

AGREEMENT REGARDING ENVIRONMENTAL ACTIVITY

THIS AGREEMENT REGARDING ENVIRONMENTAL ACTIVITY (this “Agreement”) is made as of this 25th day of July, 2023, by the **CITY OF DALLAS, GEORGIA**, a municipal corporation of the State of Georgia (“City”), in favor of **WESTSIDE BANK, a division of The Piedmont Bank**, a Georgia state banking corporation (“Lender”), and **GEORGIA MUNICIPAL ASSOCIATION, INC.**, a Georgia nonprofit corporation (“Originator”) (Lender and Originator being referred to as “Seller” herein, each individually having full benefit of the obligations of the City hereunder).

ARTICLE 1

BACKGROUND AND AGREEMENT

A. Background. Seller has agreed to extend credit to the City in the principal amount of \$2,205,000 evidenced by an Installment Sale Agreement (the “Installment Sale Agreement”) in the aforesaid principal amount, which has been assigned by Originator to Lender. Lender's rights under the Installment Sale Agreement are secured by a Deed to Secure Debt and Security Agreement (the “Security Deed”) made by Originator in favor of Lender, of even date herewith, conveying an interest in certain real property (the “Project”) located in the City of Dallas, Georgia and described in Exhibit A attached hereto. The Installment Sale Agreement, the Security Deed and all other documents evidencing, securing or otherwise relating to the Installment Sale Agreement are herein referred to collectively as the “Documents.” Due to the concerns of Seller relating to Hazardous Substances, Seller is unwilling to enter into or fund the Installment Sale Agreement without the receipt by Seller of this Agreement, which is given by the City as an agreement, separate and distinct from the Documents, to induce Seller to enter into the Documents.

B. Statement of Agreement. For and in consideration of the sum of \$10.00 and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the City, the City does hereby make the following certifications, representations and warranties to, and covenants and agreements with, Seller.

ARTICLE 2

DEFINITIONS

In addition to the other terms defined herein, the following terms shall have the meanings set forth in this Article II.

A. Affected Property. Any property other than the Project which is affected by the Use of the Project or by any Environmental Activity related to the Project.

B. Environmental Activity. Any actual, proposed or threatened use, storage, holding, existence, release, emission, discharge, generation, processing, abatement, removal, disposition, handling or transportation of any Hazardous Substance from, to, upon, in, under or above the Project or otherwise relating to the Project or the Use of the Project or relating to any Affected Property, or any other activity or occurrence that causes or would cause any such event to exist.

C. Environmental Requirements. All “Super Fund” or “Super Lien” laws relating to any Hazardous Substance or Environmental Activity, and all other present and future federal, state and local laws, statutes, authorizations, judgments, decrees, concessions, grants, franchises, agreements, ordinances, codes, rules, regulations, orders and other governmental restrictions and requirements regulating, relating to or imposing liability or a standard of conduct concerning the environment or any Hazardous Substances or Environmental Activity including, without limitation, the following, as the same may be amended from time to time, and all regulations promulgated thereunder or in connection therewith:

Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Super Fund Amendments and Reauthorization Act of 1986, 42 U.S.C. 9601 *et seq.* (“CERCLA”).

Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 *et seq.*

Clean Air Act, 42 U.S.C. 7401-7626.

Water Pollution Control Act (commonly referred to as the Clean Water Act), 33 U.S.C. 1251 *et seq.*

Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 and by the Federal Pesticide Act of 1978, 7 U.S.C. 136 *et seq.*

Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.*

Occupational Safety and Health Act, 42 U.S.C. 651 *et seq.*

National Environmental Policy Act, 42 U.S.C. 4321 *et seq.*

Hazardous Materials Transportation Act, 49 U.S.C. 1471 *et seq.*

Refuse Act, 33 U.S.C. 407 *et seq.*

Emergency Planning And Community Right-To-Know Act, 42 U.S.C. 1101 *et seq.*

Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-90 *et seq.*

D. Hazardous Substance. Any substance which is a “hazardous substance” (as defined in CERCLA), or any other substance or material defined, designated, classified or considered as hazardous or toxic waste, hazardous or toxic material, or a hazardous, toxic, radioactive, regulated or dangerous substance or air pollutant under any Environmental Requirement.

E. Indemnitees. Seller and each of its predecessors, successors and assigns, and each past and present, direct and indirect, parent, subsidiary and affiliated entity of each of the foregoing, and each past and present employee, agent, attorney-in-fact, attorney-at-law, representative, officer, director, shareholder, partner, participant and joint venturer of each of the foregoing, and each heir, executor, administrator, successor and assign of each of the foregoing; references in this paragraph to “any” of such parties shall be deemed to mean “any one or more” of such parties; and references in this sentence to “each of the foregoing” shall mean and refer cumulatively to each party referred to in this sentence up to the point of such reference.

F. Proximate Property. Property located in such proximity to the Project that the Project might be affected by Related Activity thereon.

G. Related Activity. Any Use, activity, condition, circumstance or state of facts existing or occurring other than with respect to the Project or Affected Property which would, if existing or occurring with respect to the Project or Affected Property, constitute an Environmental Activity.

H. Use. Use, ownership, leasing, development, construction, maintenance, management, operation or occupancy.

ARTICLE 3

CERTIFICATIONS, REPRESENTATIONS AND WARRANTIES

A. Investigation. The City certifies, represents and warrants to Seller that it has duly investigated the present and past uses of the Project, as to whether the Project or any Proximate Property is or has been the site of storage of or contamination by any Hazardous Substances or the subject of any other Environmental Activity.

B. Related Liability. The City certifies, represents and warrants to Seller that the City has given no release or waiver of liability that would waive or impair any claim based on any Environmental Activity to a previous owner of the Project or to any party who may be potentially responsible for the Project; and that the City has no liability, absolute or contingent in connection with any Environmental Activity.

C. Compliance Except as previously disclosed to the Seller and the Lender in writing, the City certifies, represents and warrants to Seller that: (a) to its best knowledge, the City and the Project are in compliance in all material respects with all applicable Environmental Requirements;

and (b) no investigations, inquiries, orders, hearings, actions or other proceedings by or before any governmental agency are pending or, to the best knowledge of the City, threatened in connection with any Environmental Activity or alleged Environmental Activity; and (c) the City has no knowledge, after due investigation, of the presence of any Hazardous Substances upon the Project; and (d) the City has no knowledge, after due investigation, of any facts or circumstances existing upon, in, under or above the Project or relating to the Project which may violate any applicable Environmental Requirement; and (e) the Use of the Project for its intended purpose will not result in any Environmental Activity in violation of any applicable Environmental Requirements; and (f) to the best knowledge of the City, after due inquiry, there is no Related Activity upon, in, under or above any Proximate Property; and (g) the City has not engaged in any Environmental Activity and, to the best knowledge of the City, after due investigation, no Environmental Activity has otherwise occurred, and no notice, order, directive, complaint or other communication, written or oral, has been made or issued by any governmental agency or other person or entity alleging the occurrence of any Environmental Activity in violation of any Environmental Requirements; and (h) the City has obtained and will at all times continue to obtain and maintain all licenses, permits or other governmental or regulatory approvals or consents, if any, necessary to comply with all Environmental Requirements relating to the Project and any Affected Property, and the City is and shall continue at all times to be in compliance with said licenses, permits, approvals or consents; and (i) to the best knowledge of the City, no other property now or previously owned by the City is under investigation with respect to, or is or has been in violation of any Environmental Requirement during the period of time that the City owned such property, except as disclosed in writing to the Lender.

ARTICLE 4

COVENANTS, AGREEMENTS, AND INDEMNITY

A. Performance. The City shall at all times, at its sole expense, comply with, and cause the Project to comply with, all applicable Environmental Requirements relating to the Project or the ownership of the Project or relating to any Affected Property, and the City shall not engage in or otherwise permit the occurrence of any Environmental Activity in violation of any applicable Environmental Requirement.

B. Notice. The City shall immediately notify Seller if the City becomes aware of (a) the presence of any Hazardous Substances or other environmental problem or liability with respect to the Project, any Affected Property or any Proximate Property; or (b) any lien, action or notice resulting from violation or alleged violation of, or action pursuant to, any Environmental Regulation as the same pertains to the Project, or any other property now or previously owned by the City, or any Affected Property, or any Proximate Property; or (c) the institution of any investigation, inquiry or proceeding concerning the City or the Project or any Affected Property pursuant to any Environmental Requirement; or (d) the discovery of any occurrence, condition or state of facts which would render any representation contained in this Agreement incorrect in any respect if made at the time of such discovery.

C. Indemnity. To the extent permitted by law, the City shall indemnify, defend and save and hold harmless each Indemnitee from and against any and all claims, demands, defenses,

set-offs, counterclaims, damages, disbursements, losses, judgments, liens, liabilities, penalties, objections, injuries, fines, litigation, lawsuits and other proceedings and costs and expenses (including attorneys' fees and disbursements and the reasonable charges of the Indemnitee's internal legal counsel, including fees in appellate and bankruptcy proceedings) which accrue against or are incurred by Seller and arise directly or indirectly from or out of or in any way connected with (a) the failure of any certification, representation or warranty contained in this Agreement to be true and correct in all respects; or (b) the presence of any Hazardous Substance upon the Project or any Affected Property; or (c) the occurrence of any Environmental Activity or any failure of the City or any other person or entity to comply with all applicable Environmental Requirements relating to the Project or the Use of the Project or relating to any Affected Property; or (d) any investigation, inquiry, order, hearing, action or other proceeding by or before any governmental agency in connection with any actual or alleged Environmental Activity; or (e) the occurrence of any Related Activity or the violation of any Environmental Requirement in connection with any other property owned by the City, which occurrence or violation gives or may give rise to any rights whatsoever in any party whatsoever with respect to the Project; or (f) any failure of the City to perform any covenant set forth in this Agreement; or (g) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee which directly or indirectly relates to, arises from or is based on any of the matters described in clauses (a) through (f) of this section or any allegation of such matters. The foregoing indemnity is in no way conditioned upon fault on the part of the City or upon any other event, occurrence, matter or circumstance, except as specifically set forth above in this section.

ARTICLE 5

GENERAL CONDITIONS

A. Unconditional Obligations. The obligations of the City under this Agreement are unconditional. The City hereby expressly waives and renounces (to the extent it may lawfully do so) any and all claims, defenses and other rights which are dependent upon an allegation or proposition contrary to the foregoing provisions of this section.

B. Costs and Expenses. The City shall pay to each Indemnitee all costs and expenses (including attorneys' fees and disbursements and the reasonable charges of the Indemnitee's legal counsel, including fees in appellate and bankruptcy proceedings) incurred by any Indemnitee in connection with this Agreement or the enforcement of the terms of this Agreement.

C. No Waiver: Remedies Cumulative. No delay or omission by any Indemnitee to exercise any right or remedy accruing upon any default hereunder shall exhaust or impair any such right or remedy or shall be construed to be a waiver of any such default, or acquiescence therein, and every right and remedy given by this Agreement to any Indemnitee may be exercised from time to time and as often as may be deemed expedient by any Indemnitee. No consent or waiver, express or implied, by any Indemnitee to or of any default shall be deemed or construed to be a consent or waiver to or of any other default. No delay, indulgence, departure, act or omission by any Indemnitee shall release, discharge, modify, change or otherwise affect the liability or other obligation of the City or any surety or guarantor, or preclude any Indemnitee from exercising any

right, privilege or remedy granted herein. No right or remedy conferred upon or reserved to any Indemnatee hereunder is intended to be exclusive of any other right or remedy, but each and every such right and remedy shall be cumulative and concurrent and shall be in addition to every other right and remedy given hereunder or under any other agreement between the City and any Indemnatee or now or hereafter existing at law, in equity or by statute.

D. Communications. Any and all notices, elections, approvals, consents, demands, requests and responses thereto (“Communications”) permitted or required to be given under this Agreement shall be in writing signed by or on behalf of the party giving the same, and shall be deemed to have been properly given and shall be effective upon being personally delivered, or upon being deposited in the United States mail, postage prepaid, certified with return receipt requested, to the other party at the address of such other party set forth below or at such other address within the continental United States as such other party may designate by notice specifically designated as a notice of change of address and given in accordance herewith; provided, however, that the time period in which a response to any Communication must be given shall commence on the date of receipt thereof; and provided further that no notice of change of address shall be effective until the date of receipt thereof. Personal delivery to a party or to any officer, partner, agent or employee of such party at said address shall constitute receipt. Rejection or other refusal to accept or inability to deliver because of changed address of a which no notice has been received shall also constitute receipt. Any Communication, if given to Lender, shall be addressed as follows:

Westside Bank
56 Hiram Drive
Hiram, Georgia 30141
Attention: Ford Thigpen

if given to Originator, shall be addressed as follows:

Georgia Municipal Association, Inc.
201 Pryor Street
Atlanta, Georgia 30303
Attention: Darin Jenkins, Director, Corporate Engagement

and, if given to the City, shall be addressed as follows:

City of Dallas
Dallas City Hall
129 East Memorial Drive
Dallas, Georgia 30132
Attention: Mayor

with a copy to:

Darrin Keaton, City Attorney
129 East Memorial Drive
Dallas, Georgia 30132

E. Miscellaneous. This Agreement shall inure to the benefit of and be binding upon the City and Seller and the other Indemnitees and their respective heirs, executors, legal representatives, successors and assigns. All personal pronouns used in this Agreement whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles of articles and sections in this Agreement are for convenience only and in no way define, limit, amplify or describe the scope or intent of any provisions hereof. If any provisions hereof or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. This Agreement is assignable by Seller, and any assignment by Seller shall operate to vest in the assignee all rights and powers conferred upon and granted to Seller hereby. Time is of the essence with respect to each and every covenant, agreement and obligation of the City hereunder. The provisions hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against whom enforcement of such change, waiver, discharge or termination is sought. This Agreement constitutes the entire agreement between the City and Seller relating to Hazardous Substances affecting the Project or any Affected Property and the indemnity set forth hereinabove. This Agreement shall be construed so that it may be enforced by either Lender or Originator, acting independently for their own account, or by Lender and Originator jointly, at their option.

F. Transfers and Survival. The parties hereto contemplate that liability may arise hereunder after full payment or termination of the Installment Sale Agreement, and that liability may arise hereunder prior to full payment of the Installment Sale Agreement and remain unpaid after full payment of the Installment Sale Agreement, and it is specifically agreed that this Agreement (including the indemnity provided hereby) shall survive the full payment of the Installment Sale Agreement, the foreclosure of the Security Deed, the transfer of the Project, and all other events relating to the Installment Sale Agreement or the Project. The City hereby acknowledges and agrees that the benefits of this Agreement (including said indemnity) shall continue in favor of Indemnitees notwithstanding any transfer or assignment hereof by the Indemnitees or any of them, and shall also run to transferees and assignees hereof as additional Indemnitees.

G. Applicable Law. This Agreement shall be interpreted, construed and enforced according to the laws of the State of Georgia.

IN WITNESS WHEREOF, the City has executed this Agreement under seal, as of the day and year first above written.

CITY OF DALLAS, GEORGIA

[SEAL]

By: _____
Mayor

Attest: _____
Clerk

Originator and Lender have executed this Instrument for the purposes of becoming a signatory hereto and acknowledging their rights hereunder.

WESTSIDE BANK

By: _____

Name:

Title:

**GEORGIA MUNICIPAL ASSOCIATION,
INC.**

By: _____
Executive Director

EXHIBIT A

LEGAL DESCRIPTION

All that tract or parcel of land lying in Land Lot 275, 2nd District, 3rd Section, Paulding County, Georgia, being situated within the city limits of Dallas, Georgia and being more particularly described as follows:

Commencing at a point, said point being the intersection of the rights-of-way of the southerly margin of West Memorial Drive and the westerly margin of Main Street if the straight tangents of said margins were extended to an intersection point; Thence from afore described intersection point, South 16 degrees 21 minutes 30 seconds East, a distance of 97.47 feet to a point on the westerly margin of Main Street and the TRUE POINT OF BEGINNING; Thence continuing South 16 degrees 21 minutes 30 seconds East, a distance of 78.62 feet to a point; Thence leaving said westerly margin of Main Street and running South 75 degrees 33 minutes 47 seconds West, a distance of 118.73 feet to a point; Thence North 13 degrees 54 minutes 29 seconds West, a distance of 173.39 feet to a point on the southerly margin of West Memorial Drive; Thence running along the southerly margin of West Memorial Drive and the westerly margin of Main Street the following courses and distances: North 74 degrees 13 minutes 22 seconds East, a distance of 32.45 feet to a point; Thence running along a curve to the right an arc distance of 31.06 feet (said arc being subtended by a chord with a bearing of North 79 degrees 10 minutes 32 seconds East, a chord distance of 31.01 feet and having a radius distance of 152.11 feet) to a point; Thence running along a curve to the right an arc distance of 22.68 feet (said arc being subtended by a chord with a bearing of South 83 degrees 51 minutes 47 seconds East, a chord distance of 22.53 feet and having a radius distance of 57.22 feet) to a point; Thence running along a curve to the right an arc distance of 18.91 feet (said arc being subtended by a chord with a bearing of South 63 degrees 17 minutes 30 seconds East, a chord distance of 18.82 feet and having a radius distance of 56.20 feet) to a point; Thence running along a curve to the right an arc distance of 17.52 feet (said arc being subtended by a chord with a bearing of South 42 degrees 17 minutes 41 seconds East, a chord distance of 17.48 feet and having a radius distance of 67.98 feet) to a point; Thence running along a curve to the right an arc distance of 27.60 feet (said arc being subtended by a chord with a bearing of South 26 degrees 49 minutes 19 seconds East, a chord distance of 27.56 feet and having a radius distance of 149.99 feet) to a point; Thence running along a curve to the right an arc distance of 31.02 feet (said arc being subtended by a chord with a bearing of South 17 degrees 39 minutes 48 seconds East, a chord distance of 31.00 feet and having a radius distance of 247.98 feet) to a point and the TRUE POINT OF BEGINNING.

Said tract or parcel of land containing 0.440 acres and being more fully shown on that certain survey for The City of Dallas, Georgia as prepared by Carlton Rakestraw & Associates and dated June 20, 2023.