

RESOLUTION NO. 2023-029

**A RESOLUTION BY THE CLARKSTON CITY COUNCIL TO
APPROVE A SEPARATION AGREEMENT WITH CITY MANAGER
SHAWANNA QAWIY.**

WHEREAS, City Charter Section 3.02 provides that the City Council appoints a city manager for an indefinite term and that the city manager is employed and terminable pursuant to the terms of a written employment contract to be entered into between the City and the city manager; and

WHEREAS, the City Council appointed Ms. Shawanna Qawiy as City Manager on June 7, 2022 and entered into that certain written Employment Agreement with Ms. Qawiy; and

WHEREAS, prior to being named City Manager, Ms. Qawiy served as the City's Planning & Development Director for approximately five years and in this capacity has overseen numerous beneficial infrastructure and planning projects for the City of Clarkston; and

WHEREAS, as City Manager Ms. Qawiy oversaw the successful administration of various programs providing relief to the community from the Covid-19 pandemic; and

WHEREAS, the Mayor and City Council hereby express their appreciation for Ms. Qawiy's service to the government and community of the City of Clarkston; and

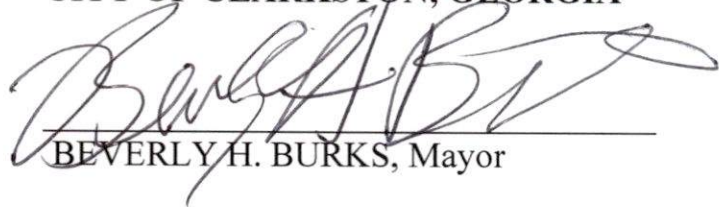
WHEREAS, the City Council desires to mutually agree with Ms. Qawiy on the terms of her separation from employment with the City of Clarkston.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Clarkston that the City Council hereby approves separation of Ms. Qawiy from her employment with the City upon the terms and conditions set forth in the attached Separation Agreement.

BE IT FURTHER RESOLVED that that the "acting city manager" previously designated pursuant to City Charter Section 3.02(c)(1) shall perform the duties of city manager until such time as the City Council acts to appoint an "interim city manager" pursuant to City Charter Section 3.02(c)(2).

SO RESOLVED, this 7th day of August, 2023.

**CITY COUNCIL OF THE
CITY OF CLARKSTON, GEORGIA**



BEVERLY H. BURKS, Mayor

ATTEST:



Tomika Mitchell, City Clerk

Approved as to form:

Stephen G. Quinn
Stephen Quinn, City Attorney

SEPARATION AGREEMENT

FOR AND IN CONSIDERATION of the mutual promises, covenants, and agreements made herein by and among SHAWANNA QAWIY (hereafter "QAWIY," a term which includes QAWIY and all her heirs, successors and assigns, agents, and attorneys), and the CITY OF CLARKSTON, GEORGIA (hereafter "CITY," a term which includes the City of Clarkston, Georgia, all City elected officials, officers, directors, managers, employees, agents, attorneys, insurers, and successors and assigns of CITY), the parties agree to the following:

1. Resignation by QAWIY

QAWIY hereby voluntarily resigns her employment with the City effective Friday, September 29, 2023, at 5:00 p.m. This Separation Agreement is intended to and shall end the Employment Agreement between the parties approved by the City Council on June 7, 2022.

2. Administrative Leave

QAWIY shall be placed on paid administrative leave effective August 4, 2023 and will remain on administrative leave through the effective date of her resignation (September 29, 2023). During this administrative leave period, QAWIY will not report to City Hall nor supervise any employee or operation of the City of Clarkston. QAWIY will perform the following tasks/duties during the period of administrative leave:

- a.) create a "transition document" for the planning and development operations of the City of Clarkston and submit this document to the City Clerk by August 22, 2023;
 - b.) create a "transition document" for the city manager/administrative operations of the City of Clarkston and submit this document to the City Clerk by August 22, 2023; and
 - c.) be available during business hours and respond to inquiries from the Interim City Manager (to be appointed by the City Council) within 24 hours (not counting holidays or weekends).
-

3. Severance Payment

In consideration of QAWIY's faithful performance of the covenants and promises contained herein, CITY agrees to pay QAWIY the sum of Sixty-Seven Thousand Five Hundred Dollars (\$67,500.00), to be paid between October 2 and October 9, 2023, if QAWIY has fully complied with Sections 2(a), 2(b), 2(c) and 8 of this Separation Agreement. Said payment will be delivered via check sent by Certified Mail to the address that QAWIY provides to the City Clerk.

4. Earned Benefits

The parties agree that QAWIY is entitled to be paid for vested but unused vacation leave time through her resignation effective date, pursuant to the City's personnel policies applicable to all employees. Such payment to be issued no later than October 9, 2023 and delivered via check sent by Certified Mail to the address that QAWIY provides to the City Clerk.

5. No Admissions

QAWIY and CITY agree that the entry of the parties into this Separation Agreement, and the agreements contained herein, are not and shall not be considered to be an admission of liability on the part of any party hereto or any parties hereby released or held harmless.

6. QAWIY'S Release of Claims

In consideration of the undertakings and promises set forth in this Separation Agreement, QAWIY, as defined herein, hereby releases, discharges, and holds harmless CITY, as defined herein, (the "Released Parties") from each and every claim, cause of action, right, liability, or demand of any kind and nature, and from any other claims which may be derived therefrom (collectively referred to as "claims"), that QAWIY had, has, or might claim to have against the Released Parties, including, but not limited to, any and all claims:

- a. arising from QAWIY'S employment, pay, bonuses, insurance, benefits, and other terms and conditions of employment or employment practices of CITY; and/or

- b. relating to the separation of QAWIY'S employment or the surrounding circumstances thereof; and/or
- c. based on discrimination, harassment, or retaliation on the basis of race, color, religion, sex, sexual orientation, national origin, handicap, disability, age, or any other category protected by law under Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1991, the Americans with Disabilities Act of 1990, the Rehabilitation Act, the Family and Medical Leave Act of 1993, the Age Discrimination in Employment Act of 1967, the Fair Labor Standards Act, the Equal Pay Act, Executive Order 11246, and any and all Georgia state and local laws prohibiting discrimination; and/or
- d. based on any plan(s) sponsored by CITY, or arising out of the administration of such plan(s), including, but not limited to, claims for benefits, breaches of fiduciary duty, retaliation or any adverse employment action for asserting plan rights or to prevent asserting these rights; and/or
- e. based on any contract including, but not limited to, the "Employment Agreement" between the parties; and/or
- f. based on any theory of tort, whistleblower, personal injury, wrongful discharge, retaliation or defamation; and/or
- g. based upon any claim for attorneys' fees and expenses; and/or
- h. based on any other federal, state or local constitution, regulation, law (statutory or common) or legal theory.

7. QAWIY'S Covenant Not to Sue or Accept Recovery

QAWIY agrees not to sue CITY or any Released Party on account of any claim released in this Agreement and agrees not to file any complaint against a Released Party with any federal, state or local agency. QAWIY further agrees not to accept, recover or receive any monetary damages, equitable remedy, or any other form of

relief which may arise out of or in connection with any administrative proceeding by any governmental agency, whether federal, state or local.

Furthermore, it is the parties' intent that the payments made by CITY pursuant to this Separation Agreement shall be the sole and final payments made by CITY to QAWIY for any and all claims arising out of QAWIY'S employment with CITY and that QAWIY shall not be entitled to recover any additional sums from CITY.

QAWIY also waives, foregoes, and releases any right to an appeal pursuant to the City's Charter, Code of Ordinances or personnel policies.

8. Return of City Property/Removal of Personal Property

- a) QAWIY shall return the following property owned by the CITY to the City Clerk by August 11, 2023 at 5:00 p.m.:
 - 2022 Ford Explorer motor vehicle
 - keys to City Hall
 - key fob to City Hall Annex.

- b) QAWIY shall remove all of her personal property from City Hall/City Hall Annex by August 11, 2023 at 5:00 p.m.

- c) QAWIY shall return the following property owned by the CITY to the City Clerk on September 29, 2023, during regular business hours:
 - Cellular phone
 - Laptop computer.

9. Statements to the Public and Third Parties.

The CITY, as defined herein, and QAWIY agree that they each will not make any disparaging comment about one another to the public, media or any third party. The CITY will provide only dates of employment and the fact that QAWIY was separated from employment with the CITY by mutual agreement to any potential future employer that may inquire about QAWIY.

10. Miscellaneous

a. Assignment

Neither this Agreement nor any duties or obligations under this Agreement shall be assignable without the prior written consent of the other party.

b. Successors and Assigns

Subject to the provision regarding assignment, this Agreement shall be binding on the heirs, executors, legal representatives, successors, and assigns of the parties.

c. Attorney's Fees

The parties were each represented by their own counsel in the negotiation of this Agreement. The parties shall each be responsible for their own attorney's fees related to the drafting and review of their Agreement.

d. Governing Law

This Agreement and of any of its terms or provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of Georgia.

e. Amendment

This Agreement may be amended only by the mutual agreement of the contracting parties in a writing to be attached to and incorporated into this Agreement.

f. Legal Construction

In case one or more of the provisions contained in their Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not effect any other provision of this Agreement and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

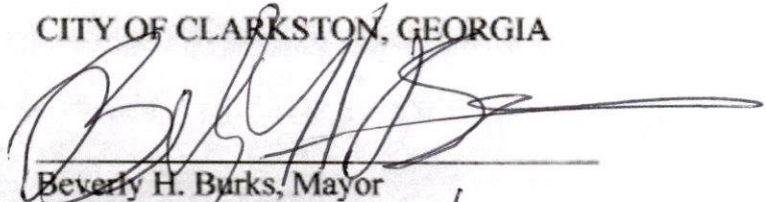
11. Entire Agreement

This Separation Agreement supersedes any and all prior negotiations or agreements between the parties and represents the entire agreement between the parties with respect to QAWIY's employment with the CITY and separation therefrom. The parties hereby acknowledge and agree that there have been no offers or inducements which have led to the execution of this Agreement other than as stated herein.

QAWIY represents and warrants that she has fully read this Agreement, understands same, and enters into it freely.

The parties each execute this Separation Agreement:

CITY OF CLARKSTON, GEORGIA



Beverly H. Burks, Mayor

Date: 8/7/2023

Attest:



Tomika Mitchell
City Clerk

Approved as to Form:

Stephen Quinn
Stephen G. Quinn
City Attorney



SHAWANNA QAWIY

Date: 8-7-23