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October 24, 2025

VIA ELECTRONIC MAIL

City of Gallatin
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RE: PAIGE BROWN/PRESERVATION OF EVIDENCE

Counselors,

I am writing to advise that I have been instructed by my client to move forward with the petition against Paige Brown which I previously proffered in this matter. While I thought Bob and I had negotiated a favorable resolution for both sides to the matter, it appears Mayor Brown was not satisfied with the results. In the October 7, 2025 council meeting, when, curiously, Sean Fennell raised the issue of visual aids, instead of “doing nothing”, which was the agreement we reached, Paige Brown basically stated that there was not a policy in place and that she “had an issue” with there being no policy. During the discussion in a later council meeting, Mayor Brown made it very evident that she was advocating for the council to vote for a process in which Councilman Jouvence’s visual aids would require approval. We have no doubt that Mayor Brown, both in violation of the Open Meetings Act and in contravention of the doctrine of separation of powers, has worked behind the scenes to attempt thwart Councilman Jouvence’s right to advocate on behalf of his constituents. This is clearly in contravention of the spirit of our agreement, and, thus, we are moving forward with the petition. Please note this lawsuit may include the City of Gallatin and other members of the council and, thus, any communication between the mayor and any members of the council or other individuals, including city

employees, related to the effort to interfere with Councilman Jouvence's right to use visual aids will be material to the lawsuit.

Given the above, you and your clients are on notice of a potential civil action against them. Please ensure that any and all evidence in the possession of the City or any of its officials, agents or employees which may be relevant to the aforementioned civil action will be preserved and will not be discarded, altered, destroyed or concealed, including, but not limited to, any electronic communications.

The Tennessee Rules of Civil Procedure state that Rule 37 sanctions may be imposed "upon a party or an agent of a party who discards, destroys, mutilates, alters, or conceals evidence." Tenn. R. Civ. Pro. 34A.02. Sanctions can include a court order which establishes facts; does not allow the disobedient party from opposing or defending certain claims; strikes pleadings or which allows a negative inference. *See* Tenn. R. Civ. Pro. 37. It is important to note that intentional misconduct is not required to invoke Rule 37 for the spoliation of evidence and, thus, all reasonable steps should be taken by the city to ensure the preservation of any and all evidence which may be in the possession of your company or its employees. *See Tantam v. Bridgestone Americas Holding, Inc.*, 473 S.W.3d 734, 746 (Tenn. 2015)(referring to Rule 34A, the Court held, "Therefore, intentional misconduct should not be a prerequisite to the imposition of some sanction under any approach. Rather, such determinations should be made on a case-by-case basis considering all relevant circumstances.")

Given the above, please be advised that the city, its officials, agents and employees are under a legal duty to maintain, preserve, retain, protect, and not destroy any and all documents and data, both electronic and hard copy, that may be relevant to the aforementioned potential claims. As outlined above, the failure to preserve and retain the electronic data and evidence outlined in this notice may constitute spoliation of evidence which will subject your company to legal claims for damages and/or evidentiary and monetary sanctions.

For purposes of this notice, electronic data or electronic evidence shall include, but not be limited to, all text files (including word processing documents), presentation files (such as PowerPoint), cell phone data, spread sheets, e-mail files and information concerning e-mail files (including logs of e-mail history and usage, header information, and deleted files), internet history files and preferences, graphical files in any format, databases, calendar and scheduling information, task lists, voice mail, instant messaging and other electronic communications, telephone logs, contact managers, computer system activity logs, and all file fragments, internet usage files, offline storage or information stored on removable media or storage media, information contained on laptops, or other portable devices, network access information and backup files containing electronic data or electronic evidence. Specifically, you are instructed not to destroy, disable, erase, encrypt, alter, or otherwise make unavailable any electronic data and/or evidence relevant to the aforementioned potential claims, and you are further instructed to take reasonable efforts to preserve such data and/or evidence.

To meet this burden, you are instructed by way of example and not limitation, to: preserve all data storage backup files (i.e., not overwrite any previously existing backups); preserve and retain all electronic data generated or received by employees who may have personal knowledge of the facts involved in the potential claims; refrain from operating, removing or altering, fixed or external drives and media attached to any workstations or laptops, voice mail systems, cell phones, and copy machines that are reasonably thought to have data

related to the claims, including but not limited to the workstations and/or laptops used by any official or employees who participated in the operations of your company; preserve and retain all data from servers and networking equipment logging network access activity and system authentication; preserve and retain all electronic data in any format, media, or location relating to the claims, including data on hard drives, hard disks, zip drives, CD-ROMs, CD-RWs, DVDs, backup tapes, PDAs, cell phones, smart phones, memory cards/sticks, or digital copiers or facsimile machines; prevent employees from deleting or overwriting any electronic data related to the potential claims; and take such other security measures, including, but not limited to, restricting physical and electronic access to all electronically stored data directly or indirectly related to the potential claims. To facilitate the retrieval of said data, be advised that a forensic accounting firm may be retained to, in addition to reviewing the requisite documentation, forensically acquire the hard drives and other media that may contain electronic data related to the potential civil action.

You have been so advised and we look forward to your cooperation in this matter.

Sincerely,

/s/ Kirk L. Clements

KIRK L. CLEMENTS

Cc: Client