

# CITY OF LOCUST GROVE

REGULAR MEETING AGENDA  
TUESDAY JULY 5, 2022 – 6:00 P.M.  
PUBLIC SAFETY BUILDING – 3640 HIGHWAY 42 S.  
LOCUST GROVE, GA 30248

**CALL TO ORDER**..... Mayor Robert Price

**INVOCATION**..... Chief Derrick Austin

**PLEDGE OF ALLEGIANCE**..... Councilman Taylor

**APPROVAL OF THE AGENDA**..... Mayor Robert Price (Motion Required)

**PUBLIC COMMENTS**..... Register with Clerk Before Meeting

- Presentation of State Law Enforcement Certification to Locust Grove Police Department – GA Chiefs Association

**PUBLIC HEARING ITEMS** ..... None

**APPROVAL OF THE MINUTES**..... 2 Items

1. June 6, 2022, Regular Meeting Minutes (Motion Required)
2. June 21, 2022, Workshop Meeting Minutes (Motion Required)

**ACCEPTANCE OF THE FINANCIAL STATEMENT** ..... 1 Item

3. May 2022 Financial Statement (Motion Required)

**UNFINISHED BUSINESS/ACTION ITEMS** ..... 2 Items

4. Ordinance to adopt Section 8.23, Fire Prevention and Protection, of the City of Locust Grove Code of Ordinances - (Motion Required)
5. Ordinance to enter a contract between the City of Locust Grove and C.W. Matthews Contracting Co., LLC for resurfacing for roads in the City of Locust Grove – (Motion Required)

**NEW BUSINESS/ACTION/DISCUSSION ITEM**..... 1 Item

6. Request for a Special Event Permit for the Locust Grove Fire Marshal and The Johnson Foundation school supply distribution on July 23, 2022 (Motion Required)

**CITY MANAGER'S COMMENTS** ..... Tim Young

**MAYOR'S COMMENTS** ..... Mayor Robert Price

**EXECUTIVE SESSION** – (IF NEEDED)

**ADJOURN**

**POSTED AT CITY HALL –June 29, 2022, at 16:30**

ADA Compliance: Individuals with disabilities who require certain accommodations to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting, or the facilities are required to contact the City Clerk at (770) 957-5043 promptly to allow the City to make reasonable accommodations for those persons. Public Comment may be limited to no more than ten (10) minutes with up to 3 minutes per requesting applicant to speak. Please register your NAME and ADDRESS prior to the beginning of the meeting with the City Clerk.

**City of Locust Grove  
Council Meeting Minutes  
Public Safety Building – Courtroom Chamber  
3640 Highway 42 S. – Locust Grove, GA 30248  
Monday, June 6, 2022  
6:00 PM**

<b>Members Present:</b>	<b>Staff Present:</b>
Robert Price – Mayor	Tim Young – City Manager
Carlos Greer – Councilman	Bert Foster – Assistant City Manager
Willie Taylor – Councilman	Misty Spurling – City Clerk
Keith Boone – Councilman	Jennifer Adkins – Assistant City Clerk
Vincent Williams – Councilman	Daunte’ Gibbs – Community Development Director
Rod Shearouse – Councilman	Jack Rose – Public Works Director
Rudy Breedlove – Councilman	Derrick Austin - Police Chief
	Andy Welch –Attorney
	<b>Staff not present:</b>
	Colleen Watts – Main Street Director

Mayor Price called the meeting to order at 6:00 PM

Invocation given by Assistant City Manager Bert Foster

Councilman Breedlove led the Pledge of Allegiance.

**APPROVAL OF AGENDA** –

Mayor Price asked for a motion. Councilman Greer made the motion to approve the June 6, 2022, meeting agenda.

RESULT	APPROVED AGENDA
MADE MOTION	COUNCILMAN GREER
2 <sup>ND</sup> MOTION	COUNCILMAN BREEDLOVE
VOTE	MOTION CARRIED - ALL IN FAVOR

**PUBLIC COMMENTS** –

- **Introduction of new Fire Marshal – Anthony Hicks**

Community Development Director Daunte’ Gibbs asked Mr. Anthony Hicks to step forward. Mr. Gibbs introduced Anthony Hicks, new Fire Marshal for the City of Locust Grove. Mr. Hicks has 17 years’ experience, and he brought a 90-day plan to implement along with writing a draft ordinance for Fire Prevention and Protection. We are happy to have him.

Mr. Hicks said he appreciates the opportunity and looks forward to working with the city and staff. Nothing further.

**PUBLIC HEARING ITEMS** – NONE

**APPROVAL OF THE MINUTES** –

**1. MAY 2, 2022 - REGULAR MEETING MINUTES –**

Mayor Price asked for a motion. Councilman Williams made the motion to approve the May 2, 2022, regular meeting minutes.

RESULT	APPROVED MAY 2 , 2022, REGULAR MEETING MINUTES
MADE MOTION	COUNCILMAN WILLIAMS
2 <sup>ND</sup> MOTION	COUNCILMAN GREER
FAVOR	MOTION CARRIED – ALL IN FAVOR

**2. MAY 16, 2022- WORKSHOP MEETING MINUTES –**

Mayor Price asked for a motion. Councilman Shearouse made the motion to approve the May 16, 2022, workshop meeting minutes.

RESULT	APPROVED MAY 16, 2022, WORKSHOP MEETING MINUTES
MADE MOTION	COUNCILMAN SHEAROUSE
2 <sup>ND</sup> MOTION	COUNCILMAN WILLIAMS
FAVOR	MOTION CARRIED – ALL IN FAVOR

**ACCEPTANCE OF THE FINANCIAL STATEMENT –**

**3. APRIL 2022 FINANCIAL STATEMENT –**

Mayor Price asked for a motion. Councilman Williams made the motion to approve the April 2022, financial statement.

RESULT	APPROVED APRIL 2022, FINANCIAL STATEMENT
MADE MOTION	COUNCILMAN WILLIAMS
2 <sup>ND</sup> MOTION	COUNCILMAN GREER
FAVOR	MOTION CARRIED – ALL IN FAVOR

**UNFINISHED BUSINESS/ACTION ITEMS –**

**4. Ordinance to amend the Gateway Town Center Future Land Use allowable max density units per acre of the City of Locust Grove Comprehensive Land Use Plan –**

Mayor Price asked for a motion. Councilman Breedlove made the motion to approve the request by approving ordinance #22-06-033

RESULT	APPROVED ORDINANCE #22-06-033
MADE MOTION	COUNCILMAN BREEDLOVE
2 <sup>ND</sup> MOTION	COUNCILMAN SHEAROUSE
FAVOR	MOTION CARRIED – ALL IN FAVOR

**5. Ordinance to amend Section 17.04.060, Multi-family residence district, and Section 17.04.041, of the City of Locust Grove Code of Ordinances -**

Mayor Price asked for a motion. Councilman Breedlove made the motion to approve the request by approving ordinance #22-06-034

RESULT	APPROVED ORDINANCE #22-06-034
MADE MOTION	COUNCILMAN BREEDLOVE
2 <sup>ND</sup> MOTION	COUNCILMAN WILLIAMS
FAVOR	MOTION CARRIED – ALL IN FAVOR

**6. Ordinance to allow a stream buffer variance for a proposed 530,000 +/- sq. ft. warehousing facility on 46.61 +/- acres in Land Lots 247 and 248 of the 2<sup>nd</sup> district, on Bethlehem Road and SR 42 –**

Mr. Gibbs said the applicant requested a revision in language in Exhibit “D”. Mr. Gibbs read aloud the revision that includes the following: “All recommended improvements” to “All required conditions”

Attorney Andy Welch asked Mr. Gibbs if the GDOT DRI is written as “recommended” or “required”. Mr. Gibbs said “required” is written in the DRI Exhibit.

Mayor Price asked for a motion. Councilman Shearouse made the motion to approve the request by approving ordinance #22-06-035

RESULT	APPROVED ORDINANCE #22-06-035
MADE MOTION	COUNCILMAN SHEAROUSE
2 <sup>ND</sup> MOTION	COUNCILMAN WILLIAMS
FAVOR	MOTION CARRIED – ALL IN FAVOR

**7. Ordinance to rezone 124.35 +/- acres of multiple tracts (Parcel IDs: 111-01007000, 111-01008000, 111-01009000, and 111-01014000) in Land Lots 233 and 234 of the 2<sup>nd</sup> district –**

Mr. Gibbs said this is a request from Sansone Group to request rezoning of multiple tracts from RA to M-1. Mr. Gibbs said staff is recommending approval with conditions. Mr. Gibbs said conditions one through four remain unchanged; however, conditions five through eight have been amended and Mr. Gibbs read aloud conditions five through seven as part of Exhibit “D”.

Mr. Gibbs asked Attorney Andy Welch to review and explain amended condition number eight. Attorney Andy Welch stepped forward and said in discussion with legal counsel for the developer; condition eight was designed to follow the map that is represented on the overhead screen. The developer will pay for engineering costs for the southern boundaries of the subject property and discussion took place.

Mr. Young read (revised) condition number eight aloud. Mr. Welch said the last two sentences were added prior to meeting and will also add “as determined by City Manager”. Mr. Gibbs said Sansone also filed a Constitutional letter. Mr. Welch asked Mr. Newton Galloway, who is the attorney of record representing the applicant, whether his client consented to the conditions as revised. Mr. Galloway responded in the affirmative that his client does so consent to the revised conditions. Nothing further.

Mayor Price asked for a motion. Councilman Boone made the motion to approve the request by approving ordinance #22-06-036 with conditions as amended.

RESULT	APPROVED ORDINANCE #22-06-036 WITH AMENDED CONDITIONS
MADE MOTION	COUNCILMAN BOONE
2 <sup>ND</sup> MOTION	COUNCILMAN SHEAROUSE
FAVOR	MOTION CARRIED – FIVE IN FAVOR (SHEAROUSE, TAYLOR, BOONE, WILLIAMS, BREEDLOVE) AND ONE OPPOSED (GREER)

**8. Resolution of agreement for CVL Project #0014203 GDOT (Roadway/High Mast Lighting and Underdeck lighting) –**

Mayor Price asked for a motion. Councilman Shearouse made the motion to approve the request by approving resolution #22-06-037.

RESULT	APPROVED RESOLUTION #22-06-037
MADE MOTION	COUNCILMAN SHEAROUSE
2 <sup>ND</sup> MOTION	COUNCILMAN BREEDLOVE
FAVOR	MOTION CARRIED – ALL IN FAVOR

**9. Ordinance to amend Section No. 304 of the Personnel Policy – City Holidays –**

Mr. Young stepped forward and said this is an amendment to add Juneteenth as an observed holiday. Mr. Young said the holiday will fall on Sunday, June 19, 2022; therefore, the city would observe Monday, June 20, 2022 if approved by Council. Also, other jurisdictions observe Good Friday holiday and that is included for consideration [Exhibit 1 or Exhibit 2]. Nothing further.

Mayor Price asked for a motion. Councilman Breedlove made the motion to approve the request for both holidays (Juneteenth and Good Friday) by approving ordinance #22-06-038.

RESULT	APPROVED ORDINANCE #22-06-038
MADE MOTION	COUNCILMAN BREEDLOVE
2 <sup>ND</sup> MOTION	COUNCILMAN SHEAROUSE
FAVOR	MOTION CARRIED – ALL IN FAVOR

**NEW BUSINESS/ACTION ITEMS -**

**10. Ordinance to approve the final plat for Berkeley Lakes Phase 2B, single-family subdivision located on Singley Circle (Parcel IDs: 14601032000 and 146-01033000) –**

Mr. Gibbs stepped forward and led discussion this is a request for approval of the final plat for Berkeley Lakes Phase 2B to add 51 lots. Staff recommends approval.

Mayor Price asked for a motion. Councilman Greer made the motion to approve the request by approving ordinance #22-06-039.

RESULT	APPROVED ORDINANCE #22-06-039
MADE MOTION	COUNCILMAN GREER
2 <sup>ND</sup> MOTION	COUNCILMAN WILLIAMS
FAVOR	MOTION CARRIED – ALL IN FAVOR

**11. Request for a Special Event Permit for the Rainbow Girls bi-annual fireworks sale fundraiser**

Mr. Gibbs said this is a request for the sale of fireworks in the Walmart parking lot between June 22 – July 10, 2022, and December 23 – December 31, 2022 to coincide with Independence Day and New Year's Day holidays. Staff is recommending approval.

Mayor Price asked for a motion. Councilman Greer made the motion to approve the request.

RESULT	APPROVED SPECIAL EVENT PERMIT
MADE MOTION	COUNCILMAN GREER
2 <sup>ND</sup> MOTION	COUNCILMAN TAYLOR
FAVOR	MOTION CARRIED – ALL IN FAVOR

**12. Resolution to accept proposal for Peeksville Connection Extension to Frances Ward –**

Mr. Young stepped forward and said this is a proposal for the next step in the Peeksville Road Connection between SR 42 and Frances Ward and the city to pay for engineering costs. Councilman Greer said the total for engineering costs for the city would be \$40,000 and asked if this is the base rate? Mr. Young said yes, this is the total cost unless (any additional fees). Attorney Andy Welch said this includes all GDOT standards of surveying, etc. Nothing further.

Mayor Price asked for a motion. Councilman Shearouse made the motion to approve the request by approving resolution **#22-06-040**.

RESULT	APPROVED RESOLUTION #22-06-040
MADE MOTION	COUNCILMAN SHEAROUSE
2 <sup>ND</sup> MOTION	COUNCILMAN BREEDLOVE
FAVOR	MOTION CARRIED – ALL IN FAVOR

**CITY MANAGER’S COMMENTS –**

Mr. Young reviewed the latest Census count as of July 2021 and the City of Locust Grove currently has a population of 9,750. Mr. Young reviewed the overall (Henry County) chart presented on the overhead screen and Locust Grove is now approaching 4% of Henry County in terms of size. The city grew by sixty-six percent between 2010-2020. The utility department printed 4,006 water bills this past billing cycle and we are looking at splitting billing into two cycles at some point in the future. The MLK tank base station is nearing completion and should go live by the end of the week.

We received bids for resurfacing roads throughout the city and the lowest bid was \$3.8 million dollars. We budgeted \$2.5 million; however, the costs of materials and inflation effected previous estimates. Attorney Andy Welch said we are hoping to finalize the contract for approval as soon as possible. The paving project (begin date) will be dependent upon when the contract is signed.

Councilman Williams asked if we would open for re-bid being the lowest bid is not within budget? Mr. Young said we would not do a re-bid; we will find the difference of overage in another account.

Councilman Greer asked since this was approved in 2018 why the long wait period on the process. Mr. Young said we used estimates from McDonough from there road paving in 2018. Attorney Andy Welch said various steps have been taken between that timeline, including SPLOST V negotiation, and bonding the T-SPLOST money for road resurfacing. We couldn’t accurately estimate the cost; however, the best price is the \$3.8 million to do all the roads we want to do. Councilman Greer asked if those were in house numbers from the City of McDonough? Mr. Welch said the (2018) estimate was pre-Covid. Mr. Young

said we couldn't bid until we had the money. Mr. Welch made a comment if homestead tax is levied that money could be allocated towards other projects.

Further, Mr. Young said we will begin discussion with Henry County on June 15, 2022 about the Fire Marshal responsibilities. Also, the MLK water tank is due for painting and Mr. Young referred to the example on the overhead screen of the new city seal and logo. The total costs would be \$17,000 to update. Discussion took place about the placement of the seal and logo.

Mayor Price asked for a motion. Councilman Greer made the motion to add the MLK water tank update (including painting and logo/seal) to the agenda.

RESULT	APPROVED ADD ITEM #13
MADE MOTION	COUNCILMAN GREER
2 <sup>ND</sup> MOTION	COUNCILMAN BOONE
FAVOR	MOTION CARRIED – ALL IN FAVOR

**ADD ITEM –**

**13. Approval of contract for the update to the MLK water tank including painting and adding the city seal/logo.**

Mayor Price asked for a motion. Councilman Breedlove made the motion to approve the request for the update referenced from the second proposed image.

RESULT	APPROVED CONTRACT
MADE MOTION	COUNCILMAN BREEDLOVE
2 <sup>ND</sup> MOTION	COUNCILMAN GREER
FAVOR	MOTION CARRIED – ALL IN FAVOR

**CITY MANAGER COMMENTS CONTINUED –**

Mr. Young said we are consulting with Pelicon Group regarding LOST and we have another meeting for the final proposal. We will likely not be sharing costs with the other cities. Attorney Andy Welch said Michael Brown, with the Pelicon Group, is very successful and has a good reputation with Henry County.

**MAYOR'S COMMENTS –**

**EXECUTIVE SESSION –NONE**

**ADJOURNMENT –**

Mayor Price asked for a motion to adjourn. Councilman Greer made the motion to adjourn.

RESULT	APPROVED – ADJOURN MEETING
MADE MOTION	COUNCILMAN GREER
2 <sup>ND</sup> MOTION	COUNCILMAN WILLIAMS
FAVOR	MOTION CARRIED MEETING ADJOURNED @ 6:51 PM.

Notes taken by:

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Misty Spurling, City Clerk

DRAFT



**City of Locust Grove  
 Council Workshop Meeting Minutes  
 Public Safety Building – 3640 Highway 42 S.  
 Locust Grove, GA 30248  
 Tuesday, June 21, 2022  
 6:00 PM**

<b>Members Present:</b>	<b>Staff Present:</b>
Robert Price – Mayor	Tim Young – City Manager
Rod Shearouse – Councilman	Bert Foster – Assistant City Manager
Keith Boone – Councilman/Pro Tem	Misty Spurling – City Clerk
Rudy Breedlove - Councilman	Jennifer Adkins – Assistant City Clerk
Vincent Williams - Councilman	Daunte’ Gibbs – Community Development Director
Carlos Greer – Councilman	Jack Rose – Public Works Director
Willie Taylor – Councilman	Derrick Austin – Police Chief
	Colleen Watts – Main Street Program Manager
	Andy Welch–Attorney

Mayor Price called the meeting to order at 6:00 PM.

Invocation given by City Manager Tim Young

Councilman Greer led the Pledge of Allegiance.

**APPROVAL OF AGENDA** –

Mayor Price asked for a motion. Councilman Greer made the motion to approve the June 21, 2022, meeting agenda.

RESULT	APPROVED AGENDA
MADE MOTION	COUNCILMAN GREER
2 <sup>ND</sup> MOTION	COUNCILMAN BOONE
VOTE	MOTION CARRIED - ALL IN FAVOR

**PUBLIC COMMENTS** –

- **Presentation of the Comprehensive Transportation Plan by consultant Michael Kray of Pond & Company** –

City Manager Tim Young introduced Mr. Eric Lusher with Pond & Company. Mr. Eric Lusher stepped forward and reviewed the presentation on the overhead screen. Mr. Lusher said an update is normally done every five years, and the last update was in 2016. The ARC funds a large portion of this plan along with correlation with GDOT. There are three phases to obtain long term goals with transportation plus lots of community engagement. All four cities participated in the engagement and various road projects throughout Locust Grove were reviewed.

- **Presentation of the Master Trails Plan by consultant Michael Kray of Pond & Company** –

Mr. Lusher continued with review of the Master Trails Plan. This plan includes 87 projects crisscrossed all over Henry County and Locust Grove has a lot of greenways and side paths. This process also developed branding including several logos [reviewed on overhead screen] and

wayfinding and trail designs. Three distinct “model miles” were chosen, and we are in the final process of developing plan documents for review. We will ask for consideration to adopt after completing the briefing with Council (from all four cities) and Henry County. Nothing further.

Councilman Greer asked about the plan includes the term fly over bridge at Tanger? Mr. Young said the fly over bridge [connecting Tanger and Strong Rock Parkway] is included in the RTP and ranks highly for future consideration.

Attorney Andy Welch asked what the road widening project consists of on Highway 42 from the RTP and CTP? Mr. Lusher said the CTP is the mechanism to communicate with GDOT and ARC of projects needed to mitigate projects here. Mr. Welch asked if the language should say widening/capacity building? Mr. Lusher said the language in the report clarifies that. The recommendation in the CTP does not commit Locust Grove or anyone else; only allows to go to engineering. Mr. Welch asked Mr. Young about the other concept roads and non-grade crossings and Mr. Young said most of those will not be included because those are not regional connectors.

Councilman Taylor asked about the cemetery access across from Mallards Landing in terms of this plan. Mr. Young said there are prior engineering plans that relocate the entire section to avoid any conflicts.

Councilman Shearouse asked if any of this includes funding? Mr. Lusher said funding will be considered between now and 2050. Right now, we have more projects than we have funding for and need to prioritize the projects and review the funding and align with those projects. Nothing further.

## **PUBLIC HEARING ITEMS –**

### **1. Ordinance to amend Section 17.04.090 Residential Growth Regulation to update Residential Growth Limitations -**

Bert Foster, Assistant City Manager, stepped forward. Mr. Foster said this was implemented to address trends in the city’s housing stock. Mr. Foster reviewed the thresholds established for each housing type. Mr. Foster said single-family zoning classification should not be less than 77% of the city’s overall housing stock; multi-family designation should not be more than 20% of the city’s overall housing stock; and mobile homes should not be more than 3% of the city’s housing stock. Mr. Foster referred to page three (B) and reviewed the amendments in red, particularly the one where permits for multifamily would be limited to no more than half of the available units in any given year.

Mr. Young said the permit restrictions are in place for water and sewer infrastructure so as not to overburden the system, including plan review and inspection.

Councilman Boone said he thought Council approved to eliminate PR-4 and PR-5 at another meeting. Mr. Foster said we need to account for that in this ordinance because this includes those already developed. We talked about removing; however, will require separate public hearings. Currently, we are addressing what is in effect now.

Councilman Greer referred to page two: Table 1 [housing type and maximum percentage per ordinance] and asked for clarity on the 77% for single-family housing. Mr. Foster said the housing stock cannot be below 77% for single family designation. Mr. Young said the maximum is 20% and minimum is 77%.

Attorney Andy Welch said the language is awkwardly written; however, legally the language says if the city has more single-family detached housing it is ok. We haven't achieved those numbers and it is written to be differential to the way the housing stock was at the time. Mr. Young said there are two levels: overall single-family and within single-family. Mr. Welch said the percentage of housing can become out of balance if the ordinance is not in place. A 30% cap is included to push back developments of R-3. Mr. Foster said after the amendments are in place staff will review and address the relationship of requests to the growth ordinance and compare as to how it would affect the city's growth.

Councilman Breedlove said we discussed the difference in single-family and multi-family at the retreat and said he thought we agreed to separate the two. Councilman Breedlove said only 53% is truly single-family housing (RA, R-1, R-2). The numbers reflected on the growth report said there are 4,100 units in medium-density (single-family) and 3,007 units in low-density (single-family). We are already over 50% high-density single-family units. Mr. Foster referenced the housing type chart on page two and discussion took place.

Councilman Greer said he thought PR-4 and PR-5 were eliminated as well. Councilman Breedlove said this is for those PR-4 and PR-5 that are already developed. Councilman Greer asked if the new calculations will be grouped or separated? Mr. Foster referenced page three (number two) and asked Councilman Greer if the paragraph reflects what he is requesting? Mr. Young made a comment 20% is multi-family (townhomes, attached dwellings), 77% is single-family (detached) of which no more than 50% can be R-3, PR-4 and PR-5 [50% of 77%]. Mr. Welch said about 38% of the total would be high-density detached.

Mr. Welch said without the ordinance there would be a flood of housing types and the ordinance is designed to work as an effective moratorium for staff without including it in. Discussion took place about how the ordinance forces development to come to a freeze (with adjustments on percentages). Tim and I were trying to determine an equitable share of housing by researching data on other communities and what is being developed and we adjusted percentage to reflect our community and when those thresholds are reached, a permit should not be issued. Mr. Foster said he can review and create a calculation on Councilman Breedlove's request.

Mayor Price asked why we can't eliminate PR-4 and PR-5? Attorney Andy Welch said those housing types already exist and we will be eliminating future PR-4 and PR-5 housing.

Mayor Price said this is a public hearing and asked for any comments from public from anyone in favor of the request. No comments. Mayor Price asked for comments from anyone opposed to the request and there were no comments.

Mayor Price closed the public hearing.

Mayor Price asked for comments from Council.

Councilman Shearouse asked for clarity [page two, (B) (3)] under residential growth limitation and how single-family rental properties are factored in. Mr. Foster said this helps Council to determine the needs of the city. Attorney Andy Welch said it does not address what we are seeing nationwide. We don't have a category for that specific issue; however, it does say once we reach capacity for R-3 homes, no more development will be permitted. This is a tool for slowing down the city's growth.

Councilman Breedlove asked if we could be more drastic with the numbers? Mr. Welch said the point is to keep guardrails. The CTP is a guide and if deviated from the ordinance you are rendering them, and a conditional use is a way to regulate it.

Councilman Boone asked would there be any reason we would need to extend the moratorium with this in effect. Mr. Welch said no because the city has more space for apartments.

Mayor Price asked why we would retract to 10,000-11,000 sq. ft. lots being we worked very diligently to have larger lots? Discussion took place.

Councilman Breedlove asked if the percentage is based on acreage or units? Mr. Foster said the percentage is based on units. Mr. Young said it is an accumulation of acreage and units because some things are developed and some are not; therefore, we are having to estimate.

Councilman Breedlove reviewed the numbers from the growth report and said we are majority high-density already with plans to allow more. Councilman Breedlove said we need a balance between low-density and high-density. Attorney Andy Welch asked Councilman Breedlove to propose a number because it is Councils decision to determine the number; staff only calculates. Mr. Young said we discussed growth regulation at the retreat and sunsetting PR-4 and PR-5. Initially was the issue for Multifamily, followed by the Growth Ordinance and then PR-4/PR-5. Mr. Welch said Mr. Gibbs made a comment he could submit a public notice to sunset PR-4 and PR-5. Mr. Gibbs clarified his comment and said he could prepare an amendment for the July workshop meeting. Council agreed for staff to review the numbers and bring back for review. Nothing further.

**OLD BUSINESS/ACTION ITEMS – NONE**

**NEW BUSINESS/ACTION ITEMS –**

**2. 2022-2023 Memorandum of Understanding (MOU) with GA Department of Community Affairs for Main Street Program –**

Ms. Watts stepped forward and said this is renewed annually and establishes the standards and requirements for State and National accreditation of Main Street.

Mayor Price asked for a motion. Councilman Breedlove made the motion to approve the request by approving resolution **#22-06-041**

RESULT	APPROVED RESOLUTION #22-06-041
MADE MOTION	COUNCILMAN BREEDLOVE
2 <sup>ND</sup> MOTION	COUNCILMAN SHEAROUSE
VOTE	MOTION CARRIED - ALL IN FAVOR

**3. Resolution to award the bid for services associated with the road resurfacing throughout the city to C.W. Matthews Contracting Co., Inc. –**

Mr. Foster stepped forward and read aloud the results of the three bids received associated with the road resurfacing throughout the city. The bids were received and opened on June 2, 2022. C.W. Matthews was determined to be the lowest responsive bidder by the city’s project management team with a bid in the amount of \$3,877,842.91.

Councilman Greer asked if the bids were opened on June 2<sup>nd</sup> or June 3<sup>rd</sup>? Mr. Young confirmed bids were open on Friday, June 3, 2022. We will make up the \$1.6 million overage by using \$950,000 from SPLOST V for the intersection at SR 42 and Bill Gardner that is currently under study and an additional \$650,000 in money from T-SPLOST to compliment an extra lane project along SR 42.

Mayor Price asked for a motion. Councilman Greer made the motion to approve the request by approving resolution #22-06-042

RESULT	APPROVED RESOLUTION #22-06-042
MADE MOTION	COUNCILMAN GREER
2 <sup>ND</sup> MOTION	COUNCILMAN TAYLOR
VOTE	MOTION CARRIED - ALL IN FAVOR

**4. Plan for future events on front lawn –**

Councilman Breedlove asked why is the events being proposed to move from the front lawn? Mayor Price said years ago we decided to designate Claude Gray Park as the area for events and built the stage, bathrooms, and pavilion as well as parking accommodations for a large crowd.

Councilman Breedlove said the only thing completed from the Master Plan from 2014 is the addition of the Public Safety Building. Councilman Breedlove said the front lawn will still be a part of the future phases of this plan. Mr. Young said the Master Plan was approved in 2014 as a guide and we are in process for bids on Phase II which include the Scatter Garden and Veteran’s Memorial and additional parking. We will also soon see the progress from GDOT on Highway 42 improvements. Mr. Young said this also has the potential to extend the connection from the current parking lot to the entrance at Patriots Point. Mr. Young said the future potential phase will house additional buildings and pavilion to have the facilities for use of the front lawn.

Councilman Greer said the lawn will be torn up either way [when property is developed] but until then he does not understand the issue.

Councilman Boone said he has no issue with events; however, the city spent a lot of money for Claude Gray Park to accommodate events.

Councilman Greer said the Master Plan shows the front lawn as a community gathering and asked will the Peeksville Road extension not go through a portion of Claude Gray? Mr. Young said yes, a portion of it. Councilman Greer asked if we would discontinue events at Claude Gray with that construction? Mr. Young said that would become a primary travel way in the future.

Councilman Breedlove said visibility is the major factor and Claude Gray Park was developed for (community) residents’ use. The events the city hosts have always been at the front lawn. Nothing further.

Mayor Price asked for a motion to hold all future events at Claude Gray Park. Councilman Boone made the motion to approve the request.

RESULT	DENIED
MADE MOTION	COUNCILMAN BOONE
2 <sup>ND</sup> MOTION	COUNCILMAN SHEAROUSE
VOTE	MOTION DENIED – TWO IN FAVOR (BOONE, SHEAROUSE) AND FOUR OPPOSED (GREER, TAYLOR, WILLIAMS, BREEDLOVE)

## **CITY OPERATION REPORTS / WORKSHOP DISCUSSION ITEMS -**

### **MAIN STREET OPERATIONS – COLLEEN WATTS**

Ms. Watts gave an update the HPC issued two COAs for Eagles Landing Pharmacy signage and Black Rose Café' and Bake House signage. DDA approved a mural at Locust Grove Park to entice visitors and locals to take selfies and visit downtown. Main Street, Inc. is planning Groovin' in the Grove. Ms. Watts said she attended a three-day training in Thomasville the first part of June. Nothing further.

### **PUBLIC SAFETY OPERATIONS – CHIEF AUSTIN**

Chief Austin reviewed the monthly report and gave an update total collected in May 2022 was \$53,968.00. The department completed 226 training hours in May. We have ongoing issues at hotels in the I-75 corridor of truck theft and catalytic converter theft. The department received State certification on June 10, 2022, and representatives from the State will be at the next meeting to present the award. Nothing further.

### **PUBLIC WORKS – JACK ROSE**

Public Works Director Jack Rose gave update overall operations are good, continuing with general maintenance and repairs. Mr. Rose said we have been working on improvements at the MLK tank and preparing the new AMI (meter read system). We are steady with grass cutting and new meter installs. Further, Mr. Rose said there is an ongoing problem with vandalism at the park restrooms and we don't have staff to do constant clean-up. Chase Maddox Park is noticeably worse due to more usage. Chief Austin confirmed cameras are there but not visible at the bathrooms. Nothing further.

### **ADMINISTRATION – BERT FOSTER**

Mr. Foster gave an update the Peeksville Road extension (joining Highway 42 at Peeksville and Cleveland Street) construction will begin early next year. Mr. Foster also gave an update the Bill Gardner Parkway modifications are out for bid and are due by July 14, 2022. The MMIP (commercial vehicle lanes) remains at a standstill for the next couple of years. The development plans for the Scatter Garden/Veteran's Memorial were received last Friday, and we should have an update from GDOT on Thursday about the downtown corridor study. The structural engineers were at City Hall two weeks ago and will update as soon as we receive preliminary findings. We are waiting on the physical sign for the front lawn and the masonry work is complete. Nothing further.

### **COMMUNITY DEVELOPMENT OPERATIONS – DAUNTÉ GIBBS**

Mr. Gibbs gave an update his department has issued a total of 809 permits including 119 new house permits for 2022. We have issued 159 COs [115 residential / 44 commercial] with 365 business licenses issued so far for 2022. Mr. Gibbs said he promised Council earlier in the year he would provide a forecast report in June/July. The city is trending in unison with the economy with a 40% decrease from last year which coincides with what is going on in the economy now. Nothing further.

- **Ordinance to adopt Section 8.23 – Fire Prevention and Protection – (Anthony Hicks, Fire Marshal) –**

Fire Marshal, Anthony Hicks stepped forward. Mr. Hicks said this is an ordinance to allow the Fire Marshal to enforce codes, perform fire investigations and create a more cohesive framework to guide future developments.

Councilman Greer said Exhibit A says the City of Stockbridge. Mr. Gibbs said he will make the correction.

Councilman Shearouse asked if the city would regulate open burning as referenced in **8.23.49**? Mr. Hicks said being the County would respond that would be regulated by the county.

Ms. Adkins said SB 119 eliminated anyone from having to have a burn permit.

Councilman Greer referenced **8.023.048 – Violations and Penalties** (number three) and asked if we could require people to prepay to avoid any “failure to pay” violations. Mr. Hicks said the initial inspections would be paid in advance; however, any violation fees after the initial inspection would then be due. Councilman Greer asked if we could require them to prepay after the second inspection (violation)? Mr. Hicks said yes, and Mr. Gibbs said we would also withhold their CO until paid in full. Attorney Andy Welch said the follow-up inspections is to determine what Mr. Hicks initially requires to be done is completed. They are expected to comply after the initial inspection and if not one hundred percent (initially), fees would be due if still not in compliance. Nothing further.

**ARCHITECTURAL REVIEW BOARD (ARB) – NONE**

**CITY MANAGER’S COMMENTS –TIM YOUNG**

Mr. Young said the Locust Tree in front of City Hall is dead and needs to be removed. Also, the cedar trees next to the locust tree have growth defects (dual trunk) and needs removed. If it continues to grow as is, it will eventually split, and the entire tree will be dead. Council agreed to remove what is needed.

GMA in Savannah is this weekend and we are finalizing the audit for FY 2021. We hired someone for the Accounting Specialist, and she will begin on July 18, 2022. We will have a meeting with GDOT soon on Bethlehem Road, Bill Gardner projects, and the GDOT SR 42 study. Nothing further.

**MAYOR’S COMMENTS – NONE**

**EXECUTIVE SESSION – NONE**

**ADJOURNMENT-**

Mayor Price asked for a motion to adjourn. Councilman Shearouse made the motion to adjourn.

RESULT	ADOPTED
MADE MOTION	COUNCILMAN SHEAROUSE
2 <sup>ND</sup> MOTION	COUNCILMAN WILLIAMS
VOTE	MOTION CARRIED - ALL IN-FAVOR MEETING ADJOURNED @ 8:20 PM.

Notes taken by:

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Misty Spurling, City Clerk



## Community Development Department

P. O. Box 900  
Locust Grove, Georgia 30248

Phone: (770) 957-5043  
Facsimile (770) 954-1223

## Item Coversheet

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### **An Ordinance to adopt Section 8.23, entitled Fire Prevention and Protection, of City of Locust Grove Municipal Code of Ordinances.**

Action Item:  Yes  No

Public Hearing Item:  Yes  No

Executive Session Item:  Yes  No

Advertised Date: N/A

Budget Item: No

Date Received: June 14, 2022

Workshop Date: June 21, 2022

Regular Meeting Date: July 5, 2022

### **Discussion:**

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This adoption is to the City of Locust Grove Municipal Ordinance Section 8.23, establishing regulations and providing clarity regarding fire prevention and life safety standards. This adoption will allow the City Fire Marshal to interpret and enforce state minimum and locally adopted fire and commercial building codes through compliance inspections, and with plan review of design standards. This adoption creates a more cohesive framework to guide future developments, new and existing businesses, and special events to fire safety compliance. Additionally, adoption of this ordinance establishes authorization of the City Fire Marshal to conduct fire investigations.

### **Recommendation:**

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Staff recommends Approval of the ordinance adoption of section 8.23 of the City of Locust Grove Ordinance.



STATE OF GEORGIA  
CITY OF LOCUST GROVE

**ORDINANCE# \_\_\_\_\_**

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF LOCUST GROVE, GEORGIA TO ADOPT CHAPTER 8.23 - FIRE PREVENTION AND PROTECTION OF THE CODE OF THE CITY OF LOCUST GROVE, GEORGIA; TO ADOPT PROVISIONS PERTAINING TO THE REGULATION OF FIRE PREVENTION SERVICES AND RELATED PROVISIONS GOVERNING FIRE SAFETY AND PREVENTION; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

**WHEREAS** the Mayor and Council of the City of Locust Grove ("City Council") are charged with the protection of the public health, safety, and welfare of the citizens of the City of Locust Grove; and

**WHEREAS**, the City Council has determined that it is appropriate from time to time to modify the Locust Grove Municipal Codes to further protect the public health, safety, and welfare of the citizens of Locust Grove;

NOW THEREFORE, THE COUNCIL OF THE CITY OF LOCUST GROVE HEREBY ORDAINS:

**Section 1. New Chapter 8.23 Created.** Title 8 of the Code of Ordinances of the City of Locust Grove is hereby amended by Creating new Chapter 8.23 entitled "Fire Protection and Prevention".

**Section 2.** Chapter 8.23 is hereby amending by inserting Article I entitled "Fire Department".

**Section 3.** Article I of Chapter 8.23 is hereby amended by creating new Section 8.23.010 entitled "Fire Department (Reserved)" and inserting thereof the following:

**8.23.010 - FIRE DEPARTMENT (Reserved.)**

**Editorial Note:** Henry County will continue to provide all emergency response services including but not limited to Fire Suppression and Fire Rescue Services, the approval of permits for professional-grade display of Fireworks, and the issuance of Burn Permits within the city of Locust Grove pursuant to this ordinance, an

intergovernmental agreement or State Law, except as specifically listed in ARTICLE II - FIRE PREVENTION set forth below.

**Section 4.** Chapter 8.23 is hereby amending by inserting Article II entitled “Fire Prevention”.

**Section 5.** Article II of Chapter 8.23 is hereby amended by creating new Sections 8.23.020 through 8.23.049 and inserting thereof the following:

## **ARTICLE II. - FIRE PREVENTION**

### **8.23.020- Definitions.**

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

*“Apartment building”* means buildings containing three or more living units with independent cooking and bathroom facilities, whether designated as an apartment house, tenement, garden apartment, or by any other name.

*“Battery backup”* means any emergency power supply for power-assisted gates operated by electrical power.

*“Breakaway security gate”* means any gate designed to fall away under pressure.

*“Case hardened metal”* means a steel alloy formed by diffusing carbon or nitrogen into the outer layer of the steel at high temperature such that the metal cannot be cut with a saw and will not shatter.

*“Combustible”* means any material that is capable of supporting ignition or the process of burning under heat exposure.

*“Delayed response”* means any postponement of an emergency vehicle gaining access through security barriers.

*“Disposal”* means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous substances or hazardous waste into or on any land or water so that such substances or waste may enter the environment or be emitted into the air or discharged into any water, including groundwater.

*“Dormitory”* means buildings or spaces in buildings where group sleeping accommodations are provided for persons not members of the same family group in one room or in a series of closely associated rooms under joint occupancy and single management, as in college dormitories or other housing for students, fraternity houses, military barracks; with or without meals, but without individual cooking facilities.

*“Emergency shutoff button”* means a device used to release hydraulic pressure on power-

assisted gates operated by hydraulic power.

*“Fire apparatus”* means any vehicle or equipment used by fire and rescue services.

*“Fire Marshal”* means a qualified officer who will perform fire marshal services for the city.

*“Gamewell lock box”* means a box, sometimes called an elevator lock box, which must be opened with a special key carried on fire response vehicles.

*“Gravity gate”* means a gate with no power assistance, and which operates freely under manual manipulation.

*“Hazardous explosive chemicals”* mean all picric acids, nitro-based chemicals, ethers, peroxides, oxidizers, and such other chemicals as may be determined by the fire marshal to be hazardous explosives.

*“Hazardous substance”* means a substance that satisfies any one of the following requirements:

1. A substance which, because of the toxic or hazardous properties which it exhibits, is determined by the director of the environmental protection division of the state department of natural resources to represent a significant risk to the public health and safety as a result of foreseeable use, handling, accidental spill, exposure or contamination.
2. A substance that is known to present a significant risk of personal injury or illness as the foreseeable result of use, handling, accidental spills, exposure or contamination; or
3. A substance or material that has been determined to pose an unreasonable risk to health, safety, and property.

*“Hazardous waste”* means any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal regulation in force and effective February 1, 1986, codified as 40 CFR 261-Identification and Listing of Hazardous Waste, as amended.

*“Hazardous waste generation”* means the act or process of producing hazardous waste.

*“High-rise residential occupancy building”* means residential properties, hotels, dormitories, apartments, lodging or room houses, or board and care facilities over 75 feet or 23 meters in height measured from the lowest level of fire department vehicle access to the floor of the highest occupied story.

*“Hotel/motel”* means a building in which separate sleeping rooms are rented that provide sleeping accommodations for 15 persons or more on either a transient or permanent basis, with or without meals, whether designated as a hotel, inn, club, motel, or by any other name.

*“Improper storage”* means storage of chemicals past the expiration date on the label or chemicals stored in any area or container not designed for storage of the particular chemical. If there is no date listed for the expiration date, the expiration date shall be 12

months past the date that the chemical was received by the person or entity storing the chemical.

*“Knox Box Rapid Entry System”* means a key box that is authorized by section 506 of the International Fire Code and allows firefighting access for fire department purposes. Examples of structures or areas in which a key box is required include commercial and industrial structures protected by an automatic alarm system or automatic suppression system or structures that are secured in a manner that restricts access during an emergency; multi-family residential structures that have restricted access through locked doors and have a common corridor for access to all the living units; governmental structures and nursing care facilities; hazardous material occupancies; and occupancies where a large number of medical or fire alarms occur and entry can be delayed.

*“Lodging house or rooming house”* means a building in which separate sleeping rooms are rented which provides sleeping accommodations for 15 or fewer persons on either a transient or permanent basis, with or without meals, but without separate cooking facilities for individual occupants.

*“Pad lock”* means any lock that is not constructed of case-hardened metal.

*“Power assisted gate”* means any gate that is operated through a power source, whether electrical, hydraulic or pneumatic.

*“Residential property”* means buildings containing three or more living units with independent cooking and bathroom facilities, whether designated as apartment house, tenement, garden apartment, condominium or by any other name.

*“Substance”* means any element, entity, compound, combination, or any mixture thereof, whether organic or inorganic.

*“Toggle switch”* means a device used to operate a power-assisted gate and override the power supply to the gate.

#### **8.23.021- Scope.**

1. The provisions of this chapter shall apply equally to both public and private property, and to all structures and their occupants, except as otherwise specified herein or by other applicable law.
2. The city shall have the authority to contract with any other government entity for the enforcement of this chapter and to enter into any intergovernmental agreements for the provision of Enforcement of State Minimum Fire Safety Standards.

#### **8.23.022 - 8.23.029 - Reserved.**

#### **8.23.030- Enforcement of State Minimum Fire Safety Standards**

1. The City of Locust Grove, Georgia adopts the State minimum fire safety standards adopted in the rules and regulations promulgated pursuant to Chapter 2 of Title 25, including all subsequent revisions thereof.

2. The City of Locust Grove will enforce the State minimum fire safety standards as set forth in subsection (a) of O.C.G.A § 25-2-12 with respect to those buildings and structures listed in O.C.G.A § 25-2-13, except for hospitals, nursing homes, jails, ambulatory health care centers and penal institutions and except for buildings and structures which are owned and operated or occupied by the State.
3. The Safety Fire Division of the office of the Insurance and Safety Fire Commissioner shall continue to perform those duties specified in O.C.G.A § 25-1- 12(a)(2) with respect to hospitals, nursing homes, jails, ambulatory health care centers and penal institutions and except for buildings and structures which are owned and operated or occupied by the State.
4. The City of Locust Grove will be responsible for enforcing such fire safety standards within its jurisdiction and will:
  - (A) Conduct fire safety inspections on existing buildings and structures.
  - (B) Review plans and specifications for proposed building and structures, issue building permits when plans are approved and conduct fire safety inspections of such buildings and structures;
  - (C) Issue permanent and temporary certificates of occupancy; and
  - (D) Conduct arson investigations.
5. The City of Locust Grove will charge and retain appropriate fees for performing the duties required in subparagraphs (A) and (B) of paragraph (2) of O.C.G.A § 25-2-12.

**8.23.031- Duties of the fire marshal.**

1. Other than those services provided by the county, the services to be performed by City of Locust Grove fire marshal shall include the inspections of new buildings and renovations to existing buildings for compliance with the fire code, including but not limited to the following:
  - (A) Reviewing and approving plans for both new construction and renovations of existing structures, fire sprinkler and suppression systems, and other required operational permits;
  - (B) Necessary mid-construction and final inspections for life safety for all commercial and multifamily buildings;
  - (C) Inspections for new business licenses, Occupational Tax Certificates, or change of occupancy, in conjunction with the building official; and
  - (D) Inspections required for setting occupancy load, in conjunction with the building official.
  - (E) The fire marshal shall possess the education, training and experience required by state law for such position.
2. The fire marshal shall remit all plans receiving an approval for life safety by the fire marshal to the Henry County's fire chief.

**8.23.032- Construction plans approval.**

It shall be unlawful to construct, erect or alter any building without construction documents approved by the fire marshal for fire department accessibility, fire hydrant requirements, fire code requirements, occupancy load, aboveground and underground

flammable and combustible liquids tank installations and fire protection and suppression systems, including, but not limited to, sprinklers.

### **8.23.033- Permits.**

The city shall have the authority to issue permits and to collect fees for plan review, permit and inspection in connection with commercial and multifamily buildings constructed or renovated in the city in amounts set by resolution of the city council as well as for reimbursement for other review or inspection services provided in this chapter, in this Code or by law.

### **8.23.034 -Fees**

(1) **Construction, expansion permit fee.** There shall be a permit fee for the construction or for the expansion of every building in the county, and said permit fee shall be calculated at following rate:

Up to 10,000 square feet:	\$150.00 (flat fee)
10,001—30,000 square feet:	\$0.10 per square foot
30,001—100,000 square feet:	\$0.05 per square foot
100,001—500,000 square feet:	\$0.03 per square foot
500,001 square feet and up:	\$0.015 per square foot

Eighty percent (80%) or cover up inspection, one hundred percent (100%) or final inspection, and first follow-up inspection is included under the construction permit with no additional charge.

(2) **Sprinkler system and alarm system permit fee.** There shall be a permit fee for a sprinkler system or alarm system being installed in buildings in the county, and said permit fee shall be calculated at following rate:

Up to 10,000 square feet:	\$150.00
10,001—30,000 square feet:	\$200.00
30,001—100,000 square feet:	\$250.00
100,001—500,000 square feet:	\$300.00
500,001 square feet and up:	\$350.00

Eighty (80) percent or cover up inspection, one hundred (100) percent or final inspection, and first follow-up inspection is included under the construction permit with no additional charge.

(3) **Minimum fees.** The following minimum fees shall be charged for the specific permits and services listed herein, notwithstanding the figure derived from the calculation provided by subsection (1) and (2) of this section.

a. Construction Second /reinspection:	\$100.00
b. Third reinspection:	\$200.00
c. Subsequent Follow-up:	\$200.00
d. Special event inspection/permit:	\$150.00
e. Commercial hood plan review and inspection:	\$100.00
f. Site plan review and inspection:	\$100.00
g. Change of occupancy or occupation tax inspection (business license):	\$100.00

h. Name change or replacement of occupation certificate:	\$25.00
i. Blasting permit:	\$100.00
j. Expedited Plan Review (within 5 business days):	\$100.00
k. Fireworks permit:	\$100.00
l. Administrative variance fee:	\$75.00
m. Returned for insufficient funds check fee:	\$35.00
n. Temporary certificate of occupancy (per TCO):	\$50.00
o. After hours inspection, per hour:	\$75.00

**(4) Extra-Duty/Fire Watch Fee.** When required by the fire marshal for buildings or special events that could be hazardous in nature, qualified personnel shall be provided to serve as an on-site fire watch. Fire watch personnel shall be provided with at least one (1) approved means for notification of the fire department and their sole duty shall be to perform constant patrols and watch for the occurrence of fire. This fee is forty dollars (\$40.00) per hour per person, minimum of four (4) hours.

**8.23.035- 8.23.040 - Reserved.**

**8.23.041 - Adoption of state fire safety rules.**

Pursuant to O.C.G.A. § 25-2-1 et seq. and as may hereinafter be amended, there is hereby adopted as if fully set forth herein the state minimum fire safety standards now and as may hereafter be promulgated by the Georgia Safety Fire Commissioner. In the event the fire marshal determines that the provisions of the state minimum fire safety standards conflict with the provisions of the International Fire Code adopted in 8.23.042, then the most restrictive provision as determined by the fire marshal shall govern.

**8.23.042- Adoption of International Fire Code.**

Pursuant to O.C.G.A. §§ 8-2-20 and 8-2-25 and as may hereinafter be amended, there is hereby adopted as if fully set forth herein the International Fire Code, including chapter 1, Administration. As allowed in O.C.G.A. § 8-2-25, the provisions of the International Fire Code are modified and amended in sections 8.23.043 through 8.23.046. In the event the fire marshal determines that the provisions of the International Fire Code conflict with the provisions of the state minimum fire safety standards adopted in section 8.23.041, then the most restrictive provision as determined by the fire marshal shall govern.

**8.23.043- International Fire Code, Chapter 1, Administration, Section 108,** is hereby amended by replacing "Board of Appeals" with "City of Locust Grove City Council"

**8.23.044- International Fire Code** is hereby amended by adopting Appendix B-Fire Flow Appendix C-Fire Hydrant Locations and Distribution and Appendix D-Fire Apparatus Access Roads.

**8.23.045- International Fire Code, Section 308.1.4 Open Flame Cooking Devices,** is hereby amended to read: Charcoal burners, solid fuel-fired cooking equipment, and other open-flame cooking devices, both covered and uncovered, shall not be operated on any combustible balconies and/or deck, shall not be operated on the premises of any commercial or multi-family occupancy within 30 feet of combustible construction and



overhangs, within 75 feet of the Right of Way, and within 30 feet of any property boundary unless approved and permitted by the Fire Marshal and Building Safety Division as a permanent and fixed outdoor cooking facility or kitchen, and approved by the County Board of Health.

Exceptions:

1. One- and two-family dwellings.
2. Where buildings, balconies and decks are protected by an automatic sprinkler system.
3. L.P-gas cooking devices having LP-gas container with a water capacity not greater than 2 ½ pounds [nominal 1 pound (0.454 kg) LP-gas capacity].

**8.23.046-** International Fire Code, Section is hereby amended by adopting Appendix C- Fire Hydrant Locations and Distribution and Appendix D-Fire Apparatus Access Roads

**8.23.047- Automatic fire extinguisher system required.**

All new multi-family dwellings properties shall be fully sprinkled in accordance with the latest adopted edition of the National Fire Protection Association publications 13 (NFPA-13) or 13 (NFPA-13R)

**8.023.048-Violations and Penalties**

1. It shall be unlawful for any person to violate the provisions of this chapter, to permit or maintain such a violation, to refuse to obey any provision thereof, or to fail or refuse to comply with any such provision or regulation.
2. Any person violating said codes shall be punished as provided in Section 1.08 and in accordance with Item 3 of this Section.
3. The following specific actions shall constitute as violations as prescribed herein:
  - (a) Failure to pay fire, safety and/or accessibility fees within thirty (30) days of the date of invoice will result in a late fee of twenty-five dollars (\$25.00); Failure to pay within sixty (60) days will result in an additional late of fifty dollars (\$50.00). Failure to pay within ninety (90) days will result in the revocation of the certificate of occupancy.
  - (b) Further, failure to pay fees in a timely manner on all returned checks for insufficient funds will result in the certificate of occupancy not being issued, or the current certificate of occupancy being revoked.
  - (c) The business will be notified in writing by certified mail that the certificate of occupancy has been revoked. Operating a business without a certificate of occupancy is a violation of City of Locust Grove Ordinances. In addition to the late fees and penalties assessed above, persons violating the ordinance shall be subject to a fine of up to one thousand dollars (\$1,000.00) per day, per violation, and/or sixty (60) days in jail, or any combination.

**8.23.049 -Open burning regulated.**

In order to regulate burning within the city limits, residents of the city shall be required to secure a permission from Henry County Fire Marshal prior to commencing burning.

Exceptions:

1. No commercial burning shall be permitted within the city limits of the city.
2. The open burning ban per Georgia Environmental Protection Division (EPD) effective beginning May 1 through September 30, prohibits citizens and businesses from burning yard and land clearing debris, during those dates.
3. Burning of household garbage is prohibited during anytime.

**Section 6.** Chapter 8.23 is hereby amending by inserting Article III entitled “Fireworks, special effects, pyrotechnics”.

**Section 7.** Article III of Chapter 8.23 is hereby amended by creating new Sections 8.23.050 through 8.23.099 and inserting thereof the following:

**Article III. – Fireworks, special effects, pyrotechnics.**

**8.23.050-Fireworks.** Fireworks shall be regulated in accordance with the following:

- a) Outdoor fireworks displays and the temporary storage, use, and handling of pyrotechnic special effects used in motion pictures, television, theatrical and group entertainment shall be permitted in accordance with the National Fire Protection Association (NFPA) 1126, "Standard for the Use of Pyrotechnics Before a Proximate Audience" and NFPA 106, "Standard for the Use of Flame Effects Before an Audience." Permitting shall also adhere to the Rules and Regulations 120-3-22 as set forth by the office of insurance and safety fire commissioner.
  1. 2020 Georgia Code Title 25 - Fire Protection and Safety Chapter 10 - Regulation of Fireworks § 25-10-3. Permitted Sales and Uses of Fireworks and,
  2. 2020 Georgia Code Title 36 - Local Government Chapter 60 - General Provisions § 36-60-24. Sale or Use or Ignition of Consumer Fireworks Products.
  3. Locations for retail sales of consumer fireworks shall be permitted and inspected by the City of Locust Grove.
  4. Professional-grade firework displays, and events shall be inspected and monitored by the Henry County Fire Department.

**Editorial Note:** The Georgia General Assembly legalized the sale of fireworks and significantly limited the regulation of the sale or use of fireworks by local governments in 2015.

**8.23.051-Special effects, pyrotechnics.**

- a) Pursuant to the National Fire Protection Association (NFPA) 1126,"Standard for the Use of Pyrotechnics Before a Proximate Audience”, **ALL** indoor use of open flames, or pyrotechnics shall be permitted and approved by the City of Locust Grove Fire Marshal, or designee, prior to use.
- b) Indoor use of pyrotechnics or open flames shall require an approved fire safety officer to monitor, throughout the duration of the event or production, at the expense of the production company, at the rate outlined in **Sec. 8.23.034 -Fees Item 4**
- c) Any special effects, including atmospheric smoke that may cause an interruption of fire protection systems or other life safety hazards, shall require an approved fire safety officer, until the location can be rendered safe, at the expense of the production company, at the rate outlined in **Sec. 8.23.034 -Fees Item 4**

**8.23.052 – 8.23.099 Reserved.**

**Section 8.** The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

**Section 9.** (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

**Section 10.** All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

**Section 11.** Penalties in effect for violations of the City of Locust Grove at the time of the effective date of this Ordinance shall be and are hereby made applicable to this Ordinance and shall remain in full force and effect.

**Section 12.** The effective date of this Ordinance shall be upon adoption of this ordinance.

**ORDAINED** this 5th day of July 2022.

**CITY OF LOCUST GROVE, GEORGIA**

**ATTEST:**

\_\_\_\_\_  
**Robert Price, Mayor**

\_\_\_\_\_  
**Misty Spurling, City Clerk**

APPROVED AS TO FORM:

\_\_\_\_\_  
**City Attorney**

Date Presented to Mayor: \_\_\_\_\_

Date Received from Mayor: \_\_\_\_\_





## Community Development Department

P. O. Box 900  
Locust Grove, Georgia 30248  
Phone: (770) 957-5043  
Facsimile (770) 954-1223

### Item Coversheet

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**Item:** An Ordinance to award the contract for services associated with the road resurfacing project throughout the City.

**Action Item:**  Yes  No

**Public Hearing Item:**  Yes  No

**Executive Session Item:**  Yes  No

**Budget Item:** TSPLOST

**Workshop Date:** N/A

**Regular Meeting Date:** July 5, 2022

#### Discussion:

On June 21, 2022, the City Council approved a Resolution to award the bid for services associated with the project known as RESURFACING FOR ROADS IN CITY OF LOCUST GROVE to C.W. Matthews Contracting, Co., LLC.

In conjunction with the award of the bid, Staff has prepared a Contract for the Council's consideration and approval.

#### Recommendation:

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#### Approval

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE TO ENTER INTO A CONTRACT BETWEEN THE CITY OF LOCUST GROVE AND C.W. MATTHEWS CONTRACTING CO., LLC., TO PROVIDE PROFESSIONAL CONSTRUCTION SERVICES FOR THE CITY PROJECT KNOWN AS RESURFACING FOR ROADS IN CITY OF LOCUST GROVE (22-T001); TO AUTHORIZE THE MAYOR TO SIGN ALL DOCUMENTS NECESSARY TO EFFECTUATE SAID CONTRACT; TO AUTHORIZE THE CITY CLERK TO ATTEST SIGNATURES AND AFFIX THE OFFICIAL SEAL OF THE CITY OF LOCUST GROVE, AS NECESSARY; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES**

**WHEREAS**, the City of Locust Grove (“City”) is a municipal corporation duly organized and existing under the laws of the State of Georgia; and,

**WHEREAS**, the City has identified a need for a qualified vendor to provide labor, equipment and materials required to perform asphalt milling, resurfacing, HA-5 application and hot-mix asphalt placement on City-owned roads (“Project”); and

**WHEREAS**, the City implemented a funding plan to provide for the Project as part of the Transportation Special Purpose Local Option Sales Tax (“TSPLOST”) referendum approved by the voters in 2021; and

**WHEREAS**, the City awarded the bid for professional services associated with the Project to C.W. MATTHEWS CONTRACTING CO., LLC., (the “Contractor”) on June 21, 2022; and

**WHEREAS**, the City wishes to retain the services of the Contractor to provide those necessary services as described in the approved contract and construction documents for the Project (the “Agreement”); and

**WHEREAS**, the Mayor and City Council have found this Agreement to be in the best interests of the citizens of the City of Locust Grove.

**THE COUNCIL OF THE CITY OF LOCUST GROVE HEREBY ORDAINS**

**SECTION 1. Approval of Contract.** The Contract between the City and C.W. Matthews Contracting Co., LLC., as attached hereto and upon approval by the City Attorney and incorporated herein by reference as **Exhibit “A”** is hereby approved.

**SECTION 2. Approval of Execution.** The Mayor is hereby authorized to execute the Contract as described in **Exhibit "A"** upon delivery of a signed version by C.W. Matthews Contracting Co., LLC., and the City Manager, or his designee, is authorized to take those actions necessary to effectuate this Ordinance and perform the obligation of the City under said Agreement.



**SECTION 3. Documents.** The City Clerk is authorized to execute, attest to, and seal any document which may be necessary to effectuate this Ordinance, subject to approval as to form by the City Attorney.

**SECTION 4. Severability.** In the event any portion of this Ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of Locust Grove that such adjudications shall in no manner affect the other sections, sentences, clauses, or phases of this Ordinance which shall remain in full force and effect as if the invalid or unconstitutional section, sentence, clause or phrase were not originally part of the Ordinance.

**SECTION 5. Repeal of conflicting provisions.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed, except as otherwise provided herein.

**SECTION 6. Effective date.** This Ordinance shall become effective immediately upon its adoption by the Mayor and the City Council of Locust Grove and upon approval as to form by the City Attorney.

**SO ORDAINED** by the Council of the City this 5<sup>TH</sup> day of July 2022.

**CITY OF LOCUST GROVE, GEORGIA**

\_\_\_\_\_  
ROBERT S. PRICE, Mayor

ATTEST:

\_\_\_\_\_  
MISTY SPURLING, City Clerk

SEAL

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**EXHIBIT "A"**

**CONTRACT BETWEEN  
THE CITY OF LOCUST GROVE  
AND C.W. MATTHEWS CONTRACTING CO., LLC.**

**CONTRACT FOR**

**RESURFACING FOR ROADS IN THE  
CITY OF LOCUST GROVE**

**BETWEEN**

**THE CITY OF LOCUST GROVE, GEORGIA,**

**AND**

**C.W. MATTHEWS CONTRACTING CO., INC.**

**Project Name: RESURFACING FOR ROADS IN THE CITY OF  
LOCUST GROVE – BID #22-T001**

**Project Address: VARIOUS LOCATIONS THROUGHOUT THE CITY  
OF LOCUST GROVE**

# CONTRACT FOR SERVICES

This agreement (the "Agreement") is made and entered into by and between the City of Locust Grove, Georgia ("Owner") and C.W. Matthews Contracting Co., Inc., Michael Kleuckling, Vice President, P.O. Drawer 970, Marietta, Georgia 30061 operating and existing under the laws of the State of Georgia ("Contractor").

This Agreement shall become effective on the date it is executed by the last party to execute it ("the Effective Date").

For and in consideration of the mutual promises, covenants and agreements set forth herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Owner and Contractor agree as follows:

## ARTICLE 1

### DEFINITIONS

1.1 "Applicable Laws" means all laws, statutes, ordinances, codes, building codes, regulations, rules, orders and resolutions of all national, administrative, state, local, municipal, and other governing bodies relating to the Project or to the performance of the Services or the Work.

1.2 "Bid Documents" means the written Invitation to Bid issued by the City on April 22, 2022 including all subsequent Amendments, Revisions and Addenda.

1.3 "Bid Form" means the sealed written response by the Contractor to the City's Invitation to Bid received on June 2, 2022.

1.4 "Change Order" means a written order to Contractor executed by the Owner in accordance with the contract, authorizing and directing an addition to, deletion from, or adjustment or revision to the requirements of the Contract Documents, or an adjustment to the compensation payable to Contractor, or to the time for performance of the contract and completion of the Project, or any combination thereof.

1.5 "City" means the City of Locust Grove, Georgia

1.6 "Contract Documents" [see Article 2]

1.7 "Contract Price" [see Article 12]

1.8 "Contractor" person who contracts to do work for Owner according to his or her own processes and methods unless otherwise stated in the Contract Documents and/or Change Order(s).

1.9 "Construction Fee" means the fractional amount of the Contract Price submitted to Owner for payment in a Pay Request on a monthly basis as set forth in Article 12.

1.10 "Critical Path Schedule" means the schedule maintained by the Contractor used to manage the critical path of the Project which accurately reflects (a) the percentage of the Work completed and the Work remaining, (b) describes with reasonable particularity each Service rendered, the date thereof, the time expended in performing such Service, and the persons

rendering such Service; and (c) specifies the amount of project costs, including all fees, incurred to date and estimated project costs, including all fees, remaining.

1.11 "Day," unless otherwise stated, means calendar day.

1.12 "Final Completion" means the completion of all Work required by, and in strict compliance with, the Contract Documents, including start-up, testing, obtaining regulatory approvals from all applicable authorities, and all preparations necessary to operate and maintain the Project.

1.13 "Other Contractors" means any contractor, but not including Contractor or the Subcontractors, with whom Owner enters into a direct contract for the performance of any portion of Work in connection with the Project.

1.14 "Owner's Representative" means the individual named by Owner, in writing and as such writing may be amended from time to time, to act on Owner's behalf in the administration of this contract. Owner's Representative does not have authority to waive or modify any condition or term of the Contract Documents.

1.15 "Preliminary Design" means all design documents constituting the preliminary design.

1.16 "Project" means the completion of improvements as shown by the Contract Documents in Article 2 and described under the Scope of Work in Article 5.

1.17 "Services" means those services, functions, roles, responsibilities, obligations and duties required of Contractor pursuant to the terms of the Contract Documents.

1.18 "Subcontracts" means the contracts between Contractor and any Subcontractor.

1.19 "Subcontract Costs" means those sums properly paid or due and payable by Contractor under the terms of the Subcontracts.

1.20 "Subcontractor" means any person or entity having a direct contract or purchase order with Contractor for the performance or supply of all or any portion of the Work required by the Contract Documents or the supply of any materials, services, equipment or installation services required by the Contract Documents.

1.21 "Substantial Completion" means that stage of completion of the Project, including testing, approval by any applicable regulatory authority, and receipt of the final acceptance of work by Owner, such that the Work and the Project are functionally and legally usable by Owner for the purpose for which they are intended.

1.22 "Value Engineering" means the detailed analysis of systems, equipment, materials, services, facilities, and supplies required by the Contract Documents for the purpose of achieving the desired and essential functions of the Owner's program at the lowest Life Cycle Cost consistent with required and necessary performance, reliability, quality and safety. "Life Cycle Cost" means the sum of all costs of the Project over its useful life, and includes the cost of design, construction, acquisition, operation, maintenance, and salvage/resale value.

1.22 "Work" means any and all labor, supervision, work, supplies, fixtures, furnishings, vehicles, equipment, services, tools, materials, utilities, items, documents and things required by the Contract Documents to be performed or supplied, including all construction, testing, and permitting required to render the Project, and every component thereof, operational and usable for its intended purpose.

## ARTICLE 2

### **THE CONTRACT DOCUMENTS**

2.1 Contract Documents Defined. The contract between the parties shall consist of the "Contract Documents." The Contract Documents shall include this Agreement, specifications contained in Section II of the Bid Documents, any special conditions, and all documents expressly annexed hereto as part of this Agreement. Change Orders issued hereafter, and any written amendments to this Agreement executed by Owner and Contractor, shall become and be a part of the Contract Documents. Documents not expressly listed above are not Contract Documents and do not constitute part of the contract between the parties.

2.2 Priority Of Documents. In the event of any conflict, discrepancy, or inconsistency among any of the Contract Documents, interpretation will be based on the following descending order of priority:

- 1) This Agreement.
- 2) The Bid Documents with Addenda as amended and revised as of June 2, 2022.
- 3) City of Locust Grove "Project Specifications".
- 4) The "Bid Form" from C.W. Matthews Contracting, Co., Inc., received by the City of Locust Grove on June 2, 2022.
- 5) *Roadway, Storm Sewer and Sanitary Sewer Mapping for Leesburg Plantation*, prepared by Jordan Engineering, Inc., dated April 27, 2022.
- 6) Code of Ordinances, City of Locust Grove, Georgia
- 7) Among those Plans, the following:
  - a. As between figures given on plans and scaled measurements, the figures shall govern;
  - b. As between large scale plans and small scale plans, the large scale plans shall govern.

2.3 Substitutions. If Owner elects to accept any items proposed by Contractor as a substitution, Contractor shall assume full responsibility for the proper performance of such substituted items and shall assume the costs of any changes in the Work which may be due to such substitution.

2.4 Design Document List. Documents have been compiled (the “Design Document List”) which are attached as **Exhibit “A”**. Both the Design Document List and the documents listed therein are expressly incorporated herein. Upon receipt, the Contractor shall review and study the Design Document List to confirm the Design Document List is accurate, complete and current. If requested by the Owner, the Contractor shall acknowledge, in writing, its receipt of the Design Document List and its agreement that the Design Document List is accurate, complete and current. Unless the Contractor notifies the Owner, not later than five (5) days after Contractor’s receipt of the Design Document List, of an error or omission in the Design Document List, the Design Document List shall be annexed hereto as part of this Agreement.

### **ARTICLE 3**

#### **REPRESENTATIONS AND WARRANTIES**

3.1 Specific Representations And Warranties. By executing this Agreement, Contractor makes the following express representations and warranties to Owner:

3.1.1 Contractor is professionally qualified to act as the Contractor for the Project and has, and shall maintain, any and all licenses, permits, and other authorizations necessary to act as the Contractor for the Project and to perform the Services required hereunder. *See Section 4.4 of this Agreement pertaining to Fees.*

3.1.2 Contractor has become familiar with all design and construction documents generated to date and will become familiar with all generated hereafter, and has become familiar with the Project site and the local conditions under which the Project is to be constructed.

3.1.3 Contractor has the capability and experience, including sufficient qualified and competent supervisory personnel, to efficiently and timely accomplish the Work and perform the Services, and Contractor will continuously furnish sufficient personnel to accomplish the Work and perform the Services in a timely and proper manner.

3.1.4 Contractor shall comply, and shall cause all Subcontractors to comply, with all Applicable Laws.

3.1.5 Contractor assumes full responsibility to Owner for the acts and omissions of Contractor’s officers, employees, Subcontractors, consultants, and others employed or retained by Contractor or them in connection with the performance of the Services or the Work.

3.1.6 Contractor warrants to Owner that all labor furnished to perform the Work under the Contract Documents will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by the Contract Documents, and that the Work will be of good quality, free from faults and defects, and in strict conformance with the Contract Documents. Any Work not strictly conforming to these requirements may be considered defective.

3.1.7 All obligations related to or arising from all representations and warranties made in the Contract Documents shall be obligations of, and shall be deemed incorporated in, the performance bond furnished by Contractor.

3.1.8 The Contractor represents, warrants and affirms that only truthful, complete and correct information has been provided to the Owner in the Contractor's Proposal provided by C.W. Matthews Contracting Co., Inc., and received by the City of Locust Grove on June 2, 2022, and in any other communication from the Contractor regarding the Contractor's qualifications or responsibility to perform the obligations of the Contractor under this Agreement (all such information being referred to herein as "Qualification Information"). The Contractor further represents, warrants and affirms that in the event that any Qualification Information changed in any material way after it was communicated from Contractor and before this Agreement is signed by all parties, Contractor has immediately notified the Owner, in writing, of such change or changes and Contractor agrees that Owner may take such action thereon as Owner deems appropriate. The Contractor acknowledges and agrees that the Owner has relied, and will continue to rely, on the truthfulness, completeness and correctness of the Qualification Information. The Contractor acknowledges and agrees that all Qualification Information is material and important to the Owner's evaluation of the Contractor's qualifications and responsibility to undertake the Contractor's obligations under this Agreement. Contractor acknowledges and agrees that if the Contractor knowingly provided any false, incorrect, misleading or incomplete information to the Owner in any Qualification Information, or failed to advise the Owner in writing of any material change in such information as set forth in this paragraph, this Agreement shall be deemed to be materially breached by Contractor and subject to immediate termination for cause or rescission for cause by the Owner, at the sole option of the Owner. The Owner also shall have and retain any and all other rights and remedies provided by law, in contract or otherwise.

3.2 Enumerated Representations And Warranties Not Exhaustive. The representations and warranties enumerated in this Article 3 operate in addition to, and shall in no way supersede, limit, or restrict any other duty, responsibility, representation, or warranty, express or implied, created or required by the Contract Documents or by law.

## **ARTICLE 4**

### **CONTRACTOR'S SERVICES AND DUTIES: GENERAL PROVISIONS**

4.1 Generally. Contractor shall perform and provide the Services and the Work required by, or reasonably implied by or inferable from the Contract Documents; and shall be responsible for the construction of the Project in strict conformance with the requirements of the Contract Documents; and shall pay for all labor, supervision, materials, supplies, furnishings, equipment and things required by the Contract Documents. In performing its duties hereunder, Contractor shall be a fiduciary to the Owner in whom the Owner may place its full trust and confidence.

4.2 Standard Of Care. Contractor shall perform the Services at a level, and be judged by a standard of care, that is consistent with the standards and quality prevailing among first-rate, nationally recognized construction firms of superior knowledge, skill and experience engaged in projects of similar size and complexity. Contractor shall carry out and complete the Services in an efficient, economical and timely manner, as expeditiously as is consistent with the level of skill and care required hereby and the interests of Owner, and in strict accordance with the Contract Documents.



4.3 Compliance With Applicable Laws. Contractor shall reasonably ensure that the Services and Work are performed, and the Project is constructed, in a manner which meets the requirements of all Applicable Laws relating to the construction, occupation, and operation of the Project, including, but not limited to, subdivision codes, soil erosion and sediment control, and environmental regulations. Such Applicable Laws shall be deemed minimum standards for the Project. Where the requirements of the specifications and the accompanying plans exceed those of the Applicable Laws, the plans and specifications shall be followed. Contractor shall immediately notify the Owner's Representative in writing of any known violation by any Subcontractor of any Applicable Law, or any such violation of which the Contractor reasonably should have known.

4.4 Secure Permits, Licenses, Approvals, And Authorizations. Contractor shall secure all necessary licenses, permits, approvals or other necessary authorizations of governmental authorities for the construction of the Project; however, all City of Locust Grove fees associated with such necessary authorizations and permits shall be waived. Contractor shall obtain and maintain all licenses, permits and other authorizations necessary to act as the Contractor for the Project.

4.5 Insurance. The Contractor shall have and maintain insurance in accordance with the requirements of **Exhibit "B"** attached hereto and incorporated herein by reference.

4.6 Homeland Security & Immigration Status. Contractor shall comply with federal, state and local laws and regulations with respect to homeland security and immigration.

## **ARTICLE 5**

### **SCOPE OF WORK**

5.1 Scope of Work, Generally. Contractor agrees to perform and instruct all work depicted in the Construction Documents including all services and work customarily associated therewith or which is necessary for the proper construction, installation and/or safe operation of the Work during and after construction. Contractor agrees that its price includes all work needed even where not specifically shown on the drawings or contained in the specifications but which is reasonably inferable therefrom or should be installed as part of good industry practice.

#### **5.2 Site.**

5.2.1 The Contractor shall perform all necessary activities associated with the milling, resurfacing and HA5 application for City streets listed in the Construction Documents including, but not limited to, excavation, labor, hauling and traffic control.

5.2.2 The Contractor shall perform all necessary activities associated with the application of final and temporary striping on non-subdivision streets.

5.2.3 The Contractor shall perform all necessary weatherproofing materials and sealants.

5.2.4 The Contractor shall provide all necessary materials and equipment to perform the work.

5.2.5 The Contractor shall be responsible for obtaining any and all permits associated with this project.

5.2.6 The Contractor shall perform all site improvements to the satisfaction of the City Manager of Locust Grove.

5.3 Miscellaneous Items.

5.3.3 All salvageable and surplus materials not otherwise designated for reuse by Owner shall be the property of Contractor. All other materials shall be properly disposed of by Contractor at Contractor's expense.

5.3.4 Any items of Work or Service not specifically described in this Article 5 Scope of Work or included within the Construction Documents, except that Work or Service from which should be reasonably inferred, is excluded and Contractor assumes no responsibility for their performance.

**ARTICLE 6**

[Reserved]

**ARTICLE 7**

**COMPLETION DATE AND SCHEDULES**

7.1 Completion Date. Contractor shall achieve Substantial Completion of the Work by **December 31, 2022** ("Substantial Completion Date"). The time for achieving Substantial Completion may sometimes be referred to in the Contract Documents as the "Contract Time." Contractor shall achieve Final Completion of the Project within thirty (30) days after the Substantial Completion Date. Neither the Substantial Completion Date nor the time for Final Completion shall be changed except by Change Order issued in accordance with the terms of this Agreement.

7.2 Delay. The Contractor accepts the risk that the progress may be delayed, disrupted, interfered with, cause to proceed inefficiently or made more costly for any reason, including where delays are caused by design professionals, the Owner or those for whom the Owner is responsible. Contractor agrees that in the event the progress of work is delayed, disruptive, interfered with, cause to proceed inefficiency or made more costly for reasons outside of contractors control, as its sole and exclusive remedy, it shall be entitled to an extension of time equal to the length of the period of delay but in no event shall be entitled to additional money or monetary damages. For the purposes of this paragraph, all work performed by Contractor or its sub-contractors, suppliers, materialman and laborers are within the Contractor's control. If Contractors work is delayed, disrupted, interfered with, cause to proceed inefficiently or made more costly for reasons within Contractor's control, then Contractor shall not be entitled to an extension of time and shall be added sole, cause and expense to accelerated performance as necessary to perform the Work within the time required herein. Contractor waives and releases all claims for delays, disruption, interference or inefficiency.

## ARTICLE 8

### **PROCUREMENT OF SUBCONTRACTS, MATERIALS, AND SERVICES**

8.1 Approval Of Subcontractors. Contractor shall not subcontract for any part of the Services or Work with any Subcontractor or consultant (including affiliates and subsidiaries of Contractor) who is not properly licensed or against whom Owner has a reasonable objection. Contractor shall provide Owner's Representative with such written information as Owner deems necessary in order to determine whether to object to the Contractor's hiring of any Subcontractor or consultant, including proof of license. If no objection is interposed by the Owner within thirty (30) days of its receipt of such information, Owner shall be deemed to have no such objection and Contractor may execute such Subcontract and shall furnish Owner a copy of same.

8.2 Subcontract Requirements. All Subcontracts shall afford Contractor rights against its Subcontractors which correspond to the rights afforded to Owner against Contractor herein, including those rights of contract suspension, termination, replacement of unsatisfactory personnel at Owner's request, and documentation of Subcontractor charges as set forth herein. Except as otherwise approved by Owner in writing, or as otherwise required by applicable law, all Subcontracts shall provide for the retention of ten percent (10%) of amounts earned under the Subcontracts ("Subcontract Retainage"), and Owner shall not be responsible for releasing, paying, or compensating Contractor any amount on account of such Subcontract Retainage until such time as specified by this Agreement for release of retainage.

8.3 Coordination Of The Subcontracts. Owner does not assume any responsibility for defining the limits on any Subcontracts on account of the arrangement of the Construction Documents. Contractor shall ensure that the Subcontracts are coordinated so that all of the Work is properly and clearly allocated among, and assigned to, Contractor and Subcontractors without omission, conflict, or duplication. Contractor shall carefully review all Subcontracts to ensure: (a) that all subcontracted parts of the Work are assigned to appropriate Subcontractors; (b) that, unless provided for by Contractor, provisions are made for temporary facilities and utilities necessary for the performance of the Work and for Project site facilities necessary for Contractor and Owner to perform their duties in the management, inspection, and supervision of the Work; (c) that responsibility for Project safety programs is properly assigned; (d) that they are in compliance with Applicable Laws; and (e) that they are in compliance with Owner's Contractors' guidelines, if any.

8.4 Contractor Responsible For Acts Of Subcontractors. Contractor's subcontracting of the Services or the Work, and Owner's consent and approval of Contractor's subcontracting with any Subcontractor, shall not relieve Contractor from any liability or obligation under the Contract Documents or under any Applicable Laws. Contractor shall be responsible to Owner for any and all acts, defaults, omissions or negligence of its Subcontractors and consultants. It is expressly agreed that no relationship of agency, employment, contract, obligation or otherwise shall be created between Owner and any Subcontractor or consultant of Contractor, and a provision to this effect shall be inserted into all Subcontracts and other agreements between Contractor and its Subcontractors and consultants. In no event shall Owner be liable to any of Contractor's Subcontractors for Work performed by such Subcontractor on behalf of the Contractor or for the Project.

8.5 Contractor To Enter Into Subcontracts. Contractor shall enter into Subcontracts with Subcontractors for the performance of those portions of the Work not performed directly by the Contractor. Contractor shall protect Owner's interests during the performance of such

Subcontracts and shall monitor and secure strict performance by the Subcontractors of all duties and obligations contained in the Subcontracts. Contractor shall promptly notify Owner's Representative in writing of any material breach by a Subcontractor and shall take all necessary steps to remedy such breach and to minimize the effect of such breach on the timely and proper completion of the Work, all at no additional cost to the Owner.

## **ARTICLE 9**

### **INSPECTIONS AND CERTIFICATIONS OF COMPLETION**

9.1 Inspection Of Work. Contractor shall, on a continuous basis as a part of its day-to-day supervision of the Project, inspect the Work to ensure that the quality, quantity and progress of the Work meets the requirements of the Contract Documents. The Owner reserves the right to perform its own inspections at its own expense. In making such inspections, Contractor shall reject Work that is defective or deficient, take steps to avoid unexcused delays in the performance of the Work, and protect Owner from overpayment.

9.2 Standard Of Construction And Identification Of Defective Work. Contractor shall cause the Project to be constructed in strict compliance with the requirements of the Contract Documents and Applicable Laws. Contractor acknowledges that strict compliance is a more exacting standard than substantial compliance and Contractor agrees that its fee takes into consideration the more exacting standard. Owner will not accept Work which fails to comply with such standards, unless the departure from such standards is specifically identified to, and thereafter authorized in writing by, Owner's Representative. Unless so authorized by Owner's Representative, Contractor shall correct all Work that does not meet the requirements of the Contract Documents and Applicable Laws.

## **ARTICLE 10**

### **PROJECT DOCUMENTATION**

10.1 Basic Project Documentation. Contractor shall maintain the following documents on behalf of and for the use of Owner: (a) a complete set of current Subcontracts and Contract Documents, including a current set of drawings, specifications, Change Orders and modifications reflecting product and materials selections and as-built conditions on the Project; (b) all shop drawings, samples, product data, and other Submittals; (c) all required insurance certificates from Subcontractors; and (d) all other documents required by this Agreement.

10.2 Review And Assignment Of Warranties. Contractor shall obtain and shall transmit to Owner's Representative all special product, system, equipment or material warranties required by the Contract Documents and the Subcontracts. Contractor shall review all such warranties to confirm that the warranties are in compliance with the requirements of the Contract Documents and Subcontracts. By execution of this Agreement, Contractor hereby assigns to Owner all of Contractor's rights, title and interest in and to any and all warranties, including Uniform Commercial Code warranties, that Contractor receives or is entitled to receive from any Subcontractor or supplier in connection with the Project.

10.3 Availability Of Project-Related Records To Owner. All records relating directly or indirectly to the Project which are in the possession or control of Contractor shall be made available to Owner, its designee, and any governmental authority for audit, inspection, and

copying upon request of Owner's Representative. Such records include, without limitation: all drawings, specifications, Submittals, subcontractor bids, the Daily Log, correspondence, the Request Log, the Submittal Log, minutes, memoranda, tape or videotape recordings, or other writings or things which document the Project, its design, and its construction.

10.4 Maintenance Of Project-Related Records. Contractor shall maintain and protect all Project-related records, other than those required to be returned to Owner, for no less than six (6) years after Final Completion of the Project and for any longer period of time as may be required by law or good construction management practice.

## **ARTICLE 11**

### **OWNER'S DUTIES, OBLIGATIONS, AND RESPONSIBILITIES**

11.1 Provide Project Information. Owner shall provide Contractor with adequate information regarding Owner's requirements for the Project including any desired or required design or construction schedule, any budgetary requirements, and an adequate number of complete sets of the Design for Construction.

11.2 Access To The Site And The Work. Owner shall provide Contractor access to the site and to the Work as necessary for Contractor to perform the requirements of the Contract Documents.

11.3 Non-Waiver. Owner's failure to exercise any right or remedy hereunder or to require strict compliance with any obligation of Contractor under the Contract Documents shall not constitute a waiver or an estoppel of the right to exercise such right or remedy or to insist on such compliance at any other time or on any other occasion.

## **ARTICLE 12**

### **PAYMENT TO CONTRACTOR**

12.1 Compensation. Owner shall pay, and Contractor shall accept, as full and complete compensation for Contractor's assumption and performance of all duties, obligations, Services and Work required by the Contract Documents and this Agreement, **the sum of three million, eight-hundred seventy-seven thousand eight hundred forty two dollars and 91/100 (\$3,877,842,91)** for the Final Completion of the Project ("Contract Price").

12.4 Form Of Pay Requests And Backup Documentation. As soon as practicable but before the 25<sup>th</sup> day of each month (or following business day if this date falls on a weekend day or observed holiday), Contractor shall submit a notarized invoice to Owner's Representative requesting payment ("Pay Request") for ninety percent (90%) of the Construction Fee earned by Contractor in the performance of Services and the Work during the preceding month.

12.4.1 Any payment on account of stored materials or equipment will be subject to the Contractor providing written proof that the Owner has title to such materials or equipment and that they are suitably stored at the Project site and fully insured against loss or damages. Moreover, any sums approved for stored materials shall be at actual costs and shall not include markup by Subcontractors or Contractor's fees. As used in the immediately preceding sentence, actual costs means costs charged by the manufacture

or the distributor for the manufacturer and the Pay Request shall include copies of invoices from the manufacturer or the distributor.

12.4.2 Upon payment of fifty percent (50%) of the Contract Price, as it may be adjusted, and satisfactory, timely completion of fifty percent (50%) of the Work, Owner shall not retain additional retainage and Contractor's Pay Requests may thereafter request payment for one hundred percent (100%) of the Construction Fee earned during the pay period; provided, however, that if, after discontinuing such retainage, Owner determines that the Work is unsatisfactory or has fallen behind schedule, Owner may resume withholding retainage at the previous level.

12.4.3 Each Pay Request shall separately show the amounts of Construction Fee being claimed in connection with such Pay Request and any amounts claimed in connection with a Change Order. Pay Requests shall also include an updated Critical Path Schedule.

12.4.5 Unless otherwise directed by Owner's Representative, Pay Requests shall be submitted in triplicate, bearing the appropriate job numbers designated by Owner's Representative, to Owner for approval. Pay Requests shall be in such form and accompanied by such documentation, including documentation in support of Subcontract Costs, if any, as Owner may require. All documents and records in the possession of Contractor and its Subcontractors relating to Subcontract Costs shall be made available to Owner or its designee for audit, inspection and copying immediately upon request by Owner's Representative. Strict compliance with the requirements of this paragraph 12.4 shall be a condition precedent to any payment, including Final Payment, under this Agreement.

12.5 Claim Releases And Verified List Of Subcontractors. If requested by Owner, in Owner's sole discretion, each Pay Request shall be accompanied by Contractor's and Subcontractors' partial waivers of claim in the form attached hereto as Exhibit "C" for the full amount of the payments made through the date of the Pay Request and to be made under the current Pay Request and the Work covered thereby. Provision of such waivers of claim, when requested by Owner, shall be a condition precedent to Owner's duty to make payments to Contractor. Contractor's application for Final Payment shall be accompanied by final waivers of claim from Contractor and all Subcontractors in the form attached hereto as Exhibit "D" together with a verified list of all Subcontractors, including suppliers of materials and systems incorporated into the Work. Provision of such final waivers of claim and verified list shall be a condition precedent to Final Payment to Contractor.

12.6 Certification Relating To Pay Requests. Each Pay Request shall bear the signature of Contractor's project manager, which signature shall constitute Contractor's representation to Owner that the Services and the Work indicated in the Pay Request have progressed to the level represented, have been properly and timely performed as required herein, that no Work has been covered contrary to the request of the Owner, or contrary to any provision of the Contract Documents, that the Subcontract Costs claimed in the Pay Request have been actually, necessarily, and reasonably incurred, that all obligations of Contractor covered by prior Pay Requests have been paid in full, and that, to the best of Contractor's knowledge, information and informed belief, the amount requested is currently due and owing, there being no reason known to Contractor that payment of any portion thereof should be withheld. Submission of Contractor's Pay Request for Final Payment shall further constitute Contractor's representation to Owner that, upon receipt from Owner of the amount requested, all obligations of Contractor to others incurred

in connection with the Project will be paid in full within seven (7) days of such receipt. In the event that Owner becomes informed that any of the foregoing representations by Contractor are wholly or partially inaccurate, Owner may withhold payment of sums then or in the future otherwise due to Contractor until the inaccuracy, and the cause thereof, is corrected to Owner's reasonable satisfaction.

12.7 Payment Of Pay Requests. Subject to the terms and conditions of this Agreement and the Contract Documents, and by the 7<sup>th</sup> day of the month following the previous month's Pay Request, Owner shall make payment to Contractor of all sums properly requested under the provisions of this Article and payable under the terms of this Agreement, provided that the Pay Request is in proper order and is supported by all required documentation. If the Pay Request is not in proper order or is not supported by all required documentation, then Owner shall notify Contractor of such deficiency and the time for payment of such Pay Request, or any applicable part thereof, shall be extended by the amount of time required for Contractor to cure such deficiencies plus three (3) days.

12.7.1 Any balance on a Pay Request not paid by Owner to Contractor in accordance with this Article shall accrue interest at 1.5% per month except with the amount is disputed in accordance with paragraph 12.11.

12.7.2 When payment is received from Owner, the Contractor shall immediately pay or cause to be paid all Subcontractors, subcontractors, materialmen, laborers and suppliers the amounts they are due for the Work covered by such payment. In the event the Owner becomes informed that the Contractor has not paid, or caused to be paid, a Subcontractor, subcontractor, materialman, laborer, or supplier as provided herein, the Owner shall have the right, but not the duty, to issue future checks and payment to the Contractor of amounts otherwise due hereunder naming the Construction Manger and any such Subcontractor, subcontractor, materialman, laborer, or supplier as joint payees. Such joint check procedure, if employed by the Owner, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the Owner to repeat the procedure in the future.

12.8 Payment At Substantial Completion. Subject to the limitations of the Contract Price, and provided that all conditions precedent have been satisfied, within thirty (30) days after execution of the Certificate of Substantial Completion of the Project, Owner shall pay Contractor all sums due Contractor, including retainage, less any amounts attributable to liquidated damages, and less two hundred percent (200%) of the reasonable cost for completing all incomplete Work, correcting and bringing into conformance all defective and nonconforming Work, and handling all unsettled claims. As a condition precedent to such payment, however, Contractor shall deliver to Owner's Representative the final complete set of as-built drawings in the form of marked-up black line drawings, all required releases of claim, final lien waivers from the Contractor and all Subcontractors and suppliers of materials, all certificates of completion or similar documents required for the occupation and use of the Project for its intended purposes, all required warranties, all Project Documentation as described in Article 12 herein, and consent(s) of surety to release retainage in form and manner acceptable to Owner together with an original current power of attorney with current certificate attached thereto.

12.9 Payment At Final Completion. Subject to the limitations of the Contract Price, and provided that all conditions precedent have been satisfied, within thirty (30) days after execution of the Certificate of Final Completion of the Project, Owner shall pay Contractor all unpaid sums due Contractor under this Agreement, less any amount properly withheld pursuant to this

Agreement ("Final Payment"). Contractor's acceptance of Final Payment shall constitute an unconditional waiver and release of all claims by Contractor for additional compensation beyond that provided in the Final Payment. Final Payment by Owner shall not, however, constitute a waiver by Owner of its rights or claims arising from Contractor's failure to perform in strict accordance with the requirements of the Contract Documents. As a condition precedent to Final Payment, Contractor shall deliver to Owner's Representative consent(s) of surety to final payment in form and manner acceptable to Owner together with an original current power of attorney with current certificate attached thereto.

12.10 Withholding Of Payment. Any provision of the Contract Documents notwithstanding, Owner shall not be obligated to make a payment or payments to Contractor which is otherwise due, if, and for so long as, any one or more of the conditions set forth in this paragraph 12.10 exists.

12.10.1 Contractor's Pay Request is not in the form or supported by the documentation required by this Agreement.

12.10.2 Contractor is in default of any of its obligations under the Contract Documents.

12.10.3 Any part of such payment is attributable to Services or Work which are defective or not strictly conforming with the requirements of the Contract Documents; provided, however, that payment shall be made as to the part thereof attributable to Services or Work which are rendered or performed in strict accordance with the Contract Documents and are not defective, subject to other provisions hereof.

12.10.4 Contractor has failed to make payments promptly to its Subcontractors, consultants, employees, or others performing Services in connection with the Project or any person has filed a claim that Contractor has failed to make payments due to such person.

12.10.5 Any person has asserted a claim against Owner in whole or in part on account of alleged acts or omissions of Contractor.

12.10.6 Evidence that the balance of the Work cannot be completed in accordance with the Contract Documents for the unpaid balance of the Contract Price.

12.10.7 Failure or refusal by Contractor to perform the Work in accordance with the Contract Documents.

12.10.8 Damage to Owner or to a third-party to whom Owner is, or may be, liable.

12.10.9 Any situation or condition exists which, as set forth elsewhere herein or in the Contract Documents, justifies the withholding of payments.

In the event that any of the foregoing conditions exist, Owner shall be entitled to withhold from any sum then due or thereafter to become due, including from retained sums, an amount sufficient in the sole judgment of Owner's Representative to satisfy, discharge, and defend against such claims and to make good any losses, prospective losses, costs, attorneys' fees, and other expenses which may result from the existence of such conditions.



12.11 Disputed Pay Requests. In the event Owner disagrees with or questions all or any portion of any Pay Request, the amount due to Contractor, or the sufficiency of the information and documentation submitted by Contractor, Owner shall notify Contractor in writing and Owner shall pay the undisputed parts of such Pay Request. If Owner's Representative and Contractor are able to agree on the amount due under the disputed part of any Pay Request, payment will be made to Contractor within the time provided by paragraph 12.7 of this Agreement or ten (10) days after receipt of a new Pay Request representing the agreed amount, whichever is later.

12.12 Conditions Precedent To Payment. In addition to all other conditions contained herein, it shall be a condition precedent to any payment otherwise due hereunder that: (a) Contractor not be in material breach of this Agreement or in breach of any warranty made therein; (b) Contractor have submitted all monthly updated Critical Path Schedules required by this Agreement; and (c) Contractor have submitted its Pay Requests and backup documentation in the time, form, and manner required by this Agreement.

12.13 Non-Waiver Of Claims For Defective Work. Neither entrance, inspection nor use of the Project by Owner or their representatives, nor any payment (whether final or otherwise) made by Owner shall be construed as an acceptance of defective or nonconforming Work nor shall such entrance, inspection, use, or payment release Contractor from any of its obligations under the Contract Documents.

## **ARTICLE 13**

### **PAYMENT AND PERFORMANCE BONDS**

13.1 Bonds Required. Before the Contractor begins to work, the Contractor shall provide separate payment and performance bonds to the Owner, who shall then have ten (10) days to approve and/or reject said payment and performance bonds. Each of the bonds shall include a penal sum in the amount of one hundred percent (100%) of the Contract Price. In the event the Contract Price is increased, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in the exact form provided by the Owner and shall be executed by a surety, or sureties, licensed in the State of Georgia by the Office of Commissioner of Insurance, rated AAA or better by A.M. Best Company, listed on the United States Department of Treasury's Listing of Approved Sureties (Treasury Department Circular 570) as a surety authorized to write bonds for the U.S. Government with a total underwriting limitation equal to or greater than the penal sum of the bonds as adjusted from time to time, and not otherwise reasonably objectionable to the Owner. Contractor's surety(ies) shall be deemed to have waived notice of, and to have consented to, changes to the Contract Documents, including changes in: (a) the time for performing the Services and the Work and payment of compensation to Contractor hereunder; (b) the sums payable under this Agreement; and (c) the Work and Services to be performed. The Contract Documents shall be incorporated by reference into each of the bonds.

## **ARTICLE 14**

### **OWNERSHIP OF DOCUMENTS**

All Contract Documents, as well as information and items provided by Owner to Contractor to facilitate Contractor's performance hereunder, shall remain the exclusive property of Owner,

and all such documents, information, and items, including all copies thereof, shall be returned to Owner's Representative upon Final Completion and as a condition precedent to Final Payment; provided that Contractor may retain one copy of same for record purposes only.

## **ARTICLE 15**

### **INDEMNITY**

15.1 General Indemnity. To the fullest extent permitted by law, the Contractor shall indemnify and hold Owner harmless from and against any and all claims, liability, damages, loss, cost and expense of every type whatsoever including, without limitation, attorneys' fees and expenses, in connection with the Contractor's performance of this Agreement, provided that such claims, liability, damage, loss, cost or expense is due to sickness, personal injury, disease or death, or to loss or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, to the extent caused by the Contractor, or anyone for whose acts the Contractor may be liable, regardless of whether such liability, claim, damage, loss, cost or expense is caused in part by the Owner.

15.2 Enforcement Of This Agreement. In the event Owner retains legal counsel to secure performance by Contractor of any of its obligations under this Agreement, or if Owner retains or utilizes such counsel to represent its interest with respect to any matter for which Contractor has an indemnity obligation to Owner under any provision of this Agreement or otherwise, Contractor shall pay and reimburse Owner for the cost of such counsel and shall further pay and reimburse Owner for any and all other cost and expense incurred in preparing, negotiating, or prosecuting any claim against Contractor, including, but not limited to, any and all expert witness fees and expenses.

## **ARTICLE 17**

### **TERMINATION**

17.1 Termination For Cause. If Contractor refuses or fails to perform its Services and duties under this Agreement in a timely manner, supply enough properly skilled supervisory personnel, labor or proper equipment or materials, make prompt payment to its Subcontractors, suppliers, employees, or consultants, or comply with Applicable Laws, or if Contractor is otherwise guilty of a material breach of this Agreement or any warranty made herein, then Owner may, by written notice to Contractor, and without prejudice to any other right or remedy, terminate the employment of Contractor, in whole or in part, and take possession of the Project site, the Contract Documents, Subcontracts, Project Documentation in the possession of Contractor, and all equipment and materials at the site.

17.2 Termination By Contractor. If the Work, the Services, or this Agreement is suspended by Owner in its entirety for a period of one hundred and twenty (120) consecutive days or more, through no fault of Contractor or the Subcontractors, by governmental authority or by direction or neglect of Owner's Representative, or if Owner fails to perform its material obligations to the Contractor for a period of sixty (60) days after receipt of written notification from Contractor of its intent to terminate hereunder, then Contractor may, upon ten (10) days written notice to Owner, terminate its performance under this Agreement. In such event, the Contractor shall be entitled to recover from the Owner as though the Owner had terminated the Contractor's performance for convenience.

## **ARTICLE 18**

### **ENVIRONMENTAL ISSUES**

Environmental Licenses, Certifications, & Permits. Contractor covenants and agrees that during the term of the Agreement and any extensions or renewals thereof, all of its employees, agents, representatives, and Subcontractors, if any, performing Work will have the requisite skills, licenses, certifications, training, permits and the like mandated by all applicable federal, state and local governing authorities with jurisdiction over environmental matters. Contractor agrees to provide to Owner's Representative evidence of compliance with the requirements of this paragraph upon demand. Contractor, its Subcontractors, representatives, employees, and agents shall comply with all federal, state, and local laws, rules, and ordinances relating to environmental protection governing the Work.

## **ARTICLE 19**

### **MISCELLANEOUS PROVISIONS**

19.1 Notices. No notice is effective until the writing containing the notice is placed in the hand of the Owner's Representative or the Contractor's Project Manager or is postmarked by certified U.S. Mail, to the following addressees:

To Owner:	City of Locust Grove, Georgia 3644 Highway 42 Locust Grove, GA 30248 Tel: 770-957-5043 Attention: Tim Young, City Manager
To Contractor:	C. W. Matthews Contracting Co., Inc. P. O. Drawer 970 Marietta, GA 30061 Tel: 770-422-7520 Attention: Michael Kleuckling, Vice President

All notices shall be effective within 5 days from mailing.

19.2 Successors And Assigns. Contractor shall not assign its rights hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without Owner's Representative's written consent; Owner shall have the right to assign its rights under this Agreement, but any such assignment shall not relieve Owner of its obligations hereunder. Subject to the provisions of the immediately preceding sentence, Owner and Contractor, respectively, bind themselves, their successors, assigns and legal representatives to the other party to this Agreement and to the successors, assigns and legal representatives of such other party with respect to all terms and conditions of this Agreement.

19.3 No Third Party Beneficiaries. Nothing contained in this Agreement shall create a contractual relationship with, or any rights in favor of, any third party, including any Subcontractor.

19.4 Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction or other competent tribunal or rendered invalid by any legislative or regulatory enactment, the remaining provisions of this Agreement shall remain in full force and effect, and such holding or enactment shall not invalidate or render unenforceable any other provision hereof.

19.5 Headings. The headings used in this Agreement are merely for convenience and shall have no other force, effect or purpose.

19.6 Exhibits. All exhibits annexed hereto are incorporated by reference and made a part of this Agreement.

19.7 "Including". The terms "including," "includes," and their derivatives are not intended as terms of limitation, and shall be deemed in each instance to be followed by the phrase "without limitation."

19.8 Governing Law. This Agreement shall be construed, interpreted, and enforced in accordance with the laws of the State of Georgia. Each and every provision required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein. The Contractor and its Surety(ies) irrevocably consent to the non-exclusive venue and jurisdiction of the Superior Court of Henry County, Georgia, regarding any matter arising out of or relating to this Agreement.

19.9 Entire Agreement / Amendments In Writing. This Agreement represents the entire agreement between Owner and Contractor and supersedes all prior communications, negotiations, representations, or agreements, either written or oral. Subject only to the provisions of Article 15, this Agreement may be amended only by written instrument signed by both Owner and Contractor.

19.10 Waiver. No waiver by Owner of any one or more defaults by Contractor in the performance of the provisions of this Agreement shall be construed as a waiver of any other defaults, whether of a like kind or different nature.

*[Signatures on next page]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

CITY OF LOCUST GROVE, GEORGIA

C. W. MATTHEWS CONTRACTING CO., INC.:

By: \_\_\_\_\_  
[Signature]

By: \_\_\_\_\_  
[Signature]

ROBERT S. PRICE  
[Printed Name]

MICHAEL KLEUCKLING  
[Printed Name]

MAYOR  
[Printed Title]

VICE PRESIDENT  
[Printed Title]

ATTEST: \_\_\_\_\_  
[Signature]

[SEAL]

MISTY SPURLING  
[Printed Name]

P. O. DRAWER 970, MARIETTA, GA 30061  
[Printed Address]

CITY CLERK  
[Printed Title]

\_\_\_\_\_  
[Date of Execution]

CITY HALL  
3644 HWY 42 LOCUST GROVE, GA 30248  
[Printed Address]

\_\_\_\_\_  
[Date of Execution]

**EXHIBIT "A"**  
**DESIGN DOCUMENT LIST**

- 1) This Agreement.
- 2) The Bid Documents with Addenda as amended and revised as of June 2, 2022.
- 3) City of Locust Grove "Project Specifications".
- 4) The "Bid Form" from C.W. Matthews Contracting, Co., Inc., received by the City of Locust Grove on June 2, 2022.
- 5) *Roadway, Storm Sewer and Sanitary Sewer Mapping for Leesburg Plantation*, prepared by Jordan Engineering, Inc., dated April 27, 2022.
- 6) Code of Ordinances, City of Locust Grove, Georgia
- 7) Among those Plans, the following:
  - A. As between figures given on plans and scaled measurements, the figures shall govern;
  - B. As between large scale plans and small scale plans, the large scale plans shall govern.

**EXHIBIT "B"**

**INSURANCE**

A copy of "Certificate of Liability Insurance", issued to C.W. Matthews Contracting Co., LLC, is on file in the Locust Grove Community Development Department.

**TYPE:** Liability Insurance

**INSURED:**

**PRODUCER (Insurer):**

**COVERAGE:** SEE COPY OF POLICY ON FILE IN LOCUST GROVE  
COMMUNITY DEVELOPMENT DEPARTMENT

**POLICY NUMBER:**

**EXPIRATION:**

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**TYPE:** Workers Compensation and Employers' Insurance

**INSURED:**

**PRODUCER (Insurer):**

**COVERAGE:** SEE COPY OF POLICY ON FILE IN LOCUST GROVE  
COMMUNITY DEVELOPMENT DEPARTMENT

**POLICY NUMBER:**

**EXPIRATION:**

**EXHIBIT "C"**

**PARTIAL WAIVER AND RELEASE OF CLAIM RIGHTS**

PROJECT: RESURFACING FOR ROADS IN THE CITY OF LOCUST GROVE

OWNER: City of Locust Grove, Georgia

The undersigned does hereby forever release, waive and discharge any and all claim rights and claims, any and all labor and material bond rights and claims, and any and all equitable rights and claims for all labor, subcontract work, equipment, materials and services supplied to the above project through the date indicated below.

This RELEASE and WAIVER shall inure to the benefit of and may be relied upon by OWNER.

The undersigned further warrants that all persons employed by the undersigned and all persons supplying materials to the undersigned and all persons renting equipment to the undersigned have been paid in full.

DATED: \_\_\_\_\_ FIRM: \_\_\_\_\_  
BY: \_\_\_\_\_  
TITLE: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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



**EXHIBIT "D"**

**FINAL WAIVER AND RELEASE OF CLAIM RIGHTS**

PROJECT: RESURFACING FOR ROADS IN THE CITY OF LOCUST GROVE

OWNER: City of Locust Grove, Georgia

The undersigned does hereby forever release, waive and discharge any and all claim rights and claims, any and all labor and material bond rights and claims, and any and all equitable rights and claims for all labor, subcontract work, equipment, materials and services supplied to the above project.

This RELEASE and WAIVER shall inure to the benefit of and may be relied upon by OWNER.

The undersigned further warrants that all persons employed by the undersigned and all persons supplying materials to the undersigned and all persons renting equipment to the undersigned have been paid in full.

DATED: \_\_\_\_\_ FIRM: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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



## Community Development Department

P. O. Box 900  
Locust Grove, Georgia 30248

Phone: (770) 957-5043  
Facsimile (770) 954-1223

## Item Coversheet

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**Item:** Request for a Special Event Permit for the Locust Grove Fire Marshal and The Johnson Foundation school supply distribution on July 23, 2022.

Action Item:  Yes  No

Public Hearing Item:  Yes  No

Executive Session Item:  Yes  No

Advertised Date: N/A

Budget Item: N/A

Date Received: June 27, 2022

Workshop Date: N/A

Regular Meeting Date: July 5, 2022

### Discussion:

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The City of Locust Grove Fire Marshal and The Johnson Foundation Inc. request a Special Event Permit to host a school supply distribution event. This event would provide free school supplies to local students, targeting City of Locust Grove students, Pre-K thru 8<sup>th</sup> grade. The request also includes use of the City Hall Parking Lot in front of the Community Development Department entrance to setup two 10x10 tents. No food trucks or amusement structures will be present at this event.

- The duration of the event (including set up and break down)
  - Set up will begin @ 8:00am and should be wrapped up and cleaned up by 1:00pm on July 23, 2022
- Contact information for the non-profit beneficiary including proof of non-profit status
  - The Johnson Foundation Inc.– Olivia McCornell 404-430-2989
  - Fire Marshal- Anthony J. Hicks 678-438-1191

- Contact information for the person who will be onsite on race day.
  - **Anthony J. Hicks 678-438-1191**

### **Comments:**

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The Johnson Foundation, Inc., is recognized by the IRS as a 501(c)(3) tax-exempt organization founded in 2017 by Mrs. E. Olivia McCornell, with the purpose of the welfare advancement of students and young individuals. The organization has hosted several events and awarded several scholarships that align with their purpose. Mrs. McCornell is a Locust Grove resident, dedicated to serving our community.

### **Recommendation:**

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#### **Approval**

**I MOVE TO (APPROVE/DENY/TABLE) THE LOCUST GROVE  
FIRE MARSHAL AND THE JOHNSON FOUNDATION  
SCHOOL SUPPLY DISTRIBUTION ON JULY 23, 2022.**