Development three (3) copies of its normal independent auditor's report, as soon as practicable following the close of its fiscal year, but not later than nine (9) months following the close of each such year. The independent audit, which addresses the Community Development Block Grant funds received/expended by the Subrecipient shall conform to the Gwinnett County Audit Standards, described in Section 19.C. of this Agreement.

C. Gwinnett County Audit Standards for CDBG Subrecipients Where Single Audit Act Requirements Do Not Apply

Because Gwinnett County is responsible for any grant funds provided to all subrecipients, any organizations or cities which expend a total of more than \$0.00, but less than \$500,000.00 of CDBG funds, in any fiscal year from this agreement must have an independent audit of those funds performed annually or shall follow procedures specified, herein, as if all funds were subject to the requirements below.

- (1) A statement by the executive financial official of the organization or city that they have read and adhered to the requirements of 2 CFR 200.500 – 200.520 and have met those requirements as they are applicable to their organization. This statement should be in written form and submitted to Gwinnett County within thirty (30) calendar days following the end of the fiscal year of the Subrecipient;

- (2) All requests to the County for CDBG reimbursements shall be approved by an individual at least one level above the person who prepares the reimbursement request. If the reimbursement request is prepared by the Chief Financial Administrator of the organization, the request shall be approved by a Chairperson or other designated member of the organization's governing board;
- (3) For all CDBG requests for reimbursement, the invoice and accompanying copies of checks and other supporting documentation shall be submitted with the reimbursement request;
- (4) Gwinnett County shall periodically perform program reviews of Subrecipient financial records and systems not less often than one time during the Subrecipient's fiscal year, including the review of Subrecipient records, at least annually, at the offices of the Subrecipient. This review should include procedures to request and verify documentation of all expenditures requested in a single reimbursement request;
- (5) Any appropriate corrective action for instances of noncompliance as a result of these program reviews has been taken within six (6) months of notification by Gwinnett County that these reportable conditions exist;
- (6) At each fiscal year end, the Subrecipient shall submit to Gwinnett County a financial statement prepared from the Subrecipient's financial records that presents the revenues received from the Gwinnett County Community Development Block Grant Program and the expenditures for which these funds were used; and

The above procedures will provide the County's independent auditor with sufficient information to determine whether the Subrecipient has materially complied with the applicable laws and regulations, as they govern their programs. If any of the above procedures provide less information than is already required by this agreement, then the applicable procedures already stated in the agreement shall govern the Subrecipient's responsibilities to Gwinnett County.

- D. The Subrecipient agrees to have its Single Audit or other independent audit performed, in conformance with these Federally required and Gwinnett County stipulations, at its own cost and not payable with CDBG funds.
- E. The Subrecipient further agrees to send three (3) copies of its Single Audit Report or independent auditor's report to Gwinnett County Housing and Community Development as soon as practicable following the close of the Subrecipient's fiscal year, but in no case shall the audit report be submitted to Gwinnett County Housing and Community Development Office later than nine (9) months following the close of the Subrecipient's fiscal year which is the subject of the audit in question.
- F. The County reserves the right to recover from non-CDBG sources of the Subrecipient, any CDBG expenses of the Subrecipient which are questioned or disallowed by the Subrecipient's independent auditor or by Gwinnett County's independent auditor as a part of their review of the Subrecipient's audit.

The Subrecipient shall comply with all the applicable requirements of 24 CFR 570 [CDBG Regulations] and 2 CFR 200, as applicable. These documents are incorporated as a part of this Agreement by reference, herein. The referenced documents are also available from Gwinnett County Housing and Community Development, upon request.

20. Faith-based activities

- A. Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.
- B. Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.
- C. A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.
- D. An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- E. CDBG funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to CDBG funds in this part. Sanctuaries, chapels, or other rooms that a CDBG-funded religious congregation uses as its principal place of worship, however, are ineligible for CDBG-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85). If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.
- F. In accordance with 24 CFR 570.607 Employment and contracting opportunities, as amended by 68 FR 56404, Page 53405, to the extent that they are otherwise applicable, the Subrecipient shall comply with: Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964–1965 Comp. p. 339); 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264 (Equal Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60; and (b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701(u) and implementing regulations at 24 CFR part 135.

21. **Recognition of CDBG Program Funding from Gwinnett County** - The Subrecipient shall ensure that the Gwinnett County Board of Commissioners' Community Development Block Grant Program is provided proper recognition, as follows:

(1) CDBG Public Facilities, Capital Public Services Projects, Other Funded Activities

- a. Subrecipient will affix proper signage in a prominent location inside/outside of the administrative offices and outside of all project sites, which signage will include language recognizing the role of Gwinnett County and its CDBG funds in the acquisition, and/or construction and/or rehabilitation of the public facility or of the purchase of capital equipment, or other CDBG funded activities.
- b. Subrecipient will have as its contact point with Gwinnett County Housing and Community Development to arrange any events related to project groundbreaking, dedications, or similar ceremonies for activities receiving Gwinnett County CDBG Program funds; and, the Subrecipient agrees to provide Gwinnett County Housing and Community Development with adequate lead time to permit proper planning and scheduling for such events. Event notifications to Gwinnett County Housing and Community Development should occur not less than six (6) weeks prior to the date of any event, to permit adequate event planning and scheduling.
- c. Subrecipient agrees to contact Gwinnett County Housing and Community Development to arrange such events, rather than contacting the Gwinnett County Board of Commissioners, directly, individually, or collectively, to initiate or arrange such events. This procedure is being used by Gwinnett County government to avoid scheduling conflicts, and to provide a consistent method of planning all such events.
- d. Subrecipient agrees to schedule such events on days other than regular meeting days [Tuesdays] of the Gwinnett County Board of Commissioners or to schedule such events late in the afternoon on Tuesday meeting days of the Gwinnett County Board of Commissioners.
- e. Subrecipient agrees that all reports, media releases, media stories, media articles, brochures, newsletters, advertisements, and other published materials shall contain statements which provide adequate recognition of the financial support provided by the Gwinnett County Board of Commissioners, through Gwinnett County CDBG Program funds.

22. **Conflict of Interest** - In accordance to 2 CFR 200.317 and 200.318, no person who is an employee, agent, consultant, officer, or elected or appointed official of a Subrecipient who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this Agreement, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

Subrecipients will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, or agent of the Subrecipient shall participate in the selection, or in the award or administration of a contract supported by Federal funds awarded through this Agreement if a conflict of interest, real or apparent, would be involved.

Subrecipients must be mindful of any relationship employees, officials, board members, consultants, and/or volunteers may have with Gwinnett County employees, board members, consultants, or elected officials, where a real or apparent conflict of interest that might be realized or perceived with respect

a CDBG funded project or activity awarded through this Agreement. All relationships between representatives of the Subrecipient and Gwinnett County must be transparent and must comply with Gwinnett County's Code of Ethics. This Code was developed by the County to establish ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are compatible with the best interests of the County. The Code directs disclosure by such officials and employees of private financial or other interests in matters affecting the County and by directing disclosure of their business relationships. Subrecipient officials who carefully follow the Gwinnett County Code of Ethics and the language of this Section are less likely to have conducted themselves or participated in activities which can be construed as real or apparent conflicts of interest.

If any situation arguably falls within the conflicts prohibited by 2 CFR 200.112 or 24 CFR 570.611 the Subrecipient should immediately contact Gwinnett County Housing and Community Development for guidance. Copies of the Gwinnett County Code of Ethics are available from Gwinnett County Housing and Community Development.

IN WITNESS WHEREOF, the parties hereunto have affixed their signatures the year and dates specified below and the Official Seal of the Subrecipient has been affixed.

FOR: **City of Dacula:**

FOR: **GWINNETT COUNTY:**

Signature
Trey King, Mayor

Signature
Buffy Alexzulian, Director
Gwinnett County Department of Financial Services

Signature Date

Signature Date

[Impress Corporate Seal Here]

Signature
Matthew Elder, Division Director
Gwinnett County Housing and Community
Development

Signature Date

ATTEST:

ATTEST:

Signature
Brittni Nix, City Administrator

Signature
Tina King, County Clerk

Signature Date

Signature Date

Approved: **Subrecipient Governing Body**

Approved: **Gwinnett County Board of Commissioners**

Date of Approval

Date of Approval: February 6, 2024

[See Also Attached Exhibit(s)] Note: No Signatures shall be placed within this document on a date prior to action by the governing board of the Subrecipient, approving acceptance of these funds, and authorizing execution of this document. The Resolution of the Governing Board is presented in Exhibit 1.

RESOLUTION OF THE GOVERNING BOARD

City of Dacula

WHEREAS, **City of Dacula** requested FFY 2021 Community Development Block Grant [CDBG] Program funding from the Gwinnett County Board of Commissioners; and

WHEREAS, the Gwinnett County Board of Commissioners has awarded **\$75,003.71** from FFY 2021 CDBG Program funds to **City of Dacula** for **McMillan Road Improvements**.

NOW, THEREFORE, the Governing Board of **City of Dacula** does hereby resolve and authorize the following, as a result of an affirmative majority vote of the Governing Board at a meeting of said Governing Board which was held on _____.

Date of Governing Board Action

1. Acceptance of an FFY 2021 Community Development Block Grant [CDBG] Program award of **\$75,003.71** from the Gwinnett County Board of Commissioners to **City of Dacula**.
2. Authorize the **Mayor** and the **City Administrator** of the Subrecipient's Governing Board to execute the Community Development Block Grant [CDBG] Program Subrecipient Agreement used by Gwinnett County to award the CDBG Program funds to **City of Dacula**.

Certified as accurate and true:

Signature – Trey King, Mayor

Signature Date

[IMPRESS CORPORATE SEAL HERE]

EXHIBIT 1
CERTIFICATIONS

EXHIBIT 1
COMMUNITY DEVELOPMENT BLOCK GRANT
GRANTEE CERTIFICATIONS

In accordance with the Housing and Community Development Act of 1974, as amended, ("the Act") and with 24 CFR 570 of the Community Development Block Grant regulations, the Subrecipient certifies that:

- (a) It possesses legal authority to accept and execute a Community Development Block Grant award from Gwinnett County;
- (b) Its governing body has duly adopted or passed, by at least a majority vote, as an official act a resolution, motion or similar action authorizing the acceptance of this grant for the purposes specified in this Agreement and directing and authorizing its appropriate personnel to execute and implement this Agreement and to provide to the County such additional information as may be required;
- (c) Provides for and encourages citizen participation, with particular emphasis on participation by persons of low- and-moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used, and provides for participation of residents in low- and moderate-income neighborhoods, as defined by the County;
- (d) Provides citizens with reasonable and timely access to local meetings, information, and records relating to the Subrecipient's use of funds, as specified in this Agreement,
- (e) Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for persons with disabilities;
- (f) Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate;
- (g) The grant will be conducted and administered in compliance with:
 1. Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 U.S.C. Sec. 2000d et seq.); and
 2. The Fair Housing Act (42 U.S.C. 3601-20);
- (h) It will affirmatively further fair housing;
- (i) It will carry out the activities specified in this Agreement consistent with the goals, objectives, and strategies of the Gwinnett County Consolidated Plan;
- (j) It will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds provided under section 106 of the Act or with amounts resulting from a guarantee under section 108 of the Act by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 1. Funds received under section 106 of the Act are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Act; or
 2. For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under section 106 of the Act to comply with the requirements of subparagraph (1) above;

- (k) Its notification, inspection, testing, and abatement procedures concerning lead-based paint will comply with 24 CFR Part 570.608;
- (l) It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, as required under 24 CFR Part 570.606;
- (m) It has adopted and is enforcing:
1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
 2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;
- (n) To the best of its knowledge and belief:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
 3. It will require that the language of paragraph (n) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly;
- (o) It will or will continue to provide a drug-free workplace by:
1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 2. Establishing an ongoing drug-free awareness program to inform employees about -
 - a. The dangers of drug abuse in the workplace;
 - b. The grantee's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph l;
4. Notifying the employee in the statement required by subparagraph 1 that, as a condition of employment under the grant, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
 - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

The site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

City of Dacula
442 Harbins Road
Dacula, GA 30019

(p) It will comply with the other provisions of the Act and with other applicable laws.

[CDBG CERTIFICATION SIGNATURE PAGE – PROVIDED ON NEXT PAGE]

COMMUNITY DEVELOPMENT BLOCK GRANT

GRANTEE CERTIFICATIONS

SUBRECIPIENT SIGNATURE PAGE

SIGN:

Signature - Subrecipient Chief Elected Official/Board Chair/Other Authorized Official

Trey King

Name - Subrecipient Chief Elected Official/Board Chair/Other Authorized Official

Mayor

Title

Signature Date

ATTEST:

Signature of Person Attesting Signature by Subrecipient's Chief Elected Official or Board Chair

Brittini Nix

Name - Person Attesting Signature by Subrecipient's Chief Elected Official or Board Chair

City Administrator

Title

Date of Attesting Person's Signature

APPENDIX TO CDBG CERTIFICATIONS

INSTRUCTIONS CONCERNING LOBBYING AND DRUG-FREE WORKPLACE REQUIREMENTS

A. Lobbying Certification - Paragraph n

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

B. Drug-Free Workplace Certification - Paragraph o

1. By signing and executing this Agreement, the Subrecipient is providing the certification set out in paragraph (o).
2. The certification set out in paragraph (o) is a material representation of fact upon which reliance is placed when the County awards the grant. If it is later determined that the Subrecipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under this Agreement shall be identified in this Agreement. Failure to identify all known workplaces constitutes a violation of the Subrecipient's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place.
5. If the workplace identified to the County changes during the performance of the grant, the Subrecipient shall inform the County of the change(s), if it previously identified the workplaces in question (see paragraph three).
6. Definitions of terms in the Non-procurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Subrecipient's attention is called, in particular, to the following definitions from these rules:
 - a. "Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C.812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);
 - b. "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;
 - c. "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;
 - d. "Employee" means the employee of a Subrecipient directly engaged in the performance of work under a grant provided through this Agreement, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are not on the Subrecipient's payroll. This definition does not include workers not on the payroll of the Subrecipient (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the Subrecipient's payroll; or employees of subrecipients or subcontractors in covered workplaces).

EXHIBIT 2

SCOPE OF SERVICES

The following activities and/or projects shall be carried out by the Subrecipient, under the terms of this Agreement and its accompanying certifications and reporting requirements:

Agency:	City of Dacula
Activity Name:	McMillian Road Improvements
Gwinnett Co. CDBG Objective(s):	
CDBG Eligibility Citation:	570.201(c)
CDBG National Objective Citation:	570.208(a)2
HUD CDBG Activity Type:	03K
HUD CDBG Activity Name:	Street Improvements
HUD IDIS Number:	XXXX
HUD Objective:	Suitable Living Environment
HUD Outcome:	Improving Sustainability

ACTIVITY DESCRIPTION

CDBG funds were awarded to the City of Dacula for the project titled **McMillian Road Improvements**, in the amount of **\$90,662.00** for Infrastructure Improvement activities as defined in Table 1 in the Activity Description Section of this Exhibit. The Subrecipient shall contribute non-CDBG funds for this activity, if needed, to permit the project to be completed by the termination date, **December 31, 2024**.

Expenditure Requirements

Gwinnett County reserves the right to recapture CDBG grant funds based on the time periods and expenditure rate schedule for grant amounts set forth in this agreement.

Expenditure Period	Expenditure Rate
February 2024 – March 2024	0-25%
April 2024 – June 2024	26-50%
July 2024 – September 2024	51-75%
October 2024 – December 2024	76-100%

Beneficiary Requirements

The Subrecipient shall use the CDBG funds, and other non-CDBG funds, if needed, to carry out eligible activities based on the approved budget. Total persons to be served: **795** of whom **795 [100%]** CDBG income eligible as defined by CDBG Program. At least 51% of the households served must have total household incomes - from all Households living in their respective households - which do not exceed the CDBG Maximum Income Limits applicable at the time the service is provided.

General Requirements

A **Monthly Report** shall be submitted by the **10th calendar day of the month** following the initial month of operation to Gwinnett County Housing & Community Development. One copy of each monthly report shall be emailed cdbgps@gwinnettcounty.com by the 10th calendar day of each month for all months CDBG Public Service funds are being utilized (for services provided during the prior month). The Subrecipient may stop submitting Monthly Service Reports once all Gwinnett County CDBG Public Service funds have been expended

reimbursement has been requested, and the beneficiary goal listed above is met. The monthly report shall be retained in the Subrecipient's files and filed with Gwinnett County Housing and Community Development. The beneficiary data must be received from the Subrecipient to permit Gwinnett County to record services delivered by the Subrecipient into the HUD Integrated Disbursement and Information System, or any successor or replacement computer system at HUD.

Funds from these grant awards shall not be used to provide any services not associated with activities identified in this Scope of Services. No involuntary displacement of persons, businesses, or agencies will occur as a result of this CDBG assisted activity. Any changes in this agreement shall be requested by the Subrecipient, in writing, and must be approved by Gwinnett County.

The information obtained from the monthly Subrecipient reports will be compiled by Gwinnett County Housing and Community Development and will be reported to local elected officials and managers to document the impact of CDBG job creation/retention and to catalogue the actual non-CDBG funding leveraged by the CDBG expenditures.

Reimbursement Process

Each request for reimbursement for **Infrastructure Improvements** must be submitted to Gwinnett County Housing and Community Development, which shall review and recommend reimbursement to the Subrecipient by the Gwinnett County Department of Financial Services.

Each request for reimbursement submitted to Gwinnett County Housing and Community Development by the Subrecipient shall consist of:

- (1) A letter from your agency requesting reimbursement, identifying the activity and the amount of reimbursement requested; and
- (2) Copies of vendor(s) invoices, your agency's payment voucher(s) (if used by your agency), and your agency's check(s) issued to vendor(s) for expenditures contained in the requests for reimbursement; and
- (3) All payments to vendors(s) shall be reviewed and approved, in writing, by an authorized official of the Subrecipient; and
- (4) No reimbursement requests shall be submitted to Gwinnett County Housing and Community Development without the review and written approval by an authorized official of the Subrecipient; and
- (5) No reimbursement requests shall be submitted to Gwinnett County Housing and Community Development until the Subrecipient has issued its check(s) payable to the vendor(s) identified in the requests for reimbursement.
- (6) The Subrecipient shall maintain documentation in its files to substantiate all expenditures/reimbursement requests, and to demonstrate that it has followed its written procurement procedures [see Item 3, of this Agreement] to obtain the goods and/or services associated with the completion of the activity identified in this Scope of Services.



**GWINNETT COUNTY
HOUSING & COMMUNITY DEVELOPMENT
MONTHLY EXPENDITURE REPORT**

Submit this form by the 10th of each month, for the month prior.

Approved FFY2021 CDBG Budget:	\$75,003.71
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Organization Information			
Subrecipient:	City of Dacula		
Address:	442 Harbins Road, Dacula, Georgia 30019		
Project Description:	McMillan Road Improvements		
Vendor Number:		Contract Number:	

Invoice Date:	
Invoice Number:	

Financial Information					
Budget Categories	Approved Budget	Prior Expenses	Current Expenses	Cumulative Expenses	Remaining Budget
A. Labor & Materials					
B. Design Services					
C. Construction Supervision					
D.					
E.					
Total:					

Subrecipient Signature:		Date:	
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For Housing & Community Development Use Only							
WBS Element	Shopping Cart #	Purchase Order #		Goods Receipt #		Voucher #	
Program/Year	Cost Center Routing	Payment Method		Single Check		Process Type	
		Check	EFT	Yes	No	FV60	MIRO

HCD Program Analyst Signature:		Date:	
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HCD Financial Analyst Signature:		Date:	
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GWINNETT COUNTY
HOUSING & COMMUNITY DEVELOPMENT
MONTHLY BENEFICIARY REPORT

Submit this form by the 10th of each month, for the month prior. Only report new households and individuals each month.

Grant Information	
Agency Name:	City of Dacula
Activity Name:	McMillan Road Improvements
Activity Description:	Street Improvements
IDIS #:	
Matrix Code:	03K
Month/Year:	

1. New Households Served by Income Groups - % of Median Household Income	
	Number of Households
A. New Households Served [Extremely Low Income: 0% - 30% Median Household Income]	
B. New Households Served [Very Low Income: 31% - 50% Median Household Income]	
C. New Households Served [Low Income: 51% - 80% Median Household Income]	
D. New Households Served [Over 80% Median Household Income]	
Total:	

2. New Individuals Served - Listed by Race/Sex/Ethnicity						
Race	Sex			Ethnicity		
	Male	Female	Other	Hispanic/Latino	Non-Hispanic/Non-Latino	Other
A. White						
B. Black/African American						
C. Asian						
D. American Indian/Alaskan Native						
E. Native Hawaiian/Other Pacific Islander						
F. Multi-Racial/Other						
Total:						

3. New Female Head of Households Served ----->	
---	--

4. Presumed Benefit Groups Served	
Presumed Benefit Group (Income Group)	Number Served
A. Elderly - 62+ (Senior Center: LI, Non-Senior Center: VLI)	
B. Severely Disabled (VLI)	
C. Homeless Persons (ELI)	
D. Abused Spouses (VLI)	
E. Abused/Neglected Children (VLI)	
F. Illiterate Adults (VLI)	
G. Persons Living with AIDS (VLI)	
H. Migrant Farm Workers (VLI)	
Total:	

Subrecipient Signature:		Date:	
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HCD Program Analyst Signature:		Date:	
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**GWINNETT COUNTY CDBG PROGRAM
MONTHLY SERVICES NARRATIVE**

Submit by 10th Calendar Day After Month Ends

Provide Narrative Describing Monthly Accomplishments:

EXHIBIT 4

LEASE AGREEMENT

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 5

PROPERTY USE REQUIREMENTS

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 6

FEDERAL REGULATIONS

2 CFR Part 200

“Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”

24 CFR Part 58

“Environmental Review Procedures”

24 CFR Part 570

“Community Development Block Grant”



February 7, 2024

Trey King, Mayor
City of Dacula
442 Harbins Road
Dacula, GA 30019

RE: FFY 2020 CDBG Public Facilities Award Notice

Dear Mayor Trey King:

Thank you for submitting a FFY 2020 application for the Community Development Block Grant (CDBG) program. We are pleased to announce the **City of Dacula** received grant funds in the amount of **\$60.00** to administer the McMillan Road Improvements.

Attached are three copies of your FFY 2020 CDBG Public Facilities Subrecipient Agreement. The termination of this Agreement is **December 31, 2024**. Please sign, date, seal, and return to our office by **April 7, 2024**.

Sherry Akhimie, Program Analyst, will be your primary contact for this grant award. If you have any questions concerning your grant, please contact Sherry Akhimie at 678.518.6073 or via e-mail at Sherry.Akhimie@gwinnettcountry.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt Elder".

Matt Elder
Division Director, Housing and Community Development

STATE OF GEORGIA
COUNTY OF GWINNETT

**SUBRECIPIENT AGREEMENT
FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (CDBG)
PUBLIC FACILITIES: INFRASTRUCTURE IMPROVEMENTS**

Between

**GWINNETT COUNTY *and*
CITY OF DACULA**

Federal Fiscal Year 2020 Funds

HUD GRANT NO: B-20-UC-13-0004
GWINNETT COUNTY AGREEMENT NO.: CDBG-PF-CD-201

SUBRECIPIENT AGREEMENT FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS
CFDA # 14.218
BETWEEN
GWINNETT COUNTY, GEORGIA
AND
City of Dacula
442 Harbins Road
Dacula, GA 30019

THIS AGREEMENT, made and entered into on the 6th day of February 2024, by and between Gwinnett County, a political subdivision of the State of Georgia acting by and through its duly elected Board of Commissioners, hereinafter referred to as the "County", and **City of Dacula** a CDBG subrecipient organization (either a participating municipality in the Gwinnett County Urban County CDBG Program, a quasi-local government agency, a local housing authority, or a private non-profit organization), hereinafter referred to as the "Subrecipient," located within the confines of the Gwinnett County, Georgia, and/or serving CDBG-eligible residents of Gwinnett County; The approval of the award of CDBG funds included in this Agreement by the County occurred on the 5th day of November, 2019 and represents a subaward of federal funds, as defined in 2 CFR 200.92.

WITNESSETH:

WHEREAS, Gwinnett County has received an FFY 2020 Community Development Block Grant, hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act of 1974, as amended, to carry out various housing and community development activities in its unincorporated areas and in municipalities participating in the County CDBG Program; and

WHEREAS, \$60.00, from FFY 2020 CDBG funds has been awarded to the Subrecipient; and

WHEREAS, the Subrecipient agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained in Exhibit 1; with the Scope of Services provided in Exhibit 2; with any amendments to this Agreement, included as Exhibit 3; with the Lease Agreement requirements included as Exhibit 4, if applicable; and, with the property use requirements included as Exhibit 5, if applicable; and with the applicable and non-applicable regulations included in Exhibit 6.

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

1. **Use of Funds** - The Subrecipient shall expend all or any part of its CDBG allocation only on those activities contained in the Scope of Services of this Agreement, which activities Gwinnett County Housing and Community Development shall determine to be eligible for CDBG funds, and shall notify the Subrecipient in writing, via this Agreement and/or subsequent amendments to this Agreement, of such determination of eligibility. Such CDBG funds provided through this Agreement must be fully expended not later than December 31, 2024.
2. **A. Uniform Administrative Requirements** - The Uniform Administrative Requirements, as promulgated in 24 CFR Chapter V [Subpart J] at 570.502 and in all sections of 2 CFR 200, shall apply to all activities undertaken by the Subrecipient with CDBG assistance provided via this Agreement and any subsequent amendments.

B. Other Program Requirements - The Subrecipient shall comply with all the requirements of 24 CFR Chapter V [Subpart K] at 570.600 - 570.614, as applicable to the Subrecipient's activity(s).

3. **Procurement** - The Subrecipient shall be responsible for procurement of all supplies, equipment, services, and construction necessary for implementation of its activity(s). Procurement shall be carried out in accordance with 2 CFR 200 Part 200.317 - 200.326, the procurement requirements of the Subrecipient, and all provisions of the CDBG Regulations [24 CFR Part 570].

The governing board of the Subrecipient shall formally adopt written procurement procedures which are at least as restrictive as those required in the aforementioned regulations [2 CFR 200, as applicable, and 24 CFR 570] and shall provide a copy of said procurement procedures and evidence of governing board adoption to the County at the time that this Subrecipient Agreement shall be returned to the County for signature by the Chairman of the Gwinnett County Board of Commissioners.

The Subrecipient shall prepare, or cause to be prepared, all advertisements, negotiations, notices, and documents; enter into all contracts; and conduct all meetings, conferences, and interviews as necessary to ensure compliance with the above-described procurement requirements.

4. **Property Acquisition and Relocation Services** - The Subrecipient shall be responsible for carrying out the acquisition of all real property necessary for the implementation of the activity(s), if applicable. The Subrecipient shall conduct all such acquisitions in its name and shall hold title to all properties purchased, [except in such cases as with long term leases (minimum term of 15 years)]. Lease requirements are addressed in Section 18 of this Agreement. The Subrecipient shall be responsible for the preparation of all notices, appraisals, and documentation required in conducting acquisitions under the latest applicable regulations of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 and of the CDBG Program. The Subrecipient shall also be responsible for providing all relocation notices, counseling, and services required by said regulations. Should the Subrecipient find it necessary to change the use of or dispose of the property acquired with CDBG funding assistance, the requirements of 24 CFR Part 570.505 governing change of use and/or property disposition shall apply. Such a change in use may also require an amendment to this Agreement, including changes in Exhibits 2, 3, 4, 5, and/or 6.
5. **"Force Account" Work** - The Subrecipient (limited to participating municipalities) may undertake public facility construction or renovation activities using municipal labor and equipment. Eligible costs of labor and equipment may be reimbursed by the County using CDBG funds, based upon submission of proper and acceptable invoice(s) and documentation of all costs as prescribed by the County.
6. **A. Financial Record Keeping** - The Subrecipient shall maintain records of the expenditure of all CDBG funds it receives, such records to be maintained in accordance with 24 CFR 570.503(B)2, as applicable. All records shall be made available, upon County request, for inspection(s) and audit(s) by the County or its representatives. If a financial audit(s) determines that the Subrecipient has improperly expended CDBG funds, resulting in the disallowance of such expenditures by the County and/or by the U.S. Department of Housing and Urban Development, the County reserves the right to recover from the Subrecipient other non-CDBG monies to fund such disallowed CDBG expenditures. Audit procedures for the Gwinnett County CDBG Program are specified in Section 19 of this Agreement.

B. Programmatic Record Keeping/Reporting - For limited clientele (including "Direct Service" and "Presumed Benefit") activities the Subrecipient shall provide, on a monthly basis, sufficient information to the County on services carried out for all persons served and on CDBG-eligible persons served by activities receiving CDBG assistance under this Agreement. The purpose of the monthly reporting is to enable the County to prepare and submit periodic and annual reports to the U.S. Department of Housing and Urban Development. These Subrecipient prepared reports shall be submitted in a format provided by the County [See Exhibit 2, if applicable to this Agreement] and at a time no later than the 10th calendar

day of each month of each year until all CDBG funds for the activity(s) shall be fully expended, plus five years. The five-year reporting period should not be confused with the "continued use" provisions of this agreement, as specified in Exhibit 2, "Scope of Services." The County shall provide reporting forms and technical assistance to the Subrecipient on the procedures to be followed to collect and report these programmatic data.

7. **Subrecipient's Obligation** - The Subrecipient shall be responsible for carrying out its actions in accordance with the certifications contained in Exhibit 1 of this Agreement. The Subrecipient shall take all necessary actions to comply with the requirements of the certifications/assurances in Exhibit 1, and to comply with any requests by the County in this connection; it being understood that the County has responsibility to the U.S. Department of Housing and Urban Development for insuring compliance with such requirements. The Subrecipient will also promptly notify the County of any changes in the scope or character of the activity(s) assisted through this Agreement.
8. **"Hold Harmless"** - The Subrecipient does hereby agree to release, indemnify, and hold harmless the County, its employees, and agents from and against all costs, expenses, claims, suits, or judgments arising from or growing out of any injuries, loss or damage sustained by any person or corporation, including employees of Subrecipient and property of Subrecipient, which are caused by or sustained in connection with the tasks carried out by the Subrecipient under this Agreement.
9. **Funding** - The County agrees to provide the Subrecipient with CDBG funds in such amounts as agreed upon in this Agreement to enable the Subrecipient to carry out its CDBG eligible activity(s). It is understood that the County shall be held accountable to the U.S. Department of Housing and Urban Development for the lawful expenditure of CDBG funds under this Agreement. Therefore, the County shall make no reimbursement of CDBG funds to the Subrecipient and draw no funds from HUD/U.S. Treasury on behalf of a Subrecipient activity(s), prior to having received proper invoice(s) and copies of supporting documentation from the Subrecipient for the expenses incurred, to ensure that the Subrecipient has complied with all applicable regulations and requirements.
10. **Environmental Clearance** - The County shall be responsible for carrying out environmental reviews and clearances on all activities. The Subrecipient shall be responsible for providing necessary information, in a timely manner, to the County to accomplish this task.

Funding provided through this agreement is "conditionally approved" subject to the completion of the Environmental Review Process by the County. Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the County of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58. The parties further agree that the provision of any funds to projects/activities included in this Agreement is conditioned on the County's determination to proceed with, modify or cancel the projects/activities based on the results of a subsequent environmental review.

The Subrecipient may not obligate or expend any funds provided through this Agreement until the County provides to the Subrecipient a "Notice to Proceed," which shall represent, in part, the completion of the environmental review process, and the Release of Funds by HUD for the projects/activities contained in this Agreement.

11. **Wage Rates** - The County shall be responsible for the preparation of all requests for wage rate determinations on CDBG activities, on behalf of the Subrecipient. The Subrecipient shall notify the County prior to initiating any activity, including advertising for contractual services, which will include costs likely to be subject to the provisions of the Davis-Bacon Act and its implementing regulations. The County will provide technical assistance to the Subrecipient to ensure compliance with these requirements.

12. **Technical Assistance** - The County agrees to provide technical assistance to the Subrecipient in the form of oral and/or written guidance and onsite assistance regarding CDBG procedures and project management. This assistance will be provided as requested by the Subrecipient, and at other times, at the initiative of the County, or when the County provides new or updated CDBG Program information to the Subrecipient.
13. **Review Authority** - The County shall have the authority to review any and all procedures and all materials, notices, documents, etc., prepared by the Subrecipient in implementation of this Agreement. The Subrecipient agrees to provide all information required by any person authorized by the County to request such information from the Subrecipient, for the purpose of reviewing the same.
14. **Agreement Suspension and Termination** - In accordance with the provisions of 2 CFR 200.338 – 200.342, suspension or termination of this Agreement may occur if the Subrecipient materially fails to comply with any term of this Agreement. This Agreement may be terminated with or without cause by either party, hereto, by giving thirty (30) calendar days written notice of such termination. However, CDBG funds allocated to the Subrecipient under this Agreement may not be obligated or expended by the Subrecipient following such date of termination. Any funds allocated to the Subrecipient under this Agreement which remain unobligated or unspent upon such date of termination shall automatically revert to the County.
15. **Agreement Amendment(s)** - This Agreement may be modified or amended by mutual agreement of the parties; however, no waiver, modification or amendment of any terms, conditions or provisions of this agreement will be valid, or of any force or effect, unless made in writing, approved by the respective parties' governing bodies, and properly executed by the authorized representatives of the parties. All amendments to this Agreement shall be made a part of the Agreement by inclusion in Exhibit 3, which will be attached at the time of any amendment(s). If the Subrecipient seeks an amendment to this agreement, the request for such amendment shall be submitted in written form to Gwinnett County Housing and Community Development in a format prescribed by the Division. If an amendment to the Gwinnett County Consolidated Plan is required, the Subrecipient shall be informed of such requirement and the steps required to effectuate such a Consolidated Plan amendment.
16. **Effective Date and Termination Date** - The effective date of this Agreement is the date specified on Page 1 of this Agreement. The termination date of this Agreement is **December 31, 2024**.
17. **Program Income** - If the Subrecipient generates any program income as a result of the expenditure of CDBG funds, the provisions of 24 CFR 570.504(c) shall apply, as well as the following specific stipulations:
- A. The Subrecipient acknowledges, by the executing this Agreement, that it must notify the County of the receipt of any program income during the calendar month that such program income is generated.
 - B. Any such program income must be paid to the County within seven calendar days following the end of the month in which the program income is generated. Such payment to the County must include any interest or other earnings generated from the program income during the time the program income was in the possession of the Subrecipient.
 - C. The Subrecipient further acknowledges, by executing this Agreement, that the County has the responsibility for monitoring and reporting to the U.S. Department of Housing and Urban Development (HUD) on the generation of any such program income. The Subrecipient acknowledges its responsibility for appropriate record keeping and reporting to the County on the generation and/or receipt of such program income.
 - D. In the event of close out or change in status of the Subrecipient, any program income that is on hand or received subsequent to the close out or change in status shall be paid to the County within three

(30) calendar days of the official date of the close out or change in status. The County agrees to notify the Subrecipient in writing, should close out or change in status of the Subrecipient occur as a result of changes in CDBG Program statutes, regulations, and/or instructions.

18. **Real Property** - The Subrecipient shall comply with the following standards contained in 2 CFR 200.310 – 200.311 for all activities involving real property. The following standards shall also apply to real property (within the control of the Subrecipient) acquired or improved, in whole or in part, using CDBG funds. The standards are:

A. The Subrecipient shall inform the County, in writing, at least thirty (30) calendar days prior to any modification or change in the use of the real property from that specified in this Agreement, at the time of acquisition or improvements, including disposition;

B. Change in Real Property Status

1. **Sale of Property** - The Subrecipient may sell the property acquired or improved with CDBG assistance at any time. If the Subrecipient sells the property or otherwise transfers ownership (title) to another entity that continues to use the property for an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will not require the Subrecipient to repay funds to the County's CDBG Program. If the Subrecipient sells the property or transfers ownership (title) to another entity that does not continue to use the property for an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will require the Subrecipient to repay to the County's CDBG Program the fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of and improvements to the property. However, prior to such sale of CDBG-assisted property the Subrecipient shall notify the County in writing of its intent to sell the property and shall determine the fair market value of the property by obtaining at least one appraisal and at least one review appraisal of the property performed by separate appraisers who are licensed by the State of Georgia.

If the Subrecipient sells or transfers ownership (title) to the property at a point in time five (5) years after the County receives its last increment of CDBG funding, the County will not require the Subrecipient to reimburse the County's CDBG Program.

2. **Change in Use of Property** - The Subrecipient may change the use of the property at any time provided it complies with the following stipulations:

(a) If the Subrecipient proposes to change the use of the property to an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will not require the Subrecipient to repay funds to the County's CDBG Program. However, prior to such change in use the Subrecipient shall notify the County in writing of its intent to change the use of the property to permit the County to notify affected citizens with reasonable notice of and opportunity to comment on the proposed change in use, as required by 24 CFR 570.505.

(b) If the Subrecipient proposes to change the use of the property to an activity that does not meet a CDBG National Objective or is not an eligible CDBG activity, the County will require the Subrecipient to reimburse the County's CDBG Program the fair market value of the property as adjusted for non-CDBG funds. However, prior to such change in use the Subrecipient shall notify the County in writing of its intent to change the use of the property and shall determine the fair market value of the property by obtaining at least one appraisal and at least one review appraisal of the property performed by separate appraisers who are licensed by the State of Georgia.

- (c) If the Subrecipient proposes to change the use of the property at a point-in-time five (5) years after the County receives its last increment of CDBG funding, the County will not require the Subrecipient to reimburse the CDBG Program.
- C. Any program income generated from the disposition or transfer of property prior to or subsequent to the closeout, change of status or termination of the Subrecipient Agreement between the County and the Subrecipient shall be repaid to the County at the time of disposition or transfer of the property.
- D. A lease agreement, in a format prescribed by the County, must be executed between the County and the Subrecipient for any County CDBG-assisted Subrecipient activity which is to be carried out wholly, or in part, on County-owned real property. The lease agreement shall be included in this Subrecipient Agreement as Exhibit 4. Said lease agreement must contain, at a minimum, the following items and other items determined by the County to be applicable to the specific lease:
- (1) The beginning and ending dates of the lease (at least five (5) years to be eligible for CDBG funding assistance).
 - (2) Identification of the parties to the lease; i.e., the Lessor shall be the County and the Lessee shall be the Subrecipient.
 - (3) Identification of the precise land parcel(s) and/or structure(s), which constitute the subject of the lease.
 - (4) Identification of the CDBG-eligible use of the real property(s) and/or structure(s).
 - (5) A termination statement acceptable to the County and the U.S. Department of Housing and Urban Development.
 - (6) The lease must contain a regulatory compliance statement indicating that the terms are in conformance with all applicable Federal, State, and Gwinnett County rules, regulations, and requirements.
 - (7) The lease must contain maintenance of property statement indicating that the property(s) and/or structure(s) which is the subject of the lease agreement will be maintained in conformance with all applicable Federal, State, and Gwinnett County rules, regulations, and requirements.
 - (8) The lease must contain a non-assignability clause indicating that the lease may not be assigned to any other party(s) without prior written approval by the County and subsequent execution of an amendment to the lease and to this Subrecipient Agreement.
 - (9) The lease must contain an insurance certification statement indicating that the lessee will maintain appropriate types of insurance, as specified in the lease, on the property(s) and/or structure(s) which is the subject of the lease.
 - (10) The lease must contain an indemnification statement, as specified by the County.
 - (11) The lease must contain a statement as to governance, performance, and enforcement under the laws of the State of Georgia.
 - (12) The lease may contain special conditions unique to the specific lessor/lessee circumstances and/or unique to the specific property(s) and/or structure(s).
- E. If the Subrecipient wishes to carry out its CDBG-assisted activity on real property(s) and/or in a structure(s) which is owned neither by the Subrecipient nor by the County, a long-term lease (minimum

fifteen (15) years) must be executed which meets the standards specified in Section 18(d), above. However, prior to execution of said lease, the County must approve the form and content of the Lease Agreement to ensure its compliance with the terms of this Agreement.

- F. Private non-profit subrecipient organizations must also execute a real property use document(s) with the County. Such a document(s) provides the County with a mechanism to ensure its fiduciary interest in the property(s) and/or structure(s) for which the County provided CDBG funds to the private non-profit organization via this Agreement.
- G. In the event of the dissolution or change in status of the private non-profit organization or change in scope of the CDBG-assisted activity -- resulting in the CDBG-assisted activity becoming an ineligible CDBG activity, as defined by CDBG rules and regulations applicable at the time of such dissolution or change in status -- the County shall, at its option, exercise its right to obtain its appropriate share of the value of the CDBG-assisted property, as permitted by the rules and regulations governing the CDBG Program at the time of such an occurrence, and as specified by this Agreement. The real property-use documents referenced, herein, shall be appended to this Agreement and shall constitute Exhibit 5.

19. Audits - The Subrecipient agrees to comply with the requirements of:

- A. The "Government Auditing Standards, Standards for Audit of Governmental Organizations, Programs, Activities and Functions," 1994 Revision or its successors, ["The Yellow Book"] issued by the Comptroller General, United States General Accounting Office.
- B. The "Single Audit Act of 1984" [P.L. 98-502], as amended by the Single Audit Act Amendments of 1996 [P.L. 104-156], requires that States, local governments, and nonprofit organizations which receive federal funds must have audits performed in conformance with the Single Audit Act, as amended, and with implementing Circulars issued by the Office of Management and Budget. Subrecipient entities must have their audits prepared consistent with the requirements of 2 CFR 200.500 - 200.513. If a Subrecipient's expenditures trigger the requirement to prepare a Single Audit, three (3) copies of the audit must be submitted to the County not later than six (6) months following the final date of the Subrecipient's fiscal year that is the subject of the audit.

If the minimum monetary amounts requiring the preparation of the Single Audit, as stated in 2 CFR 200.501, are not to be triggered, the Subrecipient shall provide to Gwinnett County Housing and Community Development three (3) copies of its normal independent auditor's report, as soon as practicable following the close of its fiscal year, but not later than nine (9) months following the close of each such year. The independent audit, which addresses the Community Development Block Grant funds received/expended by the Subrecipient shall conform to the Gwinnett County Audit Standards, described in Section 19.C. of this Agreement.

- C. Gwinnett County Audit Standards for CDBG Subrecipients Where Single Audit Act Requirements Do Not Apply

Because Gwinnett County is responsible for any grant funds provided to all subrecipients, any organizations or cities which expend a total of more than \$0.00, but less than \$500,000.00 of CDBG funds, in any fiscal year from this agreement must have an independent audit of those funds performed annually or shall follow procedures specified, herein, as if all funds were subject to the requirements below.

- (1) A statement by the executive financial official of the organization or city that they have read and adhered to the requirements of 2 CFR 200.500 - 200.520 and have met those requirements as they are applicable to their organization. This statement should be in written form and submitted to Gwinnett County within thirty (30) calendar days following the end of the fiscal year of the Subrecipient;

- (2) All requests to the County for CDBG reimbursements shall be approved by an individual at least one level above the person who prepares the reimbursement request. If the reimbursement request is prepared by the Chief Financial Administrator of the organization, the request shall be approved by a Chairperson or other designated member of the organization's governing board;
- (3) For all CDBG requests for reimbursement, the invoice and accompanying copies of checks and other supporting documentation shall be submitted with the reimbursement request;
- (4) Gwinnett County shall periodically perform program reviews of Subrecipient financial records and systems not less often than one time during the Subrecipient's fiscal year, including the review of Subrecipient records, at least annually, at the offices of the Subrecipient. This review should include procedures to request and verify documentation of all expenditures requested in a single reimbursement request;
- (5) Any appropriate corrective action for instances of noncompliance as a result of these program reviews has been taken within six (6) months of notification by Gwinnett County that these reportable conditions exist;
- (6) At each fiscal year end, the Subrecipient shall submit to Gwinnett County a financial statement prepared from the Subrecipient's financial records that presents the revenues received from the Gwinnett County Community Development Block Grant Program and the expenditures for which these funds were used; and

The above procedures will provide the County's independent auditor with sufficient information to determine whether the Subrecipient has materially complied with the applicable laws and regulations, as they govern their programs. If any of the above procedures provide less information than is already required by this agreement, then the applicable procedures already stated in the agreement shall govern the Subrecipient's responsibilities to Gwinnett County.

- D. The Subrecipient agrees to have its Single Audit or other independent audit performed, in conformance with these Federally required and Gwinnett County stipulations, at its own cost and not payable with CDBG funds.
- E. The Subrecipient further agrees to send three (3) copies of its Single Audit Report or independent auditor's report to Gwinnett County Housing and Community Development as soon as practicable following the close of the Subrecipient's fiscal year, but in no case shall the audit report be submitted to Gwinnett County Housing and Community Development Office later than nine (9) months following the close of the Subrecipient's fiscal year which is the subject of the audit in question.
- F. The County reserves the right to recover from non-CDBG sources of the Subrecipient, any CDBG expenses of the Subrecipient which are questioned or disallowed by the Subrecipient's independent auditor or by Gwinnett County's independent auditor as a part of their review of the Subrecipient's audit.

The Subrecipient shall comply with all the applicable requirements of 24 CFR 570 [CDBG Regulations] and 2 CFR 200, as applicable. These documents are incorporated as a part of this Agreement by reference, herein. The referenced documents are also available from Gwinnett County Housing and Community Development, upon request.

20. Faith-based activities

- A. Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.
- B. Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.
- C. A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.
- D. An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- E. CDBG funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to CDBG funds in this part. Sanctuaries, chapels, or other rooms that a CDBG-funded religious congregation uses as its principal place of worship, however, are ineligible for CDBG-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85). If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.
- F. In accordance with 24 CFR 570.607 Employment and contracting opportunities, as amended by 68 FR 56404, Page 53405, to the extent that they are otherwise applicable, the Subrecipient shall comply with: Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964–1965 Comp. p. 339); 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264 (Equal Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60; and (b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701(u) and implementing regulations at 24 CFR part 135.

21. **Recognition of CDBG Program Funding from Gwinnett County** - The Subrecipient shall ensure that the Gwinnett County Board of Commissioners' Community Development Block Grant Program is provided proper recognition, as follows:

(1) CDBG Public Facilities, Capital Public Services Projects, Other Funded Activities

- a. Subrecipient will affix proper signage in a prominent location inside/outside of the administrative offices and outside of all project sites, which signage will include language recognizing the role of Gwinnett County and its CDBG funds in the acquisition, and/or construction and/or rehabilitation of the public facility or of the purchase of capital equipment, or other CDBG funded activities.
- b. Subrecipient will have as its contact point with Gwinnett County Housing and Community Development to arrange any events related to project groundbreaking, dedications, or similar ceremonies for activities receiving Gwinnett County CDBG Program funds; and, the Subrecipient agrees to provide Gwinnett County Housing and Community Development with adequate lead time to permit proper planning and scheduling for such events. Event notifications to Gwinnett County Housing and Community Development should occur not less than six (6) weeks prior to the date of any event, to permit adequate event planning and scheduling.
- c. Subrecipient agrees to contact Gwinnett County Housing and Community Development to arrange such events, rather than contacting the Gwinnett County Board of Commissioners, directly, individually, or collectively, to initiate or arrange such events. This procedure is being used by Gwinnett County government to avoid scheduling conflicts, and to provide a consistent method of planning all such events.
- d. Subrecipient agrees to schedule such events on days other than regular meeting days [Tuesdays] of the Gwinnett County Board of Commissioners or to schedule such events late in the afternoon on Tuesday meeting days of the Gwinnett County Board of Commissioners.
- e. Subrecipient agrees that all reports, media releases, media stories, media articles, brochures, newsletters, advertisements, and other published materials shall contain statements which provide adequate recognition of the financial support provided by the Gwinnett County Board of Commissioners, through Gwinnett County CDBG Program funds.

22. **Conflict of Interest** - In accordance to 2 CFR 200.317 and 200.318, no person who is an employee, agent, consultant, officer, or elected or appointed official of a Subrecipient who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this Agreement, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

Subrecipients will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, or agent of the Subrecipient shall participate in the selection, or in the award or administration of a contract supported by Federal funds awarded through this Agreement if a conflict of interest, real or apparent, would be involved.

Subrecipients must be mindful of any relationship employees, officials, board members, consultants, and/or volunteers may have with Gwinnett County employees, board members, consultants, or elected officials, where a real or apparent conflict of interest that might be realized or perceived with respect to

a CDBG funded project or activity awarded through this Agreement. All relationships between representatives of the Subrecipient and Gwinnett County must be transparent and must comply with Gwinnett County's Code of Ethics. This Code was developed by the County to establish ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are compatible with the best interests of the County. The Code directs disclosure by such officials and employees of private financial or other interests in matters affecting the County and by directing disclosure of their business relationships. Subrecipient officials who carefully follow the Gwinnett County Code of Ethics and the language of this Section are less likely to have conducted themselves or participated in activities which can be construed as real or apparent conflicts of interest.

If any situation arguably falls within the conflicts prohibited by 2 CFR 200.112 or 24 CFR 570.611 the Subrecipient should immediately contact Gwinnett County Housing and Community Development for guidance. Copies of the Gwinnett County Code of Ethics are available from Gwinnett County Housing and Community Development.

IN WITNESS WHEREOF, the parties hereunto have affixed their signatures the year and dates specified below and the Official Seal of the Subrecipient has been affixed.

FOR: **City of Dacula:**

FOR: **GWINNETT COUNTY:**

Signature

Trey King, Mayor

Signature

Buffy Alexzulian, Director

Gwinnett County Department of Financial Services

Signature Date

Signature Date

[Impress Corporate Seal Here]

Signature

Matthew Elder, Division Director

Gwinnett County Housing and Community Development

Signature Date

ATTEST:

ATTEST:

Signature

Brittni Nix, City Administrator

Signature

Tina King, County Clerk

Signature Date

Signature Date

Approved: **Subrecipient Governing Body**

Approved: **Gwinnett County Board of Commissioners**

Date of Approval

Date of Approval: February 6, 2024

[See Also Attached Exhibit(s)] Note: No Signatures shall be placed within this document on a date prior to action by the governing board of the Subrecipient, approving acceptance of these funds, and authorizing execution of this document. The Resolution of the Governing Board is presented in Exhibit 1.

RESOLUTION OF THE GOVERNING BOARD

City of Dacula

WHEREAS, **City of Dacula** requested FFY 2020 Community Development Block Grant [CDBG] Program funding from the Gwinnett County Board of Commissioners; and

WHEREAS, the Gwinnett County Board of Commissioners has awarded **\$60.00** from FFY 2020 CDBG Program funds to **City of Dacula** for **McMillan Road Improvements**.

NOW, THEREFORE, the Governing Board of **City of Dacula** does hereby resolve and authorize the following, as a result of an affirmative majority vote of the Governing Board at a meeting of said Governing Board which was held on _____.

Date of Governing Board Action

1. Acceptance of an FFY 2020 Community Development Block Grant [CDBG] Program award of **\$60.00** from the Gwinnett County Board of Commissioners to **City of Dacula**.
2. Authorize the **Mayor** and the **City Administrator** of the Subrecipient's Governing Board to execute the Community Development Block Grant [CDBG] Program Subrecipient Agreement used by Gwinnett County to award the CDBG Program funds to **City of Dacula**.

Certified as accurate and true:

Signature – Trey King, Mayor

Signature Date

[IMPRESS CORPORATE SEAL HERE]

EXHIBIT 1
CERTIFICATIONS

EXHIBIT 1
COMMUNITY DEVELOPMENT BLOCK GRANT
GRANTEE CERTIFICATIONS

In accordance with the Housing and Community Development Act of 1974, as amended, ("the Act") and with 24 CFR 570 of the Community Development Block Grant regulations, the Subrecipient certifies that:

- (a) It possesses legal authority to accept and execute a Community Development Block Grant award from Gwinnett County;
- (b) Its governing body has duly adopted or passed, by at least a majority vote, as an official act a resolution, motion or similar action authorizing the acceptance of this grant for the purposes specified in this Agreement and directing and authorizing its appropriate personnel to execute and implement this Agreement and to provide to the County such additional information as may be required;
- (c) Provides for and encourages citizen participation, with particular emphasis on participation by persons of low- and-moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used, and provides for participation of residents in low- and moderate-income neighborhoods, as defined by the County;
- (d) Provides citizens with reasonable and timely access to local meetings, information, and records relating to the Subrecipient's use of funds, as specified in this Agreement,
- (e) Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for persons with disabilities;
- (f) Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate;
- (g) The grant will be conducted and administered in compliance with:
 1. Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 U.S.C. Sec. 2000d et seq.); and
 2. The Fair Housing Act (42 U.S.C. 3601-20);
- (h) It will affirmatively further fair housing;
- (i) It will carry out the activities specified in this Agreement consistent with the goals, objectives, and strategies of the Gwinnett County Consolidated Plan;
- (j) It will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds provided under section 106 of the Act or with amounts resulting from a guarantee under section 108 of the Act by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 1. Funds received under section 106 of the Act are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Act; or
 2. For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under section 106 of the Act to comply with the requirements of subparagraph (1) above;

- (k) Its notification, inspection, testing, and abatement procedures concerning lead-based paint will comply with 24 CFR Part 570.608;
- (l) It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, as required under 24 CFR Part 570.606;
- (m) It has adopted and is enforcing:
1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
 2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;
- (n) To the best of its knowledge and belief:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
 3. It will require that the language of paragraph (n) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly;
- (o) It will or will continue to provide a drug-free workplace by:
1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 2. Establishing an ongoing drug-free awareness program to inform employees about -
 - a. The dangers of drug abuse in the workplace;
 - b. The grantee's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph I;
4. Notifying the employee in the statement required by subparagraph 1 that, as a condition of employment under the grant, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
 - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

The site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

City of Dacula
442 Harbins Road
Dacula, GA 30019

(p) It will comply with the other provisions of the Act and with other applicable laws.

[CDBG CERTIFICATION SIGNATURE PAGE – PROVIDED ON NEXT PAGE]

COMMUNITY DEVELOPMENT BLOCK GRANT

GRANTEE CERTIFICATIONS

SUBRECIPIENT SIGNATURE PAGE

SIGN:

Signature - Subrecipient Chief Elected Official/Board Chair/Other Authorized Official

Trey King

Name - Subrecipient Chief Elected Official/Board Chair/Other Authorized Official

Mayor

Title

Signature Date

ATTEST:

Signature of Person Attesting Signature by Subrecipient's Chief Elected Official or Board Chair

Brittni Nix

Name - Person Attesting Signature by Subrecipient's Chief Elected Official or Board Chair

City Administrator

Title

Date of Attesting Person's Signature

APPENDIX TO CDBG CERTIFICATIONS

INSTRUCTIONS CONCERNING LOBBYING AND DRUG-FREE WORKPLACE REQUIREMENTS

A. Lobbying Certification - Paragraph n

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

B. Drug-Free Workplace Certification - Paragraph o

1. By signing and executing this Agreement, the Subrecipient is providing the certification set out in paragraph (o).
2. The certification set out in paragraph (o) is a material representation of fact upon which reliance is placed when the County awards the grant. If it is later determined that the Subrecipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under this Agreement shall be identified in this Agreement. Failure to identify all known workplaces constitutes a violation of the Subrecipient's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place.
5. If the workplace identified to the County changes during the performance of the grant, the Subrecipient shall inform the County of the change(s), if it previously identified the workplaces in question (see paragraph three).
6. Definitions of terms in the Non-procurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Subrecipient's attention is called, in particular, to the following definitions from these rules:
 - a. "Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C.812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);
 - b. "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;
 - c. "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;
 - d. "Employee" means the employee of a Subrecipient directly engaged in the performance of work under a grant provided through this Agreement, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are not on the Subrecipient's payroll. This definition does not include workers not on the payroll of the Subrecipient (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the Subrecipient's payroll; or employees of subrecipients or subcontractors in covered workplaces).

EXHIBIT 2
SCOPE OF SERVICES

EXHIBIT 2

SCOPE OF SERVICES

The following activities and/or projects shall be carried out by the Subrecipient, under the terms of this Agreement and its accompanying certifications and reporting requirements:

Agency:	City of Dacula
Activity Name:	McMillian Road Improvements
Gwinnett Co. CDBG Objective(s):	
CDBG Eligibility Citation:	570.201(c)
CDBG National Objective Citation:	570.208(a)2
HUD CDBG Activity Type:	03K
HUD CDBG Activity Name:	Street Improvements
HUD IDIS Number:	XXXX
HUD Objective:	Suitable Living Environment
HUD Outcome:	Improving Sustainability

ACTIVITY DESCRIPTION

CDBG funds were awarded to the City of Dacula for the project titled **McMillian Road Improvements**, in the amount of **\$60.00** for Infrastructure Improvement activities as defined in Table 1 in the Activity Description Section of this Exhibit. The Subrecipient shall contribute non-CDBG funds for this activity, if needed, to permit the project to be completed by the termination date, **December 31, 2024**.

Expenditure Requirements

Gwinnett County reserves the right to recapture CDBG grant funds based on the time periods and expenditure rate schedule for grant amounts set forth in this agreement.

Expenditure Period	Expenditure Rate
February 2024 – March 2024	0-25%
April 2024 – June 2024	26-50%
July 2024 – September 2024	51-75%
October 2024 – December 2024	76-100%

Beneficiary Requirements

The Subrecipient shall use the CDBG funds, and other non-CDBG funds, if needed, to carry out eligible activities based on the approved budget. Total persons to be served: **795** of whom **795 [100%]** CDBG income eligible as defined by CDBG Program. At least 51% of the households served must have total household incomes - from all Households living in their respective households - which do not exceed the CDBG Maximum Income Limits applicable at the time the service is provided.

General Requirements

A **Monthly Report** shall be submitted by the **10th calendar day of the month** following the initial month of operation to Gwinnett County Housing & Community Development. One copy of each monthly report shall be emailed cdbgps@gwinnettcountry.com by the 10th calendar day of each month for all months CDBG Public Service funds are being utilized (for services provided during the prior month). The Subrecipient may stop submitting Monthly Service Reports once all Gwinnett County CDBG Public Service funds have been expended

reimbursement has been requested, and the beneficiary goal listed above is met. The monthly report shall be retained in the Subrecipient's files and filed with Gwinnett County Housing and Community Development. The beneficiary data must be received from the Subrecipient to permit Gwinnett County to record services delivered by the Subrecipient into the HUD Integrated Disbursement and Information System, or any successor or replacement computer system at HUD.

Funds from these grant awards shall not be used to provide any services not associated with activities identified in this Scope of Services. No involuntary displacement of persons, businesses, or agencies will occur as a result of this CDBG assisted activity. Any changes in this agreement shall be requested by the Subrecipient, in writing, and must be approved by Gwinnett County.

The information obtained from the monthly Subrecipient reports will be compiled by Gwinnett County Housing and Community Development and will be reported to local elected officials and managers to document the impact of CDBG job creation/retention and to catalogue the actual non-CDBG funding leveraged by the CDBG expenditures.

Reimbursement Process

Each request for reimbursement for **Infrastructure Improvements** must be submitted to Gwinnett County Housing and Community Development, which shall review and recommend reimbursement to the Subrecipient by the Gwinnett County Department of Financial Services.

Each request for reimbursement submitted to Gwinnett County Housing and Community Development by the Subrecipient shall consist of:

- (1) A letter from your agency requesting reimbursement, identifying the activity and the amount of reimbursement requested; and
- (2) Copies of vendor(s) invoices, your agency's payment voucher(s) (if used by your agency), and your agency's check(s) issued to vendor(s) for expenditures contained in the requests for reimbursement; and
- (3) All payments to vendors(s) shall be reviewed and approved, in writing, by an authorized official of the Subrecipient; and
- (4) No reimbursement requests shall be submitted to Gwinnett County Housing and Community Development without the review and written approval by an authorized official of the Subrecipient; and
- (5) No reimbursement requests shall be submitted to Gwinnett County Housing and Community Development until the Subrecipient has issued its check(s) payable to the vendor(s) identified in the requests for reimbursement.
- (6) The Subrecipient shall maintain documentation in its files to substantiate all expenditures/reimbursement requests, and to demonstrate that it has followed its written procurement procedures [see Item 3, of this Agreement] to obtain the goods and/or services associated with the completion of the activity identified in this Scope of Services.



**GWINNETT COUNTY
HOUSING & COMMUNITY DEVELOPMENT
MONTHLY EXPENDITURE REPORT**

Submit this form by the 10th of each month, for the month prior.

Approved FFY2020 CDBG Budget:	\$60.00
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Organization Information			
Subrecipient:	City of Dacula		
Address:	442 Harbins Road, Dacula, Georgia 30019		
Project Description:	McMillan Road Improvements		
Vendor Number:		Contract Number:	

Invoice Date:	
Invoice Number:	

Financial Information					
Budget Categories	Approved Budget	Prior Expenses	Current Expenses	Cumulative Expenses	Remaining Budget
A. Labor & Materials					
B. Design Services					
C. Construction Supervision					
D.					
E.					
Total:					

Subrecipient Signature:		Date:	
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For Housing & Community Development Use Only							
WBS Element	Shopping Cart #	Purchase Order #		Goods Receipt #		Voucher #	
Program/Year	Cost Center Routing	Payment Method		Single Check		Process Type	
		Check	EFT	Yes	No	FV60	MIRO

HCD Program Analyst Signature:		Date:	
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HCD Financial Analyst Signature:		Date:	
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GWINNETT COUNTY
HOUSING & COMMUNITY DEVELOPMENT
MONTHLY BENEFICIARY REPORT

Submit this form by the 10th of each month, for the month prior. Only report new households and individuals each month.

Grant Information	
Agency Name:	City of Dacula
Activity Name:	McMillan Road Improvements
Activity Description:	Street Improvements
IDIS #:	
Matrix Code:	03K
Month/Year:	

1. New Households Served by Income Groups - % of Median Household Income	
	Number of Households
A. New Households Served [Extremely Low Income: 0% - 30% Median Household Income]	
B. New Households Served [Very Low Income: 31% - 50% Median Household Income]	
C. New Households Served [Low Income: 51% - 80% Median Household Income]	
D. New Households Served [Over 80% Median Household Income]	
Total:	

2. New Individuals Served - Listed by Race/Sex/Ethnicity						
Race	Sex			Ethnicity		
	Male	Female	Other	Hispanic/Latino	Non-Hispanic/Non-Latino	Other
A. White						
B. Black/African American						
C. Asian						
D. American Indian/Alaskan Native						
E. Native Hawaiian/Other Pacific Islander						
F. Multi-Racial/Other						
Total:						

3. New Female Head of Households Served ----->	
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4. Presumed Benefit Groups Served	
Presumed Benefit Group (Income Group)	Number Served
A. Elderly - 62+ (Senior Center: LI, Non-Senior Center: VLI)	
B. Severely Disabled (VLI)	
C. Homeless Persons (ELI)	
D. Abused Spouses (VLI)	
E. Abused/Neglected Children (VLI)	
F. Illiterate Adults (VLI)	
G. Persons Living with AIDS (VLI)	
H. Migrant Farm Workers (VLI)	
Total:	

Subrecipient Signature:		Date:	
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HCD Program Analyst Signature:		Date:	
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**GWINNETT COUNTY CDBG PROGRAM
MONTHLY SERVICES NARRATIVE**

Submit by 10th Calendar Day After Month Ends

Provide Narrative Describing Monthly Accomplishments:

EXHIBIT 3

AGREEMENT AMENDMENTS

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 4

LEASE AGREEMENT

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 5

PROPERTY USE REQUIREMENTS

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 6

FEDERAL REGULATIONS

2 CFR Part 200

“Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”

24 CFR Part 58

“Environmental Review Procedures”

24 CFR Part 570

“Community Development Block Grant”



February 7, 2024

Trey King, Mayor
City of Dacula
442 Harbins Road
Dacula, GA 30019

RE: FFY 2019 CDBG Public Facilities Award Notice

Dear Mayor Trey King:

Thank you for submitting a FFY 2019 application for the Community Development Block Grant (CDBG) program. We are pleased to announce the **City of Dacula** received grant funds in the amount of **\$252,379.00** to administer the McMillan Road Improvements.

Attached are three copies of your FFY 2019 CDBG Public Facilities Subrecipient Agreement. The termination of this Agreement is **December 31, 2024**. Please sign, date, seal, and return to our office by **April 7, 2024**.

Sherry Akhimie, Program Analyst, will be your primary contact for this grant award. If you have any questions concerning your grant, please contact Sherry Akhimie at 678.518.6073 or via e-mail at Sherry.Akhimie@gwinnettcountry.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt Elder".

Matt Elder
Division Director, Housing and Community Development

STATE OF GEORGIA
COUNTY OF GWINNETT

SUBRECIPIENT AGREEMENT
FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (CDBG)
PUBLIC FACILITIES: INFRASTRUCTURE IMPROVEMENTS

Between

GWINNETT COUNTY *and*
CITY OF DACULA

Federal Fiscal Year 2019 Funds

HUD GRANT NO: B-19-UC-13-0004
GWINNETT COUNTY AGREEMENT NO.: CDBG-PF-CD-191

SUBRECIPIENT AGREEMENT FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS
CFDA # 14.218
BETWEEN
GWINNETT COUNTY, GEORGIA
AND
City of Dacula
442 Harbins Road
Dacula, GA 30019

THIS AGREEMENT, made and entered into on the 6th day of February 2024, by and between Gwinnett County, a political subdivision of the State of Georgia acting by and through its duly elected Board of Commissioners, hereinafter referred to as the "County", and City of Dacula a CDBG subrecipient organization (either a participating municipality in the Gwinnett County Urban County CDBG Program, a quasi-local government agency, a local housing authority, or a private non-profit organization), hereinafter referred to as the "Subrecipient," located within the confines of the Gwinnett County, Georgia, and/or serving CDBG-eligible residents of Gwinnett County; The approval of the award of CDBG funds included in this Agreement by the County occurred on the 6th day of November, 2018 and represents a subaward of federal funds, as defined in 2 CFR 200.92.

WITNESSETH:

WHEREAS, Gwinnett County has received an FFY 2019 Community Development Block Grant, hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act of 1974, as amended, to carry out various housing and community development activities in its unincorporated areas and in municipalities participating in the County CDBG Program; and

WHEREAS, \$252,379.00, from FFY 2019 CDBG funds has been awarded to the Subrecipient; and

WHEREAS, the Subrecipient agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained in Exhibit 1; with the Scope of Services provided in Exhibit 2; with any amendments to this Agreement, included as Exhibit 3; with the Lease Agreement requirements included as Exhibit 4, if applicable; and, with the property use requirements included as Exhibit 5, if applicable; and with the applicable and non-applicable regulations included in Exhibit 6.

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

1. **Use of Funds** - The Subrecipient shall expend all or any part of its CDBG allocation only on those activities contained in the Scope of Services of this Agreement, which activities Gwinnett County Housing and Community Development shall determine to be eligible for CDBG funds, and shall notify the Subrecipient in writing, via this Agreement and/or subsequent amendments to this Agreement, of such determination of eligibility. Such CDBG funds provided through this Agreement must be fully expended not later than December 31, 2024.
2. **A. Uniform Administrative Requirements** - The Uniform Administrative Requirements, as promulgated in 24 CFR Chapter V [Subpart J] at 570.502 and in all sections of 2 CFR 200, shall apply to all activities undertaken by the Subrecipient with CDBG assistance provided via this Agreement and any subsequent amendments.

B. Other Program Requirements - The Subrecipient shall comply with all the requirements of 24 CFR Chapter V [Subpart K] at 570.600 - 570.614, as applicable to the Subrecipient's activity(s).

3. **Procurement** - The Subrecipient shall be responsible for procurement of all supplies, equipment, services, and construction necessary for implementation of its activity(s). Procurement shall be carried out in accordance with 2 CFR 200 Part 200.317 - 200.326, the procurement requirements of the Subrecipient, and all provisions of the CDBG Regulations [24 CFR Part 570].

The governing board of the Subrecipient shall formally adopt written procurement procedures which are at least as restrictive as those required in the aforementioned regulations [2 CFR 200, as applicable, and 24 CFR 570] and shall provide a copy of said procurement procedures and evidence of governing board adoption to the County at the time that this Subrecipient Agreement shall be returned to the County for signature by the Chairman of the Gwinnett County Board of Commissioners.

The Subrecipient shall prepare, or cause to be prepared, all advertisements, negotiations, notices, and documents; enter into all contracts; and conduct all meetings, conferences, and interviews as necessary to ensure compliance with the above-described procurement requirements.

4. **Property Acquisition and Relocation Services** - The Subrecipient shall be responsible for carrying out the acquisition of all real property necessary for the implementation of the activity(s), if applicable. The Subrecipient shall conduct all such acquisitions in its name and shall hold title to all properties purchased, [except in such cases as with long term leases (minimum term of 15 years)]. Lease requirements are addressed in Section 18 of this Agreement. The Subrecipient shall be responsible for the preparation of all notices, appraisals, and documentation required in conducting acquisitions under the latest applicable regulations of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 and of the CDBG Program. The Subrecipient shall also be responsible for providing all relocation notices, counseling, and services required by said regulations. Should the Subrecipient find it necessary to change the use of or dispose of the property acquired with CDBG funding assistance, the requirements of 24 CFR Part 570.505 governing change of use and/or property disposition shall apply. Such a change in use may also require an amendment to this Agreement, including changes in Exhibits 2, 3, 4, 5, and/or 6.
5. **"Force Account" Work** - The Subrecipient (limited to participating municipalities) may undertake public facility construction or renovation activities using municipal labor and equipment. Eligible costs of labor and equipment may be reimbursed by the County using CDBG funds, based upon submission of proper and acceptable invoice(s) and documentation of all costs as prescribed by the County.
6. **A. Financial Record Keeping** - The Subrecipient shall maintain records of the expenditure of all CDBG funds it receives, such records to be maintained in accordance with 24 CFR 570.503(B)2, as applicable. All records shall be made available, upon County request, for inspection(s) and audit(s) by the County or its representatives. If a financial audit(s) determines that the Subrecipient has improperly expended CDBG funds, resulting in the disallowance of such expenditures by the County and/or by the U.S. Department of Housing and Urban Development, the County reserves the right to recover from the Subrecipient other non-CDBG monies to fund such disallowed CDBG expenditures. Audit procedures for the Gwinnett County CDBG Program are specified in Section 19 of this Agreement.

B. Programmatic Record Keeping/Reporting - For limited clientele (including "Direct Service" and "Presumed Benefit") activities the Subrecipient shall provide, on a monthly basis, sufficient information to the County on services carried out for all persons served and on CDBG-eligible persons served by activities receiving CDBG assistance under this Agreement. The purpose of the monthly reporting is to enable the County to prepare and submit periodic and annual reports to the U.S. Department of Housing and Urban Development. These Subrecipient prepared reports shall be submitted in a format provided by the County [See Exhibit 2, if applicable to this Agreement] and at a time no later than the 10th calendar

day of each month of each year until all CDBG funds for the activity(s) shall be fully expended, plus five years. The five-year reporting period should not be confused with the "continued use" provisions of this agreement, as specified in Exhibit 2, "Scope of Services." The County shall provide reporting forms and technical assistance to the Subrecipient on the procedures to be followed to collect and report these programmatic data.

7. **Subrecipient's Obligation** - The Subrecipient shall be responsible for carrying out its actions in accordance with the certifications contained in Exhibit 1 of this Agreement. The Subrecipient shall take all necessary actions to comply with the requirements of the certifications/assurances in Exhibit 1, and to comply with any requests by the County in this connection; it being understood that the County has responsibility to the U.S. Department of Housing and Urban Development for insuring compliance with such requirements. The Subrecipient will also promptly notify the County of any changes in the scope or character of the activity(s) assisted through this Agreement.
8. **"Hold Harmless"** - The Subrecipient does hereby agree to release, indemnify, and hold harmless the County, its employees, and agents from and against all costs, expenses, claims, suits, or judgments arising from or growing out of any injuries, loss or damage sustained by any person or corporation, including employees of Subrecipient and property of Subrecipient, which are caused by or sustained in connection with the tasks carried out by the Subrecipient under this Agreement.
9. **Funding** - The County agrees to provide the Subrecipient with CDBG funds in such amounts as agreed upon in this Agreement to enable the Subrecipient to carry out its CDBG eligible activity(s). It is understood that the County shall be held accountable to the U.S. Department of Housing and Urban Development for the lawful expenditure of CDBG funds under this Agreement. Therefore, the County shall make no reimbursement of CDBG funds to the Subrecipient and draw no funds from HUD/U.S. Treasury on behalf of a Subrecipient activity(s), prior to having received proper invoice(s) and copies of supporting documentation from the Subrecipient for the expenses incurred, to ensure that the Subrecipient has complied with all applicable regulations and requirements.
10. **Environmental Clearance** - The County shall be responsible for carrying out environmental reviews and clearances on all activities. The Subrecipient shall be responsible for providing necessary information, in a timely manner, to the County to accomplish this task.

Funding provided through this agreement is "conditionally approved" subject to the completion of the Environmental Review Process by the County. Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the County of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58. The parties further agree that the provision of any funds to projects/activities included in this Agreement is conditioned on the County's determination to proceed with, modify or cancel the projects/activities based on the results of a subsequent environmental review.

The Subrecipient may not obligate or expend any funds provided through this Agreement until the County provides to the Subrecipient a "Notice to Proceed," which shall represent, in part, the completion of the environmental review process, and the Release of Funds by HUD for the projects/activities contained in this Agreement.

11. **Wage Rates** - The County shall be responsible for the preparation of all requests for wage rate determinations on CDBG activities, on behalf of the Subrecipient. The Subrecipient shall notify the County prior to initiating any activity, including advertising for contractual services, which will include costs likely to be subject to the provisions of the Davis-Bacon Act and its implementing regulations. The County will provide technical assistance to the Subrecipient to ensure compliance with these requirements.

12. **Technical Assistance** - The County agrees to provide technical assistance to the Subrecipient in the form of oral and/or written guidance and onsite assistance regarding CDBG procedures and project management. This assistance will be provided as requested by the Subrecipient, and at other times, at the initiative of the County, or when the County provides new or updated CDBG Program information to the Subrecipient.
13. **Review Authority** - The County shall have the authority to review any and all procedures and all materials, notices, documents, etc., prepared by the Subrecipient in implementation of this Agreement. The Subrecipient agrees to provide all information required by any person authorized by the County to request such information from the Subrecipient, for the purpose of reviewing the same.
14. **Agreement Suspension and Termination** - In accordance with the provisions of 2 CFR 200.338 – 200.342, suspension or termination of this Agreement may occur if the Subrecipient materially fails to comply with any term of this Agreement. This Agreement may be terminated with or without cause by either party, hereto, by giving thirty (30) calendar days written notice of such termination. However, CDBG funds allocated to the Subrecipient under this Agreement may not be obligated or expended by the Subrecipient following such date of termination. Any funds allocated to the Subrecipient under this Agreement which remain unobligated or unspent upon such date of termination shall automatically revert to the County.
15. **Agreement Amendment(s)** - This Agreement may be modified or amended by mutual agreement of the parties; however, no waiver, modification or amendment of any terms, conditions or provisions of this agreement will be valid, or of any force or effect, unless made in writing, approved by the respective parties' governing bodies, and properly executed by the authorized representatives of the parties. All amendments to this Agreement shall be made a part of the Agreement by inclusion in Exhibit 3, which will be attached at the time of any amendment(s). If the Subrecipient seeks an amendment to this agreement, the request for such amendment shall be submitted in written form to Gwinnett County Housing and Community Development in a format prescribed by the Division. If an amendment to the Gwinnett County Consolidated Plan is required, the Subrecipient shall be informed of such requirement and the steps required to effectuate such a Consolidated Plan amendment.
16. **Effective Date and Termination Date** - The effective date of this Agreement is the date specified on Page 1 of this Agreement. The termination date of this Agreement is **December 31, 2024**.
17. **Program Income** - If the Subrecipient generates any program income as a result of the expenditure of CDBG funds, the provisions of 24 CFR 570.504(c) shall apply, as well as the following specific stipulations:
- A. The Subrecipient acknowledges, by the executing this Agreement, that it must notify the County of the receipt of any program income during the calendar month that such program income is generated.
 - B. Any such program income must be paid to the County within seven calendar days following the end of the month in which the program income is generated. Such payment to the County must include any interest or other earnings generated from the program income during the time the program income was in the possession of the Subrecipient.
 - C. The Subrecipient further acknowledges, by executing this Agreement, that the County has the responsibility for monitoring and reporting to the U.S. Department of Housing and Urban Development (HUD) on the generation of any such program income. The Subrecipient acknowledges its responsibility for appropriate record keeping and reporting to the County on the generation and/or receipt of such program income.
 - D. In the event of close out or change in status of the Subrecipient, any program income that is on hand or received subsequent to the close out or change in status shall be paid to the County within thirty

(30) calendar days of the official date of the close out or change in status. The County agrees to notify the Subrecipient in writing, should close out or change in status of the Subrecipient occur as a result of changes in CDBG Program statutes, regulations, and/or instructions.

18. **Real Property** - The Subrecipient shall comply with the following standards contained in 2 CFR 200.310 – 200.311 for all activities involving real property. The following standards shall also apply to real property (within the control of the Subrecipient) acquired or improved, in whole or in part, using CDBG funds. The standards are:

A. The Subrecipient shall inform the County, in writing, at least thirty (30) calendar days prior to any modification or change in the use of the real property from that specified in this Agreement, at the time of acquisition or improvements, including disposition;

B. Change in Real Property Status

1. Sale of Property - The Subrecipient may sell the property acquired or improved with CDBG assistance at any time. If the Subrecipient sells the property or otherwise transfers ownership (title) to another entity that continues to use the property for an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will not require the Subrecipient to repay funds to the County's CDBG Program. If the Subrecipient sells the property or transfers ownership (title) to another entity that does not continue to use the property for an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will require the Subrecipient to repay to the County's CDBG Program the fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of and improvements to the property. However, prior to such sale of CDBG-assisted property the Subrecipient shall notify the County in writing of its intent to sell the property and shall determine the fair market value of the property by obtaining at least one appraisal and at least one review appraisal of the property performed by separate appraisers who are licensed by the State of Georgia.

If the Subrecipient sells or transfers ownership (title) to the property at a point in time five (5) years after the County receives its last increment of CDBG funding, the County will not require the Subrecipient to reimburse the County's CDBG Program.

2. Change in Use of Property - The Subrecipient may change the use of the property at any time provided it complies with the following stipulations:

(a) If the Subrecipient proposes to change the use of the property to an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will not require the Subrecipient to repay funds to the County's CDBG Program. However, prior to such change in use the Subrecipient shall notify the County in writing of its intent to change the use of the property to permit the County to notify affected citizens with reasonable notice of and opportunity to comment on the proposed change in use, as required by 24 CFR 570.505.

(b) If the Subrecipient proposes to change the use of the property to an activity that does not meet a CDBG National Objective or is not an eligible CDBG activity, the County will require the Subrecipient to reimburse the County's CDBG Program the fair market value of the property as adjusted for non-CDBG funds. However, prior to such change in use the Subrecipient shall notify the County in writing of its intent to change the use of the property and shall determine the fair market value of the property by obtaining at least one appraisal and at least one review appraisal of the property performed by separate appraisers who are licensed by the State of Georgia.

- (c) If the Subrecipient proposes to change the use of the property at a point-in-time five (5) years after the County receives its last increment of CDBG funding, the County will not require the Subrecipient to reimburse the CDBG Program.
- C. Any program income generated from the disposition or transfer of property prior to or subsequent to the closeout, change of status or termination of the Subrecipient Agreement between the County and the Subrecipient shall be repaid to the County at the time of disposition or transfer of the property.
- D. A lease agreement, in a format prescribed by the County, must be executed between the County and the Subrecipient for any County CDBG-assisted Subrecipient activity which is to be carried out wholly, or in part, on County-owned real property. The lease agreement shall be included in this Subrecipient Agreement as Exhibit 4. Said lease agreement must contain, at a minimum, the following items and other items determined by the County to be applicable to the specific lease:
- (1) The beginning and ending dates of the lease (at least five (5) years to be eligible for CDBG funding assistance).
 - (2) Identification of the parties to the lease; i.e., the Lessor shall be the County and the Lessee shall be the Subrecipient.
 - (3) Identification of the precise land parcel(s) and/or structure(s), which constitute the subject of the lease.
 - (4) Identification of the CDBG-eligible use of the real property(s) and/or structure(s).
 - (5) A termination statement acceptable to the County and the U.S. Department of Housing and Urban Development.
 - (6) The lease must contain a regulatory compliance statement indicating that the terms are in conformance with all applicable Federal, State, and Gwinnett County rules, regulations, and requirements.
 - (7) The lease must contain maintenance of property statement indicating that the property(s) and/or structure(s) which is the subject of the lease agreement will be maintained in conformance with all applicable Federal, State, and Gwinnett County rules, regulations, and requirements.
 - (8) The lease must contain a non-assignability clause indicating that the lease may not be assigned to any other party(s) without prior written approval by the County and subsequent execution of an amendment to the lease and to this Subrecipient Agreement.
 - (9) The lease must contain an insurance certification statement indicating that the lessee will maintain appropriate types of insurance, as specified in the lease, on the property(s) and/or structure(s) which is the subject of the lease.
 - (10) The lease must contain an indemnification statement, as specified by the County.
 - (11) The lease must contain a statement as to governance, performance, and enforcement under the laws of the State of Georgia.
 - (12) The lease may contain special conditions unique to the specific lessor/lessee circumstances and/or unique to the specific property(s) and/or structure(s).
- E. If the Subrecipient wishes to carry out its CDBG-assisted activity on real property(s) and/or in a structure(s) which is owned neither by the Subrecipient nor by the County, a long-term lease (minimum

fifteen (15) years) must be executed which meets the standards specified in Section 18(d), above. However, prior to execution of said lease, the County must approve the form and content of the Lease Agreement to ensure its compliance with the terms of this Agreement.

- F. Private non-profit subrecipient organizations must also execute a real property use document(s) with the County. Such a document(s) provides the County with a mechanism to ensure its fiduciary interest in the property(s) and/or structure(s) for which the County provided CDBG funds to the private non-profit organization via this Agreement.
- G. In the event of the dissolution or change in status of the private non-profit organization or change in scope of the CDBG-assisted activity -- resulting in the CDBG-assisted activity becoming an ineligible CDBG activity, as defined by CDBG rules and regulations applicable at the time of such dissolution or change in status -- the County shall, at its option, exercise its right to obtain its appropriate share of the value of the CDBG-assisted property, as permitted by the rules and regulations governing the CDBG Program at the time of such an occurrence, and as specified by this Agreement. The real property-use documents referenced, herein, shall be appended to this Agreement and shall constitute Exhibit 5.

19. Audits - The Subrecipient agrees to comply with the requirements of:

- A. The "Government Auditing Standards, Standards for Audit of Governmental Organizations, Programs, Activities and Functions," 1994 Revision or its successors, ["The Yellow Book"] issued by the Comptroller General, United States General Accounting Office.
- B. The "Single Audit Act of 1984" [P.L. 98-502], as amended by the Single Audit Act Amendments of 1996 [P.L. 104-156], requires that States, local governments, and nonprofit organizations which receive federal funds must have audits performed in conformance with the Single Audit Act, as amended, and with implementing Circulars issued by the Office of Management and Budget. Subrecipient entities must have their audits prepared consistent with the requirements of 2 CFR 200.500 – 200.513. If a Subrecipient's expenditures trigger the requirement to prepare a Single Audit, three (3) copies of the audit must be submitted to the County not later than six (6) months following the final date of the Subrecipient's fiscal year that is the subject of the audit.

If the minimum monetary amounts requiring the preparation of the Single Audit, as stated in 2 CFR 200.501, are not to be triggered, the Subrecipient shall provide to Gwinnett County Housing and Community Development three (3) copies of its normal independent auditor's report, as soon as practicable following the close of its fiscal year, but not later than nine (9) months following the close of each such year. The independent audit, which addresses the Community Development Block Grant funds received/expended by the Subrecipient shall conform to the Gwinnett County Audit Standards, described in Section 19.C. of this Agreement.

- C. Gwinnett County Audit Standards for CDBG Subrecipients Where Single Audit Act Requirements Do Not Apply

Because Gwinnett County is responsible for any grant funds provided to all subrecipients, any organizations or cities which expend a total of more than \$0.00, but less than \$500,000.00 of CDBG funds, in any fiscal year from this agreement must have an independent audit of those funds performed annually or shall follow procedures specified, herein, as if all funds were subject to the requirements below.

- (1) A statement by the executive financial official of the organization or city that they have read and adhered to the requirements of 2 CFR 200.500 – 200.520 and have met those requirements as they are applicable to their organization. This statement should be in written form and submitted to Gwinnett County within thirty (30) calendar days following the end of the fiscal year of the Subrecipient;

- (2) All requests to the County for CDBG reimbursements shall be approved by an individual at least one level above the person who prepares the reimbursement request. If the reimbursement request is prepared by the Chief Financial Administrator of the organization, the request shall be approved by a Chairperson or other designated member of the organization's governing board;
- (3) For all CDBG requests for reimbursement, the invoice and accompanying copies of checks and other supporting documentation shall be submitted with the reimbursement request;
- (4) Gwinnett County shall periodically perform program reviews of Subrecipient financial records and systems not less often than one time during the Subrecipient's fiscal year, including the review of Subrecipient records, at least annually, at the offices of the Subrecipient. This review should include procedures to request and verify documentation of all expenditures requested in a single reimbursement request;
- (5) Any appropriate corrective action for instances of noncompliance as a result of these program reviews has been taken within six (6) months of notification by Gwinnett County that these reportable conditions exist;
- (6) At each fiscal year end, the Subrecipient shall submit to Gwinnett County a financial statement prepared from the Subrecipient's financial records that presents the revenues received from the Gwinnett County Community Development Block Grant Program and the expenditures for which these funds were used; and

The above procedures will provide the County's independent auditor with sufficient information to determine whether the Subrecipient has materially complied with the applicable laws and regulations, as they govern their programs. If any of the above procedures provide less information than is already required by this agreement, then the applicable procedures already stated in the agreement shall govern the Subrecipient's responsibilities to Gwinnett County.

- D. The Subrecipient agrees to have its Single Audit or other independent audit performed, in conformance with these Federally required and Gwinnett County stipulations, at its own cost and not payable with CDBG funds.
- E. The Subrecipient further agrees to send three (3) copies of its Single Audit Report or independent auditor's report to Gwinnett County Housing and Community Development as soon as practicable following the close of the Subrecipient's fiscal year, but in no case shall the audit report be submitted to Gwinnett County Housing and Community Development Office later than nine (9) months following the close of the Subrecipient's fiscal year which is the subject of the audit in question.
- F. The County reserves the right to recover from non-CDBG sources of the Subrecipient, any CDBG expenses of the Subrecipient which are questioned or disallowed by the Subrecipient's independent auditor or by Gwinnett County's independent auditor as a part of their review of the Subrecipient's audit.

The Subrecipient shall comply with all the applicable requirements of 24 CFR 570 [CDBG Regulations] and 2 CFR 200, as applicable. These documents are incorporated as a part of this Agreement by reference, herein. The referenced documents are also available from Gwinnett County Housing and Community Development, upon request.

20. Faith-based activities

- A. Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.
- B. Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.
- C. A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.
- D. An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- E. CDBG funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to CDBG funds in this part. Sanctuaries, chapels, or other rooms that a CDBG-funded religious congregation uses as its principal place of worship, however, are ineligible for CDBG-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85). If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.
- F. In accordance with 24 CFR 570.607 Employment and contracting opportunities, as amended by 68 FR 56404, Page 53405, to the extent that they are otherwise applicable, the Subrecipient shall comply with: Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964–1965 Comp. p. 339); 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264 (Equal Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60; and (b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701(u) and implementing regulations at 24 CFR part 135.

21. **Recognition of CDBG Program Funding from Gwinnett County** - The Subrecipient shall ensure that the Gwinnett County Board of Commissioners' Community Development Block Grant Program is provided proper recognition, as follows:

(1) CDBG Public Facilities, Capital Public Services Projects, Other Funded Activities

- a. Subrecipient will affix proper signage in a prominent location inside/outside of the administrative offices and outside of all project sites, which signage will include language recognizing the role of Gwinnett County and its CDBG funds in the acquisition, and/or construction and/or rehabilitation of the public facility or of the purchase of capital equipment, or other CDBG funded activities.
- b. Subrecipient will have as its contact point with Gwinnett County Housing and Community Development to arrange any events related to project groundbreaking, dedications, or similar ceremonies for activities receiving Gwinnett County CDBG Program funds; and, the Subrecipient agrees to provide Gwinnett County Housing and Community Development with adequate lead time to permit proper planning and scheduling for such events. Event notifications to Gwinnett County Housing and Community Development should occur not less than six (6) weeks prior to the date of any event, to permit adequate event planning and scheduling.
- c. Subrecipient agrees to contact Gwinnett County Housing and Community Development to arrange such events, rather than contacting the Gwinnett County Board of Commissioners, directly, individually, or collectively, to initiate or arrange such events. This procedure is being used by Gwinnett County government to avoid scheduling conflicts, and to provide a consistent method of planning all such events.
- d. Subrecipient agrees to schedule such events on days other than regular meeting days [Tuesdays] of the Gwinnett County Board of Commissioners or to schedule such events late in the afternoon on Tuesday meeting days of the Gwinnett County Board of Commissioners.
- e. Subrecipient agrees that all reports, media releases, media stories, media articles, brochures, newsletters, advertisements, and other published materials shall contain statements which provide adequate recognition of the financial support provided by the Gwinnett County Board of Commissioners, through Gwinnett County CDBG Program funds.

22. **Conflict of Interest** - In accordance to 2 CFR 200.317 and 200.318, no person who is an employee, agent, consultant, officer, or elected or appointed official of a Subrecipient who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this Agreement, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

Subrecipients will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, or agent of the Subrecipient shall participate in the selection, or in the award or administration of a contract supported by Federal funds awarded through this Agreement if a conflict of interest, real or apparent, would be involved.

Subrecipients must be mindful of any relationship employees, officials, board members, consultants, and/or volunteers may have with Gwinnett County employees, board members, consultants, or elected officials, where a real or apparent conflict of interest that might be realized or perceived with respect to

a CDBG funded project or activity awarded through this Agreement. All relationships between representatives of the Subrecipient and Gwinnett County must be transparent and must comply with Gwinnett County's Code of Ethics. This Code was developed by the County to establish ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are compatible with the best interests of the County. The Code directs disclosure by such officials and employees of private financial or other interests in matters affecting the County and by directing disclosure of their business relationships. Subrecipient officials who carefully follow the Gwinnett County Code of Ethics and the language of this Section are less likely to have conducted themselves or participated in activities which can be construed as real or apparent conflicts of interest.

If any situation arguably falls within the conflicts prohibited by 2 CFR 200.112 or 24 CFR 570.611 the Subrecipient should immediately contact Gwinnett County Housing and Community Development for guidance. Copies of the Gwinnett County Code of Ethics are available from Gwinnett County Housing and Community Development.

IN WITNESS WHEREOF, the parties hereunto have affixed their signatures the year and dates specified below and the Official Seal of the Subrecipient has been affixed.

FOR: **City of Dacula:**

FOR: **GWINNETT COUNTY:**

Signature
Trey King, Mayor

Signature
Buffy Alexzulian, Director
Gwinnett County Department of Financial Services

Signature Date

Signature Date

[Impress Corporate Seal Here]

Signature
Matthew Elder, Division Director
Gwinnett County Housing and Community
Development

Signature Date

ATTEST:

ATTEST:

Signature
Brittni Nix, City Administrator

Signature
Tina King, County Clerk

Signature Date

Signature Date

Approved: **Subrecipient Governing Body**

Approved: **Gwinnett County Board of Commissioners**

Date of Approval

Date of Approval: February 6, 2024

[See Also Attached Exhibit(s)] Note: No Signatures shall be placed within this document on a date prior to action by the governing board of the Subrecipient, approving acceptance of these funds, and authorizing execution of this document. The Resolution of the Governing Board is presented in Exhibit 1.

RESOLUTION OF THE GOVERNING BOARD

City of Dacula

WHEREAS, **City of Dacula** requested FFY 2019 Community Development Block Grant [CDBG] Program funding from the Gwinnett County Board of Commissioners; and

WHEREAS, the Gwinnett County Board of Commissioners has awarded **\$252,379.00** from FFY 2019 CDBG Program funds to **City of Dacula** for **McMillan Road Improvements**.

NOW, THEREFORE, the Governing Board of **City of Dacula** does hereby resolve and authorize the following, as a result of an affirmative majority vote of the Governing Board at a meeting of said Governing Board which was held on _____.

Date of Governing Board Action

1. Acceptance of an FFY 2019 Community Development Block Grant [CDBG] Program award of **\$252,379.00** from the Gwinnett County Board of Commissioners to **City of Dacula**.
2. Authorize the **Mayor** and the **City Administrator** of the Subrecipient's Governing Board to execute the Community Development Block Grant [CDBG] Program Subrecipient Agreement used by Gwinnett County to award the CDBG Program funds to **City of Dacula**.

Certified as accurate and true:

Signature – Trey King, Mayor

Signature Date

[IMPRESS CORPORATE SEAL HERE]

EXHIBIT 1
CERTIFICATIONS

EXHIBIT 1
COMMUNITY DEVELOPMENT BLOCK GRANT
GRANTEE CERTIFICATIONS

In accordance with the Housing and Community Development Act of 1974, as amended, ("the Act") and with 24 CFR 570 of the Community Development Block Grant regulations, the Subrecipient certifies that:

- (a) It possesses legal authority to accept and execute a Community Development Block Grant award from Gwinnett County;
- (b) Its governing body has duly adopted or passed, by at least a majority vote, as an official act a resolution, motion or similar action authorizing the acceptance of this grant for the purposes specified in this Agreement and directing and authorizing its appropriate personnel to execute and implement this Agreement and to provide to the County such additional information as may be required;
- (c) Provides for and encourages citizen participation, with particular emphasis on participation by persons of low- and-moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used, and provides for participation of residents in low- and moderate-income neighborhoods, as defined by the County;
- (d) Provides citizens with reasonable and timely access to local meetings, information, and records relating to the Subrecipient's use of funds, as specified in this Agreement,
- (e) Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for persons with disabilities;
- (f) Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate;
- (g) The grant will be conducted and administered in compliance with:
 1. Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 U.S.C. Sec. 2000d et seq.); and
 2. The Fair Housing Act (42 U.S.C. 3601-20);
- (h) It will affirmatively further fair housing;
- (i) It will carry out the activities specified in this Agreement consistent with the goals, objectives, and strategies of the Gwinnett County Consolidated Plan;
- (j) It will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds provided under section 106 of the Act or with amounts resulting from a guarantee under section 108 of the Act by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 1. Funds received under section 106 of the Act are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Act; or
 2. For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under section 106 of the Act to comply with the requirements of subparagraph (1) above;

- (k) Its notification, inspection, testing, and abatement procedures concerning lead-based paint will comply with 24 CFR Part 570.608;
- (l) It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, as required under 24 CFR Part 570.606;
- (m) It has adopted and is enforcing:
1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
 2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;
- (n) To the best of its knowledge and belief:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
 3. It will require that the language of paragraph (n) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly;
- (o) It will or will continue to provide a drug-free workplace by:
1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 2. Establishing an ongoing drug-free awareness program to inform employees about -
 - a. The dangers of drug abuse in the workplace;
 - b. The grantee's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph I;
4. Notifying the employee in the statement required by subparagraph 1 that, as a condition of employment under the grant, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
 - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

The site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

City of Dacula
442 Harbins Road
Dacula, GA 30019

(p) It will comply with the other provisions of the Act and with other applicable laws.

[CDBG CERTIFICATION SIGNATURE PAGE – PROVIDED ON NEXT PAGE]

COMMUNITY DEVELOPMENT BLOCK GRANT

GRANTEE CERTIFICATIONS

SUBRECIPIENT SIGNATURE PAGE

SIGN:

Signature - Subrecipient Chief Elected Official/Board Chair/Other Authorized Official

Trey King

Name - Subrecipient Chief Elected Official/Board Chair/Other Authorized Official

Mayor

Title

Signature Date

ATTEST:

Signature of Person Attesting Signature by Subrecipient's Chief Elected Official or Board Chair

Brittini Nix

Name - Person Attesting Signature by Subrecipient's Chief Elected Official or Board Chair

City Administrator

Title

Date of Attesting Person's Signature

APPENDIX TO CDBG CERTIFICATIONS

INSTRUCTIONS CONCERNING LOBBYING AND DRUG-FREE WORKPLACE REQUIREMENTS

A. Lobbying Certification - Paragraph n

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

B. Drug-Free Workplace Certification - Paragraph o

1. By signing and executing this Agreement, the Subrecipient is providing the certification set out in paragraph (o).
2. The certification set out in paragraph (o) is a material representation of fact upon which reliance is placed when the County awards the grant. If it is later determined that the Subrecipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under this Agreement shall be identified in this Agreement. Failure to identify all known workplaces constitutes a violation of the Subrecipient's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place.
5. If the workplace identified to the County changes during the performance of the grant, the Subrecipient shall inform the County of the change(s), if it previously identified the workplaces in question (see paragraph three).
6. Definitions of terms in the Non-procurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Subrecipient's attention is called, in particular, to the following definitions from these rules:
 - a. "Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C.812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);
 - b. "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;
 - c. "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;
 - d. "Employee" means the employee of a Subrecipient directly engaged in the performance of work under a grant provided through this Agreement, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are not on the Subrecipient's payroll. This definition does not include workers not on the payroll of the Subrecipient (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the Subrecipient's payroll; or employees of subrecipients or subcontractors in covered workplaces).

EXHIBIT 2
SCOPE OF SERVICES

EXHIBIT 2

SCOPE OF SERVICES

The following activities and/or projects shall be carried out by the Subrecipient, under the terms of this Agreement and its accompanying certifications and reporting requirements:

Agency:	City of Dacula
Activity Name:	McMillian Road Improvements
Gwinnett Co. CDBG Objective(s):	
CDBG Eligibility Citation:	570.201(c)
CDBG National Objective Citation:	570.208(a)2
HUD CDBG Activity Type:	03K
HUD CDBG Activity Name:	Street Improvements
HUD IDIS Number:	XXXX
HUD Objective:	Suitable Living Environment
HUD Outcome:	Improving Sustainability

ACTIVITY DESCRIPTION

CDBG funds were awarded to the City of Dacula for the project titled **McMillian Road Improvements**, in the amount of **\$252,379.00** for Infrastructure Improvement activities as defined in Table 1 in the Activity Description Section of this Exhibit. The Subrecipient shall contribute non-CDBG funds for this activity, if needed, to permit the project to be completed by the termination date, **December 31, 2024**.

Expenditure Requirements

Gwinnett County reserves the right to recapture CDBG grant funds based on the time periods and expenditure rate schedule for grant amounts set forth in this agreement.

Expenditure Period	Expenditure Rate
February 2024 – March 2024	0-25%
April 2024 – June 2024	26-50%
July 2024 – September 2024	51-75%
October 2024 – December 2024	76-100%

Beneficiary Requirements

The Subrecipient shall use the CDBG funds, and other non-CDBG funds, if needed, to carry out eligible activities based on the approved budget. Total persons to be served: **795** of whom **795 [100%]** CDBG income eligible as defined by CDBG Program. At least 51% of the households served must have total household incomes - from all Households living in their respective households - which do not exceed the CDBG Maximum Income Limits applicable at the time the service is provided.

General Requirements

A **Monthly Report** shall be submitted by the **10th calendar day of the month** following the initial month of operation to Gwinnett County Housing & Community Development. One copy of each monthly report shall be emailed cdbgps@gwinnettcountry.com by the 10th calendar day of each month for all months CDBG Public Service funds are being utilized (for services provided during the prior month). The Subrecipient may stop submitting Monthly Service Reports once all Gwinnett County CDBG Public Service funds have been expended

reimbursement has been requested, and the beneficiary goal listed above is met. The monthly report shall be retained in the Subrecipient's files and filed with Gwinnett County Housing and Community Development. The beneficiary data must be received from the Subrecipient to permit Gwinnett County to record services delivered by the Subrecipient into the HUD Integrated Disbursement and Information System, or any successor or replacement computer system at HUD.

Funds from these grant awards shall not be used to provide any services not associated with activities identified in this Scope of Services. No involuntary displacement of persons, businesses, or agencies will occur as a result of this CDBG assisted activity. Any changes in this agreement shall be requested by the Subrecipient, in writing, and must be approved by Gwinnett County.

The information obtained from the monthly Subrecipient reports will be compiled by Gwinnett County Housing and Community Development and will be reported to local elected officials and managers to document the impact of CDBG job creation/retention and to catalogue the actual non-CDBG funding leveraged by the CDBG expenditures.

Reimbursement Process

Each request for reimbursement for **Infrastructure Improvements** must be submitted to Gwinnett County Housing and Community Development, which shall review and recommend reimbursement to the Subrecipient by the Gwinnett County Department of Financial Services.

Each request for reimbursement submitted to Gwinnett County Housing and Community Development by the Subrecipient shall consist of:

- (1) A letter from your agency requesting reimbursement, identifying the activity and the amount of reimbursement requested; and
- (2) Copies of vendor(s) invoices, your agency's payment voucher(s) (if used by your agency), and your agency's check(s) issued to vendor(s) for expenditures contained in the requests for reimbursement; and
- (3) All payments to vendors(s) shall be reviewed and approved, in writing, by an authorized official of the Subrecipient; and
- (4) No reimbursement requests shall be submitted to Gwinnett County Housing and Community Development without the review and written approval by an authorized official of the Subrecipient; and
- (5) No reimbursement requests shall be submitted to Gwinnett County Housing and Community Development until the Subrecipient has issued its check(s) payable to the vendor(s) identified in the requests for reimbursement.
- (6) The Subrecipient shall maintain documentation in its files to substantiate all expenditures/reimbursement requests, and to demonstrate that it has followed its written procurement procedures [see Item 3, of this Agreement] to obtain the goods and/or services associated with the completion of the activity identified in this Scope of Services.



**WINNETT COUNTY
HOUSING & COMMUNITY DEVELOPMENT
MONTHLY EXPENDITURE REPORT**

Submit this form by the 10th of each month, for the month prior.

Approved FFY2019 CDBG Budget:	\$252,379.00
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Organization Information			
Subrecipient:	City of Dacula		
Address:	442 Harbins Road, Dacula, Georgia 30019		
Project Description:	McMillan Road Improvements		
Vendor Number:		Contract Number:	

Invoice Date:	
Invoice Number:	

Financial Information					
Budget Categories	Approved Budget	Prior Expenses	Current Expenses	Cumulative Expenses	Remaining Budget
A. Labor & Materials					
B. Design Services					
C. Construction Supervision					
D.					
E.					
Total:					

Subrecipient Signature:		Date:	
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For Housing & Community Development Use Only							
WBS Element	Shopping Cart #	Purchase Order #		Goods Receipt #		Voucher #	
Program/Year	Cost Center Routing	Payment Method		Single Check		Process Type	
		Check	EFT	Yes	No	FV60	MIRO

HCD Program Analyst Signature:		Date:	
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HCD Financial Analyst Signature:		Date:	
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**GWINNETT COUNTY
HOUSING & COMMUNITY DEVELOPMENT
MONTHLY BENEFICIARY REPORT**

Submit this form by the 10th of each month, for the month prior. Only report new households and individuals each month.

Grant Information	
Agency Name:	City of Dacula
Activity Name:	McMillan Road Improvements
Activity Description:	Street Improvements
IDIS #:	
Matrix Code:	03K
Month/Year:	

1. New Households Served by Income Groups - % of Median Household Income	
	Number of Households
A. New Households Served [Extremely Low Income: 0% - 30% Median Household Income]	
B. New Households Served [Very Low Income: 31% - 50% Median Household Income]	
C. New Households Served [Low Income: 51% - 80% Median Household Income]	
D. New Households Served [Over 80% Median Household Income]	
Total:	

2. New Individuals Served - Listed by Race/Sex/Ethnicity						
Race	Sex			Ethnicity		
	Male	Female	Other	Hispanic/Latino	Non-Hispanic/Non-Latino	Other
A. White						
B. Black/African American						
C. Asian						
D. American Indian/Alaskan Native						
E. Native Hawaiian/Other Pacific Islander						
F. Multi-Racial/Other						
Total:						

3. New Female Head of Households Served ----->	
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4. Presumed Benefit Groups Served	
Presumed Benefit Group (Income Group)	Number Served
A. Elderly - 62+ (Senior Center: LI, Non-Senior Center: VLI)	
B. Severely Disabled (VLI)	
C. Homeless Persons (ELI)	
D. Abused Spouses (VLI)	
E. Abused/Neglected Children (VLI)	
F. Illiterate Adults (VLI)	
G. Persons Living with AIDS (VLI)	
H. Migrant Farm Workers (VLI)	
Total:	

Subrecipient Signature:		Date:	
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HCD Program Analyst Signature:		Date:	
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**GWINNETT COUNTY CDBG PROGRAM
MONTHLY SERVICES NARRATIVE**

Submit by 10th Calendar Day After Month Ends

Provide Narrative Describing Monthly Accomplishments:

EXHIBIT 3

AGREEMENT AMENDMENTS

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 4

LEASE AGREEMENT

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 5

PROPERTY USE REQUIREMENTS

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 6

FEDERAL REGULATIONS

2 CFR Part 200

“Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”

24 CFR Part 58

“Environmental Review Procedures”

24 CFR Part 570

“Community Development Block Grant”



February 7, 2024

Trey King, Mayor
City of Dacula
442 Harbins Road
Dacula, GA 30019

RE: FFY 2018 CDBG Public Facilities Award Notice

Dear Mayor Trey King:

Thank you for submitting a FFY 2018 application for the Community Development Block Grant (CDBG) program. We are pleased to announce the **City of Dacula** received grant funds in the amount of **\$90,662.97** to administer the McMillan Road Improvements.

Attached are three copies of your FFY 2018 CDBG Public Facilities Subrecipient Agreement. The termination of this Agreement is **December 31, 2024**. Please sign, date, seal, and return to our office by **April 7, 2024**.

Sherry Akhimie, Program Analyst, will be your primary contact for this grant award. If you have any questions concerning your grant, please contact Sherry Akhimie at 678.518.6073 or via e-mail at Sherry.Akhimie@gwinnettcounty.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Matt Elder".

Matt Elder
Division Director, Housing and Community Development

STATE OF GEORGIA
COUNTY OF GWINNETT

**SUBRECIPIENT AGREEMENT
FOR USE OF
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS (CDBG)
PUBLIC FACILITIES: INFRASTRUCTURE IMPROVEMENTS**

Between

**GWINNETT COUNTY *and*
CITY OF DACULA**

Federal Fiscal Year 2018 Funds

HUD GRANT NO: B-18-UC-13-0004
 GWINNETT COUNTY AGREEMENT NO.: CDBG-PF-CD-181

SUBRECIPIENT AGREEMENT FOR USE OF
 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS
 CFDA # 14.218
 BETWEEN
 GWINNETT COUNTY, GEORGIA
 AND
City of Dacula
442 Harbins Road
Dacula, GA 30019

THIS AGREEMENT, made and entered into on the 6th day of February 2024, by and between Gwinnett County, a political subdivision of the State of Georgia acting by and through its duly elected Board of Commissioners, hereinafter referred to as the "County", and **City of Dacula** a CDBG subrecipient organization (either a participating municipality in the Gwinnett County Urban County CDBG Program, a quasi-local government agency, a local housing authority, or a private non-profit organization), hereinafter referred to as the "Subrecipient," located within the confines of the Gwinnett County, Georgia, and/or serving CDBG-eligible residents of Gwinnett County; The approval of the award of CDBG funds included in this Agreement by the County occurred on the 7th day of November, 2017 and represents a subaward of federal funds, as defined in 2 CFR 200.92.

WITNESSETH:

WHEREAS, Gwinnett County has received an FFY 2018 Community Development Block Grant, hereinafter referred to as "CDBG" under Title I of the Housing and Community Development Act of 1974, as amended, to carry out various housing and community development activities in its unincorporated areas and in municipalities participating in the County CDBG Program; and

WHEREAS, \$90,662.97, from FFY 2018 CDBG funds has been awarded to the Subrecipient; and

WHEREAS, the Subrecipient agrees to assume certain responsibilities for the implementation of its CDBG assisted activities, and certifies that it will comply with the applicable certifications contained in Exhibit 1; with the Scope of Services provided in Exhibit 2; with any amendments to this Agreement, included as Exhibit 3; with the Lease Agreement requirements included as Exhibit 4, if applicable; and, with the property use requirements included as Exhibit 5, if applicable; and with the applicable and non-applicable regulations included in Exhibit 6.

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

1. **Use of Funds** - The Subrecipient shall expend all or any part of its CDBG allocation only on those activities contained in the Scope of Services of this Agreement, which activities Gwinnett County Housing and Community Development shall determine to be eligible for CDBG funds, and shall notify the Subrecipient in writing, via this Agreement and/or subsequent amendments to this Agreement, of such determination of eligibility. Such CDBG funds provided through this Agreement must be fully expended not later than **December 31, 2024**.
2. **A. Uniform Administrative Requirements** - The Uniform Administrative Requirements, as promulgated in 24 CFR Chapter V [Subpart J] at 570.502 and in all sections of 2 CFR 200, shall apply to all activities undertaken by the Subrecipient with CDBG assistance provided via this Agreement and any subsequent amendments.

B. Other Program Requirements - The Subrecipient shall comply with all the requirements of 24 CFR Chapter V [Subpart K] at 570.600 - 570.614, as applicable to the Subrecipient's activity(s).

3. **Procurement** - The Subrecipient shall be responsible for procurement of all supplies, equipment, services, and construction necessary for implementation of its activity(s). Procurement shall be carried out in accordance with 2 CFR 200 Part 200.317 - 200.326, the procurement requirements of the Subrecipient, and all provisions of the CDBG Regulations [24 CFR Part 570].

The governing board of the Subrecipient shall formally adopt written procurement procedures which are at least as restrictive as those required in the aforementioned regulations [2 CFR 200, as applicable, and 24 CFR 570] and shall provide a copy of said procurement procedures and evidence of governing board adoption to the County at the time that this Subrecipient Agreement shall be returned to the County for signature by the Chairman of the Gwinnett County Board of Commissioners.

The Subrecipient shall prepare, or cause to be prepared, all advertisements, negotiations, notices, and documents; enter into all contracts; and conduct all meetings, conferences, and interviews as necessary to ensure compliance with the above-described procurement requirements.

4. **Property Acquisition and Relocation Services** - The Subrecipient shall be responsible for carrying out the acquisition of all real property necessary for the implementation of the activity(s), if applicable. The Subrecipient shall conduct all such acquisitions in its name and shall hold title to all properties purchased, [except in such cases as with long term leases (minimum term of 15 years)]. Lease requirements are addressed in Section 18 of this Agreement. The Subrecipient shall be responsible for the preparation of all notices, appraisals, and documentation required in conducting acquisitions under the latest applicable regulations of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 and of the CDBG Program. The Subrecipient shall also be responsible for providing all relocation notices, counseling, and services required by said regulations. Should the Subrecipient find it necessary to change the use of or dispose of the property acquired with CDBG funding assistance, the requirements of 24 CFR Part 570.505 governing change of use and/or property disposition shall apply. Such a change in use may also require an amendment to this Agreement, including changes in Exhibits 2, 3, 4, 5, and/or 6.
5. **"Force Account" Work** - The Subrecipient (limited to participating municipalities) may undertake public facility construction or renovation activities using municipal labor and equipment. Eligible costs of labor and equipment may be reimbursed by the County using CDBG funds, based upon submission of proper and acceptable invoice(s) and documentation of all costs as prescribed by the County.
6. **A. Financial Record Keeping** - The Subrecipient shall maintain records of the expenditure of all CDBG funds it receives, such records to be maintained in accordance with 24 CFR 570.503(B)2, as applicable. All records shall be made available, upon County request, for inspection(s) and audit(s) by the County or its representatives. If a financial audit(s) determines that the Subrecipient has improperly expended CDBG funds, resulting in the disallowance of such expenditures by the County and/or by the U.S. Department of Housing and Urban Development, the County reserves the right to recover from the Subrecipient other non-CDBG monies to fund such disallowed CDBG expenditures. Audit procedures for the Gwinnett County CDBG Program are specified in Section 19 of this Agreement.

B. Programmatic Record Keeping/Reporting - For limited clientele (including "Direct Service" and "Presumed Benefit") activities the Subrecipient shall provide, on a monthly basis, sufficient information to the County on services carried out for all persons served and on CDBG-eligible persons served by activities receiving CDBG assistance under this Agreement. The purpose of the monthly reporting is to enable the County to prepare and submit periodic and annual reports to the U.S. Department of Housing and Urban Development. These Subrecipient prepared reports shall be submitted in a format provided by the County [See Exhibit 2, if applicable to this Agreement] and at a time no later than the 10th calend

day of each month of each year until all CDBG funds for the activity(s) shall be fully expended, plus five years. The five-year reporting period should not be confused with the "continued use" provisions of this agreement, as specified in Exhibit 2, "Scope of Services." The County shall provide reporting forms and technical assistance to the Subrecipient on the procedures to be followed to collect and report these programmatic data.

7. **Subrecipient's Obligation** - The Subrecipient shall be responsible for carrying out its actions in accordance with the certifications contained in Exhibit 1 of this Agreement. The Subrecipient shall take all necessary actions to comply with the requirements of the certifications/assurances in Exhibit 1, and to comply with any requests by the County in this connection; it being understood that the County has responsibility to the U.S. Department of Housing and Urban Development for insuring compliance with such requirements. The Subrecipient will also promptly notify the County of any changes in the scope or character of the activity(s) assisted through this Agreement.
8. **"Hold Harmless"** - The Subrecipient does hereby agree to release, indemnify, and hold harmless the County, its employees, and agents from and against all costs, expenses, claims, suits, or judgments arising from or growing out of any injuries, loss or damage sustained by any person or corporation, including employees of Subrecipient and property of Subrecipient, which are caused by or sustained in connection with the tasks carried out by the Subrecipient under this Agreement.
9. **Funding** - The County agrees to provide the Subrecipient with CDBG funds in such amounts as agreed upon in this Agreement to enable the Subrecipient to carry out its CDBG eligible activity(s). It is understood that the County shall be held accountable to the U.S. Department of Housing and Urban Development for the lawful expenditure of CDBG funds under this Agreement. Therefore, the County shall make no reimbursement of CDBG funds to the Subrecipient and draw no funds from HUD/U.S. Treasury on behalf of a Subrecipient activity(s), prior to having received proper invoice(s) and copies of supporting documentation from the Subrecipient for the expenses incurred, to ensure that the Subrecipient has complied with all applicable regulations and requirements.
10. **Environmental Clearance** - The County shall be responsible for carrying out environmental reviews and clearances on all activities. The Subrecipient shall be responsible for providing necessary information, in a timely manner, to the County to accomplish this task.

Funding provided through this agreement is "conditionally approved" subject to the completion of the Environmental Review Process by the County. Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the County of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58. The parties further agree that the provision of any funds to projects/activities included in this Agreement is conditioned on the County's determination to proceed with, modify or cancel the projects/activities based on the results of a subsequent environmental review.

The Subrecipient may not obligate or expend any funds provided through this Agreement until the County provides to the Subrecipient a "Notice to Proceed," which shall represent, in part, the completion of the environmental review process, and the Release of Funds by HUD for the projects/activities contained in this Agreement.

11. **Wage Rates** - The County shall be responsible for the preparation of all requests for wage rate determinations on CDBG activities, on behalf of the Subrecipient. The Subrecipient shall notify the County prior to initiating any activity, including advertising for contractual services, which will include costs likely to be subject to the provisions of the Davis-Bacon Act and its implementing regulations. The County will provide technical assistance to the Subrecipient to ensure compliance with these requirements.

12. **Technical Assistance** - The County agrees to provide technical assistance to the Subrecipient in the form of oral and/or written guidance and onsite assistance regarding CDBG procedures and project management. This assistance will be provided as requested by the Subrecipient, and at other times, at the initiative of the County, or when the County provides new or updated CDBG Program information to the Subrecipient.
13. **Review Authority** - The County shall have the authority to review any and all procedures and all materials, notices, documents, etc., prepared by the Subrecipient in implementation of this Agreement. The Subrecipient agrees to provide all information required by any person authorized by the County to request such information from the Subrecipient, for the purpose of reviewing the same.
14. **Agreement Suspension and Termination** - In accordance with the provisions of 2 CFR 200.338 – 200.342, suspension or termination of this Agreement may occur if the Subrecipient materially fails to comply with any term of this Agreement. This Agreement may be terminated with or without cause by either party, hereto, by giving thirty (30) calendar days written notice of such termination. However, CDBG funds allocated to the Subrecipient under this Agreement may not be obligated or expended by the Subrecipient following such date of termination. Any funds allocated to the Subrecipient under this Agreement which remain unobligated or unspent upon such date of termination shall automatically revert to the County.
15. **Agreement Amendment(s)** - This Agreement may be modified or amended by mutual agreement of the parties; however, no waiver, modification or amendment of any terms, conditions or provisions of this agreement will be valid, or of any force or effect, unless made in writing, approved by the respective parties' governing bodies, and properly executed by the authorized representatives of the parties. All amendments to this Agreement shall be made a part of the Agreement by inclusion in Exhibit 3, which will be attached at the time of any amendment(s). If the Subrecipient seeks an amendment to this agreement, the request for such amendment shall be submitted in written form to Gwinnett County Housing and Community Development in a format prescribed by the Division. If an amendment to the Gwinnett County Consolidated Plan is required, the Subrecipient shall be informed of such requirement and the steps required to effectuate such a Consolidated Plan amendment.
16. **Effective Date and Termination Date** - The effective date of this Agreement is the date specified on Page 1 of this Agreement. The termination date of this Agreement is **December 31, 2024**.
17. **Program Income** - If the Subrecipient generates any program income as a result of the expenditure of CDBG funds, the provisions of 24 CFR 570.504(c) shall apply, as well as the following specific stipulations:
- A. The Subrecipient acknowledges, by the executing this Agreement, that it must notify the County of the receipt of any program income during the calendar month that such program income is generated.
 - B. Any such program income must be paid to the County within seven calendar days following the end of the month in which the program income is generated. Such payment to the County must include any interest or other earnings generated from the program income during the time the program income was in the possession of the Subrecipient.
 - C. The Subrecipient further acknowledges, by executing this Agreement, that the County has the responsibility for monitoring and reporting to the U.S. Department of Housing and Urban Development (HUD) on the generation of any such program income. The Subrecipient acknowledges its responsibility for appropriate record keeping and reporting to the County on the generation and/or receipt of such program income.
 - D. In the event of close out or change in status of the Subrecipient, any program income that is on hand or received subsequent to the close out or change in status shall be paid to the County within thirty

(30) calendar days of the official date of the close out or change in status. The County agrees to notify the Subrecipient in writing, should close out or change in status of the Subrecipient occur as a result of changes in CDBG Program statutes, regulations, and/or instructions.

18. **Real Property** - The Subrecipient shall comply with the following standards contained in 2 CFR 200.310 – 200.311 for all activities involving real property. The following standards shall also apply to real property (within the control of the Subrecipient) acquired or improved, in whole or in part, using CDBG funds. The standards are:

A. The Subrecipient shall inform the County, in writing, at least thirty (30) calendar days prior to any modification or change in the use of the real property from that specified in this Agreement, at the time of acquisition or improvements, including disposition;

B. Change in Real Property Status

1. Sale of Property - The Subrecipient may sell the property acquired or improved with CDBG assistance at any time. If the Subrecipient sells the property or otherwise transfers ownership (title) to another entity that continues to use the property for an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will not require the Subrecipient to repay funds to the County's CDBG Program. If the Subrecipient sells the property or transfers ownership (title) to another entity that does not continue to use the property for an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will require the Subrecipient to repay to the County's CDBG Program the fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for the acquisition of and improvements to the property. However, prior to such sale of CDBG-assisted property the Subrecipient shall notify the County in writing of its intent to sell the property and shall determine the fair market value of the property by obtaining at least one appraisal and at least one review appraisal of the property performed by separate appraisers who are licensed by the State of Georgia.

If the Subrecipient sells or transfers ownership (title) to the property at a point in time five (5) years after the County receives its last increment of CDBG funding, the County will not require the Subrecipient to reimburse the County's CDBG Program.

2. Change in Use of Property - The Subrecipient may change the use of the property at any time provided it complies with the following stipulations:

(a) If the Subrecipient proposes to change the use of the property to an activity that meets a CDBG National Objective and is an eligible CDBG activity, the County will not require the Subrecipient to repay funds to the County's CDBG Program. However, prior to such change in use the Subrecipient shall notify the County in writing of its intent to change the use of the property to permit the County to notify affected citizens with reasonable notice of and opportunity to comment on the proposed change in use, as required by 24 CFR 570.505.

(b) If the Subrecipient proposes to change the use of the property to an activity that does not meet a CDBG National Objective or is not an eligible CDBG activity, the County will require the Subrecipient to reimburse the County's CDBG Program the fair market value of the property as adjusted for non-CDBG funds. However, prior to such change in use the Subrecipient shall notify the County in writing of its intent to change the use of the property and shall determine the fair market value of the property by obtaining at least one appraisal and at least one review appraisal of the property performed by separate appraisers who are licensed by the State of Georgia.

- (c) If the Subrecipient proposes to change the use of the property at a point-in-time five (5) years after the County receives its last increment of CDBG funding, the County will not require the Subrecipient to reimburse the CDBG Program.
- C. Any program income generated from the disposition or transfer of property prior to or subsequent to the closeout, change of status or termination of the Subrecipient Agreement between the County and the Subrecipient shall be repaid to the County at the time of disposition or transfer of the property.
- D. A lease agreement, in a format prescribed by the County, must be executed between the County and the Subrecipient for any County CDBG-assisted Subrecipient activity which is to be carried out wholly, or in part, on County-owned real property. The lease agreement shall be included in this Subrecipient Agreement as Exhibit 4. Said lease agreement must contain, at a minimum, the following items and other items determined by the County to be applicable to the specific lease:
- (1) The beginning and ending dates of the lease (at least five (5) years to be eligible for CDBG funding assistance).
 - (2) Identification of the parties to the lease; i.e., the Lessor shall be the County and the Lessee shall be the Subrecipient.
 - (3) Identification of the precise land parcel(s) and/or structure(s), which constitute the subject of the lease.
 - (4) Identification of the CDBG-eligible use of the real property(s) and/or structure(s).
 - (5) A termination statement acceptable to the County and the U.S. Department of Housing and Urban Development.
 - (6) The lease must contain a regulatory compliance statement indicating that the terms are in conformance with all applicable Federal, State, and Gwinnett County rules, regulations, and requirements.
 - (7) The lease must contain maintenance of property statement indicating that the property(s) and/or structure(s) which is the subject of the lease agreement will be maintained in conformance with all applicable Federal, State, and Gwinnett County rules, regulations, and requirements.
 - (8) The lease must contain a non-assignability clause indicating that the lease may not be assigned to any other party(s) without prior written approval by the County and subsequent execution of an amendment to the lease and to this Subrecipient Agreement.
 - (9) The lease must contain an insurance certification statement indicating that the lessee will maintain appropriate types of insurance, as specified in the lease, on the property(s) and/or structure(s) which is the subject of the lease.
 - (10) The lease must contain an indemnification statement, as specified by the County.
 - (11) The lease must contain a statement as to governance, performance, and enforcement under the laws of the State of Georgia.
 - (12) The lease may contain special conditions unique to the specific lessor/lessee circumstances and/or unique to the specific property(s) and/or structure(s).
- E. If the Subrecipient wishes to carry out its CDBG-assisted activity on real property(s) and/or in a structure(s) which is owned neither by the Subrecipient nor by the County, a long-term lease (minimum

fifteen (15) years) must be executed which meets the standards specified in Section 18(d), above. However, prior to execution of said lease, the County must approve the form and content of the Lease Agreement to ensure its compliance with the terms of this Agreement.

- F. Private non-profit subrecipient organizations must also execute a real property use document(s) with the County. Such a document(s) provides the County with a mechanism to ensure its fiduciary interest in the property(s) and/or structure(s) for which the County provided CDBG funds to the private non-profit organization via this Agreement.
- G. In the event of the dissolution or change in status of the private non-profit organization or change in scope of the CDBG-assisted activity -- resulting in the CDBG-assisted activity becoming an ineligible CDBG activity, as defined by CDBG rules and regulations applicable at the time of such dissolution or change in status -- the County shall, at its option, exercise its right to obtain its appropriate share of the value of the CDBG-assisted property, as permitted by the rules and regulations governing the CDBG Program at the time of such an occurrence, and as specified by this Agreement. The real property-use documents referenced, herein, shall be appended to this Agreement and shall constitute Exhibit 5.

19. Audits - The Subrecipient agrees to comply with the requirements of:

- A. The "Government Auditing Standards, Standards for Audit of Governmental Organizations, Programs, Activities and Functions," 1994 Revision or its successors, ["The Yellow Book"] issued by the Comptroller General, United States General Accounting Office.
- B. The "Single Audit Act of 1984" [P.L. 98-502], as amended by the Single Audit Act Amendments of 1996 [P.L. 104-156], requires that States, local governments, and nonprofit organizations which receive federal funds must have audits performed in conformance with the Single Audit Act, as amended, and with implementing Circulars issued by the Office of Management and Budget. Subrecipient entities must have their audits prepared consistent with the requirements of 2 CFR 200.500 – 200.513. If a Subrecipient's expenditures trigger the requirement to prepare a Single Audit, three (3) copies of the audit must be submitted to the County not later than six (6) months following the final date of the Subrecipient's fiscal year that is the subject of the audit.

If the minimum monetary amounts requiring the preparation of the Single Audit, as stated in 2 CFR 200.501, are not to be triggered, the Subrecipient shall provide to Gwinnett County Housing and Community Development three (3) copies of its normal independent auditor's report, as soon as practicable following the close of its fiscal year, but not later than nine (9) months following the close of each such year. The independent audit, which addresses the Community Development Block Grant funds received/expended by the Subrecipient shall conform to the Gwinnett County Audit Standards, described in Section 19.C. of this Agreement.

- C. Gwinnett County Audit Standards for CDBG Subrecipients Where Single Audit Act Requirements Do Not Apply

Because Gwinnett County is responsible for any grant funds provided to all subrecipients, any organizations or cities which expend a total of more than \$0.00, but less than \$500,000.00 of CDBG funds, in any fiscal year from this agreement must have an independent audit of those funds performed annually or shall follow procedures specified, herein, as if all funds were subject to the requirements below.

- (1) A statement by the executive financial official of the organization or city that they have read and adhered to the requirements of 2 CFR 200.500 – 200.520 and have met those requirements as they are applicable to their organization. This statement should be in written form and submitted to Gwinnett County within thirty (30) calendar days following the end of the fiscal year of the Subrecipient;

- (2) All requests to the County for CDBG reimbursements shall be approved by an individual at least one level above the person who prepares the reimbursement request. If the reimbursement request is prepared by the Chief Financial Administrator of the organization, the request shall be approved by a Chairperson or other designated member of the organization's governing board;
- (3) For all CDBG requests for reimbursement, the invoice and accompanying copies of checks and other supporting documentation shall be submitted with the reimbursement request;
- (4) Gwinnett County shall periodically perform program reviews of Subrecipient financial records and systems not less often than one time during the Subrecipient's fiscal year, including the review of Subrecipient records, at least annually, at the offices of the Subrecipient. This review should include procedures to request and verify documentation of all expenditures requested in a single reimbursement request;
- (5) Any appropriate corrective action for instances of noncompliance as a result of these program reviews has been taken within six (6) months of notification by Gwinnett County that these reportable conditions exist;
- (6) At each fiscal year end, the Subrecipient shall submit to Gwinnett County a financial statement prepared from the Subrecipient's financial records that presents the revenues received from the Gwinnett County Community Development Block Grant Program and the expenditures for which these funds were used; and

The above procedures will provide the County's independent auditor with sufficient information to determine whether the Subrecipient has materially complied with the applicable laws and regulations, as they govern their programs. If any of the above procedures provide less information than is already required by this agreement, then the applicable procedures already stated in the agreement shall govern the Subrecipient's responsibilities to Gwinnett County.

- D. The Subrecipient agrees to have its Single Audit or other independent audit performed, in conformance with these Federally required and Gwinnett County stipulations, at its own cost and not payable with CDBG funds.
- E. The Subrecipient further agrees to send three (3) copies of its Single Audit Report or independent auditor's report to Gwinnett County Housing and Community Development as soon as practicable following the close of the Subrecipient's fiscal year, but in no case shall the audit report be submitted to Gwinnett County Housing and Community Development Office later than nine (9) months following the close of the Subrecipient's fiscal year which is the subject of the audit in question.
- F. The County reserves the right to recover from non-CDBG sources of the Subrecipient, any CDBG expenses of the Subrecipient which are questioned or disallowed by the Subrecipient's independent auditor or by Gwinnett County's independent auditor as a part of their review of the Subrecipient's audit.

The Subrecipient shall comply with all the applicable requirements of 24 CFR 570 [CDBG Regulations] and 2 CFR 200, as applicable. These documents are incorporated as a part of this Agreement by reference, herein. The referenced documents are also available from Gwinnett County Housing and Community Development, upon request.

20. Faith-based activities

- A. Organizations that are religious or faith-based are eligible, on the same basis as any other organization, to participate in the CDBG program. Neither the Federal government nor a State or local government receiving funds under CDBG programs shall discriminate against an organization on the basis of the organization's religious character or affiliation.
- B. Organizations that are directly funded under the CDBG program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded under this part. If an organization conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded under this part, and participation must be voluntary for the beneficiaries of the HUD-funded programs or services.
- C. A religious organization that participates in the CDBG program will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct CDBG funds to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, faith-based organizations may use space in their facilities to provide CDBG-funded services, without removing religious art, icons, scriptures, or other religious symbols. In addition, a CDBG-funded religious organization retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.
- D. An organization that participates in the CDBG program shall not, in providing program assistance, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.
- E. CDBG funds may not be used for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under this part. Where a structure is used for both eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to CDBG funds in this part. Sanctuaries, chapels, or other rooms that a CDBG-funded religious congregation uses as its principal place of worship, however, are ineligible for CDBG-funded improvements. Disposition of real property after the term of the grant, or any change in use of the property during the term of the grant, is subject to government-wide regulations governing real property disposition (see 24 CFR parts 84 and 85). If a State or local government voluntarily contributes its own funds to supplement federally funded activities, the State or local government has the option to segregate the Federal funds or commingle them. However, if the funds are commingled, this section applies to all of the commingled funds.
- F. In accordance with 24 CFR 570.607 Employment and contracting opportunities, as amended by 68 FR 56404, Page 53405, to the extent that they are otherwise applicable, the Subrecipient shall comply with: Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR 1964-1965 Comp. p. 339); 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970., p. 803; 3 CFR, 1978 Comp., p. 230; 3 CFR, 1978 Comp., p. 264 (Equal Employment Opportunity), and Executive Order 13279 (Equal Protection of the Laws for Faith-Based and Community Organizations), 67 FR 77141, 3 CFR, 2002 Comp., p. 258; and the implementing regulations at 41 CFR chapter 60; and (b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701(u) and implementing regulations at 24 CFR part 135.

21. **Recognition of CDBG Program Funding from Gwinnett County** - The Subrecipient shall ensure that the Gwinnett County Board of Commissioners' Community Development Block Grant Program is provided proper recognition, as follows:

(1) CDBG Public Facilities, Capital Public Services Projects, Other Funded Activities

- a. Subrecipient will affix proper signage in a prominent location inside/outside of the administrative offices and outside of all project sites, which signage will include language recognizing the role of Gwinnett County and its CDBG funds in the acquisition, and/or construction and/or rehabilitation of the public facility or of the purchase of capital equipment, or other CDBG funded activities.
- b. Subrecipient will have as its contact point with Gwinnett County Housing and Community Development to arrange any events related to project groundbreaking, dedications, or similar ceremonies for activities receiving Gwinnett County CDBG Program funds; and, the Subrecipient agrees to provide Gwinnett County Housing and Community Development with adequate lead time to permit proper planning and scheduling for such events. Event notifications to Gwinnett County Housing and Community Development should occur not less than six (6) weeks prior to the date of any event, to permit adequate event planning and scheduling.
- c. Subrecipient agrees to contact Gwinnett County Housing and Community Development to arrange such events, rather than contacting the Gwinnett County Board of Commissioners, directly, individually, or collectively, to initiate or arrange such events. This procedure is being used by Gwinnett County government to avoid scheduling conflicts, and to provide a consistent method of planning all such events.
- d. Subrecipient agrees to schedule such events on days other than regular meeting days [Tuesdays] of the Gwinnett County Board of Commissioners or to schedule such events late in the afternoon on Tuesday meeting days of the Gwinnett County Board of Commissioners.
- e. Subrecipient agrees that all reports, media releases, media stories, media articles, brochures, newsletters, advertisements, and other published materials shall contain statements which provide adequate recognition of the financial support provided by the Gwinnett County Board of Commissioners, through Gwinnett County CDBG Program funds.

22. **Conflict of Interest** - In accordance to 2 CFR 200.317 and 200.318, no person who is an employee, agent, consultant, officer, or elected or appointed official of a Subrecipient who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this Agreement, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

Subrecipients will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, or agent of the Subrecipient shall participate in the selection, or in the award or administration of a contract supported by Federal funds awarded through this Agreement if a conflict of interest, real or apparent, would be involved.

Subrecipients must be mindful of any relationship employees, officials, board members, consultants, and/or volunteers may have with Gwinnett County employees, board members, consultants, or elected officials, where a real or apparent conflict of interest that might be realized or perceived with respect

a CDBG funded project or activity awarded through this Agreement. All relationships between representatives of the Subrecipient and Gwinnett County must be transparent and must comply with Gwinnett County's Code of Ethics. This Code was developed by the County to establish ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are compatible with the best interests of the County. The Code directs disclosure by such officials and employees of private financial or other interests in matters affecting the County and by directing disclosure of their business relationships. Subrecipient officials who carefully follow the Gwinnett County Code of Ethics and the language of this Section are less likely to have conducted themselves or participated in activities which can be construed as real or apparent conflicts of interest.

If any situation arguably falls within the conflicts prohibited by 2 CFR 200.112 or 24 CFR 570.611 the Subrecipient should immediately contact Gwinnett County Housing and Community Development for guidance. Copies of the Gwinnett County Code of Ethics are available from Gwinnett County Housing and Community Development.

IN WITNESS WHEREOF, the parties hereunto have affixed their signatures the year and dates specified below and the Official Seal of the Subrecipient has been affixed.

FOR: **City of Dacula:**

FOR: **GWINNETT COUNTY:**

Signature
Trey King, Mayor

Signature
Buffy Alexzulian, Director
Gwinnett County Department of Financial Services

Signature Date

Signature Date

[Impress Corporate Seal Here]

Signature
Matthew Elder, Division Director
Gwinnett County Housing and Community Development

Signature Date

ATTEST:

ATTEST:

Signature
Brittini Nix, City Administrator

Signature
Tina King, County Clerk

Signature Date

Signature Date

Approved: **Subrecipient Governing Body**

Approved: **Gwinnett County Board of Commissioners**

Date of Approval

Date of Approval: February 6, 2024

[See Also Attached Exhibit(s)] Note: No Signatures shall be placed within this document on a date prior to action by the governing board of the Subrecipient, approving acceptance of these funds, and authorizing execution of this document. The Resolution of the Governing Board is presented in Exhibit 1.

RESOLUTION OF THE GOVERNING BOARD

City of Dacula

WHEREAS, **City of Dacula** requested FFY 2018 Community Development Block Grant [CDBG] Program funding from the Gwinnett County Board of Commissioners; and

WHEREAS, the Gwinnett County Board of Commissioners has awarded **\$90,662.97** from FFY 2018 CDBG Program funds to **City of Dacula** for **McMillan Road Improvements**.

NOW, THEREFORE, the Governing Board of **City of Dacula** does hereby resolve and authorize the following, as a result of an affirmative majority vote of the Governing Board at a meeting of said Governing Board which was held on _____.

Date of Governing Board Action

1. Acceptance of an FFY 2018 Community Development Block Grant [CDBG] Program award of **\$90,662.97** from the Gwinnett County Board of Commissioners to **City of Dacula**.
2. Authorize the **Mayor** and the **City Administrator** of the Subrecipient's Governing Board to execute the Community Development Block Grant [CDBG] Program Subrecipient Agreement used by Gwinnett County to award the CDBG Program funds to **City of Dacula**.

Certified as accurate and true:

Signature – Trey King, Mayor

Signature Date

[IMPRESS CORPORATE SEAL HERE]

EXHIBIT 1
CERTIFICATIONS

EXHIBIT 1
COMMUNITY DEVELOPMENT BLOCK GRANT
GRANTEE CERTIFICATIONS

In accordance with the Housing and Community Development Act of 1974, as amended, ("the Act") and with 24 CFR 570 of the Community Development Block Grant regulations, the Subrecipient certifies that:

- (a) It possesses legal authority to accept and execute a Community Development Block Grant award from Gwinnett County;
- (b) Its governing body has duly adopted or passed, by at least a majority vote, as an official act a resolution, motion or similar action authorizing the acceptance of this grant for the purposes specified in this Agreement and directing and authorizing its appropriate personnel to execute and implement this Agreement and to provide to the County such additional information as may be required;
- (c) Provides for and encourages citizen participation, with particular emphasis on participation by persons of low- and-moderate income who are residents of slum and blighted areas and of areas in which funds are proposed to be used, and provides for participation of residents in low- and moderate-income neighborhoods, as defined by the County;
- (d) Provides citizens with reasonable and timely access to local meetings, information, and records relating to the Subrecipient's use of funds, as specified in this Agreement,
- (e) Provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, which hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for persons with disabilities;
- (f) Identifies how the needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate;
- (g) The grant will be conducted and administered in compliance with:
 1. Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 U.S.C. Sec. 2000d et seq.); and
 2. The Fair Housing Act (42 U.S.C. 3601-20);
- (h) It will affirmatively further fair housing;
- (i) It will carry out the activities specified in this Agreement consistent with the goals, objectives, and strategies of the Gwinnett County Consolidated Plan;
- (j) It will not attempt to recover any capital costs of public improvements assisted in whole or in part with funds provided under section 106 of the Act or with amounts resulting from a guarantee under section 108 of the Act by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:
 1. Funds received under section 106 of the Act are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Act; or
 2. For purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under section 106 of the Act to comply with the requirements of subparagraph (1) above;

- (k) Its notification, inspection, testing, and abatement procedures concerning lead-based paint will comply with 24 CFR Part 570.608;
- (l) It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, as required under 24 CFR Part 570.606;
- (m) It has adopted and is enforcing:
1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
 2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction;
- (n) To the best of its knowledge and belief:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
 3. It will require that the language of paragraph (n) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly;
- (o) It will or will continue to provide a drug-free workplace by:
1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 2. Establishing an ongoing drug-free awareness program to inform employees about -
 - a. The dangers of drug abuse in the workplace;
 - b. The grantee's policy of maintaining a drug-free workplace;
 - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph I;
4. Notifying the employee in the statement required by subparagraph 1 that, as a condition of employment under the grant, the employee will:
 - a. Abide by the terms of the statement; and
 - b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;
5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
6. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
 - a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.

The site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

City of Dacula
442 Harbins Road
Dacula, GA 30019

(p) It will comply with the other provisions of the Act and with other applicable laws.

[CDBG CERTIFICATION SIGNATURE PAGE – PROVIDED ON NEXT PAGE]

COMMUNITY DEVELOPMENT BLOCK GRANT

GRANTEE CERTIFICATIONS

SUBRECIPIENT SIGNATURE PAGE

SIGN:

Signature - Subrecipient Chief Elected Official/Board Chair/Other Authorized Official

Trey King

Name - Subrecipient Chief Elected Official/Board Chair/Other Authorized Official

Mayor

Title

Signature Date

ATTEST:

Signature of Person Attesting Signature by Subrecipient's Chief Elected Official or Board Chair

Brittni Nix

Name - Person Attesting Signature by Subrecipient's Chief Elected Official or Board Chair

City Administrator

Title

Date of Attesting Person's Signature

APPENDIX TO CDBG CERTIFICATIONS

INSTRUCTIONS CONCERNING LOBBYING AND DRUG-FREE WORKPLACE REQUIREMENTS

A. Lobbying Certification - Paragraph n

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

B. Drug-Free Workplace Certification - Paragraph o

1. By signing and executing this Agreement, the Subrecipient is providing the certification set out in paragraph (o).
2. The certification set out in paragraph (o) is a material representation of fact upon which reliance is placed when the County awards the grant. If it is later determined that the Subrecipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. Workplaces under this Agreement shall be identified in this Agreement. Failure to identify all known workplaces constitutes a violation of the Subrecipient's drug-free workplace requirements.
4. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place.
5. If the workplace identified to the County changes during the performance of the grant, the Subrecipient shall inform the County of the change(s), if it previously identified the workplaces in question (see paragraph three).
6. Definitions of terms in the Non-procurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Subrecipient's attention is called, in particular, to the following definitions from these rules:
 - a. "Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C.812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);
 - b. "Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;
 - c. "Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;
 - d. "Employee" means the employee of a Subrecipient directly engaged in the performance of work under a grant provided through this Agreement, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are not on the Subrecipient's payroll. This definition does not include workers not on the payroll of the Subrecipient (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the Subrecipient's payroll; or employees of subrecipients or subcontractors in covered workplaces).

EXHIBIT 2
SCOPE OF SERVICES

EXHIBIT 2

SCOPE OF SERVICES

The following activities and/or projects shall be carried out by the Subrecipient, under the terms of this Agreement and its accompanying certifications and reporting requirements:

Agency:	City of Dacula
Activity Name:	McMillan Road Improvements
Gwinnett Co. CDBG Objective(s):	
CDBG Eligibility Citation:	570.201(c)
CDBG National Objective Citation:	570.208(a)2
HUD CDBG Activity Type:	03K
HUD CDBG Activity Name:	Street Improvements
HUD IDIS Number:	XXXX
HUD Objective:	Suitable Living Environment
HUD Outcome:	Improving Sustainability

ACTIVITY DESCRIPTION

CDBG funds were awarded to the City of Dacula for the project titled **McMillan Road Improvements**, in the amount of **\$90,662.00** for Infrastructure Improvement activities as defined in Table 1 in the Activity Description Section of this Exhibit. The Subrecipient shall contribute non-CDBG funds for this activity, if needed, to permit the project to be completed by the termination date, **December 31, 2024**.

Expenditure Requirements

Gwinnett County reserves the right to recapture CDBG grant funds based on the time periods and expenditure rate schedule for grant amounts set forth in this agreement.

Expenditure Period	Expenditure Rate
February 2024 – March 2024	0-25%
April 2024 – June 2024	26-50%
July 2024 – September 2024	51-75%
October 2024 – December 2024	76-100%

Beneficiary Requirements

The Subrecipient shall use the CDBG funds, and other non-CDBG funds, if needed, to carry out eligible activities based on the approved budget. Total persons to be served: **795** of whom **795 [100%]** CDBG income eligible as defined by CDBG Program. At least 51% of the households served must have total household incomes - from all Households living in their respective households - which do not exceed the CDBG Maximum Income Limits applicable at the time the service is provided.

General Requirements

A **Monthly Report** shall be submitted by the **10th calendar day of the month** following the initial month of operation to Gwinnett County Housing & Community Development. One copy of each monthly report shall be emailed cdbgps@gwinnettcountry.com by the 10th calendar day of each month for all months CDBG Public Service funds are being utilized (for services provided during the prior month). The Subrecipient may stop submitting Monthly Service Reports once all Gwinnett County CDBG Public Service funds have been expended

reimbursement has been requested, and the beneficiary goal listed above is met. The monthly report shall be retained in the Subrecipient's files and filed with Gwinnett County Housing and Community Development. The beneficiary data must be received from the Subrecipient to permit Gwinnett County to record services delivered by the Subrecipient into the HUD Integrated Disbursement and Information System, or any successor or replacement computer system at HUD.

Funds from these grant awards shall not be used to provide any services not associated with activities identified in this Scope of Services. No involuntary displacement of persons, businesses, or agencies will occur as a result of this CDBG assisted activity. Any changes in this agreement shall be requested by the Subrecipient, in writing, and must be approved by Gwinnett County.

The information obtained from the monthly Subrecipient reports will be compiled by Gwinnett County Housing and Community Development and will be reported to local elected officials and managers to document the impact of CDBG job creation/retention and to catalogue the actual non-CDBG funding leveraged by the CDBG expenditures.

Reimbursement Process

Each request for reimbursement for **Infrastructure Improvements** must be submitted to Gwinnett County Housing and Community Development, which shall review and recommend reimbursement to the Subrecipient by the Gwinnett County Department of Financial Services.

Each request for reimbursement submitted to Gwinnett County Housing and Community Development by the Subrecipient shall consist of:

- (1) A letter from your agency requesting reimbursement, identifying the activity and the amount of reimbursement requested; and
- (2) Copies of vendor(s) invoices, your agency's payment voucher(s) (if used by your agency), and your agency's check(s) issued to vendor(s) for expenditures contained in the requests for reimbursement; and
- (3) All payments to vendors(s) shall be reviewed and approved, in writing, by an authorized official of the Subrecipient; and
- (4) No reimbursement requests shall be submitted to Gwinnett County Housing and Community Development without the review and written approval by an authorized official of the Subrecipient; and
- (5) No reimbursement requests shall be submitted to Gwinnett County Housing and Community Development until the Subrecipient has issued its check(s) payable to the vendor(s) identified in the requests for reimbursement.
- (6) The Subrecipient shall maintain documentation in its files to substantiate all expenditures/reimbursement requests, and to demonstrate that it has followed its written procurement procedures [see Item 3, of this Agreement] to obtain the goods and/or services associated with the completion of the activity identified in this Scope of Services.



**GWINNETT COUNTY
HOUSING & COMMUNITY DEVELOPMENT
MONTHLY EXPENDITURE REPORT**

Submit this form by the 10th of each month, for the month prior.

Approved FFY2018 CDBG Budget:	\$90,662.97
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Organization Information			
Subrecipient:	City of Dacula		
Address:	442 Harbins Road, Dacula, Georgia 30019		
Project Description:	McMillan Road Improvements		
Vendor Number:		Contract Number:	

Invoice Date:	
Invoice Number:	

Financial Information					
Budget Categories	Approved Budget	Prior Expenses	Current Expenses	Cumulative Expenses	Remaining Budget
A. Labor & Materials					
B. Design Services					
C. Construction Supervision					
D.					
E.					
Total:					

Subrecipient Signature:		Date:	
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For Housing & Community Development Use Only							
WBS Element	Shopping Cart #	Purchase Order #		Goods Receipt #		Voucher #	
Program/Year	Cost Center Routing	Payment Method		Single Check		Process Type	
		Check	EFT	Yes	No	FV60	MIRO

HCD Program Analyst Signature:		Date:	
---------------------------------------	--	--------------	--

HCD Financial Analyst Signature:		Date:	
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**GWINNETT COUNTY
HOUSING & COMMUNITY DEVELOPMENT
MONTHLY BENEFICIARY REPORT**

Submit this form by the 10th of each month, for the month prior. Only report new households and individuals each month.

Grant Information	
Agency Name:	City of Dacula
Activity Name:	McMillan Road Improvements
Activity Description:	Street Improvements
IDIS #:	
Matrix Code:	03K
Month/Year:	

1. New Households Served by Income Groups - % of Median Household Income	
	Number of Households
A. New Households Served [Extremely Low Income: 0% - 30% Median Household Income]	
B. New Households Served [Very Low Income: 31% - 50% Median Household Income]	
C. New Households Served [Low Income: 51% - 80% Median Household Income]	
D. New Households Served [Over 80% Median Household Income]	
Total:	

2. New Individuals Served - Listed by Race/Sex/Ethnicity						
Race	Sex			Ethnicity		
	Male	Female	Other	Hispanic/Latino	Non-Hispanic/Non-Latino	Other
A. White						
B. Black/African American						
C. Asian						
D. American Indian/Alaskan Native						
E. Native Hawaiian/Other Pacific Islander						
F. Multi-Racial/Other						
Total:						

3. New Female Head of Households Served ----->	
---	--

4. Presumed Benefit Groups Served	
Presumed Benefit Group (Income Group)	Number Served
A. Elderly - 62+ (Senior Center: LI, Non-Senior Center: VLI)	
B. Severely Disabled (VLI)	
C. Homeless Persons (ELI)	
D. Abused Spouses (VLI)	
E. Abused/Neglected Children (VLI)	
F. Illiterate Adults (VLI)	
G. Persons Living with AIDS (VLI)	
H. Migrant Farm Workers (VLI)	
Total:	

Subrecipient Signature:		Date:	
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HCD Program Analyst Signature:		Date:	
---------------------------------------	--	--------------	--

**GWINNETT COUNTY CDBG PROGRAM
MONTHLY SERVICES NARRATIVE**

Submit by 10th Calendar Day After Month Ends

Provide Narrative Describing Monthly Accomplishments:

EXHIBIT 3

AGREEMENT AMENDMENTS

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 4

LEASE AGREEMENT

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 5

PROPERTY USE REQUIREMENTS

[Not Applicable to this Subrecipient Agreement]

EXHIBIT 6

FEDERAL REGULATIONS

2 CFR Part 200

“Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”

24 CFR Part 58

“Environmental Review Procedures”

24 CFR Part 570

“Community Development Block Grant”



MEMO

TO: Mayor and City Council of the City of Dacula
FROM: Brittni Nix, City Administrator
DATE: February 8, 2024
SUBJECT: Proposal to prepare the 2025 Community Development Block Grant Application

The City of Dacula requested a proposal from Bowman Consulting Group Ltd. to prepare the 2025 Community Development Block Grant (CDBG) Application for Sanjo Street Improvements on behalf of the City. The proposal includes research, data gathering, evaluation, compilation of required documents, and creating an Opinion of Probable Construction Cost (OPCC) as outlined in the attached proposal. The proposed Sanjo Street project includes road widening, storm drainage, and sidewalk improvements.

Staff requests approving the proposal from Bowman Consulting Group Ltd. in the amount of \$9,500 for the stated services as provided.



Brittini Nix
 City Administrator
 City of Dacula
 P.O. Box 400
 Dacula, Georgia 30019

Re:	2025 CDBG Sanjo Street Grant Application (the “Project”) Dacula, Gwinnett County, Georgia 30019 Proposal to provide Engineering Services (the “Proposal”) Proposal No. 24-0204
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Dear Brittini Nix:

We are pleased to submit this Proposal to provide Engineering services for the above referenced Project. Upon verbal or written direction to proceed with performance of the services described herein, this Proposal, along with all attachments thereto, will constitute a binding agreement (the “Agreement”) between Bowman Consulting Group Ltd. (“Bowman”) and City of Dacula (the “Client”).

SCOPE OF SERVICES AND FEES

Bowman Consulting Group (*The Consultant*) is pleased to offer this Proposal/ Agreement for preparation and engineering of Dacula’s Fiscal Year 2025 CDBG HUD Entitlement Grant for Gwinnett County. Per discussion and preliminary research, we will request funding for road widening, storm drainage, sidewalk improvements for Sanjo Street within the City Limits of Dacula. The scope of services (the “Scope”) and associated fees shall be as follows:

Task	Description	Fee Type	Total
1	Prepare 2025 CDBG Application <ul style="list-style-type: none"> ▪ Research, data gathering, evaluation and compilation of area maps, surveys, sketches, photos, project descriptions and Opinions of Probable Construction Costs (OPCCs), in order to complete the CDBG application for Sanjo Street for submittal to Gwinnett County CDBG. ▪ The Scope of Services of this Proposal/Agreement are limited to those items outlined above. Services of any nature beyond those outlined above shall be performed as an Additional Service on an hourly basis, per the attached fee schedule. Reimbursable expenses are billed in addition to fee quotes at cost plus 15% and shall include such items as courier charges, blueprints, and other miscellaneous expenses. 	Lump Sum	\$9,500.00

Total Lump Sum Fees \$9,500.00

REIMBURSABLE EXPENSES

Reimbursable expenses shall include actual expenditures made by Bowman in the interest of the Project and will be invoiced at the actual cost to Bowman plus fifteen percent (15%) for handling and indirect costs. Reimbursable expenses shall include but not be limited to costs of the following:

- Mailing, shipping, and out source delivery (i.e. DHL, FedEx) costs.
- Fees and expenses of special consultants as authorized by the Client.
- Parking fees and mileage for employee travel by car to facilitate the project.

REPROGRAPHIC AND COURIER CHARGES

Reprographic, plotting, in-house courier, and archive retrieval services will be invoiced in accordance with Schedule A attached hereto.

OTHER TERMS

This proposal is based on the scope of services indicated herein and the information available at the time of the proposal preparation. If any additional services are required due to unforeseen circumstances and/or conditions, client or regulatory requested revisions, additional meetings, regulatory changes, etc., Bowman will notify the client that additional scope of work and fees are required and will obtain the client's written approval prior to proceeding with any additional work.

Bowman's Standard Terms and Conditions and Hourly Rate Schedule are attached hereto and incorporated into this Proposal by reference.

Please indicate your acceptance of this proposal by executing below and returning a copy to this office. Thank you for the opportunity to provide service to City of Dacula.

Sincerely,

Bowman Consulting Group Ltd.



Kevin Whigham
Team Lead, Civil Engineering

City of Dacula hereby accepts all terms and conditions of this Proposal (including the Standard Terms and Conditions) and authorizes Bowman to proceed with the Project, and the undersigned represents that he or she is authorized by City of Dacula to so execute this Proposal.

City of Dacula

By:

Title:
Date:

BOWMAN CONSULTING GROUP LTD.

SCHEDULE A - FEES FOR REPROGRAPHIC, DELIVERY, TRAVEL AND OTHER SERVICES

January 2024

Reprographic Services

B&W Photo Copies	\$0.35/sf, or \$0.23 for 8-1/2" x11" sheet
Color Photo Copies	\$0.50/sf, or \$0.32 for 8-1/2" x11" sheet
Printing (bond)	\$0.35/sf, or \$2.10 for 24" x 36" sheet
Printing (mylar)	\$3.00/sf, or \$18.00 for 24" x 36" sheet

Binding, Mounting and Folding of plan sets, reports, or drawings will be invoiced at our standard hourly rates. Copying of Plans that have been archived in storage is subject to a minimum archive retrieval fee of \$50 plus applicable reprographic fees above.

Delivery Services

In-house delivery services are invoiced at \$2.00 per mile (one way) and subject to a minimum \$20.00 charge for standard delivery during normal business hours. Rush services and times outside normal business hours are subject to a minimum \$20.00 surcharge.

Outsourced courier services (i.e. Federal Express, DHL, etc.) are invoiced at cost plus 15%.

Travel

Mileage for employee travel by car to facilitate the project, including travel to the project site and for meetings with the client, project team, contractors, or governmental agencies, will be invoiced at the current IRS standard mileage rate.

Airfare and/or lodging to facilitate the project will be coordinated with the client in advance and will be invoiced at cost plus 15%.

Miscellaneous

Other costs associated with sub-consultants, specialty equipment, laboratory testing, field testing, tolls, parking or other miscellaneous items will be invoiced at cost plus 15%.

Initials: Bowman *K.W.* / Client

BOWMAN CONSULTING GROUP LTD.

SCHEDULE B - HOURLY RATE

January 2024

CLASSIFICATION	HOURLY RATES
Senior Principal	\$330.00/HR
Principal	\$310.00/HR
Department Executive	\$260.00/HR
Senior Project Manager	\$235.00/HR
Project Manager	\$200.00/HR
Project Coordinator	\$115.00/HR
Senior Surveyor	\$235.00/HR
Engineer I II III	\$130.00/HR \$140.00/HR \$160.00/HR
Planner I II III	\$125.00/HR \$135.00/HR \$175.00/HR
Designer I II III	\$125.00/HR \$135.00/HR \$145.00/HR
CADD Drafter I II III	\$ 90.00/HR \$115.00/HR \$125.00/HR
Construction Inspector	\$115.00/HR
Landscape Architect I II III	\$125.00/HR \$140.00/HR \$180.00/HR
Senior Environmental Scientist	\$190.00/HR
Environmental Scientist I II III	\$120.00/HR \$150.00/HR \$180.00/HR
Right of Way Specialist I II III	\$ 96.00/HR \$115.00/HR \$140.00/HR
Survey Technician I II III	\$105.00/HR \$125.00/HR \$145.00/HR
Project Surveyor	\$190.00/HR
Survey Field Crew – 1 Man	\$150.00/HR
Survey Field Crew – 2 Man	\$190.00/HR
Survey Field Crew – 3 Man	\$245.00/HR
3D Scanning Crew	\$285.00/HR
Survey Field Technician	\$100.00/HR
3D/UAV Modeling Technician	\$180.00/HR
UAV Operation	\$320.00/HR
SUE Field Crew - 1 Man	\$155.00/HR
SUE Field Crew - 2 Man	\$200.00/HR
SUE Field Crew - 3 Man	\$260.00/HR
SUE Field Crew - 4 Man	\$295.00/HR
SUE Utility Coordinator	\$200.00/HR
SUE Technician I II III	\$120.00/HR \$135.00/HR \$160.00/HR
Machine Control Technician	\$270.00/HR
Administrative Professional	\$ 95.00/HR
Remote Sensing Technician I II III	\$105.00/HR \$125.00/HR \$145.00/HR

Initials: Bowman *K.W.* / Client

Table 1812018 - DEFAULT 2024 Florida/Georgia

BOWMAN CONSULTING GROUP LTD. SCHEDULE C - REQUEST FOR INFORMATION

Accounts Payable Contact:	
Point of Contact:	
Phone:	
Fax:	
E-Mail:	
Billing Information:	
Billing Entity:	
Billing Address:	<input type="checkbox"/> Same as Proposal
	<input type="checkbox"/> If Different, Please Provide:
Billing Requirements:	
Invoice Due Date:	
Requirements/Attachments:	
Invoices Transmitted Via Electronic Mail to:	
Offer ACH Direct Deposit:	<input type="checkbox"/> Yes, Contact:
	<input type="checkbox"/> Not Sure, Contact Our Office
	<input type="checkbox"/> Not At This Time

Initials: Bowman *K.W.* / Client

BOWMAN CONSULTING GROUP LTD. TERMS AND CONDITIONS

These Terms and Conditions are incorporated by reference into the Proposal and its exhibits (the "Proposal") from **Bowman Consulting Group Ltd.** ("Bowman") to **City of Dacula** ("Client") for performance of services described in the Proposal and associated with the project described in the Proposal (the "Project"), and in any subsequent approved Change Order related to the Project. These Terms and Conditions, the accepted Proposal, and any Change Orders or other amendments thereto, shall constitute a final, complete, and binding agreement (the "Agreement") between Bowman and Client, and supersede any previous agreement or understanding.

1. Scope of Services. Bowman will provide the services expressly described in and limited by the Proposal (the "Scope"). If in Bowman's professional judgment the Scope must be expanded or revised, Bowman will forward a change order agreement to Client that describes the revision to the Scope (the "Change Order") and the adjusted fee associated therewith.

2. Standard of Care. The standard of care for all services performed by Bowman for Client shall be the care and skill ordinarily used by members of the applicable profession practicing under similar circumstances at the same time and locality of the Project. Client shall not rely upon the correctness or completeness of any design or document prepared by Bowman unless such design or document has been properly signed and sealed by a licensed professional on behalf of Bowman.

3. Payment Terms. Bowman will invoice Client monthly or more frequently based on a percentage of the work completed for lump sum tasks, number of units completed for unit tasks, and actual hours spent for hourly tasks. Invoices are due and payable in full upon receipt without offset of any kind or for any reason. Bowman shall have the discretion to apply payments made by Client to an invoice or retainer account of Client in accordance with its business practices. Client agrees to pay a finance charge of one and one-half percent (1.5%) per month from the invoice date on any unpaid balance not received by Bowman within thirty (30) days of the invoice date. Payment of invoices is subject to the following further terms and conditions:

(a) If any invoice is not paid in full within forty-five (45) days of the invoice date, and Client has not timely and in good faith disputed the invoice as provided below, Bowman shall have the right at its election by giving notice to Client to either: (i) suspend the performance of further services under this Agreement and, at its sole discretion, suspend the performance of further services on other projects which are being performed by Bowman on behalf of Client or any related Client entities, until all invoices are paid in full and Bowman has received a retainer in such amount as Bowman deems appropriate to be held as described below; or (ii) deem Client to be in material breach of this Agreement and proceed pursuant to Section 17 below. Client agrees to pay any and all charges, costs or fees incurred in collection of unpaid invoices, including reasonable attorneys' fees and costs. Following Bowman's election above, Bowman shall bear no liability to Client or any other person or entity for any loss, liability or damage resulting from any resulting delay, and any schedule for the performance of services hereunder prepared previously shall be deemed void with any future schedule for the performance of services requiring the approval of both Client and Bowman.

(b) If Client disputes any submitted invoice, Client shall give written notice to Bowman within thirty (30) days of the invoice date detailing the dispute. If no written notice of a dispute is provided to Bowman within that time period, the invoice shall then be conclusively deemed good and correct. If part of an invoice is disputed, Client shall remain liable to timely pay the undisputed portion of the invoice in accordance with the terms of this Agreement. Client and Bowman shall promptly negotiate in good faith to resolve any disputed portion of an invoice.

4. Retainer and Other Payments. Bowman reserves the right to require that Client make a payment to be held by Bowman as an advance against future billings (the "Retainer"). The Retainer is not intended as the regular source of payment for invoices issued to Client under this Agreement or otherwise, and the parties intend that the Retainer be applied to the final invoice for the services described in the Agreement, or against any other unpaid amounts owed to Bowman should Client (or any affiliate of Client) fail to timely pay invoices due Bowman. The Retainer account may consist in part of payments applied by Bowman pursuant to the authority granted it under Paragraph 3 above. If the Retainer is applied during the course of the Agreement, Client agrees to promptly replenish the Retainer upon request of Bowman. Upon the conclusion of this Agreement, or its earlier termination, Bowman shall (a) apply the Retainer to any unpaid amount owed Bowman by Client (or its affiliates), and (b) return any unapplied portion to Client. The Retainer shall not be required to be held in a separate account nor shall it bear interest, and the Retainer may include other amounts paid to Bowman by Client with respect to the Project or other projects.

5. Client Duties and Responsibilities. Client shall inform Bowman of any special criteria or requirements related to the Project or Scope, and shall timely and at its cost furnish any and all information in its possession relating to the Project, including reports, plans, drawings, surveys, deeds, topographical information and/or title reports. Bowman shall bear no responsibility for errors, omissions, inaccuracy or incompleteness in third-party information or additional costs arising out of its reliance upon such third-party information supplied by Client. Client warrants and represents that: (a) Client has obtained the full and unconditioned prior written consent from

any third-party for Bowman to use such third-party information; (b) such consent shall be provided to Bowman upon request; and (c) such consent shall be in a form that, in Bowman's reasonable discretion, does not violate any applicable law, regulation, or code of ethics. If the Scope requires a current title report, Client shall timely and at its cost provide such title report to Bowman. If the Scope includes preparation of plats to be recorded in the land records of the Project jurisdiction, Client shall timely prepare, submit, and record necessary deeds and pay all recording fees associated with deeds and plats. All off-site easements are the responsibility of Client. Client shall indemnify and hold harmless Bowman from and against any and all claims, demands, losses, costs, and liabilities, including without limitation reasonable attorney fees and expenses incurred by Bowman and arising out of (a) Client's breach of this Agreement or (b) an action by Client or a third-party with respect to any matter not included in the Scope or that is excluded from the responsibility of Bowman pursuant to this Agreement.

6. Insurance. Bowman and its employees are protected by workman's compensation, commercial general liability, automobile liability, and professional liability insurance policies. Upon request of Client, Bowman shall provide a certificate of insurance to Client evidencing such coverage and shall attempt to include Client as an additional insured on those coverages that permit additional insured status. Client acknowledges it has been offered the opportunity to review the current limits of such coverage and finds them satisfactory, and further agrees that in no event shall Bowman's liability to Client or any party claiming through Client be greater than the limits of such insurance. From time to time Bowman may, without notice to Client, amend the carriers, conditions, exclusions, deductibles or limits of any such insurance; provided that prior to any decrease in any insurance limit becoming effective Bowman shall give notice thereof to Client.

7. Potential Liability of Bowman. The following provisions shall operate with respect to any potential liability of Bowman arising under the Agreement:

(a) Client may not assert that there is a breach, defect, error, omission or negligence in the services performed by Bowman that Client believes creates liability on the part of Bowman unless Client gave written notice to Bowman not later than the first to occur of (i) the beginning of any corrective work, or (ii) thirty (30) days after Client had knowledge of the existence of the breach, defect, error, omission or negligence. Bowman shall have the opportunity to participate in decisions regarding the corrective work, and Client shall ensure that corrective action is taken at the lowest reasonable expense under the circumstances.

(b) Notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Bowman and Bowman's officers, directors, partners, employees, agents, and consultants to Client and anyone claiming through Client, shall not in any manner whatsoever exceed the direct losses incurred by Client (to the extent of and in proportion to Bowman's comparative degree of fault) that resulted from the error, omission or negligent act of Bowman in the performance of services under this Agreement.

(c) To the fullest extent permitted by law, Bowman and Bowman's officers, directors, partners, employees, agents, and sub-consultants shall not be liable to Client or anyone claiming through Client for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or this Agreement, regardless of whether such damages are alleged to be caused by the negligence, professional errors or omissions, strict liability, breach of contract, or breach of express or implied warranty.

(d) Client agrees that Bowman's shareholders, principals, partners, members, agents, directors, officers and/or employees shall have no personal liability whatsoever arising out of or in connection with this Agreement or the performance of services hereunder.

8. Certificate of Merit. In addition to the requirement of notice under section 7(a) above, Client shall make no claim (whether directly or in the form of a third-party claim) against Bowman unless Client shall have first provided Bowman with a written certification executed by an independent professional licensed in the state in which the Project is located and licensed in the profession to which the claim relates. Such certificate shall: (a) contain the name and license number of the certifier; (b) specify each and every act or omission which the certifier contends constitutes a violation of the standard of care expected of a professional performing professional services under similar circumstances; (c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation; and (d) be provided to Bowman thirty (30) days prior to the presentation of and as a precondition to any such claim, or the institution of any mediation, arbitration, judicial or other dispute resolution proceeding.

9. Conflict Resolution and Applicable Law. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach thereof, that cannot be resolved by the parties and for which the amount in controversy is less than One Hundred Thousand Dollars (\$100,000.00) shall be settled by arbitration administered in Fairfax County, Virginia by the American Arbitration Association in accordance with its Commercial Arbitration Rules and Expedited Procedures, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the parties. For any other dispute, controversy or claim arising out of or relating to this Agreement, or the breach thereof, the parties agree to first submit such dispute, controversy or claim to non-binding mediation, with each party to bear its own costs of such mediation and to equally share the costs of any mediator. If such mediation does not successfully resolve all issues, then the parties agree that the state and federal courts located in Virginia shall have jurisdiction and

venue over such dispute. This Agreement shall be governed and interpreted in accordance with the laws of the state in which the Project is located, without giving effect to conflicts of laws principles thereof.

10. Ownership of Documents and Other Rights of Bowman.

(a) All reports, plans, specifications, computer files, field data, notes, and other documents and instruments prepared by Bowman as instruments of service ("Work Product") shall remain the property of Bowman up until such time as all monies due to Bowman have been paid in full, at which time (i) Client may take possession of the Work Product, and (ii) Bowman shall be deemed to have granted Client a fully paid, non-exclusive license to use the same solely for the Project. Subject to such license Bowman shall retain all common law, statutory, and other reserved rights, including the copyright to all Work Product. If Client or a party acting on Client's behalf modifies any part of the Work Product or reuses them on a different project, Client agrees to indemnify and hold Bowman harmless from any claim, liability or cost (including reasonable attorneys' fees and defense costs) arising therefrom. Client acknowledges that if Bowman provides Client with Work Product in an electronic or digital format ("Electronic Data"), Client is responsible for cross checking the Electronic Data with the applicable paper document for full conformance and consistency between such paper document and the Electronic Data.

(b) Bowman reserves the right to include photographs and descriptions of the Project in its promotional, marketing, and professional materials. Client grants its consent to Bowman for Bowman to install reasonable signage at the Project equivalent to that which is or could be installed by other vendors to the Project.

11. Modification. From time to time Bowman may either in writing or by electronic mail submit a Change Order to Client and Client shall be deemed to have approved such Change Order if: (a) Client signs the Change Order; (b) Client signifies its consent to the Change Order by electronic mail; or (c) a representative of Client with actual or apparent authority to approve the Change Order orally approves it and Bowman subsequently confirms such approval in writing or by email and begins work associated therewith without receiving written or electronic mail objection thereto. Except for Change Orders authorized by Client as provided immediately above, this Agreement may be amended, modified, or supplemented only in writing signed by all parties hereto. Any signature required or permitted hereunder may be either by hand or by electronic signature.

12. Exclusions from Scope. By way of illustration and not limitation, unless specifically included in the Scope, Bowman has no obligation or responsibility for: (a) favorable or timely comment or action by any governmental entity; (b) taking into account off-site conditions or circumstances that are not clearly visible or reasonably ascertainable by the performance of on-site services; (c) the accurate location or characteristics of any subsurface utility or feature that is not clearly and entirely visible from the surface; or (d) structural design (including, but not limited, to structural design of retaining wall(s) or of special drainage structure(s)).

13. Limits of Scope.

(a) Early Bid Documents. Client agrees that if it requests submission of Work Product documents to contractors for bid purposes either prior to full completion thereof by Bowman or prior to final governmental approval, the potential exists for additional design and construction costs arising from required subsequent revisions and additions to Bowman design documents so as to conform to those of other design disciplines and/or governmental agencies, and any such costs shall be Client's responsibility.

(b) Estimates. Any cost, timing or quantity estimates provided as a part of the Scope are estimates only and reflect Bowman's judgment as a design professional familiar with the construction industry, but expressly do not represent a guarantee of quantities or construction costs. Client agrees that Bowman has no control over contractors as to cost, timing, or quantity matters, and further agrees that if Client desires greater accuracy as to construction costs it should engage an independent cost estimator.

(c) Construction Means and Methods. Client agrees that Bowman does not control and is not responsible for construction means, methods, techniques, sequences, or procedures, or for any safety precautions in connection with the Project or for the acts or omissions of any contractor, subcontractor, or any other person or entity performing work for the Project.

(d) Shop Drawing Review. If specifically included in the Scope, Bowman shall review and check the contractor's shop drawings, product data, and samples, but only for the limited purpose of checking for general conformance with the intent of such contract documents. Client acknowledges that such review is not for the purpose of determining or substantiating the accuracy and completeness of other details, such as dimensions or quantities, or for substantiating instructions for installation or performance of equipment or systems designed by the contractor. Bowman's review shall not constitute approval of safety precautions, construction means, methods, techniques, schedules, sequences or procedures, or of structural features.

(e) Plan and Permit Processing. If the Scope includes preparation of plans and/or plats for review and approval by public agencies, submission and processing of such plans and plats in a manner consistent with a normal course of business is included within the Scope. If Client requests Bowman to either expedite the plan review process by attending meetings, hand carrying plans and

documents from agency to agency, or performing similar services, or to prepare and process permit applications of any type, then, unless specifically included in the Scope, those services will be performed by Bowman as hourly rate services under Section 14 below.

(f) **Building Plan Coordination.** If the Scope includes preparation of site plans, site grading plans, subdivision plans, or similar plans that involve coordination with building plans (including architectural, mechanical, structural, or plumbing plans) to be prepared by others, Client shall provide such building plans to Bowman by such date and in such state as Bowman reasonably deems necessary to timely perform its services. If Client fails to so provide building plans to Bowman, Bowman may make reasonable assumptions regarding building characteristics in order to timely perform its services and any later revisions to Bowman plans required to properly coordinate them with building plans will require a Change Order, subject to an additional fee.

14. Fees by Hourly Rate Schedule. If Client requests Bowman to perform services not included in the Proposal or an approved Change Order (including, without limitation, attending meetings and conferences on an as-needed basis with public agencies), Client shall compensate Bowman for such services in accordance with the Hourly Rate Schedule attached to and made a part of the Agreement. Expert witness testimony or participation at legal discussions, hearings or depositions, including necessary preparation time, will be charged at 150% of the quoted rates. If the Project extends beyond the calendar year in which the Proposal is dated, Bowman may revise its Hourly Rate Schedule in January of each subsequent year.

15. Covenants Benefiting Third-Parties. Bowman and Client acknowledge that from time to time third-parties may request Bowman to execute documents which benefit that third-party. These documents may include certifications, consent of assignment, and/or waiver of certain of Bowman's rights under this Agreement ("Requested Covenant"). Client acknowledges that execution of Requested Covenants is beyond the Scope, is at Bowman's discretion, and, if Bowman decides to so execute a Requested Covenant, the language, terms, and conditions of such Requested Covenant must be acceptable to Bowman, at Bowman's discretion.

16. Assignment. This Agreement may not be assigned by one party without the express written consent of the other party. Notwithstanding the forgoing, Bowman may employ consultants, sub-consultants, or subcontractors as it deems necessary to perform the services described in the scope. Also, Bowman may assign its right to receive payments under this Agreement.

17. Termination. Either party may terminate the provision of further services by Bowman under this Agreement for convenience with thirty (30) days advance notice to the other party. In addition, following a material breach by the other party, the non-breaching party may terminate the provision of further services by Bowman under this Agreement by giving ten (10) days prior notice and an opportunity to cure to the reasonable satisfaction of the non-breaching party. Client acknowledges that its failure to timely pay undisputed invoices is a material breach and that full payment of all undisputed invoices is required to cure such breach. Following any termination of services: (a) Client shall immediately pay Bowman for all services performed through the termination date, including reasonable costs of transitioning the Project to a new design professional designated by Client, if applicable; (b) Bowman shall have the right to withhold from Client the use or possession of Work Product prepared by Bowman for Client under this or any other agreement with Client, until all outstanding invoices are paid in full; (c) if the termination by Bowman resulted from a material breach by Client, Bowman shall have the right to withdraw any Work Product or other documents filed with any governmental agency by Bowman in its name on behalf of Client; and (d) if Client selects a new design professional then, as a condition of transferring any files or documents, Client and Client's new design professional shall execute Bowman's standard Electronic File Transfer Agreement or such other similar agreement as the parties shall in good faith negotiate.

18. Miscellaneous. If any provision of this Agreement shall be held invalid, illegal or unenforceable, the other provisions of this Agreement shall remain in full force and effect. The failure of a party to enforce any provision hereof shall not affect its right at a later time to enforce same. A waiver by a party of any condition or breach hereunder must be in writing to be effective and, unless that writing provides otherwise, shall waive only one instance of that condition or breach. This Agreement is solely for the benefit of the parties hereto and no provision of this Agreement shall be to confer upon third-parties any remedy, claim, liability, reimbursement, cause of action, or other right. The headings in this Agreement are for convenience and identification purposes only, are not an integral part of this Agreement, and are not to be considered in the interpretation of any part hereof. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. References in this Agreement to any gender shall include references to all genders. Unless the context otherwise requires, references in the singular include references in the plural and vice versa. The words "include," "including," or "includes" shall be deemed to be followed by the phrase "without limitation." The individual who signs this Agreement warrants that he has the authority to sign as, or on behalf of, Client, and to bind Client to all of the terms and conditions of this Agreement. To the extent that they are inconsistent or contradictory, the terms of the Proposal or an authorized Change Order shall supersede these Terms and Conditions.

19. Notices. Any notice, request, instruction, or other document to be given hereunder by a party hereto shall be in writing and shall be deemed to have been deemed delivered: (a) on the day sent if delivered personally or by courier service during regular business hours (i.e., prior to 5:00 p.m. on weekdays that are not Federal holidays); (b) on the business day after the day sent if sent by overnight delivery service; or (c) two business days after the day sent if sent by certified mail or delivered by two-day delivery service.

If to Client, notice shall be addressed to the individual signing this Agreement at the address noted on the Proposal.

If to Bowman, notice shall be sent to the address set forth in the proposal, with a copy sent to:

Bowman Consulting Group Ltd.
12355 Sunrise Valley Drive, Suite 520
Reston, Virginia 20191
Attn: Robert A. Hickey

or to such other individual or address as a party hereto may designate for itself by notice given as herein provided.

Initials: Bowman *K.W.* / Client