

STATE OF GEORGIA)
)
COUNTY OF EFFINGHAM)

LEASE AGREEMENT

THIS LEASE AGREEMENT (this “Lease”) is made and entered into as of this ___ day of _____, 2022 (the “Effective Date”), by and between, **THE CITY OF SPRINGFIELD, GEORGIA, a municipal corporation chartered under the laws of the State of Georgia (“the City”)**, as Landlord, and **EFFINGHAM COUNTY, GEORGIA, a political subdivision of the State of Georgia (the “County”)**, as Tenant.

WITNESSETH:

1. Premises. For and in consideration of the agreements, terms, covenants, conditions, requirements, provisions and restrictions to be kept, observed, performed, satisfied and complied with by Tenant, and for the Rent herein provided, and upon the terms and conditions herein stated, Landlord has leased and rented, and by these presents does hereby lease and rent unto Tenant, and Tenant hereby leases, takes and rents from Landlord, the real property comprised of one parcel commonly known as 1171 Hwy 119 North, Springfield GA 31329, the Effingham County Fire Department Headquarters, and any improvements thereon (hereinafter referred to as the “Premises”), a more detailed description of which shall be included in an addendum to this Agreement at a later date.

Commented [BP1]: Lee, do you have a description? Do we need one?

2. Term

(a) The initial term of this Lease shall commence on the Effective Date and end at the close of the calendar year in which it was executed (hereinafter called the “Term”). This Lease may be renewed or terminated in accordance with Section 2(b).

Commented [BP2]: Lee, do we bother reciting that the lease commenced a while ago? I don't think it matters but am open to changing if you thin it's worth it.

(b) This Lease shall terminate absolutely and without further obligation on the part of Landlord or Tenant at the close of the calendar year in which the Agreement is executed and at the close of each succeeding calendar year for which this Agreement may be renewed, but, notwithstanding the foregoing, this Contract shall be automatically renewed unless positive action is taken by Landlord or Tenant to terminate such contract by providing sixty (60) days written notice to the opposite party. This Lease shall terminate immediately and absolutely at such time as appropriated and otherwise unobligated funds are no longer available to satisfy any obligation of Landlord or Tenant under the terms of this Lease.

Commented [BP3]: Lee, this is to comply with OCGA 36-60-13

3. Commitments.

Tenant shall satisfy all obligations under that certain Fire Protection Services Agreement made and entered into the 5th day of May, 2015, by and between Landlord and Tenant.

4. Rent.

(a) *Base Rent.* Base Rent shall be One Dollar (\$1.00) per year. On or before the Effective Date, Tenant shall pay Landlord the amount due for the Term (One Dollar (\$1.00), prorated for the number of days left in the year). In the event Landlord and Tenant extend the Term as provided in this Lease, the rent for each successive Term shall be One Dollar (\$1.00), to be paid on or before the first day of the Term.

(c) *Late Payments.* Any Rent payable hereunder which is not received by the tenth (10th) day after such Rent is due shall be subject to a late charge of One Dollar (\$1.00) (the "Late Charge") plus default interest at the rate of one (1%) percent per month (12% per annum) calculated on the amount owed from the date upon which such Rent became due and payable to Landlord until paid in full, in addition to the default provisions herein. In regards to the Late Charge, the parties hereby agree as follows: (1) that the Late Charge is not intended as a penalty but rather to compensate Landlord for additional administrative charges and other damages incurred by Landlord on account of such late payment; (2) that the actual damages suffered by Landlord in such event shall be difficult, if not impossible to ascertain; and (3) that such Late Charge is a reasonable estimate of such charges and damages.

(d) *Assumption of Costs.* Tenant shall assume all costs associated with the Premises, including but not limited to property and liability insurance.

(e) *Additional Rent.* All insurance payments, costs and expenses which the Tenant is required to pay hereunder, together with all interest and penalties that may accrue thereon in the event of the Tenant's failure to pay such amounts, and all damages, costs and expenses which the Landlord may incur by reason of any default of the Tenant or failure on the Tenant's part to comply with the terms of this Lease, shall be deemed to be "Additional Rent" and, in the event of nonpayment by Tenant, Landlord shall have all the rights and remedies under law with respect thereto. The Base Rent and the Additional Rent are herein sometimes collectively referred to as the "Rent".

(f) *Net Rent.* It is the intention of Landlord and Tenant that the Rent herein specified shall be net to Landlord in each year during the Lease

Term. Accordingly, all costs, expenses and obligations of every kind relating to the Premises which may arise or become due during the Lease Term, unless otherwise specified herein, shall be paid by Tenant, and Landlord shall be indemnified by Tenant against such costs, expenses and obligations.

Commented [BP4]: Lee, we'd normally mention taxes here and elsewhere but I believe the county and city have no tax liability, which is the reason taxes aren't mentioned. Change if I'm wrong.

5. Use. The Premises may be used as a fire station. All property kept, stored or maintained within the Premises by Tenant shall be at its sole risk. Tenant shall not allow the storage, use, treatment, manufacture or disposal of any Hazardous Materials (defined as hazardous, toxic, infectious, or radioactive by any federal law, state law, or any legal requirement affecting the Premises) upon the Premises or any portion thereof in violation of any applicable law, ordinance, or regulation.

6. Quiet Enjoyment. Tenant, upon paying the Rent and performing all the other terms of this Lease, (a) shall quietly have and enjoy the Premises during the Lease Term without hindrance or interference by anyone claiming by or through the Landlord, subject, however, to the reservations and conditions of this Lease, and (b) shall have access to the Premises twenty-four (24) hours a day, three hundred sixty-five (365) days per year.

7. Utilities. During the Lease Term, Tenant shall be responsible for paying all utilities associated with the Premises (gas, water, electricity, refuse collection, telephone, internet service, alarm services, landscaping, pest control, etc.) directly to the service provider.

8. Alterations; Improvements. During the Lease Term, Tenant may make alterations, additions, or improvements to the Premises at its own expense but subject to approval by the Landlord, which approval shall not be unreasonably withheld. Any construction work done by Tenant to the Premises shall be performed in a good and workmanlike manner and in compliance with all governmental requirements. Tenant shall obtain or cause to be obtained all building permits, licenses, temporary and permanent certificates of occupancy and other governmental approvals which may be required in connection with the making of any alterations. Landlord shall cooperate with Tenant in obtaining governmental permits.

9. Repairs by Landlord. During the term of this Lease, Landlord shall have no duty or obligation whatsoever for the maintenance, replacement or repair of the Premises. Landlord shall have no obligation to inspect the Premises but may if it wishes or if an insurance policy requires that it inspect the Premises, and, in such event, Tenant shall not interfere with Landlord's right of inspection.

10. Repairs by Tenant; Maintenance.

(a) Tenant shall, at Tenant's sole cost and expense, put, keep, replace, maintain and repair the Premises, including, but not limited to, the

walls, floor, ceiling, pipes, heating system, plumbing system, HVAC system, window glass, roof, siding, fixtures, and their appurtenances.

(b) Should the applicable building code require any modification to the building, the cost of those modifications shall be borne by Tenant. Under no circumstances shall Landlord be responsible for any building code compliance matters.

(c) On default of the Tenant in performing its repair, replacement, or maintenance obligations, Landlord may, but shall not be obligated to, make such repairs, replacements or maintenance for Tenant's account, and the expense therefore, together with interest at a rate of twelve (12%) percent per annum, shall continue and be collectible as Additional Rent and shall be paid by Tenant to Landlord within ten (10) days of the rendition of any bill or statement to Tenant therefor.

11. Legal Requirements. During the Lease Term, Tenant shall, at Tenant's sole cost and expense, promptly comply with all legal requirements affecting the Premises, whether currently applicable or hereafter enacted. The phrase "legal requirements affecting the Premises", as used in this Section, shall mean and shall include all laws, ordinances, regulations and other requirements which relate in any manner to the physical condition of the Premises or any part of the Premises, or to the use or occupancy of the Premises or any part of the Premises, including but not limited to, building codes and similar requirements, zoning ordinances and requirements, use restrictions, fire requirements, safety requirements, and energy-related requirements.

12. Release and Indemnity. During the Lease Term, unless caused by Landlord's affirmative active negligence or willful misconduct, Tenant shall pay, and shall protect, indemnify and hold harmless Landlord and Landlord's elected officials, officers, employees, representatives and agents from, against and in respect of, all liabilities, damages, losses, costs, expenses (including all reasonable attorneys' fees and expenses of Landlord), interest, penalties, late charges, reinstatement fees, causes of action, suits, claims, demands and judgments of any nature whatsoever arising out of, by reason of or in connection with Tenant's or subtenant's use, non-use, occupancy of or the conducting of Tenant's activities and business on the Premises.

Commented [BP5]: Lee: do we want to include indemnity? CSX v Garden City...

13. Insurance.

(a) *Property and Liability Insurance.* Tenant shall procure and maintain, the following policies of insurance:

(i) Property insurance on the Premises and all improvements, including leasehold improvements, all furniture, fixtures and equipment, against loss or damage by fire, lightning and against loss or damage by other risks providing protection against events protected

under “All Risk Coverage,” as well as against sprinkler damage, vandalism, and malicious mischief in an amount not less than 100% of the replacement cost without deduction for depreciation. Any proceeds from the property insurance shall be used for the repair or replacement of property damaged or destroyed, unless the Lease Term is terminated under an applicable provision herein.

(ii) Liability insurance on the Premises in the total aggregate sum of at least \$1,000,000 per Occurrence/\$3,000,000 General Aggregate. Limits may be provided by the combination of a primary general liability policy and an umbrella/excess liability policy.

(iii) Commercial general liability insurance shall insure Landlord against liability for bodily injury, property damage (including loss of use of property) and personal injury at the Premises, including any contractual liability with such insurance naming Tenant and such other parties as Landlord may designate, as additional insureds. The liability insurance obtained by Tenant under this section shall: (1) be primary and (2) insure Tenant’s obligations to Landlord hereunder. The amount and coverage of such insurance shall not limit Tenant’s liability nor relieve Tenant of any other obligation under this Lease.

(b) *General Insurance Provisions.*

(i) Failure of Tenant to comply with the provisions of this Section 13 shall constitute a default.

(ii) Any insurance policy required to be maintained under this Lease shall be selected by the party who is required to maintain such policy so long as the policy meets the requirements contained herein.

(iii) Tenant shall ensure that any person performing services on the Premises at Tenant’s direction is sufficiently covered by Liability and Worker’s Compensation Insurance, if required.

(iv) Any insurance which Tenant is required to maintain under this Lease shall include a provision which requires the insurance carrier to give the other party not less than thirty (30) days’ written notice prior to any cancellation or modification of such coverage.

(v) Prior to the earlier of Tenant’s entry onto the Premises or the Effective Date, Tenant shall deliver to the other party an insurance company certificate evidencing that Tenant maintains the insurance required herein, and, not less than thirty (30) days prior to the expiration or termination of any such insurance, Tenant shall deliver to

Landlord renewal certificates therefor. Tenant shall provide Landlord with copies of the policies promptly upon request from time to time.

(vi) All insurance required by this Lease shall be with an insurance company or companies properly licensed by the Georgia State Insurance Commissioner to do business within the State of Georgia.

(vii) Without limiting the provisions of Section 12, above, Tenant, on behalf of itself and its insurer(s), hereby waives any and all rights of recovery against the Landlord, the agents, advisors, employees, members, officers, directors, partners, trustees, beneficiaries and shareholders of the other and the agents, advisors, employees, members, officers, directors, partners, trustees, beneficiaries and shareholders of each of the foregoing (collectively, "Representatives"), for loss or damage to its property or the property of others under its control, to the extent that such loss or damage is covered by any insurance policy in force (whether or not described in this Lease) at the time of such loss or damage, or required to be carried under this Lease. All property insurance carried by Tenant will contain a waiver of subrogation against Landlord to the extent such right was waived by Tenant prior to the occurrence of loss or injury.

14. Waiver of Subrogation. Landlord and Tenant and all parties claiming under them hereby mutually waive, release and discharge each other from all claims and liabilities arising from or caused by any hazard covered by insurance on the Premises, or covered by insurance in connection with property on or activities conducted on the Premises, regardless of the cause of the damage or loss.

15. [Reserved]

16. Non-Disturbance. Landlord agrees not to affect or disturb Tenant's right to possession of the Premises in the exercise of Landlord's rights, so long as Tenant is not in default under any of the terms, covenants or conditions of this Lease.

17. Assignment and Subletting. Tenant may not assign this Lease or sublet all or part of the Premises without the prior written consent of Landlord. No assignment or subletting of the Premises shall relieve Tenant of its obligations hereunder.

18. No Liens. During the Lease Term, Tenant is not authorized to incur any expenditures in the name of Landlord and shall not permit any liens for labor or materials or any ad valorem tax lien to be placed against the Premises. Notice is hereby given that Landlord shall not be liable for any labor or services performed or rendered, or materials supplied or furnished, to the Premises at the instance of Tenant, and no mechanics or other liens with respect thereto shall attach to or affect the

reversion or other estate or interest of Landlord in and to the Premises. Landlord shall not be permitted to encumber the Premises during the Lease Term. Tenant shall not be liable for any liens attached to the Premises caused by Landlord. Tenant shall discharge, indemnify and hold harmless Landlord from any liens placed upon the Premises during the Lease Term.

19. Default.

(a) *Events of Default.* The following events shall constitute events of default by Tenant under this Lease (hereinafter individually called an “Event of Default”, and collectively called “Events of Default”):

(i) if Tenant shall fail to pay when due any Rent or other payment to be made by Tenant hereunder and shall not cure such failure within ten (10) days after Landlord gives Tenant written notice thereof;

(ii) if Tenant shall violate or breach, or shall fail fully and completely to observe, keep, satisfy, perform and comply with, any agreement, term, covenant, condition, requirement, restriction or provision of this Lease (other than a breach or failure described in clause (i) above), and shall not cure such failure within thirty (30) days after Landlord gives Tenant written notice thereof, or, if such failure shall be incapable of cure within thirty (30) days, if Tenant shall not commence to cure such failure within such thirty (30) day period and continuously prosecute the performance of the same to completion with due diligence;

(iii) if Tenant makes a transfer in fraud of creditors or makes an assignment for the benefit of creditors;

(iv) if Tenant files a petition under any section or chapter of the national bankruptcy act, as amended, or under any similar federal or state law or statute, or Tenant or any guarantor of its obligations under this Lease is adjudged bankrupt or insolvent in proceedings filed against Tenant;

(v) if any other instrument delivered to Landlord as part of this lease transaction shall be breached.

(b) *Remedies.* Upon the occurrence of an Event of Default, Landlord may pursue either of the following alternative remedies:

(i) Without any notice or demand, Landlord may take any action or actions permissible at law to insure performance by Tenant of its covenants and obligations under this Lease.

(ii) Landlord may terminate this Lease by giving written notice to Tenant. In such event, Tenant shall immediately surrender the Premises to Landlord. If Tenant fails to do so, Landlord may, without prejudice to any other remedy it may have for possession or arrearages in Rent (including any accrued interest), enter upon and take possession of the Premises and expel or remove, by force if necessary, Tenant and any other person who is occupying all or a portion of the premises without being liable for prosecution or any claim for damages. Tenant hereby waives any statutory requirement of prior written notice for filing eviction or damage suits for non-payment of rent. In addition, Tenant shall pay to Landlord on demand all loss and damage suffered by it by reason of any termination affected under this subsection (ii). The loss or damage shall be determined by either of the following alternative measures of damages:

(A) Until Landlord is able, through reasonable efforts, the nature of which shall be at its sole discretion, to relet the Premises, Tenant shall continue to pay to Landlord the Rent specified in this Lease when it comes due. After Landlord relets the Premises, Tenant shall pay to Landlord, the difference between the Rent and the amount actually collected by Landlord for a year.

If Landlord is required to bring suit in order to collect a deficiency, it may allow the deficiency to accumulate and bring an action on several or all of the accrued deficiencies at one time. Such suit shall not prejudice in any way Landlord's right to bring a similar action for subsequent deficiencies. If the amount collected from subsequent tenants for a calendar year exceeds the Rent, the excess shall be credited to Tenant in reduction of its liability for any calendar year for which the amount collected is less than the Rent. However, Tenant's right to the excess is limited to the above-described credit.

(B) Landlord may demand a final settlement at any time. Upon such demand, Tenant shall pay the difference between the Base Rent provided in this Lease for the remainder of the Lease Term and the reasonable rental value of the Premises for that period. The difference shall be discounted to present value at the rate of interest agreed on by the parties, or, if there is no such agreement, at the rate of twelve (12%) percent per annum.

(C) Landlord's election to exercise the remedy prescribed above in subsection (i) shall in no way prejudice its right at any later time to cancel the election in favor of the remedy provided in this subsection (ii), if at the time of cancellation Tenant is still in default. Similarly, Landlord's election to compute

damages in the manner prescribed above by subsection (ii)(A) shall in no way prejudice its right at any later time to demand a final settlement in accordance with subsection (ii)(B). Pursuit of any of the above remedies shall not preclude pursuit of any other remedy provided elsewhere in this lease or by law. Landlord's forbearance to enforce any remedy provided herein upon an event of default shall not be deemed to constitute a waiver of the default.

(c) *Injunction; Cumulative Remedies.* Landlord may restrain or enjoin any breach or threatened breach of Tenant's covenants, duties, and obligations under this Lease without having to prove the inadequacy of any legal remedy or irreparable harm. Landlord's remedies under this Lease shall be deemed cumulative and not exclusive.

(d) *Attorneys' Fees, Costs and Expenses.* If Landlord is required, on account of a breach or default by Tenant in any obligation under this Lease, to hire an attorney to present, enforce, or defend Landlord's rights or remedies under the Lease, Tenant shall pay all reasonable attorneys' fees, costs and expenses incurred by Landlord in connection therewith.

20. Immunity. Nothing contained in this Lease shall be construed or deemed to be a waiver of any immunity to which the Landlord or Tenant or their respective officials, employees, or agents are legally entitled.

21. Non-waiver. A waiver by either party of one or more covenants, terms, or conditions of this Lease shall not be construed as a waiver of a subsequent breach of the same covenant, term, or condition. The first party's consent to or approval of any act by the second party shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

22. Estoppel Certificate. Tenant shall, upon ten (10) days written notice from Landlord, execute and deliver to it a statement in recordable form certifying the status of this Lease. Such certificate shall be in a form reasonably satisfactory to the prospective purchaser, lender or assignee.

Commented [BP6]: Lee, do we need this? I suppose it doesn't hurt.

23. Rights Cumulative. All rights, remedies, powers and privileges conferred under this Lease on the parties shall be cumulative of and in addition to, but not restrictive of or in lieu of, those conferred by Law.

24. Time of Essence. Time is of the essence of this Lease. Anywhere a day certain is stated for payment or for performance of any obligation, the day certain so stated enters into and becomes a part of the consideration for this Lease.

25. Notices. Subject to limitations and conditions set forth herein, notices may only be delivered: (a) in person; (b) by an overnight delivery service,

prepaid; (c) by registered or certified U. S. mail, prepaid, return receipt requested; or (d) by e-mail, to the following addresses and/or email addresses:

Landlord:

City of Springfield, Georgia

Attn.: Matt Morris

130 S. Laurel Street

Springfield, Georgia 31329

Email: mmoris@springfieldga.org

Tenant:

Effingham County, Georgia

Attn: Tim Callanan

804 S. Laurel Street

Springfield, Georgia 31329

Email: tcallanan@effinghamcounty.org

26. Entire Agreement; Modification. This Lease contains the entire agreement of Landlord and Tenant and no representations, warranties, inducements, promises or agreements, oral or otherwise, between the parties not embodied in this Lease shall be of any force or effect. This Lease shall not be modified or amended in any respect except by a written instrument executed on behalf of each of Tenant and Landlord.

27. Severability. If any clause or provision of this Lease is illegal, invalid or unenforceable under applicable present or future Laws effective during the Lease Term, such unenforceable, invalid or illegal provision shall be severed from this Lease, and the remainder of this Lease shall not be affected. In lieu of each clause or provision of this Lease which is illegal, invalid or unenforceable, there shall be added as a part of this Lease a clause or provision as nearly identical as may be possible and as may be legal, valid and enforceable.

28. Counterparts. This Lease may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

29. Governing Law. This Lease has been executed in the State of Georgia and shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Georgia.

30. Headings. The use of headings, captions and numbers in this Lease is solely for the convenience of identifying and indexing the various sections and shall in no event be considered otherwise in construing or interpreting any provision in this Lease.

31. Miscellaneous. Each and all the covenants, terms, agreements and obligations of this Lease shall extend and inure to the benefit of the successors and

permitted assigns of said parties hereto. The singular number includes the plural and the neuter gender includes the feminine and masculine, wherever appropriate.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease to be executed and sealed by their duly authorized representatives, all effective as of the day and year first written above.

LANDLORD:

City of Springfield, Georgia

By: _____

Name: Hon. Barton Alderman
Title: Mayor, City of Springfield, Georgia

Attest: _____
Jennifer Smith, City Clerk

[Entity seal]

TENANT:

Effingham County, Georgia

By: _____

Name: Hon. Wesley Corbitt
Title: Chairman at Large, Effingham County Board of Commissioners

Attest: _____
Stephanie Johnson, County Clerk

[Entity seal]

Approved as to form:

Benjamin M. Perkins, Esq.
Springfield City Attorney

Lee Newberry, Esq.
Effingham County Attorney

