STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
26CV047996-590

FRANK SCOTT HASKELL,
ADMINISTRATOR OF THE ESTATE OF
IRYNA ZARUTSKA (Deceased),
Plaintiff,
v.
CITY OF CHARLOTTE and
PROFESSIONAL POLICE SERVICES, INC.
d/b/a and a/k/a PROFESSIONAL
SECURITY SERVICES,
Defendants.

DEFENDANT CITY OF CHARLOTTE'S MOTION TO DISMISS AND ANSWER

Defendant City of Charlotte ("City") responds to the numbered allegations of the Complaint under Rule 8 of the North Carolina Rules of Civil Procedure. To the extent an allegation combines several assertions, the City admits only those expressly identified below and denies the remainder. The City preserves all defenses described below.

MOTION TO DISMISS

Pursuant to Rules 12(b)(1), 12(b)(2), and 12(b)(6) of the North Carolina Rules of Civil Procedure, Defendant City of Charlotte ("City") moves to dismiss the Complaint against the City, in whole or in part. The City seeks dismissal with prejudice where appropriate. In support of its Motion, the City states as follows.

1. **Governmental Immunity (Rules 12(b)(1), 12(b)(2), and 12(b)(6)).** Plaintiff's claims against the City challenge law-enforcement deployment, transit policing, crime prevention, security-contractor oversight, and public-safety administration. The City contends that each of these activities is a governmental function protected by governmental immunity under North Carolina law. Plaintiff has failed to plead a valid and applicable waiver of governmental immunity covering the claims asserted. To the extent any statutory waiver

applies under N.C. Gen. Stat. § 160A-485.5 and the City Council's October 12, 2009 resolution, Plaintiff's claims are subject to the defenses and limitations incorporated by that statute, including N.C. Gen. Stat. §§ 143-299, 143-299.1, and 143-299.2.

Alternative Relief as to the Scope of Waiver and Statutory Payment Limit.

If any tort claim against the City remains pending, the City requests a preliminary determination identifying which challenged City functions are governmental, which surviving claims are governed by N.C. Gen. Stat. § 160A-485.5, and the scope of any waiver under the City Council's October 12, 2009 resolution. For claims governed by § 160A-485.5, the City requests an order holding that the City retains governmental immunity above the statutory maximum and that payments by the City on those claims arising from Ms. Zarutska's injury and death are subject to the cumulative $1,000,000 limit under N.C. Gen. Stat. §§ 160A-485.5(b)(3) and 143-299.2(a). If the Court determines that the present record is insufficient to decide whether the payment limitation applies, the City requests that the Court reserve ruling on that issue and set a schedule for targeted discovery, briefing, and a hearing.

2. **Public-Duty Doctrine (Rule 12(b)(6)).** To the extent Plaintiff seeks to hold the City liable for alleged failures to furnish general police protection, patrol light rail cars, coordinate real-time surveillance with the Charlotte-Mecklenburg Police Department, or prevent third-party criminal conduct by Decarlos Brown Jr., the City contends that those theories are barred by the public-duty doctrine insofar as they rest on a duty owed to the public at large. Plaintiff has failed to allege facts establishing a recognized exception to the doctrine, including a specific promise of individual police protection to Ms. Zarutska or a special police-protection relationship with her.

3. **Absence of Duty, Foreseeability, and Proximate Causation (Rule 12(b)(6)).** Plaintiff's First, Second, Third, and Seventh Claims for Relief fail to state a claim upon which relief may be granted. The City contends that the allegations concerning systemwide crime and incidents at transit terminals do not establish that a violent attack on a passenger under the circumstances alleged was reasonably foreseeable. The City further contends that the Complaint fails to allege facts sufficient to show that any identified omission regarding staffing, deployment, procurement, fare enforcement, monitoring, or access controls proximately caused Ms. Zarutska's death. The City contends that Mr. Brown's intentional criminal act was an independent, superseding cause.
4. **Vicarious Liability and Alleged Nondelegable Duty (Rule 12(b)(6)).** Plaintiff's Second and Third Claims for Relief fail to state a claim to the extent they seek to impute to the City the alleged negligence of Defendant Professional Police Services, Inc. ("PSS"). The City retained PSS as an independent contractor under written service agreements. The City contends that the Complaint fails to allege facts sufficient to establish an agency relationship or a nondelegable duty that would make the City answerable for the particular acts or omissions attributed to PSS.
5. **Failure to State a Claim for Gross Negligence (Rule 12(b)(6)).** Plaintiff's Seventh Claim for Relief fails to allege facts sufficient to show that the City acted willfully or wantonly, or with conscious disregard for passenger safety, so as to support a claim for gross negligence.

ANSWER SUBJECT TO MOTION TO DISMISS

RESPONSE TO "INTRODUCTION"

The City recognizes the tragic and devastating death of Iryna Zarutska ("Ms. Zarutska") as the result of an intentional criminal attack by Decarlos Brown Jr. ("Mr. Brown"). The City denies that it ignored passenger safety or that its conduct legally caused that attack. Before August 22, 2025, CATS maintained an extensive security program, contracted for armed and unarmed security and company-police services, and undertook initiatives concerning public safety, security planning, training, and transit operations. The City disputes the Complaint's characterization of CATS as a for-profit business and disputes that systemwide crime statistics, contractor staffing figures, or later recommendations establish that any act or omission by the City proximately caused Mr. Brown's attack. The City expressly preserves governmental immunity, the legal limits of any statutory waiver, the public-duty doctrine as applicable to general police-protection theories, and all other available defenses.

RESPONSE TO NUMBERED ALLEGATIONS

SPECIFICALLY RESPONDING TO "PARTIES"

1. The City is without information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 1, and they are, therefore, denied.

2. The City admits that the City is a North Carolina municipal corporation, that CATS was operated as a department of the City at the relevant time, and that CATS provided public transportation including light rail and bus services. The City specifically denies that CATS was operated for profit and denies that its governmental functions are rendered proprietary merely by the collection of fares. The legal characterization of common-carrier status, any duties arising

therefrom, and any waiver of immunity are disputed. Except as specifically admitted and denied, the City denies the allegations in Paragraph 2.

3. Paragraph 3 does not relate to the City and thus no response is required. To the extent a response is required, the City is without information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 3, and they are, therefore, denied.

SPECIFICALLY RESPONDING TO "JURISDICTION AND VENUE"

4. Paragraph 4 states legal conclusions to which no response is required. To the extent a response is required, the City admits the allegations in Paragraph 4.

5. The City admits that the events alleged occurred in Mecklenburg County and does not presently contest venue in this county.

6. The City admits that the Complaint seeks damages exceeding $25,000. The City denies that Plaintiff is entitled to recover such damages against the City.

SPECIFICALLY RESPONDING TO "THE FATAL LIGHT RAIL ATTACK"

7. The City admits that Ms. Zarutska boarded the Blue Line at Scaleybark Station (hereinafter the "Train") on August 22, 2025 at approximately 9:46 p.m. Except as admitted, the City is without information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 7, and they are, therefore, denied.

8. The City admits upon information and belief that Ms. Zarutska paid the required fare or had a pass to ride the Train on August 22, 2025. Except as admitted, the City is without information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 8, and they are, therefore, denied.

9. The City is without information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 9, and they are, therefore, denied.

10. The City admits that after Ms. Zarutska was murdered, the City learned that a passenger later identified as Decarlos Brown entered the transit system via a CATS bus and it does not appear he presented a pass or ticket to ride the Train on August 22, 2025.

11. The City admits that after Ms. Zarutska was murdered, the City learned that Mr. Brown rode a CATS bus to the Charlotte Transportation Center ("CTC") and boarded the Train.

12. The City admits the allegations in Paragraph 12.

13. The City admits that after Ms. Zarutska was murdered, the City learned that a passenger later identified as Mr. Brown did not appear to present a pass or ticket to ride the Train on August 22, 2025. The City further admits it was not aware that Mr. Brown failed to pay prior to Ms. Zarutska's death. The City denies that nonpayment of a fare rendered Mr. Brown's subsequent violent crime foreseeable or establishes proximate cause. Except as specifically admitted and denied, the City denies the allegations in Paragraph 13.

14. The City admits that August 22, 2025 surveillance video from the Train shows that Ms. Zarutska sat directly in front of Mr. Brown after boarding. Except as admitted, the City denies the allegations in Paragraph 14.

15. The City admits that after Ms. Zarutska was murdered, the City learned that Mr. Brown had a criminal history. The City denies that the mere existence of such a history establishes that CATS knew of his identity, propensities, or the impending attack. Except as specifically admitted and denied, the City denies the allegations in Paragraph 15.

16. The City admits that surveillance video from the Train shows that Mr. Brown was seated on the train before Ms. Zarutska boarded. The City denies that mere visibility established observable threatening conduct, adequate grounds for detention or removal, or an opportunity for

a reasonable officer or monitor to prevent the attack. Except as specifically admitted and denied, the City denies the allegations in Paragraph 16.

17. The City admits that surveillance video from the Train shows Mr. Brown intentionally stabbed Ms. Zarutska at around 9:50 p.m., approximately four minutes after she boarded the Train on August 22, 2025. The City further admits upon information and belief that Ms. Zarutska died due to Mr. Brown's actions. Except as admitted, the City denies the allegations in Paragraph 17.

SPECIFICALLY RESPONDING TO "DEFENDANTS' OPERATION AND CONTROL OVER CATS"

18. The City admits that the City operated CATS, including the Blue Line, at the relevant time. The City denies that each of the broad terms "managed," "supervised," and "controlled" establishes direct City control over PSS's daily personnel assignments, which were governed by the operative contracts and relevant evidence. Except as admitted, the City denies the allegations in Paragraph 18.

19. The City admits the allegation in Paragraph 19.

20. The City admits the allegations in Paragraph 20.

21. The City admits that CATS charged fares and that commercial tenants have operated within transit facilities. The City affirmatively denies that CATS operated to generate a profit or that rents and fares exceeded the costs of operating the transit system. The City provides an essential public-transportation service financed substantially through sources other than passenger fares. Except as admitted, Defendant denies the allegations in Paragraph 21.

22. The City denies the allegations in Paragraph 22. The City affirmatively alleges that the extent, if any, of a waiver of governmental immunity is governed by N.C. Gen. Stat. § 160A-

485.5 and the City's applicable resolution. The City does not concede the applicability of any particular policy or coverage.

23. The City denies the allegations in Paragraph 23. In particular, the City denies that CATS was operated for profit or that aggregate transportation fees and facility rents covered operating costs. The City denies that any proprietary-function allegation constitutes a waiver of governmental immunity.

SPECIFICALLY RESPONDING TO "DEFENDANT CITY OF CHARLOTTE'S PRIVATE SECURITY CONTRACTS"

24. The City admits that it retained private entities to provide specified transit security services and that those contracts are documents in writing that speak for themselves. Except as admitted, Defendant denies the allegations in Paragraph 24.

25. The City admits that it contracted with G4S Secure Solutions (USA), Inc. on or about October 25, 2018 and that contract is a document in writing that speaks for itself. To the extent the allegations contained in Paragraph 25 contradict that writing, Defendant denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 25.

26. The City admits the allegations in Paragraph 26.

27. The City admits the allegations in Paragraph 27.

28. The City admits the allegations in Paragraph 28.

SPECIFICALLY RESPONDING TO "DEFENDANT CITY OF CHARLOTTE'S 2022 RFP AND AWARD TO PSS"

29. The City admits the allegations in Paragraph 29.

30. The City admits that its July 19, 2022 Request for Proposals ("RFP") contained the quoted language set forth in Paragraph 30. The RFP is a document in writing that speaks for itself.

To the extent the allegations contained in Paragraph 30 contradict that writing, Defendant denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 30.

31. The City admits that it received eight proposals in response to the July 19, 2022 RFP, including proposals submitted by Strategic Security Corporation ("SSC") and Defendant Professional Police Services, Inc. d/b/a Professional Security Services ("PSS"), and that a review panel evaluated the proposals received and did not recommend re-contracting with Allied Universal Security Services ("Allied"). The proposals submitted by SSC and PSS and the City's official procurement records are documents in writing that speaks for themselves. To the extent the allegations in Paragraph 31 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 31.

32. The City admits that the review panel recommended awarding the armed security services portion of the July 19, 2022 RFP to SSC and the unarmed security services portion of the RFP to Defendant PSS. Except as admitted, the City denies the allegations in Paragraph 32.

33. The City admits the allegations in Paragraph 33.

34. The City admits that the unarmed security services portion of the City's July 19, 2022 RFP was solicited pursuant to the CBI program for certified MWSBEs. The July 19, 2022 RFP and the City's official procurement records are documents in writing that speak for themselves. To the extent the allegations in Paragraph 34 contradict those writings, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 34.

35. The City admits upon information and belief that PSS is certified as a minority business enterprise under the City's CBI program. Except as expressly admitted herein, the remaining allegations of Paragraph 35 are denied.

36. The City admits that it executed a contract with PSS for unarmed security services (the "PSS Contract") and a contract with SSC for company police and armed security services (the "SSC Contract"). Those contracts are documents in writing that speak for themselves. To the extent the allegations in Paragraph 36 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 36.

SPECIFICALLY RESPONDING TO "CANCELLATION OF ARMED SECURITY CONTRACT AND EXPANSION OF PSS'S ROLE"

37. The City admits that it exercised its contractual right to terminate the SSC Contract. The termination notice and underlying contract are documents in writing that speak for themselves. To the extent the allegations in Paragraph 37 contradict those writings, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 37.

38. The City admits that following the termination of the SSC Contract, the City did not issue a new RFP for armed security services and instead modified its existing transit security contract with Defendant PSS in accordance with applicable procurement rules and procedures. Except as admitted, the City denies the allegations in Paragraph 38.

39. The City admits that Defendant PSS submitted a proposal for the unarmed security services portion of the City's July 19, 2022 RFP. The July 19, 2022 RFP and Defendant PSS's proposal are documents in writing that speak for themselves. To the extent the allegations in Paragraph 39 contradict those writings, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 39.

40. The City admits it amended its contract with Defendant PSS to include armed security services (the "Amended PSS Contract") and that the amended contract with Defendant PSS was in effect on August 22, 2025. The PSS Contract and Amended PSS Contract are documents in writing that speak for themselves. To the extent the allegations in Paragraph 40 contradict those writings, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 40.

41. The City admits that the quoted language in Paragraph 41 appears in the City's Amended PSS Contract. The City further admits that the contract is a document in writing that speaks for itself. To the extent the allegations in Paragraph 41 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 41.

42. The City admits that the Amended PSS Contract includes the partial phrase quoted in Paragraph 42. The City further admits that the PSS Amended Contract is a document in writing that speaks for itself. To the extent the allegations in Paragraph 42 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 42.

43. The City admits that the Amended PSS Contract includes the partial phrase quoted in Paragraph 43. The City further admits that the PSS Amended Contract is a document in writing that speaks for itself. To the extent the allegations in Paragraph 43 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 43.

44. The City denies the allegations in Paragraph 44 as stated. The City admits only that it may request compliance documentation from Defendant PSS pursuant to the terms of their

written contract and may inspect publicly available records maintained by state agencies to the extent permitted by North Carolina law. Except as specially admitted and denied, the City Denies the allegations in Paragraph 44.

45. The City is without information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 45, and they are, therefore, denied.

46. Defendant denies the allegations in Paragraph 46.

47. The City admits that CATS issued public statements regarding ongoing enhancements to transit safety and security operations. To the extent the allegations in Paragraph 47 mischaracterize those statements, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 47.

48. The City admits that it has entered into private security contracts for transit security services during the fiscal years referenced in Paragraph 48. The City further admits that those contracts are documents in writing that speak for themselves. To the extent the allegations in Paragraph 48 contradict those writings, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 48.

49. The City admits that the graphic reproduced in Paragraph 49 appears in the September 30, 2025 Rapid Response Preliminary Special Report issued by the North Carolina Office of the State Auditor. That report and the underlying municipal contracts, amendments, and procurement records referenced therein are documents in writing that speak for themselves. To the extent the allegations in Paragraph 49 contradict those writings, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 49.

SPECIFICALLY RESPONDING TO "KNOWN SAFETY FAILURES BEFORE IRYNA ZARUTSKA'S DEATH"

50. Defendant admits that the PSS Amended Contract authorized staffing up to 219 full-time equivalent ("FTE") positions across the classifications set forth in the reproduced schedule for Year 2 (FY25), subject to the contract's hourly billing terms. The PSS Amended Contract is a document in writing that speaks for itself. To the extent the allegations in Paragraph 50 mischaracterize those ceilings as unconditional funding obligations or otherwise misstate the contract's terms, those allegations are denied. Except as specifically admitted and denied, the City denies the allegations in Paragraph 50.

51. The City is without information sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 51, and they are, therefore, denied.

52. The City admits that at the September 3, 2025 meeting of the Metropolitan Transit Commission ("MTC"), Brent Cagle made remarks that included the partial quotation set forth in Paragraph 52. To the extent the allegations in Paragraph 52 mischaracterize Mr. Cagle's remarks, those allegations are denied. Except as specifically admitted and denied, the City denies the allegations in Paragraph 52.

53. The City admits that it entered into the G4S Contract in 2018. The City further admits that the G4S Contract is a document in writing that speaks for itself. To the extent the allegations in Paragraph 53 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 53.

54. The City admits that the September 2025 preliminary report stated that the later PSS arrangement contemplated up to 39 armed positions and compared that number with earlier contracting. The report’s staffing categories and limitations speak for themselves; the City denies that the comparison establishes a legally required armed guard on each car. Except as specifically admitted and denied, the City denies the allegations in Paragraph 54.

55. The City admits that 39 is fewer than 48 and that it operated multiple railcars; it denies that the law or contract required one armed officer per railcar or that the numerical comparison establishes negligence or proximate cause. Except as specifically admitted and denied, the City denies the allegations in Paragraph 55.

56. The City denies the allegations in Paragraph 56.

57. The City admits that the PSS Amended Contract is a document in writing that speaks for itself. To the extent the allegations in Paragraph 57 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 57.

58. The City admits upon information and belief that no private security guard was physically inside the specific light rail train car at the moment the assault occurred on the evening of August 22, 2025. Except as admitted, the City denies the allegations of Paragraph 58.

59. Defendant denies the allegations in Paragraph 59.

SPECIFCALLY RESPONDING TO "LACK OF FARE ENFORCEMENT AND PHYSICAL BARRIERS"

60. The City admits that the PSS Amended Contract is a document in writing that speaks for itself. To the extent the allegations in Paragraph 60 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 60.

61. The City admits that after Ms. Zarutska was murdered, the City learned that Mr. Brown boarded the light rail on August 22, 2025 without paying a fare. Except as admitted, the City denies the allegations in Paragraph 61.

62. The City admits that the August 17, 2026 Rapid Response Special Report issued by the North Carolina Office of the State Auditor and the referenced November 4, 2025

memorandum are documents in writing that speak for themselves. To the extent the allegations in Paragraph 62 contradict those writings, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 62.

63. The City admits that LYNX Blue Line stations operate as an open-platform, proof-of-payment light rail system without turnstiles or fare gates. Except as specifically admitted, the City denies the allegations in Paragraph 63.

64. The City admits that the August 17, 2026 Rapid Response Special Report issued by the North Carolina Office of the State Auditor is a document in writing that speaks for itself. To the extent the allegations in Paragraph 64 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 64.

65. The City admits that the August 17, 2026 Rapid Response Special Report issued by the North Carolina Office of the State Auditor is a document in writing that speaks for itself. To the extent the allegations in Paragraph 65 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 65.

66. The City denies the allegations in Paragraph 66.

67. The City admits that the August 17, 2026 Rapid Response Special Report issued by the North Carolina Office of the State Auditor is a document in writing that speaks for itself. To the extent the allegations in Paragraph 67 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 67.

68. The City denies the allegations in Paragraph 68.

69. The City denies the allegations in Paragraph 69.

70. The City admits that the August 17, 2026 Rapid Response Special Report issued by the North Carolina Office of the State Auditor is a document in writing that speaks for itself.

To the extent the allegations in Paragraph 70 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 70.

71. The City admits that CATS's December 2025 ridership analysis is a document in writing that speaks for itself. To the extent the allegations in Paragraph 71 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 71.

72. The City admits that CATS's September 25, 2025 letter to the Federal Transit Administration is a document in writing that speaks for itself. To the extent the allegations in Paragraph 72 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 72.

73. The City admits that CATS's written planning and procurement records regarding its Fare Modernization Program and the installation of electronic fare validators speak for themselves. To the extent the allegations in Paragraph 73 contradict those writings, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 73.

74. The City denies the allegations in Paragraph 74.

75. The City denies the allegations in Paragraph 75.

SPECIFICALLY RESPONDING TO "LACK OF REAL-TIME COORDINATION WITH CMPD"

76. The City admits that the August 17, 2026 Rapid Response Special Report issued by the North Carolina Office of the State Auditor is a document in writing that speaks for itself. To the extent the allegations in Paragraph 76 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 76.

SPECIFICALLY RESPONDING TO "INADEQUATE RISK ASSESSMENT AND SAFETY PLANNING"

77. The City admits that the August 17, 2026 Rapid Response Special Report issued by the North Carolina Office of the State Auditor is a document in writing that speaks for itself. To the extent the allegations in Paragraph 77 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 77.

78. The City admits that the August 17, 2026 Rapid Response Special Report issued by the North Carolina Office of the State Auditor is a document in writing that speaks for itself. To the extent the allegations in Paragraph 78 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 78.

79. The City admits that the August 17, 2026 Rapid Response Special Report issued by the North Carolina Office of the State Auditor is a document in writing that speaks for itself. To the extent the allegations in Paragraph 79 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 79.

80. The City admits that the August 17, 2026 Rapid Response Special Report issued by the North Carolina Office of the State Auditor and the City's official budget and financial records are documents in writing that speak for themselves. To the extent the allegations in Paragraph 80 contradict those writings, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 80.

SPECIFICALLY RESPONDING TO "FORESEEABILITY OF VIOLENT CRIME ON AND AROUND THE BLUE LINE"

81. The City denies the allegations in Paragraph 81.

82. The City denies the allegations in Paragraph 82 and subparts (a) through (d) as stated. Answering further, the City admits only that third-party news reports and official Charlotte-

Mecklenburg Police Department records speak for themselves, and states that: (a) none of the incidents referenced in subparts (a) through (d) occurred aboard a LYNX Blue Line light rail train; (b) the December 8, 2024 incident involving Joshua Overton occurred at the CTC bus terminal and was determined by CMPD and the Mecklenburg County District Attorney's Office to be justified; (c) the February 20, 2025 incident involving LeShean McBeath occurred at or near the CTC bus terminal; (d) the February 24, 2025 incident inside a CTC lobby restroom was not a homicide; and (e) the April 12, 2025 incident involving Qualo Daniels occurred at or near the CTC bus terminal. Except as specifically admitted and denied, the City denies the allegations in Paragraph 82 and subparts (a) through (d).

83. The City denies the allegations in Paragraph 83.

84. The City is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 84, and therefore denies the allegations in Paragraph 84.

85. The City is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 85, and therefore denies the allegations in Paragraph 85.

86. The City admits upon information and belief that a stabbing occurred on a LYNX Blue Line light rail train on December 5, 2025. Except as specifically admitted, the City denies the allegations in Paragraph 86.

87. The City admits that CATS maintains an Exclusion List and that the August 17, 2026 Rapid Response Special Report issued by the North Carolina Office of the State Auditor is a document in writing that speaks for itself. To the extent the allegations in Paragraph 87 contradict that writing, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 87.

88. The City admits that written correspondence or determinations issued by the Federal Transit Administration ("FTA") speak for themselves. To the extent the allegations in Paragraph 88 selectively quote, mischaracterize, or contradict those writings, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 88.

89. Paragraph 89 states legal conclusions to which no response is required. To the extent a response is deemed required, the City denies the allegations in Paragraph 89.

90. Paragraph 90 states legal conclusions to which no response is required. To the extent a response is deemed required, the City denies the allegations in Paragraph 90.

91. Paragraph 91 states legal conclusions to which no response is required. To the extent a response is deemed required, the City denies the allegations in Paragraph 91.

92. Paragraph 92 states legal conclusions to which no response is required. To the extent a response is deemed required, the City denies the allegations in Paragraph 92.

93. Paragraph 93 states legal conclusions to which no response is required. To the extent a response is deemed required, the City denies the allegations in Paragraph 93.

94. Paragraph 94 states legal conclusions to which no response is required. To the extent a response is deemed required, the City denies the allegations in Paragraph 94.

95. Paragraph 95 states legal conclusions to which no response is required. To the extent a response is deemed required, the City admits that the PSS Amended Contract is a document in writing that speaks for itself, and denies any allegations in Paragraph 95 that contradict or characterize that writing. Except as specifically admitted and denied, the City denies the allegations in Paragraph 95.

96. Paragraph 96 states legal conclusions to which no response is required. To the extent a response is deemed required, the City denies the allegations in Paragraph 96.

97. Paragraph 97 states legal conclusions to which no response is required. To the extent a response is deemed required, the City denies the allegations in Paragraph 97.

98. Paragraph 98 states legal conclusions to which no response is required. To the extent a response is deemed required, the City denies the allegations in Paragraph 98.

99. Paragraph 99 states legal conclusions to which no response is required. To the extent a response is deemed required, the City denies the allegations in Paragraph 99.

100. The City denies the allegations in Paragraph 100.

101. The City denies the allegations in Paragraph 101.

102. The City denies the allegations in Paragraph 102.

103. The City denies the allegations in Paragraph 103.

104. The City admits that transit security and training were matters of operational importance. The City denies failure to take reasonable steps to engage qualified security personnel or that any asserted training lapse was a proximate cause of the attack. Except as specifically admitted and denied, Defendant denies the allegations in Paragraph 104.

105. The City denies the allegations in Paragraph 105.

106. The City denies that it owed or breached the generalized warning duty alleged in Paragraph 106 and denies that the absence of any such warning proximately caused Ms. Zarutska's death. Except as specifically denied, the City denies the allegations in Paragraph 106.

107. The City admits that CATS monitored transit-related safety concerns and engaged in ongoing security and public-safety operations prior to August 22, 2025. The City denies that it

knew of any specific or imminent threat posed by Mr. Brown to Ms. Zarutska. Except as specifically admitted and denied, the City denies the allegations in Paragraph 107.

108. The City denies the allegations in Paragraph 108. Answering further, the City states that prior to August 22, 2025, it maintained contracted security and company-police services, coordinated with law enforcement, and undertook public-safety initiatives, and denies any inference that it consciously disregarded an actionable danger.

109. The City admits that CATS received and reviewed safety-related communications and crime reports in the ordinary course of transit operations. The City denies that those reports established the foreseeability, breach, or proximate causation alleged in Paragraph 109. Except as specifically admitted and denied, the City denies the allegations in Paragraph 109.

110. The City denies the allegations in Paragraph 110.

111. The City denies the allegations in Paragraph 111. Mr. Brown's intentional criminal conduct caused Ms. Zarutska's fatal injury, and the City denies that any act or omission by the City was an actual or proximate cause of her death.

SPECIFICALLY RESPONDING TO "DEFENDANT CITY OF CHARLOTTE'S DUTIES AS A COMMON CARRIER"

112. The City admits that at the relevant time it operated CATS, including the LYNX Blue Line light rail. Paragraph 112 otherwise states legal conclusions regarding common-carrier status, applicable standards of care, and affirmative duties to which no response is required. To the extent a response is required, the City denies that common-carrier principles impose strict liability, create an insurer's duty against sudden third-party criminal assaults, or displace governmental immunity and the public-duty doctrine. Except as specifically admitted and denied, the City denies the allegations in Paragraph 112.

113. Paragraph 113 states legal conclusions regarding the duties of a common carrier to

which no response is required. To the extent a response is required, the City denies that violent criminal attacks aboard the Blue Line light rail were reasonably to be anticipated on August 22, 2025, or that the City knew or should have known of any imminent threat posed by Mr. Brown. Except as specifically denied, the City denies the allegations in Paragraph 113.

114. Paragraph 114 states legal conclusions regarding special relationships, proprietary functions, and the public-duty doctrine to which no response is required. To the extent a response is required, the City denies that its operation of the Blue Line light rail or the CTC constituted a proprietary function, denies that a special relationship defeated governmental immunity or the public-duty doctrine, and denies that the allegations fall outside general police-protection principles. Except as specifically denied, the City denies the allegations in Paragraph 114.

115. The City denies the allegations in Paragraph 115. In particular, the City denies that contracting for transit security or engaging in public-safety initiatives constituted a voluntary undertaking that increased the risk of harm to Ms. Zarutska, induced detrimental reliance, or created an actionable tort duty where none otherwise existed.

SPECIFICALLY RESPONDING TO "FIRST CLAIM FOR RELIEF (Wrongful Death Based on Negligent and Inadequate Security — Direct Liability of Defendant City of Charlotte)"

116. The City incorporates by reference its responses to Paragraphs 1 through 115 as if fully set forth herein.

117. The City admits upon information and belief that Ms. Zarutska paid the required fare or held a valid pass to ride the Train on August 22, 2025. Paragraph 117 otherwise states legal conclusions regarding premises-liability status to which no response is required. To the extent a response is required, the City denies the remaining allegations in Paragraph 117.

118. The City admits that it owned and operated CATS and the Blue Line light rail.

Paragraph 118 otherwise states legal conclusions regarding possession, control, and premises duties to which no response is required. To the extent a response is required, the City denies that it exercised daily operational control over PSS's personnel assignments and denies the remaining allegations in Paragraph 118.

119. Paragraph 119 states legal conclusions regarding non-delegable duties and common-carrier standards of care to which no response is required. To the extent a response is required, the City denies the allegations in Paragraph 119.

120. The City denies the allegations in Paragraph 120.

121. The City denies the allegations in Paragraph 121.

122. Paragraph 122 states legal conclusions regarding undertaken duties to which no response is required. To the extent a response is required, the City denies the allegations in Paragraph 122.

123. Paragraph 123 states legal conclusions regarding vicarious liability and *respondeat superior* to which no response is required. To the extent a response is required, the City denies that it is vicariously liable for any alleged acts or omissions giving rise to Plaintiff's claims and denies the allegations in Paragraph 123.

124. The City denies the allegations in Paragraph 124, including all subparts (a) through (o).

125. The City denies the allegations in Paragraph 125.

126. Paragraph 126, including subparts (a) through (d), states legal conclusions regarding statutory wrongful-death damages to which no response is required. To the extent a response is required, the City denies that Plaintiff is entitled to recover any damages from the City and denies the allegations in Paragraph 126.

127. The City denies the allegations in Paragraph 127.

SPECIFICALLY RESPONDING TO "SECOND CLAIM FOR RELIEF (Wrongful Death Based on Vicarious Liability of Defendant City of Charlotte for the Acts and Omissions of Defendant PSS)"

128. The City incorporates by reference its responses to Paragraphs 1 through 127 as if fully set forth herein.

129. The City admits that it retained Defendant PSS pursuant to written contracts, as amended, which were in effect on August 22, 2025. Those contracts are documents in writing that speak for themselves. To the extent the allegations in Paragraph 129 contradict those writings, the City denies the allegations. Except as specifically admitted and denied, the City denies the allegations in Paragraph 129.

130. The City denies the allegations in Paragraph 130. Specifically, the City denies that PSS was an employee or general agent of the City and denies that the City directed and controlled the daily manner and method of PSS's security operations beyond the terms of the governing written contracts.

131. Paragraph 131 states legal conclusions regarding non-delegable duties and independent-contractor liability to which no response is required. To the extent a response is required, the City denies the allegations in Paragraph 131.

132. The City denies the allegations in Paragraph 132.

133. The allegations in Paragraph 133, including subparts (a) through (f), are directed toward Defendant PSS and state legal conclusions to which no response is required from the City. To the extent a response is required, the City denies that any alleged act or omission of PSS establishes liability against the City and denies the allegations in Paragraph 133.

134. Paragraph 134 states legal conclusions regarding agency, vicarious liability,

respondeat superior, and non-delegable duty to which no response is required. To the extent a response is required, the City denies the allegations in Paragraph 134.

135. The City denies the allegations in Paragraph 135.

136. Paragraph 136, including subparts (a) through (d), states legal conclusions regarding statutory wrongful-death damages to which no response is required. To the extent a response is required, the City denies that Plaintiff is entitled to recover any damages from the City and denies the allegations in Paragraph 136.

137. The City denies the allegations in Paragraph 137.

SPECIFICALLY RESPONDING TO "THIRD CLAIM FOR RELIEF (Wrongful Death Based on Negligent Hiring, Retention, and Supervision of Defendant PSS Against Defendant City of Charlotte)"

138. The City incorporates by reference its responses to Paragraphs 1 through 137 as if fully set forth herein.

139. Paragraph 139 states legal conclusions regarding alleged duties in selecting, hiring, retaining, and supervising an independent contractor to which no response is required. To the extent a response is required, the City denies the allegations in Paragraph 139.

140. Paragraph 140 states legal conclusions regarding alleged duties to supervise contractor personnel to which no response is required. To the extent a response is required, the City denies the allegations in Paragraph 140.

141. Paragraph 141 states legal conclusions regarding the applicable standard of care to which no response is required. To the extent a response is required, the City denies the allegations in Paragraph 141.

142. The City denies the allegations in Paragraph 142.

143. The City denies the allegations in Paragraph 143, including all subparts (a) through

(i).

144. The City denies the allegations in Paragraph 144.

145. Paragraph 145, including subparts (a) through (d), states legal conclusions Regarding statutory wrongful-death damages to which no response is required. To the extent a response is required, the City denies that Plaintiff is entitled to recover any damages from the City and denies the allegations in Paragraph 145.

146. The City denies the allegations in Paragraph 146.

SPECIFICALLY RESPONDING TO "FOURTH CLAIM FOR RELIEF (Wrongful Death Based on Negligent and Inadequate Security — Direct Liability of Defendant PSS)"

147. The City incorporates by reference its responses to Paragraphs 1 through 146 as if fully set forth herein.

148–155. Paragraphs 148 through 155, including all subparts therein, are asserted solely against Defendant PSS and do not seek relief against the City; therefore, no response is required from the City. To the extent any allegations in Paragraphs 148 through 155 may be construed to allege fault, breach, causation, or liability on the part of the City, those allegations are denied.

SPECIFICALLY RESPONDING TO "FIFTH CLAIM FOR RELIEF (Wrongful Death Based on Negligent Hiring, Retention, and Supervision Against Defendant PSS)"

156. The City incorporates by reference its responses to Paragraphs 1 through 155 as if fully set forth herein.

157–165. Paragraphs 157 through 165, including all subparts therein, are asserted solely against Defendant PSS and do not seek relief against the City; therefore, no response is required

from the City. To the extent any allegations in Paragraphs 157 through 165 may be construed to allege fault, breach, causation, or liability on the part of the City, those allegations are denied.

SPECIFICALLY RESPONDING TO "SIXTH CLAIM FOR RELIEF (Negligence Per Se for Violation of Chapter 74E and Chapter 74C of the North Carolina General Statutes Against Defendant PSS)"

166. The City incorporates by reference its responses to Paragraphs 1 through 165 as if fully set forth herein.

167–176. Paragraphs 167 through 176, including all subparts therein, are asserted solely against Defendant PSS and do not seek relief against the City; therefore, no response is required from the City. To the extent any allegations in Paragraphs 167 through 176 may be construed to allege fault, breach, causation, or liability on the part of the City, those allegations are denied.

SPECIFICALLY RESPONDING TO "SEVENTH CLAIM FOR RELIEF: GROSS NEGLIGENCE (All Defendants)"

177. The City incorporates by reference its responses to Paragraphs 1 through 176 as if fully set forth herein.

178. Paragraph 178 states legal conclusions regarding non-delegable duties and standards of care to which no response is required. To the extent a response is required, the City denies the allegations in Paragraph 178.

179. The City denies the allegations in Paragraph 179.

180. The City denies the allegations in Paragraph 180.

181. Paragraph 181 states legal conclusions regarding vicarious liability and *respondeat superior* to which no response is required. To the extent a response is required, the City denies the allegations in Paragraph 181.

182. The City denies the allegations in Paragraph 182, including all subparts (a) through (l).

183. The City denies the allegations in Paragraph 183.

184. The City denies the allegations in Paragraph 184.

185. The City denies the allegations in Paragraph 185.

186. Paragraph 186 states legal conclusions regarding damages to which no response is required. To the extent a response is required, the City admits that punitive damages are barred against a municipality under N.C. Gen. Stat. § 1D-26 and denies that Plaintiff is entitled to recover any actual or compensatory damages from the City.

187. The City denies the allegations in Paragraph 187.

SPECIFICALLY RESPONDING TO "EIGHTH CLAIM FOR RELIEF (Punitive Damages — Defendant PSS)"

188. The City incorporates by reference its responses to Paragraphs 1 through 187 as if fully set forth herein.

189. The City admits that N.C. Gen. Stat. § 1D-26 bars punitive damages against a municipality and that Plaintiff expressly does not seek punitive damages against the City. Except as specifically admitted, the remaining allegations in Paragraph 189 do not apply to the City and require no response.

190–195. Paragraphs 190 through 195 are asserted solely against Defendant PSS and expressly exclude the City; therefore, no response is required from the City. To the extent any allegations in Paragraphs 190 through 195 may be construed to allege willful, wanton, malicious, or wrongful conduct by the City, those allegations are denied.

SPECIFICALLY RESPONDING TO "DAMAGES"

196. The City incorporates by reference its responses to Paragraphs 1 through 195 as if fully set forth herein.

197. The City admits upon information and belief that Ms. Zarutska was 23 years old at

the time of her death.

198. The City is without knowledge or information sufficient to form a belief as to the truth of the personal and biographical allegations in Paragraph 198 and therefore denies the same.

199. The City denies that any wrongful or negligent act or omission by the City caused Ms. Zarutska's death and denies that Plaintiff is entitled to recover damages from the City. The City is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 199 and therefore denies the same.

200. The City admits that surveillance video depicts Mr. Brown's brutal attack on Ms. Zarutska but is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 200, and therefore denies the same.

201. Paragraph 201 states legal conclusions regarding joint and several liability and statutory damages under N.C. Gen. Stat. § 28A-18-2 to which no response is required. To the extent a response is required, the City denies that it is jointly or severally liable to Plaintiff and denies that Plaintiff is entitled to recover any damages from the City.

RESPONSE TO "PRAYER FOR RELIEF"

The City denies that Plaintiff is entitled to any of the relief requested in Paragraphs (a) through (g) of the *Wherefore* clause against the City, and denies each and every allegation of the Complaint not expressly admitted herein.

AFFIRMATIVE DEFENSES

FIRST DEFENSE — GOVERNMENTAL IMMUNITY

The City asserts governmental immunity to the full extent provided by North Carolina law as to claims arising from governmental functions, including qualifying law-enforcement and public-safety functions. The City denies that charging transit fares alone characterizes all relevant

City activities as proprietary. The particular function challenged must be determined under applicable law and the evidence. The City denies any waiver beyond that lawfully effected by resolution or statute.

SECOND DEFENSE — STATUTORY WAIVER AND LIMITATIONS

To the extent any immunity has been waived, the City expressly invokes N.C. Gen. Stat. § 160A-485.5, the operative City resolution, and all incorporated defenses and limitations, including those in N.C. Gen. Stat. §§ 143-299, 143-299.1, and 143-299.2, and the City separately asserts any applicable common-law public-duty defense. The City reserves its position regarding the effect of any other statute expressly incorporated by § 160A-485.5. The City disputes that the existence of any policy creates a waiver under § 160A-485 where § 160A-485.5 governs.

The City specifically pleads the $1,000,000 cumulative payment limitation in N.C. Gen. Stat. § 143-299.2(a), as incorporated by N.C. Gen. Stat. § 160A-485.5(b)(3), and asserts retained governmental immunity above the statutory maximum under the City Council's October 12, 2009 resolution, Resolution Book 42, pages 226–27, and Charlotte City Code § 2-3. In the alternative, if the Court characterizes any challenged activity as proprietary, the City pleads that the statutory payment limitation applies to any such claim to the extent the Court determines that the claim is governed by § 160A-485.5.

THIRD DEFENSE — PUBLIC-DUTY DOCTRINE

To the extent Plaintiff seeks recovery for alleged failure by the City or its law-enforcement agencies to furnish general police protection, prevent third-party crimes, or deploy law-enforcement resources for the public at large, the City asserts the North Carolina common-law public-duty doctrine. The City denies that it promised individual police protection to Ms. Zarutska or assumed a special police-protection relationship of the type that defeats that defense.

FOURTH DEFENSE — ABSENCE OF BREACH AND FORESEEABILITY

The City denies any breach of a legally cognizable duty owed to Ms. Zarutska. Prior incidents throughout a transit network, without evaluation of their nature, location, frequency, and circumstances, do not necessarily establish foreseeability of the sudden attack alleged or the reasonableness of every preventive measure Plaintiff proposes.

FIFTH DEFENSE — LACK OF ACTUAL AND PROXIMATE CAUSATION

Plaintiff cannot recover against the City absent proof that a breach attributable to the City was an actual and proximate cause of the claimed injuries. The City specifically disputes that its staffing, deployment, camera-monitoring, coordination, procurement, fare-enforcement, or station-design decisions proximately caused Brown's intentional stabbing.

SIXTH DEFENSE — INTERVENING AND SUPERSEDING CRIMINAL CONDUCT

The City asserts that Brown intentionally committed the criminal attack alleged. To the extent the evidence and governing law establish that his acts were unforeseeable, independent, and superseding, they bar the claims against the City. The City does not contend that any third-party criminal act automatically supersedes otherwise actionable negligence.

SEVENTH DEFENSE — INDEPENDENT CONTRACTOR; ABSENCE OF AGENCY

PSS was retained pursuant to written service agreements. The City denies that PSS personnel were City employees or agents for all purposes, and denies the alleged scope of vicarious liability. The City disputes that any negligent act of PSS is automatically imputable to the City. Any nondelegable duty and independent-contractor exception must be established under controlling law and the facts.

EIGHTH DEFENSE — NO GROSS NEGLIGENCE OR WILLFUL AND WANTON CONDUCT

The City denies the allegations of gross negligence and willful or wanton conduct, including any conscious disregard of passenger safety, and denies that such conduct caused the attack.

NINTH DEFENSE — DAMAGES AND STATUTORY RESTRICTIONS

The City denies that Plaintiff has established an entitlement to damages from it. Any award must be limited to damages legally recoverable on competent evidence, subject to all applicable statutory and common-law restrictions.

TENTH DEFENSE — FAILURE TO STATE A CLAIM

To the extent the Complaint fails to allege or prove all required elements of a claim against the City, including an actionable duty, breach, and causation, it fails to state a claim upon which relief may be granted.

PRAYER FOR RELIEF

WHEREFORE, Defendant City of Charlotte respectfully requests that the Court:

1. Dismiss all claims against the City with prejudice;

2. Enter judgment for the City on all claims and deny Plaintiff any recovery against the City;

3. Determine all immunity, waiver, statutory-limitation, and public-duty issues in the City's favor and if any claim against the City survives, determine by separate order which claims are governed by N.C. Gen. Stat. § 160A-485.5 and apply the cumulative $1,000,000 statutory payment limitation to those claims;

4. Award the City taxable costs and any other relief authorized by statute or rule;

5. Have the case tried by jury to the extent claims remain after dispositive motions; and

6. Grant such further relief as is just and proper.

This the 16th day of November, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **CITY OF CHARLOTTE'S MOTION TO DISMISS AND ANSWER** was served upon counsel of record by electronic service through the North Carolina eCourts File & Serve system and/or email, addressed as follows:

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This the 16th day of November, 2026.

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