

INTERGOVERNMENTAL CONTRACT

Between

DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF FOREST PARK

and

CITY OF FOREST PARK, GEORGIA

Dated as of March 1, 2023

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS AND RULES OF CONSTRUCTION	3
Section 1.01 Definitions.....	3
Section 1.02 Rules of Construction	3
Section 1.03 Recitals Incorporated Herein	3
Section 1.04 Common Terms	3
ARTICLE II REPRESENTATIONS, WARRANTIES AND AGREEMENTS	3
Section 2.01 Representations, Warranties, and Agreements of the Authority.....	3
Section 2.02 Representations, Warranties, and Agreements of the City	4
ARTICLE III ISSUANCE OF SERIES 2023 BOND	5
Section 3.01 The Series 2023 Bond.....	5
Section 3.02 Designation, Date, Denomination, Maturities, Interest Payment Date, and Other Particulars of the Series 2023 Bond	5
Section 3.03 Revenue Obligation	5
ARTICLE IV FINANCING OF PROJECT; APPLICATION OF PROCEEDS; INVESTMENT OF MONEY	5
Section 4.01 Financing of Project.....	5
Section 4.02 Application of Proceeds of Series 2023 Bond, Bond Documents	6
Section 4.03 Investment of Money	6
Section 4.04 Disbursements from the Project Fund.....	6
Section 4.05 Insurance and Condemnation Proceeds	6
ARTICLE V CONTRACT PAYMENTS BY THE CITY	6
Section 5.01 Contract Payments by the City	6
Section 5.02 Credits	6
Section 5.03 Manner and Place of Payments.....	6
Section 5.04 City’s Obligations Unconditional	7
Section 5.05 City’s Remedies	7
Section 5.06 Tax Levy to Make Payments	7
Section 5.07 Prior Lien of Series 2023 Bond	8
Section 5.08 Parity Bonds.....	8
ARTICLE VI EXCULPATION	8
Section 6.01 Immunity of Members of Authority	8

ARTICLE VII DEFAULT; REMEDIES	9
Section 7.01 Events of Default Defined	9
Section 7.02 Remedies on Default.....	9
Section 7.03 Attorneys’ Fees and Expenses	10
Section 7.04 No Waiver of Breach	10
Section 7.05 City Authorized to Cure Default of Authority	10
Section 7.06 Failure to Enforce Agreement Not a Waiver	10
ARTICLE VIII TERM; MISCELLANEOUS	10
Section 8.01 Term of this Contract	10
Section 8.02 Notices	11
Section 8.03 Binding Effect; Third Party Beneficiaries	11
Section 8.04 Severability	12
Section 8.05 Amounts Remaining in Funds	12
Section 8.06 Delegation of Duties by Authority.....	12
Section 8.07 Amendments, Changes and Modifications	12
Section 8.08 Execution Counterparts.....	12
Section 8.09 Captions	12
Section 8.10 Law Governing Construction of Contract.....	12

INTERGOVERNMENTAL CONTRACT

THIS INTERGOVERNMENTAL CONTRACT, dated as of March 1, 2023 (this “**Contract**”), made and entered into by and between the **DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF FOREST PARK** (the “**Authority**”), a downtown development authority and public body corporate and politic duly created and validly existing under and pursuant to the Downtown Development Authorities Law, O.C.G.A. Section 36-42-1, *et seq.*, as amended (the “**Act**”), and the **CITY OF FOREST PARK, GEORGIA**, a municipality chartered under the laws of the State of Georgia (the “**State**”) acting by and through its elected Mayor and Council.

WITNESSETH:

WHEREAS, the City, by proper resolution, declared that there is a need for the Issuer to function in the City, as required by the terms of the Act; the Authority has been duly created and activated pursuant to the terms of the Act, and its directors have been elected as provided therein and are currently acting in that capacity; and

WHEREAS, the Act authorizes the Authority to borrow money and to issue its revenue bonds, which revenue bonds are required to be validated pursuant to the provisions of the Revenue Bond Law (O.C.G.A. § 36-82-61, *et seq.*), and to use the proceeds thereof for the purpose of paying all or part of the cost of any “project,” which includes the acquisition, construction, installation, modification, renovation, or rehabilitation of land, interests in land, buildings, structures, facilities, or other improvements and the acquisition, installation, modification, renovation, rehabilitation, or furnishing of fixtures, machinery, equipment, furniture, or other property of any nature whatsoever used on, in, or in connection with any such land, interest in land, building, structure, facility, or other improvement, all for the essential public purpose of the development of trade, commerce, industry, and employment opportunities, which project may be for any industrial, commercial, business, office, parking, public, or other use, provided that a majority of the members of the Authority determines, by a duly adopted resolution, that the project and such use thereof would further the public purpose of the Act; and

WHEREAS, a majority of the directors of the Authority have found and determined, and the Authority does hereby find and determine, that the issuance by the Authority of the below-defined Series 2023 Bond will promote the objectives of the Act, by financing the below-defined Project which will promote the revitalization and redevelopment of the City’s central business district, thereby developing and promoting for the public good and general welfare, trade, commerce, industry, and employment opportunities and promoting the general welfare of the State; and

WHEREAS, the City is a governmental body as described in the Revenue Bond Law, O.C.G.A. Sec. 36-82-60, *et seq.*, and is authorized to undertake projects described therein which include the purchase of land and the construction thereon of facilities for lease to industries, so as to relieve abnormal unemployment conditions; and

WHEREAS, in accordance with O.C.G.A. Sec. 48-5-350 (the millage authorized thereby, the “**Economic Development Millage**”), the City may levy and collect an annual tax

to provide financial assistance to the Authority for the purpose of developing trade, commerce, industry, and employment opportunities; provided, however, that the tax for such purpose shall not exceed three mills per dollar upon the assessed value of the taxable property in the City (such limit, the “**Millage Cap**”); and

WHEREAS, Article IX, Section III, Paragraph I(a) of the Constitution of the State of Georgia authorizes, among other things, any county, municipality or other political subdivision of the State to contract, for a period not exceeding fifty years, with another county, municipality or political subdivision or with any other public agency, public corporation or public authority for joint services, for the provision of services, or for the provision or separate use of facilities or equipment, provided that such contract deals with activities, services or facilities which the contracting parties are authorized by law to undertake or to provide; and

WHEREAS, the City and the Authority have respectively found and determined, and do hereby find and determine, that, as to each of them respectively, this Contract deals with activities, services or facilities which such contracting party is authorized by law to undertake or provide, and that hence, this Contract is authorized by said Constitutional provision; and

WHEREAS, the Authority desires to finance the costs of completing the acquisition, construction and installation of mixed use facilities to be located in the central business district of the City consisting of (i) acquisition of real property, (ii) installation of certain infrastructure improvements, (iii) restaurant, retail and office space, and (iv) parking facilities, (collectively, the “**Project**”), which Project is to be owned by the Issuer and leased or sold for industrial or commercial purposes; and

WHEREAS, in order to finance the Project, as well as provide for payment of certain costs of issuance (collectively, the “**Costs of the Project**”), the Authority has adopted a bond resolution on February 23, 2023 (the “**Bond Resolution**”) authorizing it to issue its Taxable Economic Development Revenue Bond (Main Street Project), Series 2023, in a maximum principal amount of \$6,180,000 (the “**Series 2023 Bond**”); and

WHEREAS, payment of the Series 2023 Bond will be secured in accordance with the provisions of this Contract pursuant to which the Authority agrees, among other things, to issue the Series 2023 Bond and use the proceeds thereof to pay the Costs of the Project, and the City agrees among other things, to make payments to the Authority sufficient, when and to the extent needed, to pay the debt service on the Series 2023 Bond; and

WHEREAS, the City acted on February ___, 2023 to approve and authorize the execution and delivery by the City of this Contract, including minor revisions approved by the Mayor in consultation with the City’s legal counsel necessary to finalize this Contract; and

WHEREAS, the City is authorized to levy taxes, and to expend tax moneys and other available funds to make payment thereto to the Authority of the amounts provided for in this Contract; and

WHEREAS, the Act provides that revenue bonds issued by the Authority shall not be deemed to constitute a debt of the State of Georgia or any political subdivision thereof, and

WHEREAS, no contract entered into by the Authority with any such political subdivision shall create a debt of such political subdivision within the meaning of Article IX, Section V, Paragraph I of the Constitution of the State of Georgia, but any such political subdivision may obligate itself to make the payments required under such contract from moneys received from taxes and from any other source without creating a debt within the meaning of Article IX, Section V, Paragraph I of the Constitution of the State of Georgia;

NOW, THEREFORE, in consideration of the foregoing and the respective representations, covenants and agreements hereinafter set forth, the Authority and the City hereby agree as follows; provided, that in the performance of the covenants and agreements of the Authority herein contained, any obligation it may thereby incur for the payment of money shall not be a general debt of the Authority but shall be payable solely out of the proceeds derived from the sale of the Series 2023 Bond and the revenues and receipts derived from the City pursuant to this Contract, and any other security pledged by the Authority to such payment:

ARTICLE I
DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01 Definitions. Capitalized terms used herein and which are not defined herein shall be defined as set forth in the Bond Resolution and in the Exhibits thereto.

Section 1.02 Rules of Construction. The definitions referred to in the Bond Resolution shall be equally applicable to both the singular and the plural forms of the terms therein defined and shall cover all genders.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinbefore,” “hereinafter,” and other equivalent words refer to this Contract and not solely to the particular portion thereof in which any such word is used.

All references herein to particular Articles or Sections are references to Articles or Sections of this Contract unless otherwise specified.

Section 1.03 Recitals Incorporated Herein. The recitals set forth above are incorporated in this Contract by this reference.

Section 1.04 Common Terms. Common terms in the municipal bond industry that are capitalized, but not defined, herein are used in accordance with their common meaning, and their common meaning may be defined in more detail in the Bond Resolution, which definitions are hereby approved.

ARTICLE II
REPRESENTATIONS, WARRANTIES AND AGREEMENTS

Section 2.01 Representations, Warranties, and Agreements of the Authority. The Authority represents, warrants, and agrees that:

(a) The Authority is a public body corporate and politic created and existing under the Act and, unless otherwise required by law, shall maintain its corporate existence so long as the

Series 2023 Bond is outstanding. Under the provisions of the Act, the Authority is authorized to enter into and carry out the transactions contemplated by this Contract, the Bond Resolution, the issuance of the Series 2023 Bond and the financing of the Project;

(b) There is no litigation or proceeding pending, or to the knowledge of the Authority threatened, against the Authority which would have a material adverse effect on the right of the Authority to execute this Contract or the ability of the Authority to comply with any of its obligations under the Series 2023 Bond, this Contract, the Bond Resolution or any other documents contemplated to be executed by the Authority in connection with the issuance and delivery of the Series 2023 Bond;

(c) This Contract, upon execution of the same, will constitute the legal, valid and binding obligation of the Authority in accordance with its terms, and performance by the Authority of its obligations hereunder will not violate, or result in a breach of any of the provisions of, or constitute a default under, any agreement or instrument to which the Authority is a party or by which the Authority is bound; and

(d) Except as herein and in the Bond Resolution provided, the Authority will not encumber any part of its interest in moneys paid to the Authority or the holder of the Series 2023 Bond (the “**Holder**”), by the City under this Contract (the “**Revenues**”) or its rights under this Contract. The pledge made of the Revenues payable under this Contract upon issuance of the Series 2023 Bond will constitute a first and prior pledge of and lien on said Revenues on a parity with the pledge or lien for the payment of any Parity Bonds (defined below) hereafter issued, and said pledge shall at no time be impaired by the Authority and the Revenues shall not otherwise be pledged, except as so provided.

Section 2.02 Representations, Warranties, and Agreements of the City. The City represents, warrants, and agrees as follows:

(a) The City is a municipality of the State, having the power to enter into and execute, deliver and perform this Contract, and, by proper action of its governing body, has authorized the execution and delivery of this Contract and the taking of any and all such actions as may be required on its part to carry out, give effect to, and consummate the transactions contemplated by this Contract, the Bond Resolution and the financing of the Project, and no approval or other action by any governmental authority, agency or other person is required in connection with the delivery and performance of this Contract by it except as shall have been obtained as of the date of delivery of the Series 2023 Bond;

(b) There is no litigation or proceeding pending, or to the knowledge of the City threatened, against or affecting the City, nor to the best of the knowledge of the City is there any basis therefor, wherein an unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by this Contract or which, in any way, would adversely affect the validity or enforceability of the Series 2023 Bond, this Contract, the Bond Resolution or any other documents contemplated to be executed in connection with the issuance and delivery of the Series 2023 Bond;

(c) This Contract, upon execution of the same, will constitute the legal, valid and binding obligation of the City enforceable in accordance with its terms, and performance by the City of its obligations hereunder will not violate, or result in a breach of any of the provisions of, or constitute a default under, any agreement or instrument to which the City is a party or by which the City is bound; and

(d) There currently is in effect no other pledge of the Economic Development Millage other than that contemplated herein and in the Bond Resolution.

ARTICLE III
ISSUANCE OF SERIES 2023 BOND

Section 3.01 The Series 2023 Bond. In order to provide funds to finance the Costs of the Project, the Authority, in accordance with the Act, will issue the Series 2023 Bond, and all of the covenants, agreements and provisions hereof relating to the Series 2023 Bond shall, to the extent provided herein and in the Bond Resolution, be for the benefit and security of the Holder. The principal amount of the Series 2023 Bond shall be \$6,180,000. The Series 2023 Bond shall be issued and sold to the initial “Purchaser”, as defined in the Bond Resolution, pursuant thereto.

Section 3.02 Designation, Date, Denomination, Maturities, Interest Payment Date, and Other Particulars of the Series 2023 Bond. The Series 2023 Bond will be issued in fully registered form and will mature and be paid pursuant to the provisions of the Bond Resolution. Interest on the Series 2023 Bond will be paid to the person or persons and in the manner stated in the Series 2023 Bond and in the Bond Resolution, until the obligation of the Authority with respect to the payment of the principal of the Series 2023 Bond shall be discharged in accordance therewith. All other matters regarding the Series 2023 Bond’s designation, date, maturities, interest payment dates and other particulars shall be as set forth elsewhere herein or in the Bond Resolution.

Section 3.03 Revenue Obligation. The Series 2023 Bond shall be paid solely from the Revenues and such other property (including, but not limited to, real property, fixtures, personal property, revenues, or other funds) pledged, mortgaged, conveyed, assigned, hypothecated, or otherwise encumbered to secure or to pay such Series 2023 Bond.

ARTICLE IV
FINANCING OF PROJECT;
APPLICATION OF PROCEEDS; INVESTMENT OF MONEY

Section 4.01 Financing of Project. The Authority will finance the Project with proceeds of the Series 2023 Bond as provided in the Bond Resolution, including proceeds on deposit in the Project Fund to be established under the Bond Resolution or other funds lawfully available for such purpose. The Costs of the Project is being financed through the Series 2023 Bond in furtherance of the Authority’s and the City’s public purposes and in particular those public purposes described elsewhere herein. The Authority hereby agrees to issue the Series 2023 Bond to finance the Costs of the Project and thereby cause the Project to be paid for in accordance with the provisions hereof and of the Act, and the City hereby agrees to make the payments provided for in Section 5.01 hereof in accordance with the provisions of this Contract.

Section 4.02 Application of Proceeds of Series 2023 Bond, Bond Documents. The Authority shall apply the proceeds from the sale of the Series 2023 Bond in accordance with the Bond Resolution. The financing documents to be executed in connection with the issuance of the Series 2023 Bond (collectively, the “**Bond Documents**”) shall include such documents as are commonly used in such revenue bond transactions.

Section 4.03 Investment of Money. Money held as a part of the Project Fund and the Debt Service Fund to be established under the Bond Resolution shall be invested or reinvested as directed by the City in accordance with the Bond Resolution.

Section 4.04 Disbursements from the Project Fund. The Authority shall pay the Costs of the Project by checks or wire transfers by making disbursements from the Project Fund or other payments from the proceeds of the Series 2023 Bond as otherwise provided in the Bond Resolution. Such disbursements shall be made only upon the execution and filing with the Authority of a requisition signed by an authorized representative of the Authority (the “**Authority Representative**”) stating (i) the requisition number, (ii) the name and address of the person, firm or corporation (which may include the City or the Authority) to whom payment is due or was made, (iii) the amount paid or to be paid, (iv) that none of the items for which the payment is proposed to be made has formed the basis for any payment theretofore made from the Project Fund, and (v) that each item for which payment is proposed to be made is a proper charge against the Project Fund in accordance with the provisions of the Bond Resolution and this Contract.

Section 4.05 Insurance and Condemnation Proceeds. The Authority may at its option apply any insurance or condemnation proceeds received by it with respect to the Project to repair or replace the Project, or, at the direction of the Authority, to redeem, or provide for the redemption of, the Series 2023 Bond.

ARTICLE V

CONTRACT PAYMENTS BY THE CITY

Section 5.01 Contract Payments by the City. Pursuant to this Contract, the City agrees to provide funds, subject to the Millage Cap, which shall be sufficient to the extent necessary (after taking into account moneys on deposit in the Debt Service Fund) to pay the principal and interest due on the Series 2023 Bond, upon maturity or otherwise, together with all reasonable and necessary fees and expenses of the Bond Registrar, Paying Agent, Debt Service Fund Custodian and Project Fund Custodian under the Bond Resolution, if any, as the same become due, upon the submission by the Bond Registrar, Paying Agent, Debt Service Fund Custodian and Project Fund Custodian, as applicable, of statements therefor. Each payment to be made by the City hereunder is to be made on a parity with every other payment hereunder.

Section 5.02 Credits. Any amounts in the Debt Service Fund prior to any interest payment date or date fixed for redemption or principal repayment of the Series 2023 Bond in the Bond Resolution shall be credited against the payments due by the City under this Contract on such Interest Payment Date or date of redemption.

Section 5.03 Manner and Place of Payments. The payments to be made pursuant to Section 5.01 hereof with respect to the Series 2023 Bond shall be made in lawful money of the

United States of America in immediately available funds on or before the date on which due and shall be paid directly to the Debt Service Fund Custodian for the account of the Authority and shall be deposited in the Debt Service Fund or other designated debt service account as required by the Bond Resolution.

Section 5.04 City's Obligations Unconditional.

(a) The obligations of the City to make payments required in this Article V on the dates and in the manner herein specified and to perform and observe the other agreements on its part contained herein shall be absolute and unconditional, regardless of any contingencies whatever and notwithstanding any circumstances or occurrences that may arise or take place hereafter, and shall not be subject to diminution by set-off, counterclaim, abatement or otherwise. Until such time as the principal and interest on the Series 2023 Bond shall have been paid or provision for such payment shall have been made in accordance with the Bond Resolution, the City (i) will not suspend or discontinue any payments for which provision is made in Section 5.01 hereof, (ii) will perform and observe all of its other covenants and agreements contained in this Contract, and (iii) will not terminate this Contract for any cause including, without limiting the generality of the foregoing, impossibility or illegality of performance on the part of the Authority of any of its obligations hereunder or under the Bond Resolution, any acts or circumstances that may constitute failure of consideration, any change in the tax or other laws of the United States of America or the State of Georgia or any political subdivision thereof, or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Contract or out of the Bond Resolution.

(b) Damage to, or destruction in whole or in part, of the Project or any part thereof including without limitation any loss, complete or partial, or interruption in the use, occupancy or operation thereof or any manner or thing which for any reason interferes with, prevents or renders burdensome the use thereof, shall not excuse the compliance by the City with any of the terms of this Contract.

Section 5.05 City's Remedies. If the Authority shall fail to perform any of its agreements in this Contract, the City may institute such action against the Authority as the City may deem necessary to compel such performance so long as such action shall not affect, impair or diminish the obligation of the City to make the payments provided for herein, which obligation shall be absolute, unconditional and irrevocable. The City, at its own cost and expense, and in its own name, may prosecute or defend any action or proceedings against third parties or take any other action which the City deems reasonably necessary to secure or protect its rights in which event the Authority agrees to cooperate fully with the City.

Section 5.06 Tax Levy to Make Payments. The City will exercise its powers of taxation, to the extent necessary to pay the amounts required to be paid under Section 5.01 hereof, and will make available and use for the payment of its obligations incurred hereunder all such taxes levied and collected for that purpose together with funds received from any other source. The City, in order to make such funds available for such purpose in each fiscal year, will in its general revenue, appropriation and budgetary measures whereby its tax funds or revenues and the allocation thereof are controlled or provided for in each fiscal year during the term of this Contract, include sums sufficient to satisfy the payments required to be made under this Contract, whether or not any other

sums are included in such measure, until all payments required to be made hereby shall have been made in full. The obligations of the City to make the payments provided for under Section 5.01 hereof, up to the Millage Cap, shall constitute a general obligation of the City and a pledge of the full faith and credit of the City to provide the funds required to fulfill such obligation.

Section 5.07 Prior Lien of Series 2023 Bond. The Authority will not hereafter issue any other bonds or debt obligations of any kind or nature payable from or enjoying a lien on the Revenues superior to the lien created in the Bond Resolution for the payment of the Series 2023 Bond and any Parity Bonds. Nothing contained herein, however, shall restrict, (1) the issuance of Parity Bonds in accordance with Section 5.08 hereof, (2) the issuance of bonds or debt obligations (“**Junior Bonds**”) by the Authority or another issuer from time to time payable from the Economic Development Millage that is subject to the Millage Cap and secured by a lien thereon junior and subordinate to the lien created to secure the payment of the Series 2023 Bonds and the Parity Bonds, or (3) the City from making payments to the Authority or another development authority out of the Economic Development Millage that is subject to the Millage Cap (at any time when there is no monetary default under the Series 2023 Bonds or the Parity Bonds) or other available sources or revenues, for the purpose of repayment of the Series 2023 Bonds or Parity Bonds or any other legal purpose, or (4) the City or the Authority or another development authority or other person or entity from making deposits, out of any available sources or revenues, including, without limitation, the Economic Development Millage that is subject to the Millage Cap, to the Debt Service Fund to be used as provided herein. By way of illustration and not of limitation, under the preceding clause (3), the City may make payments out of the Economic Development Millage that is subject to the Millage Cap, to the Downtown Development Authority of the City of Forest Park, pursuant to contract or otherwise, at any time and from time to time, to financially support the Downtown Development Authority of the City of Forest Park, provided that, at the time each such payment is made, there is no monetary default under the Series 2023 Bonds or the Parity Bonds. Any provision hereof to the contrary notwithstanding, the City is not restricted in any way regarding millage that is not Economic Development Millage that is subject to the Millage Cap.

Section 5.08 Parity Bonds. The Authority or another issuer may issue additional revenue bonds from time to time payable from the Debt Service Fund and ranking *pari passu* as to the Economic Development Millage, subject to the Millage Cap, with the Series 2023 Bond then outstanding (“**Parity Bonds**”), subject to the terms and conditions prescribed in the Bond Resolution.

ARTICLE VI **EXCULPATION**

Section 6.01 Immunity of Members of Authority.

No recourse shall be had for the enforcement of any obligation, covenant or agreement of the Authority contained in this Contract, in the Series 2023 Bond or the Bond Resolution for any claim based hereon or thereon against any member, director, officer or employee of the Authority or of any successor thereto, in his individual capacity, either directly or through the Authority whether by virtue of any constitutional provision, statute or rule of law. This Contract, the Series 2023 Bond, and the Bond Resolution are solely corporate obligations, and no personal liability shall attach to or be incurred by, any member, director, officer or employee of the Authority or of

any successor thereto, either directly or by reason of the obligations, covenants or agreements entered into by and between the Authority and the City and all personal liability of any character against every such member, director, officer and employee is, by the execution of this Contract, expressly waived and released. The immunity of members, directors, officers and employees of the Authority under the provisions contained in this Section 6.01 shall survive the termination of this Contract.

ARTICLE VII **DEFAULT; REMEDIES**

Section 7.01 Events of Default Defined. The following shall be “events of default” under this Contract and the term “event of default” shall mean, whenever used in this Contract, any one of the following events:

(a) Failure by the City to pay when due any amount required to be paid under this Contract; or

(b) The City shall fail to perform any of the other agreements, conditions, covenants or terms herein required to be performed by the City and such default shall continue for a period of 30 days after written notice has been given to the City by the Authority, the Paying Agent or the Holder specifying such default and requesting that it be remedied, or within a greater number of days if such remedy has been undertaken and is being diligently pursued and more than 30 days is required for its completion; provided, however, that if, by reason of *force majeure*, the City is unable, in whole or in part, to perform the obligations on its part herein undertaken (other than monetary obligations to the Authority or the obligations relating to the payments to be made under any provision of this Contract), the City shall not be deemed in default during the continuance of such inability to perform. The term “*force majeure*” shall mean, without limitation, acts of God; strikes; work stoppages or similar disturbances; acts of public enemies; orders of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes, fire; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery or equipment; partial or entire failure of utilities, or any other cause or event not reasonably within the control of the City. The City will use its best efforts, however, to remedy, with all reasonable dispatch, the cause or causes preventing the City from carrying out such obligation; provided, that the settlement of strikes, work stoppages and similar disturbances shall be entirely within the discretion of the City, and the City shall not be required to make settlement of such disturbances by acceding to the demands of the opposing party or parties when such course is, in the judgment of the City, unfavorable to the City; or

(c) An “Event of Default” shall have occurred under the Bond Resolution.

Section 7.02 Remedies on Default.

(a) If an event of default referred to in Section 7.01(a) or 7.01(b) hereof occurs and is continuing, then the Paying Agent or the Registered Owners, by written notice to the City, may take whatever action at law or in equity may appear necessary or desirable to enforce the

performance and observance of the obligation, agreement or covenant of the City then in default under this Contract, whether for specific performance of any covenant or agreement contained herein or therein or in aid of the execution of any power herein granted. No remedy conferred upon or reserved to the Holder in this subsection (a) is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Contract and now or hereafter existing at law or in equity or by statute, subject to the provisions of the Bond Resolution.

(b) If an event of default referred to in Section 7.01(c) hereof occurs and is continuing, then the Registered Owners may pursue the remedies set forth in the Bond Resolution.

(c) No delay or omission to exercise any right or power accruing upon any event of default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Holder to exercise any respective remedy reserved to it in this Article VII, it shall not be necessary to give any notice, other than any notice required herein.

Section 7.03 Attorneys' Fees and Expenses. In the event the City should default under any of the provisions of this Contract and the Holder shall employ attorneys or incur other expenses for the collection of the amounts payable hereunder or the enforcement, performance or observance of any obligation or agreement on the part of the City herein contained, the City, on demand therefor, will pay the amount of the reasonable fees and expenses of such attorneys and such other reasonable expenses so incurred.

Section 7.04 No Waiver of Breach. In the event any agreement contained herein should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 7.05 City Authorized to Cure Default of Authority. With regard to any default on the part of the Authority under this Contract or under the Bond Resolution, the Authority hereby vests the City with full power, for the account of the Authority, to perform any obligation in remedy of such default in the name and stead of the Authority with full power to do any and all things and acts to the same extent that the Authority could do and perform any such acts.

Section 7.06 Failure to Enforce Agreement Not a Waiver. The failure of the Authority or the Holder to enforce any agreement, condition, covenant or term by reason of any default or breach by the City shall not be deemed to void or affect the right to enforce the same agreement, condition, covenant or term on the occasion of any subsequent default or breach.

ARTICLE VIII **TERM; MISCELLANEOUS**

Section 8.01 Term of this Contract. This Contract shall be in full force and effect from the date of delivery hereof until such time as the Series 2023 Bond and any Parity Bonds shall have been paid or provision for such payment shall have been made in accordance with the Bond Resolution and all payments due or to become due to the Bond Registrar, Paying Agent, Debt Service Fund Custodian and Project Fund Custodian have been made; provided that in no event shall this Contract extend beyond fifty years from its date.

Section 8.02 Notices. All communications provided for herein shall be in writing and shall be sufficiently given and served upon the Authority, the City and the Holder, as applicable, if sent by facsimile with the original to follow by United States registered mail, return receipt requested, postage prepaid (unless otherwise required by the specific provisions hereof in respect of any matter) and addressed as follows:

If to the Authority: Downtown Development Authority
 of the City of Forest Park
 745 Forest Parkway
 Forest Park, Georgia 30297
 Attn: Chair

with a copy to: Thompson, O’Brien, Kappler & Natsuti, P.C.
 2 Sun Court, Suite 400
 Peachtree Corners, Georgia 30092
 Attn: Michael J. Williams, Esq.

and to: Seyfarth Shaw LLP
 1075 Peachtree Street, NE, Suite 2500
 Atlanta, Georgia 30309
 Attn: Daniel M. McRae, Esq.

If to the City: City of Forest Park, Georgia
 745 Forest Parkway
 Forest Park, Georgia 30297
 Attn: City Manager

with a copy to: Thompson, O’Brien, Kappler & Natsuti, P.C.
 2 Sun Court, Suite 400
 Peachtree Corners, Georgia 30092
 Attn: Michael J. Williams, Esq.

Any party, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

Section 8.03 Binding Effect; Third Party Beneficiaries. This Contract shall inure to the benefit of and shall be binding upon the Authority and the City, and their respective successors and assigns. The City hereby acknowledges and agrees that the Authority has pledged all moneys paid to the Authority by the City pursuant to Section 5.01 hereof together with the rights of the Authority to collect payments pursuant to this Contract as security for the payment of the principal or, premium, if any, and interest on the Series 2023 Bond. The City hereby consents to such pledge, and the Authority and the City agree that any Holders are third-party beneficiaries of this Contract, and may enforce the terms and provisions hereof. There are no other third-party beneficiaries.

Section 8.04 Severability. In the event any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.05 Amounts Remaining in Funds. It is agreed by the parties hereto that any amounts remaining in any Fund under the Bond Resolution after payment in full of the principal and interest on the Series 2023 Bond, the fees, charges and expenses of the Bond Registrar, Paying Agent, Debt Service Fund Custodian and Project Fund Custodian and all other amounts required to be paid, shall be paid to the City.

Section 8.06 Delegation of Duties by Authority. It is agreed that under the terms of this Contract and also under the terms of the Bond Resolution, the Authority has delegated certain responsibilities to the City. The fact of such delegation shall be deemed a sufficient compliance by the Authority to satisfy the responsibilities so delegated and the Authority shall not be liable in any way by reason of acts done or omitted by the City.

Section 8.07 Amendments, Changes and Modifications. Subsequent to the initial issuance of the Series 2023 Bond and prior to the payment in full of the Series 2023 Bond, this Contract may not be amended, changed, modified or altered except as provided in the Bond Resolution.

Section 8.08 Execution Counterparts. This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8.09 Captions. The captions or headings in this Contract are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Contract.

Section 8.10 Law Governing Construction of Contract. This Contract shall be governed by, and construed in accordance with, the laws of the State of Georgia.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Authority and the City have caused this Contract to be executed in their respective names and their respective seals to be hereunto affixed and attested by their respective duly authorized officers, all as of the date first above written.

**DOWNTOWN DEVELOPMENT AUTHORITY
OF THE CITY OF FOREST PARK, GEORGIA**

By: _____
Angelyne Butler, Chair

ATTEST:

_____, Secretary

[SEAL]

CITY OF FOREST PARK, GEORGIA

By: _____
Angelyne Butler, Mayor

ATTEST:

Clerk

[SEAL]