



Special Telephonic Council Meeting

(712) 770-5003, access code 539362#

May 11, 2020 at 7:00 p.m.

The Honorable Mayor Elizabeth Carr-Hurst, Presiding

The Honorable Mayor Pro-Tem Ulysses J. Smallwood
The Honorable Linda J. Davis
The Honorable Alex Heath

The Honorable Hattie Portis-Jones
The Honorable Pat Pallend
The Honorable James Whitmore

Mr. Randy Turner

City Attorney

I. Meeting Called to Order:

The Honorable Mayor Carr-Hurst

II. Roll Call:

Arika Birdsong-Miller
City Clerk

III. Invocation:

Councilman Alex Heath

IV. Presentations:

FY2019 Audit Presentation
Mr. Doug Moses, Partner
Mauldin & Jenkins

V. Adoption of City Council Minutes:

Councilmembers

- April 27, 2020 Special Telephonic Council Meeting

VI. Adoption of the City Council Agenda:

Councilmembers

VII. Discussion:

1. Governor Kemp's Emergency Ordinance in response to the COVID-19 Pandemic that is set to expire on May 13, 2020.

VIII. Agenda Items:

1. Park and Recreation

Mr. John Culbreth

For Mayor and Council to approve the Mental Fitness agreement for use of Fairburn's Youth Center located at 149 SW Broad Street, Fairburn, GA 30213.

2. City Clerk

Mrs. Arika Birdsong-Miller

For Mayor and Council to approve the amended 2020 meeting schedule.

3. Property Management

Mr. Harvey Stokes

For Mayor and Council to approve the 10- year lease agreement between the City of Fairburn and Trion Studio/MFI for Building #3 located at Fairburn's Educational Campus at 336 W Broad Street, Fairburn, GA 30213.

IX. Council Comments

Councilmembers

X. Adjournment

Councilmembers

*When an Executive Session is required, one will be called for the following issues:
(1) Personnel (2) Real Estate or (3) Litigation.



Presentation of September 30, 2019 Auditor's Discussion and Analysis City of Fairburn, Georgia

May 11, 2020 Mayor and Council Meeting





Auditor's Discussion and Analysis

- Engagement Team
- Results of the 2019 Audit
- Comments, Recommendations, and Other Issues
- Questions & Comments



Engagement Team



MAULDIN & JENKINS – GOVERNMENTAL PRACTICE

General Information:

- ▣ Founded in 1918, large regional firm serving the Southeastern United States.
- ▣ Offices located in Atlanta, Albany, Macon, Savannah, Birmingham, Chattanooga and Bradenton with firm governmental leadership positioned in the Atlanta (and Macon) offices.

Governmental Sector:

- ▣ Largest specific industry niche served by Firm representing 28% of Firm practice.
- ▣ Serve 115 municipalities throughout the Southeast.
- ▣ Serve more governmental entities in Georgia than any other certified public accounting firm requiring over 100,000 hours of service on an annual basis.
- ▣ Serves 115 governments receiving the GFOA's Certificate of Achievement for Excellence in Financial Reporting.
- ▣ Experience auditing a substantial part of the State of Georgia including: approximately 30% of the State's General Fund; 13 of the State of Georgia's component units.
- ▣ Approximately 90 professional staff persons with current governmental experience.
- ▣ Current auditor for over 400 total governments in the Southeast, including approximately:
 - ✓ 115 Cities ✓ 55 Counties ✓ 55 School Systems ✓ 40 State entities
 - ✓ 140 Special Purpose Entities (stand-alone business type entities, libraries, etc.)





Engagement Team & Additional Firm Information

Engagement Team Leaders for the City of Fariburn, Georgia Include:

- ▣ Doug Moses, Engagement Partner – 20 years experience, 100% governmental
- ▣ Meredith Lipson, Quality Assurance Review Partner – 24 years experience, 100% governmental
- ▣ Josh Carroll, Engagement Director/Manager – 13 years experience, 100% governmental

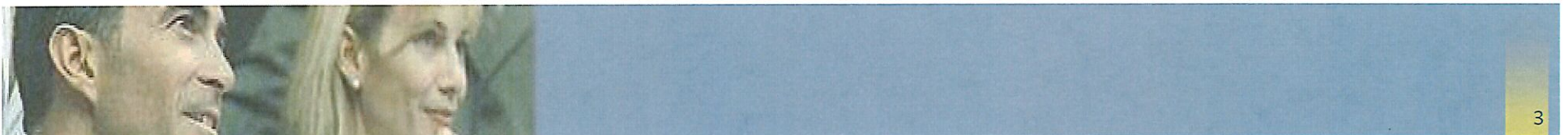
Mauldin & Jenkins – Additional Information

Other Industries & Services by Mauldin & Jenkins:

Each of Mauldin & Jenkins' offices provides a wide variety of services to a broad range of clientele. We have partners and managers who are responsible for specialized practice areas of auditing and accounting, taxes and management advisory services. Their purpose, as leaders in the particular practice area, is to establish policies with respect to technical matters in these specific areas and ensure that the quality of the Firm's practice is maintained.

Industries Served: Over the years our partners have developed expertise in certain industries representative of a cross section of the Georgia economy, including:

- | | |
|---|------------------------------|
| - Governmental Entities (state entities, cities, counties, school systems, business type operations, libraries, and other special purpose entities) | - Sec Registrants |
| - Agri-Businesses | - Wholesale Distribution |
| - Professional Services | - Manufacturing |
| - Financial Institutions (community banks, savings & loans, thrifts, credit unions, mortgage companies, and finance companies) | - Employee Benefit Plans |
| - Long-term Healthcare | - Non-Profit Organizations |
| - Individuals, Estates and Trusts | - Retail Businesses |
| | - Construction & Development |
| | - Real Estate Management |

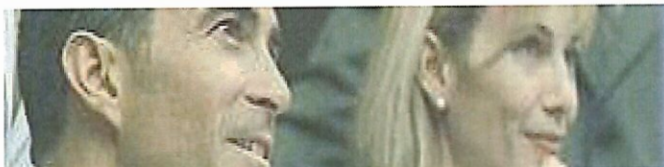




Results of 2019 Audit

- ▣ Our Responsibility Under Auditing Standards Generally Accepted in the United States of America (GAAS)
 - We considered the internal control structure for the purpose of expressing our opinion on the City's basic financial statements and not providing assurance on the internal control structure.
 - Our audit was performed in accordance with GAAS.
 - Our objective is to provide reasonable—not absolute—assurance that the basic financial statements are free of material misstatement.
 - The basic financial statements are the responsibility of the City's management.

- ▣ Report on 2019 Basic Financial Statements
 - Unmodified ("clean") opinion on basic financial statements. Audit report date of **March 23, 2020** (**Deadline Met!!!**).
 - Presented fairly in accordance with accounting principles generally accepted in the United States of America.
 - Our responsibility does not extend beyond financial information contained in our report.





Results of 2019 Audit (Continued)

▣ Significant Accounting Policies

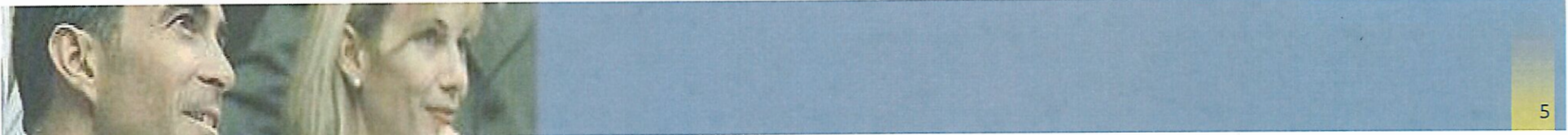
- The significant accounting policies used by the City are described in Note 1 to the basic financial statements.
- The policies used by the City are in accordance with generally accepted accounting principles and similar government organizations.
- In considering the qualitative aspects of its policies, the City is not involved in any controversial or emerging issues for which guidance is not available.

▣ Management Judgment/Accounting Estimates

- The City uses various estimates as part of its financial reporting process – including valuation of accounts receivable , net pension liability, and depreciation expense for its capital assets..
- Management's estimates used in preparation of financial statements were deemed reasonable in relation to the financial statements taken as a whole. We considered this information and the qualitative aspects of management's calculations in evaluating the City's significant accounting estimates.

▣ Financial Statement Disclosures

- The footnote disclosures to the financial statements are also an integral part of the financial statements and the process used by management to accumulate the information included in the disclosures was the same process used in accumulating the statements. The overall neutrality, consistency, and clarity of the disclosures was considered as part our audit.





Results of 2019 Audit (Continued)

▣ Relationship with Management

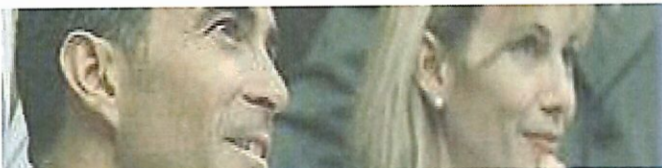
- We received full cooperation from the City's management, staff, and others.
- There were no disagreements with management on accounting issues or financial reporting matters.

▣ Audit Adjustments

- Adjustments were proposed to the records of the City and have been recorded in the City's financial statements. The City's finance director has copies of these audit entries and will have available with this presentation. There were no passed adjustments.

▣ Representation from Management

- We requested written representations from management relating to the accuracy of information included in the financial statements and the completeness and accuracy of various information requested by us, during the audit. Management provided those written representations without a problem.





Results of 2019 Audit (Continued)

□ Consultation with Other Accountants

- To the best of our knowledge, management has not consulted with, or obtained opinions from, other independent accountants during the fiscal year, nor did we face any issues requiring outside consultation.

□ Significant Issues Discussed with Management

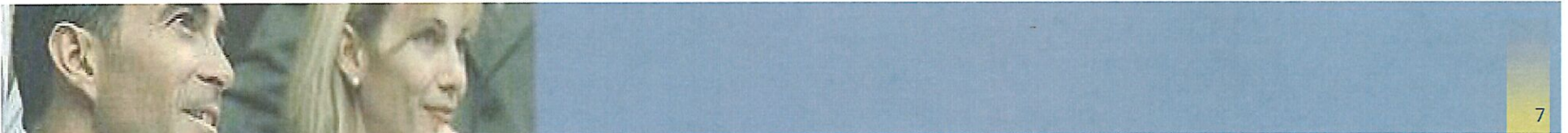
- There were no significant issues discussed with management related to business conditions, plans, or strategies that may have affected the risk of material misstatement of the financial statements.

□ Information in Documents Containing Audited Financial Statements

- Our responsibility for other information in documents containing the City's basic financial statements and our report thereon does not extend beyond the information identified in our report. If the City intends to publish or otherwise reproduce the financial statements and make reference to our firm, we must be provided with printers' proof for our review and approval before printing. The City must also provide us with a copy of the final reproduced material for our approval before it is distributed.

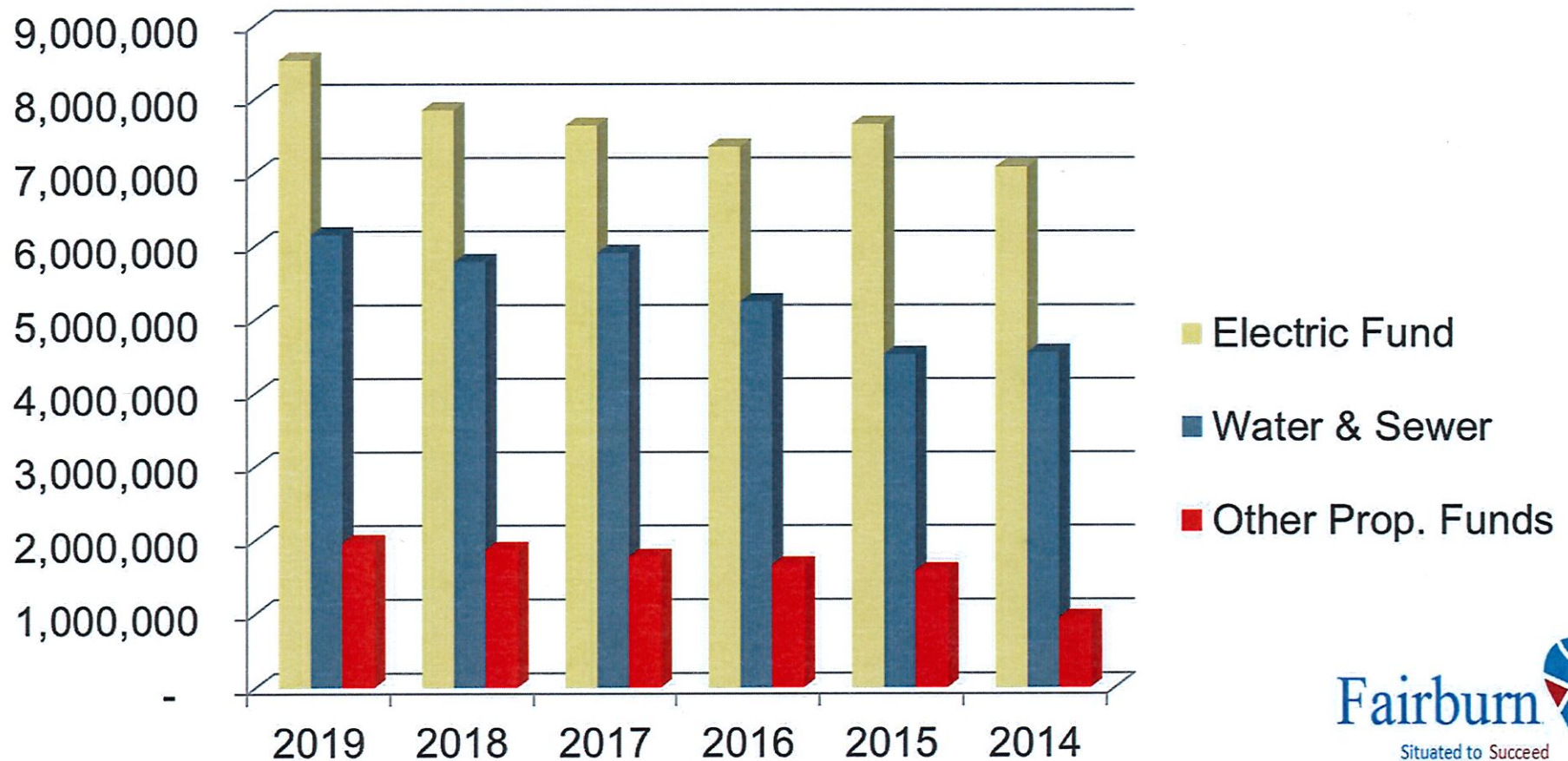
□ Auditor Independence

- In accordance with AICPA professional standards, M&J is independent with regard to the City and its financial reporting process.
- There were no fees paid to M&J for management advisory services during fiscal year 2019 that might effect our independence as auditors.



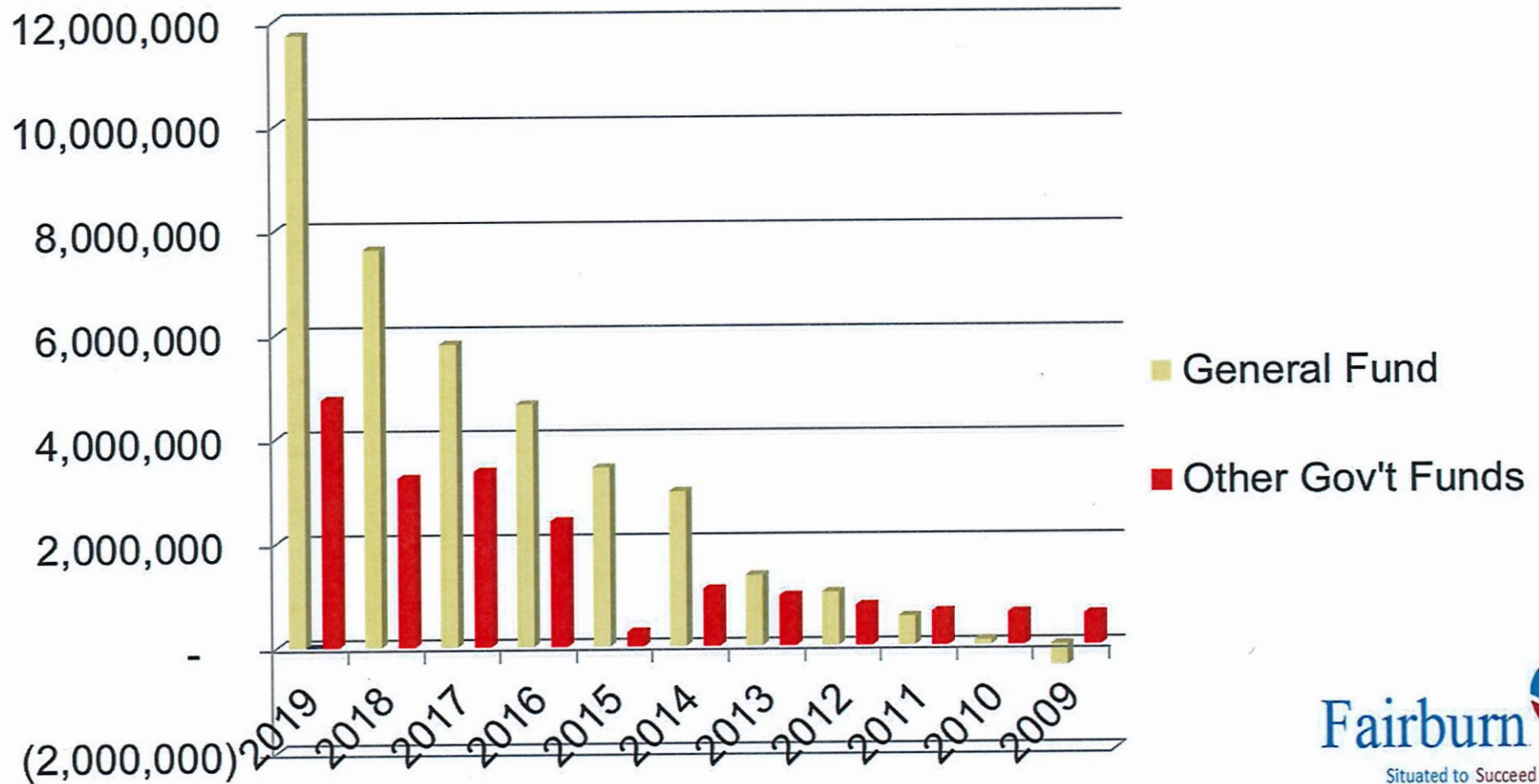


Financial Trends – Revenues (Operating Revenue) 6 Year Comparison





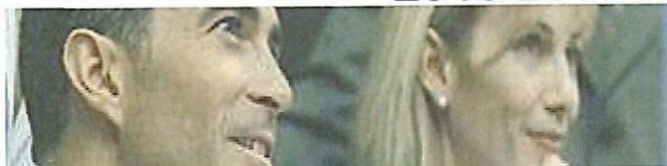
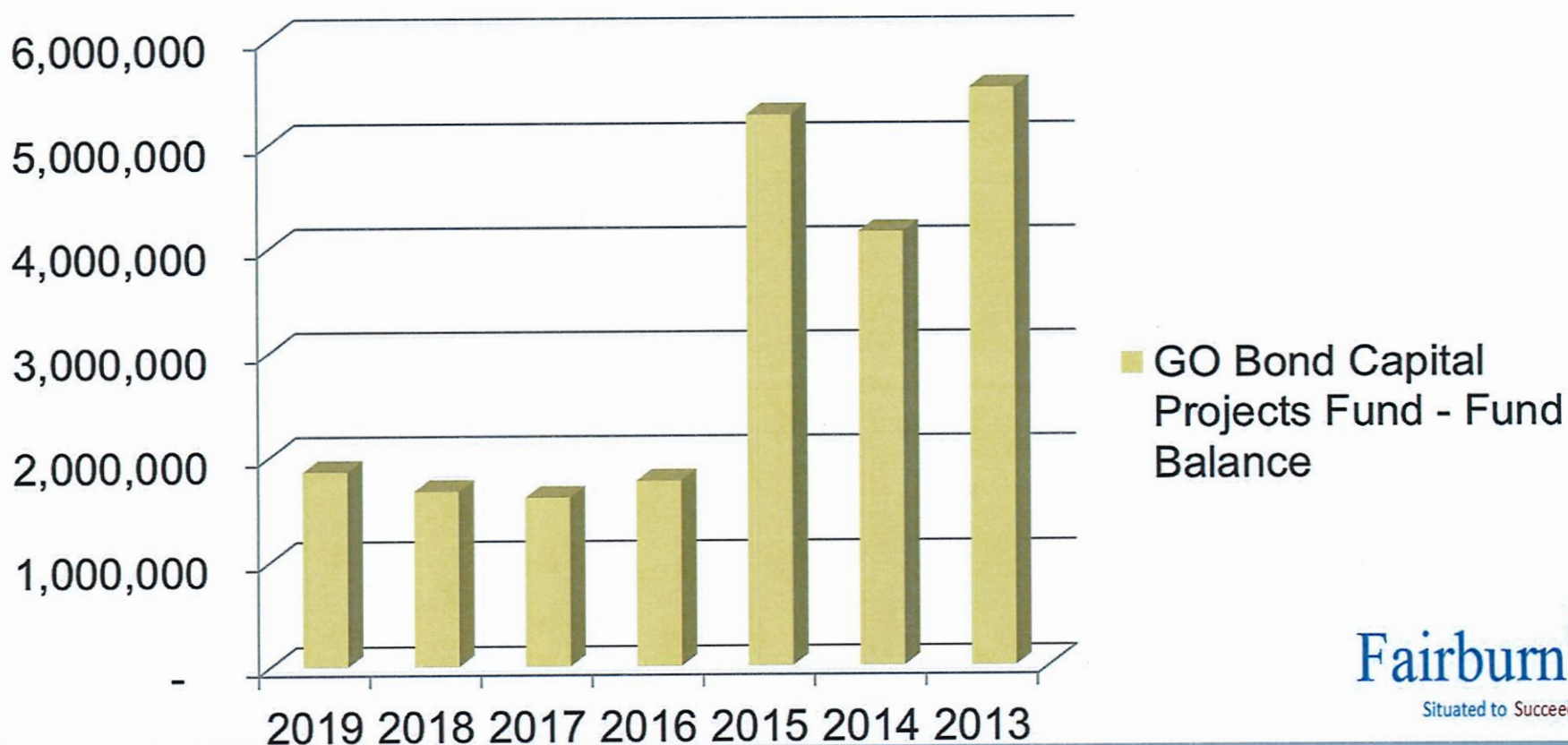
Financial Trends – Fund Balances of General Fund and Other Governmental Funds (11 Year Comparison)





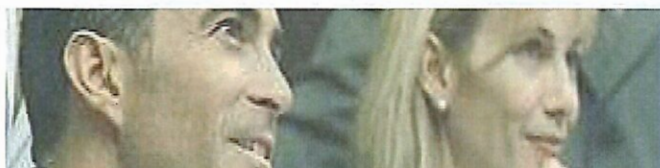
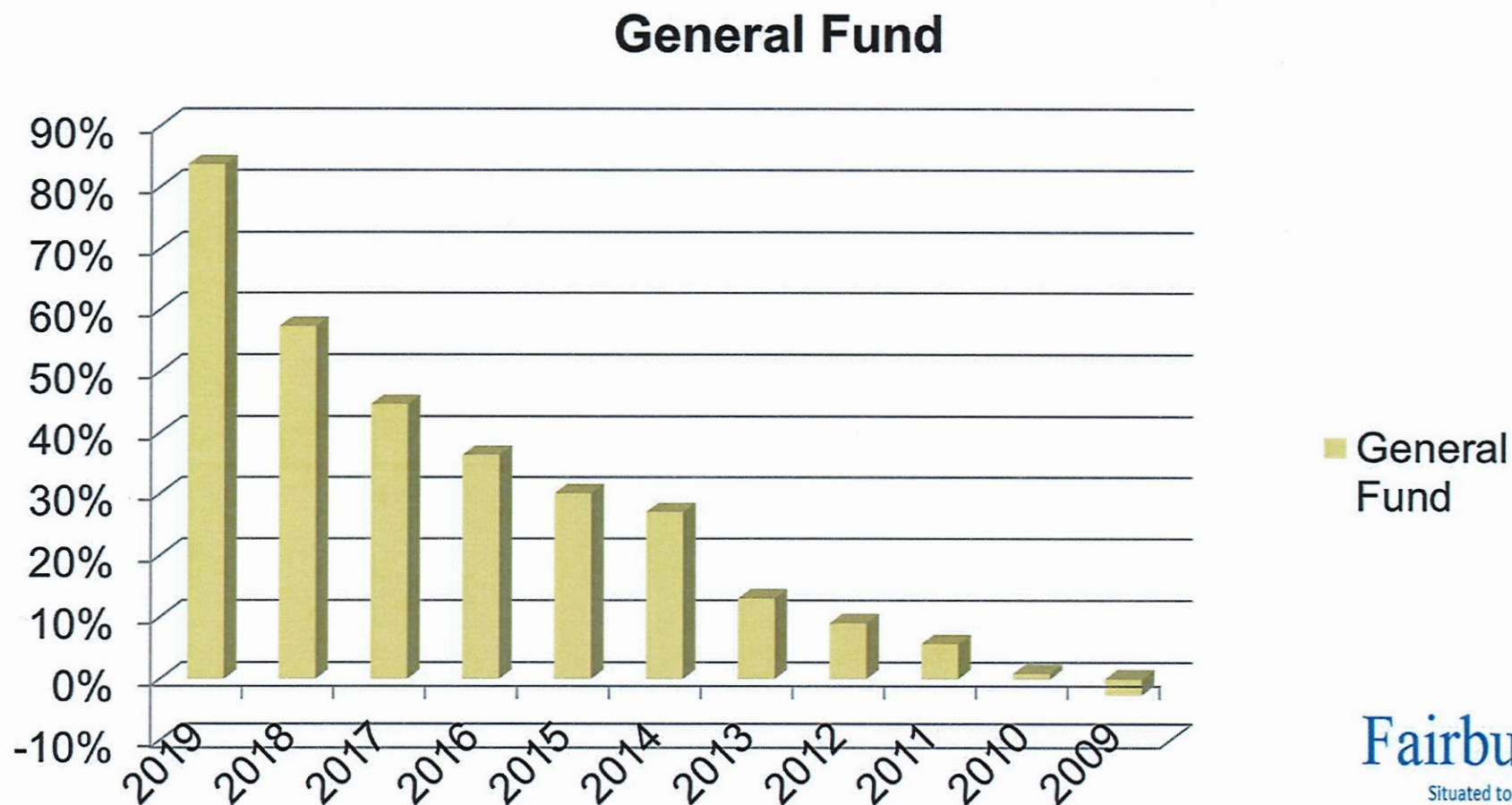
Financial Trends – Fund Balances (7 Year Comparison) – GO Bond Capital Projects Fund

GO Bond Capital Projects Fund - Fund Balance





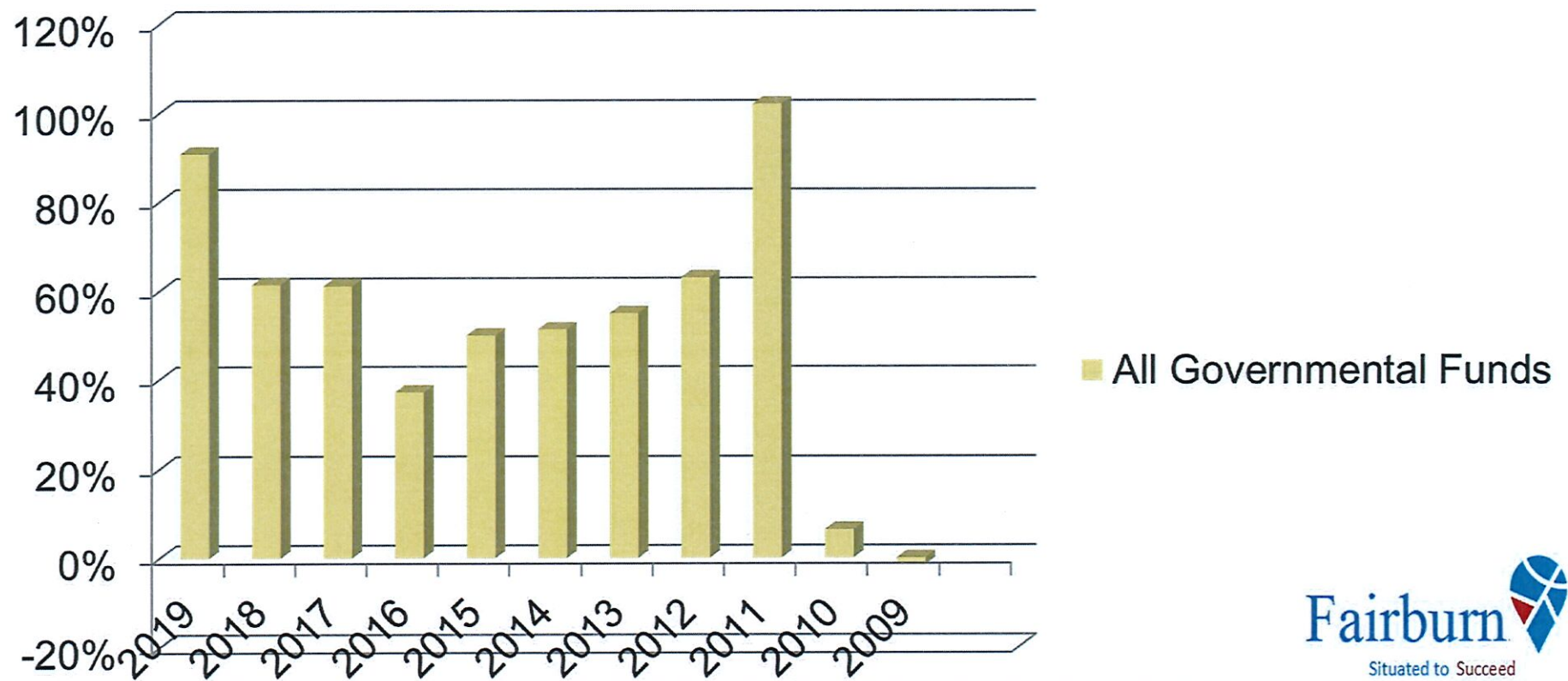
Fund Balance as a Percentage of Total Expenditures – 11 Year Comparison – General Fund





Fund Balance as a Percentage of Total Expenditures – 11 Year Comparison - All Governmental Funds

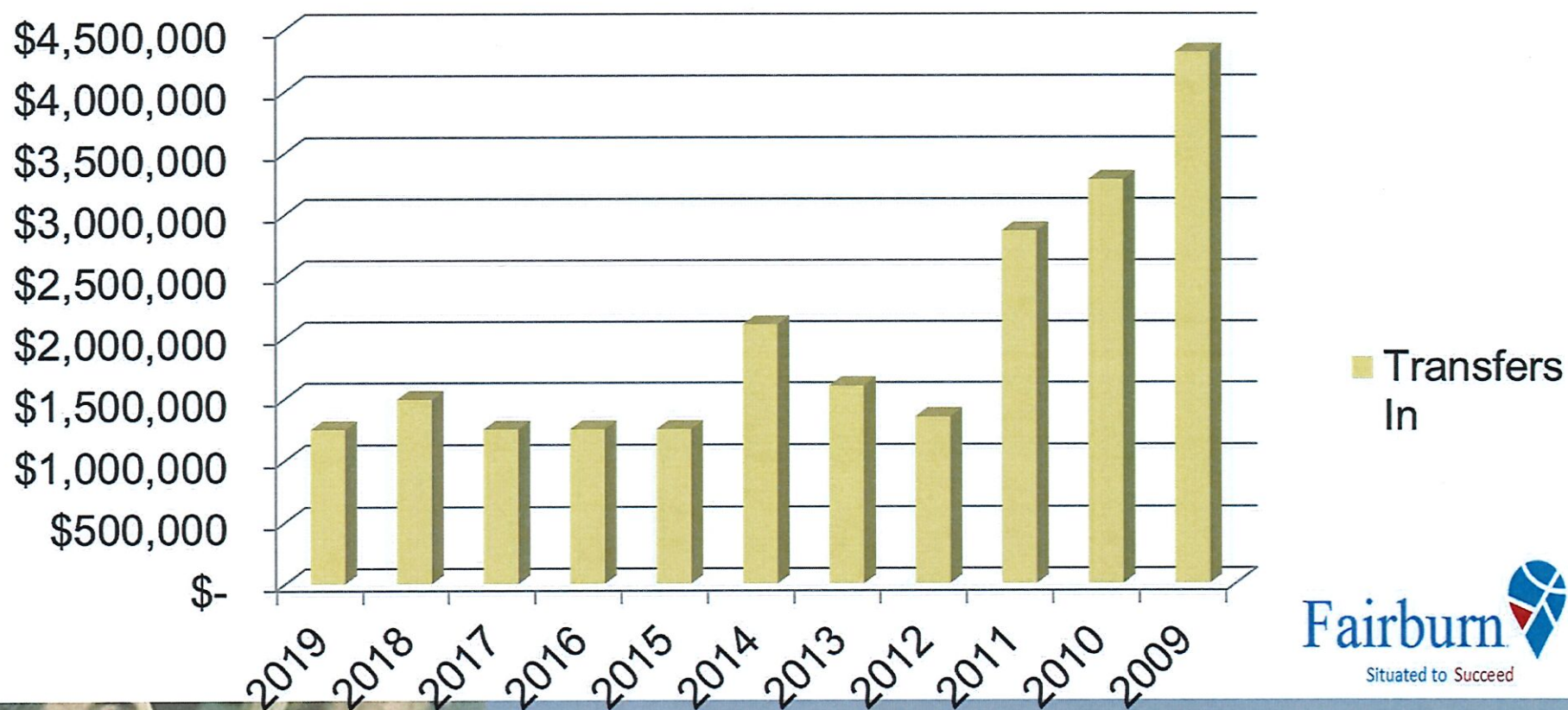
All Governmental Funds





Transfers in to General Fund from Enterprise Funds – 11 Year Comparison

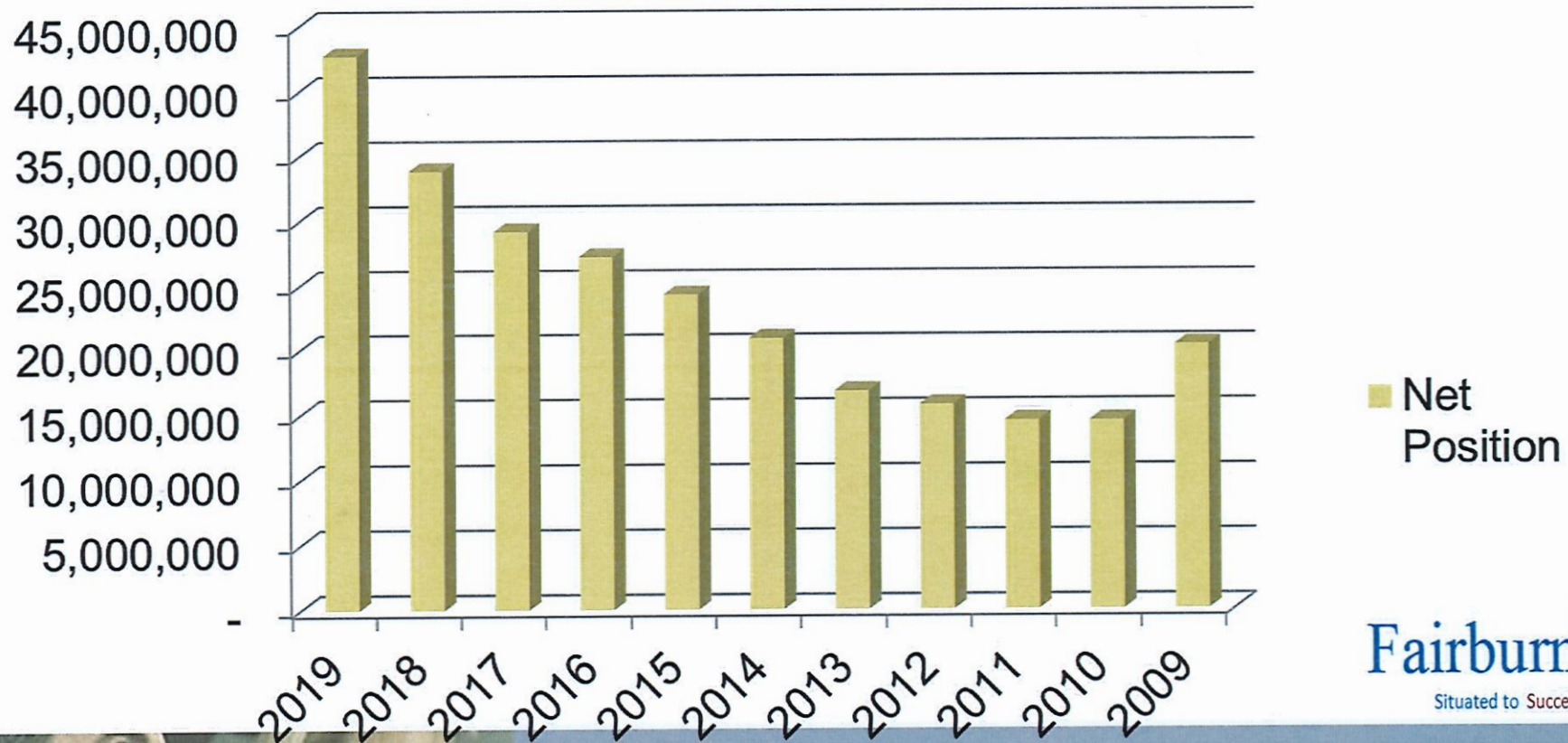
Transfers In



Financial Trends –Governmental Activities - Net Position 11 Year Comparison



Net Position





Comments, Recommendations, & Other Issues

□ Items Cited As Material Weaknesses in the GAS “Yellow Book” Audit Report

2019-001 Accounting for Leases. The City entered into a new equipment lease (financed purchase) in January 2019, but did not identify the lease as capital and therefore did not record the related asset or lease liability. The proceeds from financed purchases and related capital outlays were also not recorded in the General Fund in accordance with the modified accrual basis of accounting.

Audit adjustments were required as follows:

- To add capital lease payable (financed purchase) and capital assets of \$100,934 to the government wide financial statements.

- To record lease proceeds and capital outlay expenditures of \$100,934, in accordance with the modified accrual basis of accounting, in the General Fund.





Comments, Recommendations, & Other Issues (Continued)

□ Management Recommendations for Improvement

1. Cash Internal Controls (Repeat)

During our testing of the cash reconciling items, we noted the City was continuing to carry old outstanding checks which were over five (5) years outstanding. We identified 204 checks totaling \$40,498 which were outstanding for over five (5) years. We recommend the City evaluate the current status of these checks and ensure any outstanding amounts are remitted to the Georgia Department of Revenue in accordance with the State's Escheat laws.

2. Pension Census Data

During our testing of the pension census data submitted to the Segal Group for the annual pension actuarial valuation, we noted two (2) employees from a sample of twenty-five (25) whose data did not agree with the employees personnel file. The employee date of birth in the data was incorrect. We recommend the City ensure the data submitted to the actuary is in agreement with the City's personnel files.





Comments, Recommendations, & Other Issues (Cont'd)

□ New GASB Pronouncements

- **GASB Statement No. 84, *Fiduciary Activities***, will require the City to revisit any potential fiduciary funds with a focus on (1) whether the City is controlling the assets of the fiduciary activity and (2) the beneficiaries with whom the fiduciary relationship exists. All fiduciary funds will require a statement of changes in fiduciary net position. Applicable for September 30, 2020.
- **GASB Statement No. 87, *Leases***, will require all lease agreements to be recorded as a liability under full accrual accounting. Many of these leases were previously considered operating leases and payments were expensed as incurred with no liability accrued. Applicable for September 30, 2021.
- **GASB Statement No. 88, *Certain Disclosures Related to Debt, Including Direct Borrowings and Direct Placements***, which defines debt for disclosure purposes and adds disclosures related to debt (it does not reduce any previously required disclosures. Implemented as of September 30, 2019.
- **Statement No. 89, *Accounting for Interest Cost Incurred Before the End of a Construction Period*** was issued in June 2018 and is effective for reporting periods beginning after December 15, 2019 (meaning September 30, 2021). This standard eliminates the requirement/ability to capitalize construction period interest costs as part of the cost of a capital asset in enterprise funds. This standard should be applied prospectively with no restatement. This standard can be early implemented as part of fiscal year 2018. No impact to the City as the City was not capitalizing interest.





Comments, Recommendations, & Other Issues (Cont'd)

□ New GASB Pronouncements (Continued)

- **Statement 90, *Majority Equity Interests – An Amendment of GASB's No. 14 and 61*** was issued in August 2018, and is effective for reporting periods beginning after December 15, 2018 (meaning September 30, 2020). Under this standard, an equity interest is: a) a financial interest in a legally separate organization by the ownership shares of the organization's stock; or, b) by otherwise having an explicit, measurable right to the net resources of the organization that is usually based on an investment of financial or capital resources by a government. An equity interest is explicit and measurable if: a) the government has a present or future claim to the net resources of the entity, and b) the method for measuring the government's share of the entity's net resources is determinable.

If the interest is deemed to be an investment under GASB No. 72, paragraph 64, then the interest should be reported as an investment and measured using the equity method. If the interest is held by a special-purpose government engaged in fiduciary activities, a fiduciary fund, or an endowment or permanent fund, then amount should be measured at fair value. If interest is 100% of entity, then it is a component unit.

- **Statement 91, *Conduit Debt*** was issued in May 2019, and is effective for reporting periods beginning after December 15, 2020 (meaning September 30, 2022). Under this standard, GASB has re-defined conduit debt and clarified the circumstances under which it is to be recorded as well as the related disclosures that are required.





Free Quarterly Continuing Education for Government Clients

FREE QUARTERLY CONTINUING EDUCATION AND NEWSLETTERS

FOR GOVERNMENTAL CLIENTS

Free Continuing Education. We provide free quarterly continuing education for all of our governmental clients. Each quarter we pick a couple of significant topics tailored to be of interest to governmental entities. In an effort to accommodate our entire governmental client base, we offer the sessions several times per quarter at a variety of client provided locations resulting in greater networking among our governmental clients. Examples of subjects addressed in the past few quarters include:

- CAFR Preparation - GASB Updates - Grant Accounting Processes and Controls - GASB 68 (Pensions)
- Internal controls over revenue and cash receipting and accounts payable, payroll, and cash disbursements
- American Recovery & Reinvestment Act (ARRA) information, issues and updates - Single audits for auditees
- Collateralization of Deposits and Investments - Internal Controls over Accounts Payable, Payroll and Controls
- Policies and Procedures Manuals - Segregation of Duties – GASB 75 (OPEB) – GASB 87 (Leases)
- Data Security and General Information Technology Controls and Best Practices

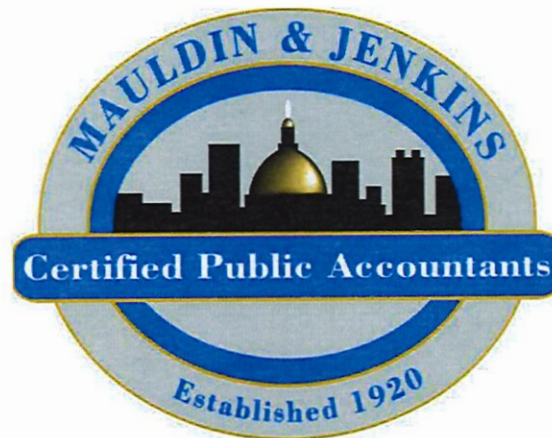
Communication. In an effort to better communicate our free continuing education plans and newsletters, please email Paige Vercoe at pvercoe@mjcpa.com (send corresponding copy to dmoses@mjcpa.com), and provide to her individual names, mailing addresses, email addresses and phone numbers of anyone you wish to participate and be included in our database.





Comments & Questions?

We appreciate the opportunity to serve the City of Fairburn and look forward to continuing to work with the City in upcoming years!





City of Fairburn
Mayor and Council Telephonic Meeting
April 27, 2020
7:00 p.m. @ City Hall

- I. The meeting was called to order at 7:00 p.m. by the Honorable Mayor Carr-Hurst.
- II. Roll Call was taken by City Clerk, Arika Birdsong-Miller with the following members present:

Mayor Elizabeth Carr-Hurst

The Honorable Mayor Pro-Tem Ulysses J. Smallwood
The Honorable Linda J. Davis
The Honorable Alex Heath

The Honorable Pat Pallend
The Honorable Hattie Portis-Jones
The Honorable James Whitmore

The attendance of Council constituted a quorum and the meeting proceeded.

City Attorney Randy Turner was also present.

- III. The invocation was led by Pastor John Culbreth of New Mt. Caramel AME located in Sharpsburg, Georgia.
- IV. Adoption of City Council Meeting Minutes:
Motion to approve April 13, 2020, Regular Telephonic Meeting Minutes was made by Councilwoman Davis and the second was provided by Councilman Heath.
Vote: 6-0: Motion Carried.
- V. Adoption of the Council Agenda:
Motion to approve the Council Agenda was made by Councilman Whitmore and the second was provided by Mayor Pro-Tem Smallwood.
Vote: 6-0: Motion Carried.
- VI. Agenda Items:

1. Tanner, Ballew, and Maloof

Mr. Steven Maloof

For Mayor and Council to approve the 2020 Liability and Property Insurance in the amount of \$330,444 or the option of not purchasing the enhanced Cyber Liability policy, which would put the total premium amount at \$324,600. Mr. Maloof explained to Mayor and Council that on an overall average, the rates are down by 3% for the 2020-20201 term. Mr. Maloof also stated that the premium is up about 15%, but that is a result of exposure increases and the budget going from 39m to 54m. Councilwoman Portis-Jones asked Mr. Maloof would guidance on technology on what the City can do to limit exposure. Mr. Maloof informed Councilwoman Portis-Jones that the insurance company would provide recommendations. Councilwoman Davis inquired to Mr. Maloof how will a hostage of electronic information be handled. Mr. Maloof informed Councilwoman Davis that the insurance company should be notified immediately, and they will be actively involved in solving the problem. Councilman Heath inquired about the umbrella policy being \$14,000, and Mr. Maloof informed him that the market has become expensive. Councilman

Whitmore questioned why there was no flood insurance on the playground equipment at Cora Robinson Park. Mr. Maloof informed Councilman Whitmore that the park equipment is in a flood zone and cannot be covered because of its location. Motion to approve the 2020 Liability and Property Insurance in the amount of \$330,444 was made by Councilman Heath and the second was provided by Councilwoman Davis.

Vote: 6-0: Motion Carried.

2. Finance Department

Ms. Angela Jackson

For Mayor and Council to approve the FY2020 Mid-Year Budget Adjustments. Ms. Jackson reviewed the completed fiscal year for 2019 as of March 31, 2020, and explained where the City of Fairburn is financially as of March 31, 2020. Ms. Jackson explained the budget adjustments request and the budget calendar for the fiscal year 20201 and the budget amendment, which transfers funds to purchase the products or services requested by the various departments as an adjustment to the current budget. Councilwoman Davis asked Ms. Jackson when the pandemic started to affect finances and if we could apply some of the outstanding balances from water accounts that needed to be back billed. Ms. Jackson informed Councilwoman Davis that in the month of March, the decline began and added an increase in the cleaning budget in response to COVID-19. Councilwoman Portis-Jones asked for a projection of COVID-19 for the remainder of the year and inquired why the budget only indicated \$400 in expenses for the cleaning of city buildings. Ms. Jackson informed Councilwoman Portis-Jones that the reason why the cleaning price only reflected \$400 was because staff cleaned all the buildings except the Police Department and was paid using budgeted salary overtime.

Councilwoman Portis-Jones made a substitute motion to postpone adjustments for one month; the Motion died due to the lack of a second.

Motion to approve the FY2020 Mid-Year Budget Adjustments was made by Councilman Pallend and the second was provided by Councilman Whitmore.

Vote: 5-1: Motion Carried.

Councilwoman Portis-Jones voted in opposition.

3. Fire Department

Chief Cornelius Robinson

For Mayor and Council to approve the Purchase of Stryker ProCare Maintenance Plan in the amount of \$7,387.20. Chief Robinson explained to Mayor and Council that the contract for the maintenance plan of 3 LIFEPAK 15's and 6 AED machines. Chief Robinson also stated that the funding for the contract is included in the Fire Department's FY 19-20 budget. Motion to approve the Purchase of the Stryker ProCare Maintenance Plan was made by Mayor Pro-Tem Smallwood and the second was provided by Councilman Whitmore.

Vote: 6-0: Motion Carried.

- VII. Ms. Lydia Glaize with United Way thanked the City of Fairburn, Mayor Carr-Hurst, and Councilman Whitmore for collaborating to make the food drive in supported of 2 labor unions that furloughed over 2,000 employees during the pandemic. The employees from the labor union were employed at the Atlanta Airport, and most of the employees were receiving the lowest salary while employed. As a result of the low wages, most employees were living check to check. The food drive helped feed families that would otherwise go without food and basic

necessities. Ms. Glaize expressed her appreciation for the City of Fairburn that helped make this event possible.

VIII. Council Comments:

Mayor Pro-Tem Smallwood had no comment.

Councilwoman Davis stated she was excited about Fairburn helping families with food during the pandemic.

Councilman Heath stated that he is very grateful to Ms. Glaize and admires her for her generosity.

Councilwoman Portis-Jones thanked Ms. Glaize and Mayor Carr-Hurst for their leadership on providing food resources to our residents. Councilwoman Portis-Jones suggested food delivery to the senior citizens.

Councilman Pallend asked Mayor Hurst if employees were working from home in conjunction with coming in the office when needed during the week. Mayor Carr-Hurst informed Councilman Pallend that the City of Fairburn does not have a Telework Policy in place. Mayor Carr-Hurst informed Council that a reporter from the Atlanta Journal Constitution contacted her concerning employees coming into work, and she informed the reporter that essential employees are coming into the office. Non-essential employees are not, but all employees are receiving their regular salary.

Councilman Whitmore thanked Ms. Lydia Glaize with United Way in conjunction with Margie's House and the Fire, Police, and Street Department for making the food drive so successful.

Mayor Carr-Hurst thanked everyone for their support during this time and Councilman Whitmore for his assistance during the pandemic.

IX. Adjournment: At 8:40 p.m., with no further business of the City of Fairburn, the Motion to adjourn was made by Councilman Heath and the second was provided by Councilwoman Davis.

Vote: 6-0: Motion Carried.



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: CITY EMERGENCY OPERATING ORDINANCE

☐ AGREEMENT
☒ ORDINANCE

☐ POLICY / DISCUSSION
☐ RESOLUTION

☐ CONTRACT
☐ OTHER

Submitted: 05/11/2020

Work Session: N/A

Council Meeting: 05/11/2020

DEPARTMENT: Office of the Mayor

BUDGET IMPACT: Continuation of Hazard Pay for Identified Essential Employees

PUBLIC HEARING? ☐ Yes ☒ No

PURPOSE: Discussion of and consideration of amendments and/or continuation of City's 3rd Emergency Ordinance (04/20/2020).

HISTORY: The City's 3rd Emergency Ordinance (04/20/2020) is set to expire at 11:59 P.M. on May 13, 2020. This Ordinance outlines the City's response to the COVID-19 crisis.

RECOMMENDED ACTION: Discussion and consideration of amendments and/or continuation.


Elizabeth Carr-Hurst, Mayor



CITY OF FAIRBURN
CITY COUNCIL AGENDA ITEM

SUBJECT: USAGE AGREEMENT- MENTAL FITNESS 21ST CENTURY LEARNING INC.

() AGREEMENT () POLICY / DISCUSSION (X) CONTRACT
() ORDINANCE () RESOLUTION () OTHER

Submitted: 05/06/2020

Work Session: N/A

Council Meeting: 05/11/2020

DEPARTMENT: Park and Recreations

BUDGET IMPACT: \$16,640 in Revenue to the City

PUBLIC HEARING? () Yes (X) No

PURPOSE: For Mayor and Council to approve the Mental Fitness agreement for use of Fairburn's Youth Center 149 SW Broad Street, Fairburn, GA 30213

HISTORY: Mental Fitness has been involved in the City of Fairburn since 2015 providing high level STEAM (Science, Technology, Engineering, Arts, and Mathematics) enrichment activities for school aged students. To date Mental Fitness has provided over \$50,000 in scholarships to residents in the City of Fairburn.

FACTS AND ISSUES: John Childs is the owner of Mental Fitness 21st Century Learning Inc. and would like renewal of rental agreement at the City of Fairburn's Youth Center 149 SW Broad Street.

RECOMMENDED ACTION: For Mayor and Council to approve the Rental Agreement between John Childs (Mental Fitness 21st Century Learning Inc.) and the City of Fairburn for use of the Youth Center located at 149 SW Broad Street for a two-year lease.


Elizabeth Carr-Hurst, Mayor

**AGREEMENT FOR AFTERSCHOOL AND SUMMER CAMP PROGRAMMING
BETWEEN MENTAL FITNESS, 21ST CENTURY LEARNING INC.
AND CITY OF FAIRBURN GEORGIA**

This Agreement, made as of May 27, 2020, by and between Mental Fitness, 21st Century Learning, Inc. (hereinafter "Mental Fitness") and the City of Fairburn, Georgia (hereinafter "the City") is for the provision of afterschool and summer camp programs to be provided by Mental Fitness to the City of Fairburn, Georgia.

WHEREAS, the City desires to enter into a contract for afterschool and summer camp programs for the City of Fairburn Parks and Recreation Department; and

WHEREAS, Mental Fitness was determined to be a responsible, responsive for such services; and

WHEREAS, the City desires to have Mental Fitness provide such services under certain conditions and at certain locations now or hereafter to be determined.

NOW THEREFORE, in consideration of the mutual covenants contained herein the parties agree as follows:

A. CITY PARK PROPERTY INCLUDED: Mental Fitness agrees to operate afterschool and summer camp programs to be located at the following facility:

1. Fairburn Youth Center
149 SW Broad Street
Fairburn, GA 30213

A. Afterschool: Monday – Friday (2:00pm—7:00pm)
During Fulton County School District Academic Years
2020-2021

B. TERM: This Agreement shall be effective as of May 27, 2020 and shall continue in effect until the end of the Fulton County School District's 2020 – 2022 academic year; provided, however, that this Agreement may be terminated by either Mental Fitness or the City, with or without cause, upon giving thirty (30) days prior written notice to the other.

C. **RENT:** The City agrees to provide space in the Education Campus for the afterschool program, and summer programming or such other location or locations as the City finds available and appropriate for Mental Fitness to provide the afterschool and summer camp programs described in Section A of this Agreement, and Mental Fitness agrees to pay the City of Fairburn for such space a gross rent during the Term of this Agreement in the amount of \$750.00 per month June -- July and \$682.00 per month August -- May, which rent shall be paid on or before the tenth (10th) of each month. Effective on the fifteenth (15th) day of the month, a ten percent (10%) late fee shall be applied.

D. **MENTAL FITNESS AGREES TO:**

1. Provide high-quality afterschool and summer camp programs that offer students' academic/educational enrichment and recreational activities for Grades K-8. Mental Fitness will implement an enriching and enjoyable afterschool program and summer camp format that blends academic assistance, enrichment, recreation, physical activities, and arts.
2. Hire and manage all personnel who shall be Mental Fitness employees; be responsible for continuous staffing of the afterschool and summer camp programs; comply with all local and state laws, codes, and regulations regarding afterschool and summer camp program personnel shall be adhered to, including, without being limited to -- that all staff, contractors, and volunteers must have a background check on file with Mental Fitness, that the cost of such background checks will be the sole responsibility of Mental Fitness, that all Mental Fitness personnel shall maintain a clean and neat appearance, and that the maximum allowable child to staff ratio will comply with the requirements of the Department of Health and Children Services, 25:1.
3. Provide for dismissal of the afterschool and summer camp programs in the rooms designed as the "game room" and "multipurpose room" at 5:30p.m each day.
4. Provide transportation from selected schools to the City of Fairburn Education Campus at the time of school dismissal
5. To keep all areas clean, sanitary, and maintained in an orderly fashion.
6. Mental Fitness shall provide janitorial supplies and janitorial services for the summer camp program located at the Fairburn Education Campus 310 NW Broad St, Fairburn, GA 30213 for summer camp program.
7. Mental Fitness shall provide janitorial assistance at Fairburn Education Campus in the form of supplies during summer camp hours.

8. Provide tables and chairs for the Fairburn Education Campus as necessary to conduct the summer camp programs.
9. Mental Fitness shall be responsible (after each day's use) for keeping the used spaces, including all City-owned equipment, in a neat and clean condition, and shall be responsible for repairing any damages caused by Mental Fitness's negligent acts or omissions or intentional misconduct of Mental Fitness, or by the negligent acts or omissions or intentional misconduct of Mental Fitness's students, invitees, agents, and representatives.
10. Mental Fitness shall comply with all terms and conditions of the attached Addendum A relating to insurance and indemnification.
11. Abide by the terms of this Agreement and the contract documents.

E. THE CITY AGREES TO:

1. Make periodic inspections (a minimum of once a month) of the Fairburn Education Campus premises and equipment at the operating facility during the contract term.
2. Make periodic inspections (a minimum of once a month) of the Fairburn Education Campus summer camp location premises, or such other designated premises during the Agreement term.
3. Provide utilities, including electricity, solid waste disposal, and water and sewer service.
4. The City shall be responsible for the routine maintenance of the City's facility unless such maintenance is required as a result of damage caused by Mental Fitness, its employees, agents, or representatives.
5. Provide a "office" area inside of the Fairburn Education Campus

F. WORK PRODUCTS AND SERVICES REQUIRED

1. EQUIPMENT AND PROPERTY
The City will provide trash containers and the City will provide disposal.
2. MAINTENANCE OF EQUIPMENT
All program related equipment and equipment maintenance will be the responsibility of Mental Fitness.

3. UTILITIES

The City of Fairburn shall provide utilities to Mental Fitness, at no additional charge, which includes electricity, solid waste disposal, water and sewer service.

The City of Fairburn will not provide telephone service or be responsible for charges incurred for this service by Mental Fitness.

G. **CONTRACT DOCUMENTS:** The Contract Documents consist of this Agreement, and any addend. Should there be any discrepancy amongst the documents; the above order of priority will prevail.

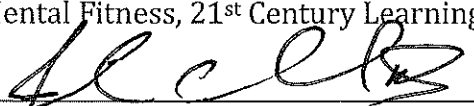
H. **GOVERNING LAW AND VENUE:** The Contract Documents shall be governed by the laws of the State of Georgia. Any dispute arising with regard to the interpretation or meaning of the Contract Documents which cannot be resolved amicably may be settled by litigation. Both parties agree exclusive venue shall lie in the Superior Court of Fulton County, Georgia.

I. **SEVERABILITY:** Should any portion of this Agreement be deemed unconstitutional or otherwise unenforceable by a Court or body of competent jurisdiction, then the remaining portions of the Agreement shall remain in full force and effect.

J. **ADDENDUM A:** The attached Addendum A is hereby incorporated herein as a part of this Agreement. The City and Mental Fitness agree to accept and be bound by the terms and conditions of Addendum A.

Mental Fitness, 21st Century Learning Inc.

City of Fairburn, Georgia


John Childs - Signature

Elizabeth Carr-Hurst, Mayor

John Childs - Printed

Date:

5-6-20

Title:

Executive Director

Date: _____

Attest: _____

Arika Birdsong-Miller, City Clerk

Approved as to Form:

William R. (Randy) Turner, City Attorney

ADDENDUM A:

INSURANCE REQUIREMENTS; INDEMNIFICATION.

Mental Fitness shall procure and maintain for the duration of the contract insurance against claims for injuries to persons, including death, as well as damages to property which may arise from or occur in connection with performance of the work hereunder by Mental Fitness, their agents, representatives, employees, or subcontractors.

A. MINIMUM LIMITS OF INSURANCE

Mental Fitness shall maintain insurance coverage throughout the term of this Agreement with limits no less than:

1. General Liability: \$1,000,000 combined single limit per occurrence for comprehensive coverage including bodily injury, personal injury, death and property damage for premises/operations, products/completed operations, contractual liability, independent contractors, broad-from property damage, and underground, explosion and collapse hazard.
2. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the State of Georgia and Employers Liability of \$100,000 per accident.
3. Umbrella Liability: \$5,000,000 combined single limits per occurrence.

B. DEDUCTIBLES AND SELF-INSURED RETENTION

Any deductibles or self-insurance retentions must be declared to and approved by the City. At the option of the City, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officer's officials, and employees; or Mental Fitness shall procure a bond guaranteeing payment of losses related to investigations claim administration and defense expenses.

C. OTHER INSURANCE PROVISIONS

1. General Liability, Automobile Liability, and Umbrella Liability Coverages
The City and its officers, officials, employees and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of Mental Fitness.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City and its officers, officials employees or volunteers.

Mental Fitness is responsible for insuring its own property and equipment.

2. Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City and its officers, officials, employees and volunteers for losses arising from the work performed by Mental Fitness for the Owner.
3. All Coverages: Each insurance policy required by this clause shall be endorsed to state that coverage shall not be changed, cancelled, suspended, terminated or non-renewed except after sixty (60) days prior written notice by certified mail, return receipt requested, has been given to the City of said change of coverage, cancellation, suspension, termination / or non-renewal.

D. ACCEPTABILITY.

Insurance is to be placed with insurers with a Best's rating of no less than A: VII, or otherwise acceptable to the Owner.

E. VERIFICATION OF COVERAGE.

Mental Fitness shall furnish the City with certificates of insurance and with original endorsements effecting coverage required by this clause. These certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be received and approved by the City before any work commences. The City reserves the right to require complete, certified copies of all required insurance policies at any time.

F. SUBCONTRACTORS

Subcontractor means one not in the employment of Mental Fitness who is performing all or part of the services under this Agreement under a separate contract with Mental Fitness

Mental Fitness shall include all subcontractors as insured under its insurance or shall ensure that subcontractors have met the insurance requirements of this Agreement. The City may request evidence of subcontractor's insurance.

G. WAIVER OF SUBROGATION

Mental Fitness shall require all insurance policies in any way related to the work and secured and maintained by Mental Fitness to include clauses stating each underwriter shall waive all rights of recovery, under subrogation or otherwise, against the City. Mental Fitness shall require of subcontractors, by appropriate written agreements, similar waivers each in favor of all parties enumerated in this section.

INDEMNIFICATION/HOLD HARMLESS AGREEMENT

Mental Fitness shall, in addition to any other obligation hereunder agree to indemnify the City of Fairburn and to the fullest extent permitted by law, protect, defend, indemnify and hold harmless the City of Fairburn, their agents, elected Officials and employees from and against all claims, actions, liabilities, losses (including economic losses), costs arising out of any actual or alleged a) bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including the loss of use resulting there from, or any other damage or loss arising out of or resulting from claims to have resulted in whole or in part from any actual or alleged act or omission of Mental Fitness, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable in the performance of the work; or b) violation of law, statute, ordinance, governmental administrative order, rule regulation, or infringement of patent rights or other intellectual property rights by Mental Fitness in the performance of the work; or c) liens, claims or actions made by Mental Fitness or other party performing the work, as approved by the City.

The indemnification obligations hereunder shall not be limited by any limitation on the amount, type of damages, compensation or benefits payable by or for Mental Fitness or his/her subcontractor, as approved by the City of Fairburn, under worker's compensation acts; disability benefit acts, other employee benefit acts or any statutory bar. Any costs or expenses, including attorney's fees, incurred by the City of Fairburn to enforce this agreement shall be borne by Mental Fitness.



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: APPROVAL OF 2020 AMENDED COUNCIL MEETING SCHEDULE

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION (X) OTHER

Submitted: 05/06/2020

Work Session: N/A

Council Meeting: 05/11/2020

DEPARTMENT: City Clerk

BUDGET IMPACT: N/A

PUBLIC HEARING? () Yes (X) No

PURPOSE: For Mayor and Council to approve the amended 2020 Council Meeting schedule reinstating the June 22, 2020.

HISTORY: Per Section Article IV, Section 34 of the Fairburn City Charter, regular sessions of the Mayor and Council shall be held on the 2nd and 4th Monday in each at the City Hall or such other places as may be designated by the said Mayor and Council.

FACTS AND ISSUES: In January of each year, Mayor and Council confirm the Council Meeting dates for the year. Since the GMA Annual Convention was cancelled this year, I am proposing reinstatement of the June 22, 2020 Council Meeting. Similarly, I am proposing reinstatement of the July 13, 2020 Council Meeting.

RECOMMENDED ACTION: For Mayor and Council to approve the dates for the 2020 Council Meeting.


Elizabeth Carr-Hurst, Mayor



City Council 2020 Meeting Schedule

The Mayor and Council meet the 2nd and 4th Monday of every month in the Council Chambers at **56 Malone Street SW, Fairburn, Georgia 30213**. The Workshops begin at 6:00 PM and the Council Meetings begin at 7:00 PM. Meeting dates and times are subject to change. Please visit the City of Fairburn's website for up to date information at www.fairburn.com.

Date of Meeting	Meeting Status
January 13, 2020	As scheduled
January 27, 2020	As scheduled
February 10, 2020	As scheduled
February 24, 2020	As scheduled
March 9, 2020	Cancelled- National League of Cities
March 23, 2020	State of the City Address
April 13, 2020	As scheduled
April 27, 2020	As scheduled
May 11, 2020	As scheduled
May 25, 2020	Cancelled- Memorial Day
June 8, 2020	As scheduled
June 22, 2020	Cancelled- GMA Conference
July 13, 2020	Cancelled- Council Holiday
July 27, 2020	As scheduled
August 10, 2020	As scheduled
August 24, 2020	As scheduled
September 14, 2020	As scheduled
September 28, 2020	As scheduled
October 12, 2020	As scheduled
October 26, 2020	As scheduled
November 9, 2020	As scheduled
November 23, 2020	Cancelled- Thanksgiving Holiday
December 14, 2020	As scheduled
December 28, 2020	Cancelled- Christmas Holiday



City Council 2020 Meeting Schedule

The Mayor and Council meet the 2nd and 4th Monday of every month in the Council Chambers at **56 Malone Street SW, Fairburn, Georgia 30213**. The Workshops begin at 6:00 PM and the Council Meetings begin at 7:00 PM. Meeting dates and times are subject to change. Please visit the City of Fairburn's website for up to date information at www.fairburn.com.

Date of Meeting	Meeting Status
January 13, 2020	As scheduled
January 27, 2020	As scheduled
February 10, 2020	As scheduled
February 24, 2020	As scheduled
March 9, 2020	Cancelled- National League of Cities
March 23, 2020	State of the City Address
April 13, 2020	As scheduled
April 27, 2020	As scheduled
May 11, 2020	As scheduled
May 25, 2020	Cancelled- Memorial Day
June 8, 2020	As scheduled
June 22, 2020	Proposed Reinstatement
July 13, 2020	Proposed Reinstatement
July 27, 2020	As scheduled
August 10, 2020	As scheduled
August 24, 2020	As scheduled
September 14, 2020	As scheduled
September 28, 2020	As scheduled
October 12, 2020	As scheduled
October 26, 2020	As scheduled
November 9, 2020	As scheduled
November 23, 2020	Cancelled- Thanksgiving Holiday
December 14, 2020	As scheduled
December 28, 2020	Cancelled- Christmas Holiday



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: LEASE AGREEMENT BETWEEN THE CITY OF FAIRBURN, and TRION STUDIO/ MFI

() AGREEMENT () POLICY / DISCUSSION (X) CONTRACT
() ORDINANCE () RESOLUTION () OTHER

Submitted: 05/05/2020

Work Session: N/A

Council Meeting: 05/11/2020

DEPARTMENT: Property Management

BUDGET IMPACT: The budget impact of the proposed buildout is \$60,000 and the expenditures will come out of budget line (100-1565-52-2201).

PURPOSE: For Mayor and Council to consider a lease agreement for the next ten years for classroom building #3, located at 336 West Broad St. at the Fairburn Educational Campus. This agreement consists of the lessee occupying the entire 25,307 sq. ft. of the structure, and with the rental rates listed in the agreement, to include options to renew. Staff feel the timing of this project couldn't have come at a better time with the opening of Fairburn's newly under construction Stem School as well as our colleges and surrounding public schools.

HISTORY: This building was completed in 2014 as a shell and has remained a shell for the last six years. We've had several opportunities to lease this structure, but for whatever reason they all fell through. The city was approached by Mr. Chris Donaldson of Metro Film who showed interest in setting up his filming operations which includes: Education/Training/ On Set Training/ Studios, all of which translates into employment opportunities for the Fairburn area. The city has an investment of nearly four million dollars in this structure along.

RECOMMENDED ACTION: Staff recommends Council to authorize the Mayor to execute this lease agreement between the City of Fairburn and Trion/Studio/MFI, to include \$60,000 which will go toward the buildout, and to become effective August 1, 2020.


Elizabeth Carr- Hurst, Mayor

**STATE OF GEORGIA
COUNTY OF FULTON**

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter "Agreement"), made and entered into effective the 1st day of August, 2020 ("Effective Date") by and between the **CITY OF FAIRBURN, GEORGIA**, a Georgia Municipal Corporation, whose address is 56 Malone Street, Fairburn, Georgia 30213, hereinafter "the City" or "the Lessor", and **TRION STUDIOS, LLC**, a Georgia Limited Liability Company, whose address is 4500 Ridge Road Road, Fairburn, Georgia 30213, and whose Chief Executive Officer and Registered Agent is Chris Donaldson, hereinafter "Trion" or "the Lessee", the parties to this Agreement hereinafter sometimes referred to collectively as "the Parties".

UNDERSTANDING OF THE PARTIES REGARDING NON-PROFIT STATUS:

This Lease Agreement between the Parties constitutes a promise to commence a ten (10) year term Lease Agreement, effective August 1, 2020, upon the Lessee's submission of documentation in form satisfactory to Lessor that Trion, or other business entity substitute therefor under the control and direction of Trion CEO Chris Donaldson, as been duly established and registered by appropriate governmental authorities as a not-for-profit enterprise.

ARTICLE I. **LEASED PREMISES AND USE OF LEASED PREMISES**

The Lessor, in consideration of the rents agreed to be paid by the Lessee and of the covenants, agreements, provisions and stipulations herein agreed to be mutually kept and performed by the Parties, does, as of the Effective Date, grant, demise, lease and rent, upon the terms and conditions herein stated, unto the Lessee the premises situated in Fulton County, Georgia, and more particularly described as follows, *to wit*:

SEE LEGAL DESCRIPTION ON EXHIBIT "A" ATTACHED

(hereinafter "the Premises"), together with all the improvements, tenements, and appurtenances, thereunto belonging or in any wise appertaining, including the right of ingress and egress thereto and therefrom at all times, and the Lessee does hereby agree as of the Effective Date to lease, rent and take the Premises from the Lessor, upon the terms and conditions herein stated, to use the Premises solely for educational functions and facilities.

ARTICLE II. **TERM**

This Agreement shall be for a term of ten (10) years commencing at 12:00 AM on August 1, 2020 and shall terminate at 11:59 PM on September 30, 2030, unless earlier terminated, modified, extended, or renewed (hereinafter "the Term").

ARTICLE III. RENT

The Lessee shall pay the Lessor, at its above-stated address, or at such other address or addresses as may be designated in writing from time to time by the Lessor, the following Rent:

- a. Beginning on the Effective Date, and for the first 12 months of this Agreement, Lessee shall pay Lessor an annual Rent of Three Dollars and 50/100 (\$3.50) per square foot of the Premises described in Exhibit "A" attached, which annual Rent shall be paid to Lessor in equal monthly installments on the first (1st) day of each and every calendar month during the first 12 months.
- b. Beginning on the Effective Date, and for the next 12 months of this Agreement, beginning on August 1, 2021, Lessee shall pay Lessor an annual Rent of Four Dollars and 50/100 (\$4.50) per square foot of the Premises described in Exhibit "A" attached, which annual Rent shall be paid to Lessor in equal monthly installments on the first (1st) day of each and every calendar month during the second 12 months.
- c. Beginning on the Effective Date, and for the next 12 months of this Agreement, beginning on August 1, 2022, Lessee shall pay Lessor an annual Rent of Five Dollars and 50/100 (\$5.50) per square foot of the Premises described in Exhibit "A" attached, which annual Rent shall be paid to Lessor in equal monthly installments on the first (1st) day of each and every calendar month during the third 12 months.
- d. Beginning on the Effective Date, and for the next 12 months of this Agreement, beginning on August 1, 2023, Lessee shall pay Lessor an annual Rent of Seven Dollars and 00/100 (\$7.00) per square foot of the Premises described in Exhibit "A" attached, which annual Rent shall be paid to Lessor in equal monthly installments on the first (1st) day of each and every calendar month during the fourth 12 months.
- e. Beginning on the Effective Date, and for the next 12 months of this Agreement, beginning on August 1, 2024, Lessee shall pay Lessor an annual Rent of Nine Dollars and 00/100 (\$9.00) per square foot of the Premises described in Exhibit "A" attached, which annual Rent shall be paid to Lessor in equal monthly installments on the first (1st) day of each and every calendar month during the fifth 12 months.
- f. Beginning on the Effective Date, and for the remaining Term of this Agreement, beginning on August 1, 2025, Lessee shall pay Lessor an annual Rent of Eleven Dollars and 00/100 (\$11.00) per square foot of the Premises described in Exhibit "A" attached, which annual Rent shall be paid to Lessor in equal monthly installments on the first (1st) day of each and every calendar month during the remaining Term of this Agreement.
- g. Any monthly installment of Rent not received by Lessor within ten (10) days of the due date of shall incur a late fee of one percent (1%) which shall be due and payable immediately to the Lessor.

ARTICLE IV. OPTIONS TO RENEW

The Lessor, in consideration of the terms and conditions set forth in this Agreement, along with the Exhibits "A" and "B", which Exhibits are incorporated herein by reference, and all of the promises,

covenants and stipulations contained herein, does hereby grant and convey to Lessee the exclusive right, privilege and option, in Lessee's sole discretion, to renew this Agreement for up to three (3) consecutive Renewal Terms, each for a Renewal Term of five (5) years. During the First Renewal Term, if any, Lessee shall pay Lessor an annual Rent of Twelve Dollars and Seventy-Five Cents (\$12.75) per square foot of the Premises described in Exhibit "A". During the Second Renewal Term, if any, Lessee shall pay Lessor an annual Rent of Thirteen Dollars and Fifty Cents (\$13.50) per square foot of the Premises described in Exhibit "A". During the Third Renewal Term, if any, Lessee shall pay Lessor an annual Rent of Fourteen Dollars and Twenty-Five Cents (\$14.25) per square foot of the Premises described in Exhibit "A". Notice of Lessee's intent to exercise its option to renew shall be provided to Lessor at least ninety (90) days prior to the end of the Term of this Agreement, and at least ninety (90) days prior to the end of any Renewal Term that is then in effect. Rent paid during any Renewal Term shall be paid to Lessor in equal monthly installments on the first (1st) day of each and every calendar month during the Renewal Term. Any monthly installment of Rent not received by Lessor within ten (10) days of the due date of shall incur a late fee of one percent (1%) which shall be due and payable immediately to the Lessor.

ARTICLE V. **MAINTENANCE AND REPAIR**

Except for routine maintenance chores such as changing filters, replacing light bulbs, and minor plumbing repairs, Lessor shall be responsible for the maintenance and repair of all plumbing, electrical, and mechanical equipment installed on the Premises during the construction of the buildings, except for special equipment that was installed at the request of the Lessee and was intended specifically for the use of the Lessee. Lessor shall be responsible for the maintenance of the grounds and the parking areas related to the Premises.

ARTICLE VI. **STIPULATIONS**

The said stipulations provisions, covenants, agreements, terms and conditions attached thereto and marked Exhibit "B", are hereby incorporated herein and made a part of this Agreement by reference.

ARTICLE VII. **GEORGIA LAW; ENTIRE AGREEMENT**

This Agreement shall be governed by, construed under, performed and enforced in accordance with the laws of the State of Georgia. The Parties mutually agree that this Agreement, including the attached Exhibits "A" and "B" shall constitute the entire agreement of the Parties and that all other agreements between the Parties respecting the City of Fairburn Educational Campus shall be deemed null and fully discharged as of the Effective Date of this Agreement.

(Signatures On Next Page)

IN WITNESS WHEREOF, Lessor and Lessee, by and through their authorized representatives, have hereunto executed, signed, and delivered this Agreement in duplicate the day, month, and year first written above, each of the said parties keeping one of the copies hereof.

CITY OF FAIRBURN, GEORGIA

Elizabeth Carr-Hurst, Mayor

Arika Birdsong-Miller, City Clerk

William R. Turner, City Attorney

TRION STUDIOS, LLC

Chris Donaldson, Chief Executive Officer

Signed in the Presence of:

Notary Public

EXHIBIT "A"

Leased Premises

Fairburn Education Campus
Classroom Building # 3

Lower Level

5,397 Square Feet

Main Level

9,955 Square Feet

Upper Level

9,955 Square Feet

Total Square Feet of Leased Premises: 25,307 Square Feet

EXHIBIT "B"

Stipulations, Provisions, Covenants, Agreements, Terms and Conditions of Agreement

Purpose of Paragraph Identification References

The brief, captioned, paragraph-identification references, which appear in the left hand margin of this Exhibit B, are for the purpose of convenience only and shall be completely disregarded in construing this Agreement.

Definitions

- a) "Lessor" means the City of Fairburn, Georgia, acting pursuant to a Project Lease Agreement between the City and the Downtown Development Authority of Fairburn, including their successors and assigns, if any.
- b) "Lessee" means Trion Studios, LLC, a Georgia Limited Liability Company.
- c) "Premises" means the premises leased and identified in Article 1 of the Agreement, set forth with more particularity at Exhibit A to this Agreement.
- d) Any and all references to the "term" of this Agreement shall mean not only the initial term, but also any renewal or extension of the initial term.

Time of Essence

Time is of the essence in this Agreement.

Service of Notice

All notices, requests, demands and other communications necessary or required under this Agreement shall be in writing and shall be mailed by first class United States certified mail, return receipt requested, delivered by a commercial carrier, or personally delivered at the addresses indicated below:

If to Lessor ---

Mayor
City of Fairburn
City Hall
56 Malone Street
Fairburn, Georgia 30213

and

City Administrator
City of Fairburn
City Hall
56 Malone Street
Fairburn, Georgia 30213

If to Lessee ---

Chris Donaldson, CEO
Trion Studios, LLC
4500 Ridge Road
Fairburn, Georgia 30213

With copies to:

As to each party, at such other address and/or person as shall be designated by such party by written notice to the other.

Covenants of Title and Quiet Enjoyment

Lessor covenants that the Downtown Development Authority of Fairburn is seized of the Premises in fee simple absolute and, pursuant to a certain judicially validated Intergovernmental Agreement and Project Lease Agreement by and between the Downtown Development Authority of Fairburn and the City of Fairburn Georgia, Lessor holds a leasehold interest in the Premises which vested in Lessor the right to enter into this Agreement regarding the Premises. Lessee, paying the rents and keeping the stipulations, provisions, covenants, terms, agreements, and conditions herein contained, shall lawfully, quietly and peacefully have, hold, use, possess, enjoy, and occupy the Premises hereby rented, with all the improvements, tenements, appurtenances, and each and every part and parcel thereof for and during said term hereby granted, without any suit, hindrance, interruption, inconvenience, eviction, ejection, or molestation by the Lessor or by any other person or persons whatsoever. If, for any reason whatever, except if caused by an act of Lessee or its agents, Lessee is deprived of its right to lawfully, quietly, and peacefully have, hold, use, possess, enjoy and occupy the Premises hereby rented, with all the improvements, tenements, appurtenances, and each and every part and parcel thereof, for and during said term hereby granted, without any suit, hindrance, interruption, inconvenience, eviction, ejection, or molestation by the Lessor or by any other person or persons whatsoever, then this Agreement may be immediately canceled and terminated at the option of the Lessee by giving the Lessor notice thereof. If the Lessor's title shall come into dispute or litigation, the Lessee may withhold payment of rents (without interest) until final adjudication or other settlement of such dispute or litigation.

Notice of Appointment of Agent

Lessee shall be under no obligation to recognize any agent for the collection of rent accrued or to accrue hereunder or otherwise authorized to act with respect to the Premises until notice of the appointment and the extent of the authority of such agent shall be first given to the Lessee by the Lessor in writing.

Change in Ownership of Premises

No change or division in the ownership of the Premises, or of the rents payable hereunder, however accomplished, shall operate to enlarge the obligations or diminish the rights of the Lessee. Further, no change or division in ownership shall be binding on the Lessee for any purpose until the Lessee shall have been furnished with a certified copy of the recorded instrument, or other legally authenticated written instrument, evidencing such change or division in ownership.

Binding Effect On Heirs, Assigns, Etc.

Each of the stipulations, provisions, terms, conditions, covenants, agreements and obligations contained in this Agreement shall apply, extend to, be binding upon and inure to the benefit or detriment of each and every one of the heirs, legal representatives, devisees, legatees, next-of-kin, successors and assigns of the respective parties hereto, and shall be deemed and treated as covenants real running with the Premises during the term of this Agreement. Whenever a reference to the parties hereto is made, such reference shall be deemed to include the heirs, legal representatives, devisees, legatees, next-of-kin, successors and assigns of said party, the same as if in each case expressed.

Lessor's Failure to Deliver Premises at Commencement of Term

Should the Lessor, for any reason whatever, be unable to deliver possession of the Premises to the Lessee at the commencement of the term, there shall be a total abatement of rent during the period between the commencement date and the date upon which the Lessor delivers possession of the Premises to the Lessee.

Destruction of or Damage to Premises

In the event the Premises, either prior to the commencement date or during the term of this Agreement shall be so damaged, by any cause whatever, as to be rendered unfit for occupancy by the Lessee, there shall be a total abatement of rent during the period of time the Premises are unfit for occupancy. Shall the Premises, either prior to the commencement date of this Agreement or during the term thereof, be partially destroyed, by any cause whatever, except if caused by act of Lessee or its agents, but not rendered unfit for occupancy by Lessee, then the Lessor agrees that the Premises, at the Lessor's expense and with reasonable promptness and dispatch, shall be repaired and restored to substantially the same condition as before the damage. In the event of a partial destruction of the Premises there shall be a proportionate abatement in the rent payable during the time such repairs or rebuilding are being made. Such proportionate deduction of rent shall be based upon the extent to which the making of such repairs or rebuilding shall interfere with the business carried on by the Lessee in Premises. Full rental shall again commence after completion of the repairs and restoration of the Premises by the Lessor. In connection with the foregoing, it is agreed by the parties hereto that the Lessee and Lessor shall have a third party to decide, after making a reasonable assessment of damages, who shall make the decision as to whether or not the Premises are fit or unfit for occupancy by the Lessee. There shall be no abatement of rent if any damage is caused by act of Lessee or its agents.

Use of Premises and Lessee's Insurance Requirements

a) Lessee shall use Premises for any purpose within the powers of same for its educational and administrative functions for which the Premises are hereby rented; and no use shall be made of Premises, nor acts done, which will cause a cancellation of or an increase in the fire, casualty and other extended coverage insurance insuring the Premises, without first consulting with Lessor and obtaining appropriate insurance endorsements, including the payment of any increase in premium for such endorsements. The Lessee shall not sell, or permit to be kept for use in or about Premises, any article or articles which may be prohibited by the standard form of fire insurance policies unless the policy is endorsed as set forth in this paragraph.

b) Lessee shall insure or self-insure at its own cost and expense all of its fixtures, furnishings, equipment and personal property, which it may use or store on the Premises. Lessee will provide third party liability coverage arising from the acts of its officers, members, and employees for \$1,000,000.00 per person and \$3,000,000.00 per occurrence.

Event of Default

If Lessee fails to fulfill or obey any of the stipulations, provisions, terms, conditions, covenants, agreements, or obligations of this Lease, whether monetary or non-monetary, Lessee shall be in default of the Lease ("Event of Default"). In the Event of Default, Lessor may, at its option, provide a written seven (7) days notice of default and opportunity to cure upon Lessor specifying the nature of said default. Upon the expiration of seven (7) days, if Lessee has not cured the Event of Default, Lessor may pursue all remedies available to Lessor at law or in equity, including, but not limited to, dispossessory proceedings in a court of competent jurisdiction. In the Event of Default, Lessor may take any legal action to enforce any of Lessee's covenants and obligations in the Lease.

Holding Over

Any holding over, or continued use and/or occupancy by the Lessee of the Premises after the expiration of this Agreement shall operate and be construed as a tenancy at will.

Repairs by Lessor

During the term of this Agreement, and subject to the provisions of Article 4 of this Agreement, Lessor, shall, at its sole cost, service, replace, keep and maintain in good order and repair each and every part and portion of the existing Premises together with any improvements or additions the Lessor might install in or place upon the Premises in the course of the term of this Agreement. In the event that Lessee constructs or erects any additions and/or improvements to or on the Premises, Lessor shall have no obligation whatsoever to service, replace, keep and maintain the same in good order and repair.

Notice to Lessor of Damage of Defects

Lessee shall give to Lessor prompt written notice of any defects in the Premises and, subject to the provisions of Article 4 of this Agreement, such defects shall be remedied with due diligence by the Lessor at Lessor's expense.

Entry for Inspection and Repairs, Alterations or Additions, Janitorial Services, Rubbish Removal

Lessee shall permit Lessor, his agents or employees, to enter into and upon Premises at all reasonable times for the purpose of inspecting the same or for the purpose of maintaining or making repairs, alterations, or additions to any portion of the Premises.

Lessee shall furnish janitorial services for general cleaning of the Premises. Lessee shall use care to select honest and efficient personnel for such services.

Lessee shall keep the Premises clean, both inside and outside, at its own expense, and shall see that all garbage, trash, and all other refuse is disposed of properly.

Termites, Rodents, and Pests

Lessor shall, subject to the provisions of Article 4 of this Agreement, at its own expense, keep the Premises free from infestation by termites, rodents, and other pests, and shall repair all damage caused to the Premises by same during the term of this Agreement.

Utilities

Lessee shall furnish all water, electricity, gas, fuel, oil, coal, light, air conditioning, heat, cable, internet and power, or any other utility used by Lessee while occupying the Premises. No deduction shall be made from the rent due to a stoppage in the services of water, electricity, gas, fuel, oil, coal, light, air conditioning, heat, cable, internet and power or any other utility unless caused by an act of Lessor. In the event of an interruption in water, electricity, light, air conditioning, heat, cable, internet, or power caused by Lessor, subject to the provisions of Article 4 of this Agreement, Lessor will proceed with all due diligence to restore same.

Taxes and Assessments

This section is not applicable.

Removal of Improvements, Erections and Additions by Lessee

With the express written consent of the Lessor first having been obtained, the Lessee may make, at Lessee's own expense, such improvements, erections, and alterations as are necessary to adapt the Premises for the conduct of the Lessee's business. All improvements, erections and additions installed in or placed upon the Premises by the Lessee, whether permanently affixed thereto or otherwise, shall continue and remain the property of the Lessee, and may be removed by the Lessee, in whole or in part, at any time before the expiration or termination of this Agreement or upon a reasonable time thereafter. If the Lessee removes any or all of the improvements, erections and additions it has installed in or placed upon the Premises, the Lessee agrees to repair any specific damage directly resulting to the Premises from such removal to the condition existing at the beginning of the tenancy, fair wear and tear excepted.

Removal of Fixtures by Lessee

At any time before the expiration or termination of this Agreement, or upon a reasonable time thereafter, Lessee shall have the right and privilege to remove all easily removable fixtures, equipment, appliances and movable furniture which it has placed in or upon the Premises. The Lessee agrees to repair any specific damage directly resulting to the Premises from such removal to the condition existing at the beginning of the tenancy, fair wear and tear excepted.

Reservation of Rights

Lessor reserves the right to have access to and to have the use of all areas of the Administration Building not a part of the Leased Premises (Exhibit A) covered by this Agreement.

Waiver of Rights

The waiver by Lessor, or by Lessee, of any breach of any stipulation, provision, term, covenant, agreement or condition herein contained shall not be deemed to be a waiver of such stipulation, provision, term, covenant, agreement or condition on any subsequent breach of the same or any other stipulation, provision, term, covenant, agreement or condition herein contained.

Abandonment of Premises

During the term of this Agreement, Lessee agrees not to abandon or vacate the Premises without cause.

Waste and Nuisance

Lessee shall not commit, or suffer to be committed, any waste upon the Premises, or any nuisance.

Assignment and Subletting

Lessee shall not assign this Agreement, or any interest therein, and shall not sublet the Premises or

any part thereof, or any right or privilege appurtenant thereto, or suffer any other person to occupy or use the Premises, or any portion thereof, without the express written consent of Lessor first having been obtained. Any such assignment or subletting without such consent shall be void, and shall, at the option of the Lessor, on twenty (20) days notice to Lessee, terminate this Agreement. Consent to one assignment and/or subletting shall not waive this provision, and all later assignments and/or sublettings shall likewise be made only on the prior consent of Lessor.

Effect on Assignment and Subletting when Lessee Surrenders Premises

The voluntary or other surrender of this Agreement by Lessee, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Lessor, terminate all or any existing sublets or subtenancies, or may, at the option of Lessor, operate as an assignment to him of any or all such sublets or subtenancies.

Surrender of Premises

Lessee shall, at the termination of this Agreement, vacate and surrender the Premises in good order and condition; reasonable use and ordinary wear and tear excepted.

Invalidity of Provision or Portion of Provision

Should any provision or portion of such provision of this Agreement be held invalid, the remainder of this Agreement or the remainder of such provision shall not be affected.

Compliance with Laws, Ordinances and Regulations

- a) Lessor shall be responsible for compliance with all applicable laws, ordinances, and regulations.
- b) Lessor is solely responsible for assuring that the Premises and all common areas are at all times in compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.* (hereinafter the "ADA") as amended, and with all regulations promulgated pursuant to the ADA (hereinafter the "Regulations"). Except for any remodeling or alterations to the Premises after the commencement date of this Agreement due to an election by Lessee to remodel (but not including any remodeling or alterations at the beginning of the term of this Agreement to make the Premises initially suitable for Lessee), Lessor shall be solely responsible for all costs and expenses associated with ADA compliance. Lessor shall not charge Lessee for, nor seek reimbursement from Lessee for, any expenditures, capital or otherwise, associated with conforming the Premises or common areas to the requirements of the ADA and the Regulations.

Subordination

This Agreement shall be subject and subordinate to all existing liens and encumbrances against the Premises (and all rights and obligations contained therein).

Mold

Lessee acknowledges that it is necessary for the Lessee to provide appropriate climate control, keep the property clean, and take other measures to retard and prevent mold and mildew from accumulating in the Premises. Lessee agrees to clean and dust on a regular basis to remove visible moisture accumulation on windows, walls and on other surfaces as soon as reasonably possible. Lessee agrees not to block or cover heating, ventilation, or air conditioning ducts on the Premises. Lessee also agrees to immediately report to the Lessor: (1) any evidence of a water leak or excessive moisture on the property, as well as in any storage room or common area; (2) any evidence of a mold or mildew like growth that cannot be removed by simply applying a common household cleaner and wiping the area; (3) any failure or malfunction of the heating, ventilation or air conditioning systems in the Premises; and (4) any inoperable windows and doors. Lessee further agrees that Lessee shall be responsible for damage to the Premises and Lessee's property as well as injury to Lessee and Lessee's occupants resulting from Lessee's failure to comply with the terms of this paragraph.

Entire Agreement

This Agreement, including the attached Exhibits A and B, embodies and sets forth all the provisions, agreements, conditions, covenants, terms and understandings between the parties relative to the Premises. There shall be no provisions, agreements, conditions, covenants, terms, understandings, representations or inducements, either oral or written, between the parties other than are herein set forth. It is further understood and agreed that no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties unless reduced to writing and signed by all the parties to this Agreement.

END OF EXHIBIT "B"