



# Mayor and City Council Worksession

Thursday, September 05, 2024 at 6:00 PM

Dacula City Hall, Council Chambers

442 Harbins Rd. | P.O. Box 400 | Dacula, Georgia 30019 | (770) 963-7451

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## Agenda

### **CALL TO ORDER AND ROLL CALL OF MEMBERS:**

### **OLD BUSINESS:**

### **NEW BUSINESS:**

- [1.](#) Rezoning Application: 2024-CD-RZ-01
- [2.](#) Special Use Permit Application & Change of Conditions Application: 2024-CD-SUP-02 & 2024-COC-03
- [3.](#) Ordinance to amend Article XVII of the Zoning Resolution
- [4.](#) Design proposal for Brookton North Subdivision improvement project
- [5.](#) Bid results for Superior Drive storm drainage improvements project
- [6.](#) Adopt the Georgia Municipal Employees Benefit System (GMEBS) Restated Defined Benefit Retirement Plan
- [7.](#) Adoption of the Gwinnett County Multi-Jurisdictional Hazard Mitigation Plan
- [8.](#) Consulting Agreement with Stephen Mayer

### **MARSHAL UPDATE:**

### **CITY ADMINISTRATOR UPDATE:**

### **MEMBER COMMENT(S) / QUESTION(S):**

### **ADJOURNMENT:**

# Memorandum

**To:** City of Dacula Council and Mayor/  
Planning Commission and Members

**From:** Hayes Taylor, City Planner

**Date:** August 26, 2024

**Subject:** 2024-CD-RZ-01

**Proposed Zoning:** C-3 (Central Business District and Heavy Commercial District)

**Existing Zoning:** OI (Office-Institutional District)

**Size:** 1.634 acres

**Proposed Use:** Animal Hospital

**Applicant:** Tricon Properties, LLC  
1310 Atlanta Highway  
Auburn, GA, 30019  
770-339-4690

**Owner:** Tricon Properties, LLC  
1310 Atlanta Highway  
Auburn, GA, 30019  
770-339-4690

**Location:** 5th District, Land Lot 303, Parcel R5303 077

## Existing Land Use and Zoning:

The subject property is located at 420 Dacula Road, totaling 1.634 acres along Dacula Rd, and is less than 500 feet south from the Fence Rd and Dacula Rd intersection. The parcel is zoned OI (Office-Institutional District) and the prior use was a dental office. On the site is one (1) 1,985 square foot building, and an eighteen (18) space parking lot. The rear of the property includes septic system lines and a 187.5-foot wide Georgia Power Company easement. The parcel adjacent to the north is a United States Post Office, zoned OI (Office-Institutional District) and the properties to the south are zoned R-1200 (Single-Family Residential), which are contained within the Whisper Way subdivision.

The City Council previously approved 2017-CD-VAR-03 on the subject property to allow for an addition. The approved variance reduced the required 50-foot front setback to 30 feet to increase the usable area of the property given that permanent structures are prohibited within transmission line easements.

The site contains a Georgia Power transmission line easement, which limits approximately 1.2 acres of the 1.634 acres or 73% of the property. Parking requirements occupy roughly 6,124 square feet or 32% of the remaining area. The existing office building and the proposed fenced area would occupy 4,529 square feet, approximately 6.4% of the total lot area.

### **The Proposed Rezoning & Development:**

The applicant has requested to rezone the 1.634-acre property from OI (Office Institutional District) to C-3 (Central Business District and Heavy Commercial District) for the use of an animal hospital. Per the Zoning Resolution, veterinary clinics and animal hospitals require a C-3 zoning (Article IX, Section 907).

The submitted site plan shows that the proposed animal hospital would not require exterior renovations. The only proposed site modification is constructing a six (6) feet high, 48' x 53', wooden privacy fence to create an area in which animals may be walked and observed. The proposed development does not include a dumpster, instead the site plan shows four (4), ninety-five (95) gallon trash cans screened from the right-of-way behind the building within the fenced area.

Application materials state that the business hours would be from 9:00 AM to 5:00 PM, Monday through Friday, and 9:00 AM to 1:00 PM on Saturdays. The office would be closed on Sundays. The applicant asserts that there would be minimum impacts on residents given the proposed limited business hours and the existing 187.5-foot transmission line buffer between the existing buildings and the subdivision.

### **Summary:**

The subject rezoning is consistent with the locally driven employment portion of the Dacula Character area description and would allow residents who have used Dacula Animal Hospital's services for years to continue support local business. The proposed business model would be consistent with the commercial character of the Dacula Rd and Fence Rd intersection. The site is well suited for an animal hospital and due to the site constraints, non-office related uses may not be feasible. Staff recommends the requested rezoning be approved with conditions.

### **Comprehensive Plan:**

The City of Dacula's 2050 Comprehensive Plan labels the subject property as Dacula Downtown Use on the Future Land Use Map. Dacula Downtown land uses are described as supporting the locally driven employment of residents, facilitating retail growth, and increasing trail and multi-modal connectivity (The City of Dacula 2050 Comprehensive Plan, page 61). The Guidance for Rezoning by Character Area table calls for C-1, C-2, R-1200, and OI in the Dacula Downtown (pg 69).

The analysis of the application should be made based upon the "Standards Governing Exercise of the Zoning Power" as stated in Section 1702 of the 2000 Zoning Resolution of the City of Dacula.

**1. *Whether the proposed rezoning request will permit a use that is suitable in view of the use and development of an adjacent and nearby property?***

The subject parcel neighbors a commercial center across Dacula Rd to the north-east, is adjacent to a U.S. Postal Office location, and is proximal to the C-3 zoned Kroger shopping center, which is just north of Fence Rd. Adjacent residential properties would be distanced from the proposed animal hospital by the 187.5-foot Georgia Power transmission line easement. The proposed limitations on the hours and scope of the animal hospital would offer additional safeguards for nearby residents. Considering the above, the proposed development could be considered suitable as proposed.

**2. *Whether the proposed rezoning will adversely affect the existing use or usability of adjacent or nearby properties?***

The proposed rezoning with recommended conditions should not adversely impact the surrounding residential properties. Approving the recommended Zoning conditions would limit the potential of adverse impacts.

**3. *Whether the property to be affected by the proposed rezoning request has a reasonable economic use as currently zoned?***

Yes, the subject property has reasonable economic use as currently zoned.

**4. *Whether the proposed rezoning request will result in a use that will or could cause excessive or burdensome use of existing streets, transportation facilities, utilities, or schools?***

The proposed use is not expected to increase the burden of use for utilities, existing streets, transportation facilities, or schools.

**5. *Whether the proposed rezoning request conforms with the policy and intent of the Land Use Plan?***

The City of Dacula's Future Land Use Map shows the property within the Dacula Downtown Character Area. Based on the recommended zoning districts for the character area, the proposed rezoning may not be considered suitable at this location; however, the business model matches the description of local services and commercial growth within the character area description (City of Dacula 2050 Comprehensive Plan, pg 61).

**6. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning?***

There is precedent for C-3 zoning north of the Dacula Rd and Fence Rd intersection. Evaluation of appropriate future uses of the property should consider existing site constraints, which limit the usable parcel acreage.

**Recommendation:**

Based on the application, the requested rezoning is recommended for approval with the following conditions.

*The Department notes the Planning Commission unanimously recommended approval with staff's recommended conditions for the requested rezoning at the Public Hearing on August 26, 2024. Said conditions are below.*

1. Any substantial deviation from the approved concept plan entitled Dacula Animal Hospital by TerraBuild USA, INC. dated June 27, 2024, and conditions of zoning shall be resubmitted to the Mayor and Council for consideration. The City Administrator shall determine what constitutes substantial deviation.
2. The site shall be limited to the following uses:
  - a. Medical Office
  - b. Professional Office
  - c. Animal Hospital
3. No kennel or overnight services will be permitted.
4. No outdoor storage shall be permitted.
5. One ground sign shall be permitted. The ground sign shall be monument-type only with indirect lighting. The ground sign shall be limited to a single monument-type sign with a brick or stacked stone base of at least 2 feet in height. Neon or self-illuminating ground signs shall be prohibited.
6. Parking lot and security lighting shall be directed towards the property to minimize the adverse impact on neighboring properties.
7. All trash receptacles and trash dumpsters shall be screened by an enclosure using the same exterior building material as the adjacent occupied buildings. Pickup shall be limited to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday. Dumpster enclosures shall remain closed, locked, and in good repair at all times.
8. Business hours will be limited to 9:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 2:00 p.m. on Saturday.
9. No temporary banners, streamers, or roping decorated flags, tinsel, or other similar material shall be displayed, hung, or strung on the site without appropriate permit(s). No decorative balloons or hot-air balloons shall be displayed on the site.
10. Human sign spinners and/or twirlers shall be prohibited.
11. The reduction of the required 50-foot front setback to 30-feet shall be maintained per 2017-CD-VAR-03.
12. All business activity shall be contained within the primary building and the proposed fenced area.

13. The owner must contact Georgia Power regarding all property improvements within the transmission line easement area.
14. At least one (1) shade tree must be provided within the entrance landscaping area at least 12 feet from the sidewalk line within the parcel boundaries, subject to Gwinnett Department of Transportation approval. The tree shall be of one of the following species:
  - a. Northern Red Oak
  - b. Nuttal Oak
  - c. Scarlet Oak
  - d. Shumard oak
  - e. Willow Oak
  - f. Zelkova Serrata
15. The proposed fence location and materials must be reviewed and approved by the Planning and Development Department prior to permit issuance and construction.
16. The proposed fenced area shall be landscaped to provide adequate shade for animals, patients and staff. The landscape plan is subject to the approval of the Planning & Development Department.



City of Dacula  
P. O. Box 400  
Dacula, GA 30019  
(770) 962-0055 / Fax (770) 513-2187

**REZONING/ CHANGE OF CONDITIONS/ SPECIAL USE PERMIT APPLICATION**

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF DACULA, GEORGIA.  
(Please Type or Print using BLACK INK)

APPLICANT *	PROPERTY OWNER *
NAME <u>Tricon Properties, LLC</u>	NAME <u>Tricon Properties, LLC</u>
ADDRESS <u>1310 Atlanta Highway</u>	ADDRESS <u>1310 Atlanta Highway</u>
CITY <u>Auburn</u>	CITY <u>Auburn</u>
STATE <u>Georgia</u> ZIP <u>30011</u>	STATE <u>Georgia</u> ZIP <u>30011</u>
PHONE <u>770-339-4690</u> FAX _____	PHONE <u>770-339-4690</u> FAX _____

**APPLICANT IS THE:**

- OWNER'S AGENT
- PROPERTY OWNER
- CONTRACT PURCHASER

CONTACT PERSON Jody Charles Campbell  
 COMPANY NAME Blum & Campbell, LLC  
 ADDRESS 3000 Langford Rd., Bldg. 100  
Peachtree Corners, Georgia  
 PHONE 470-365-2890 FAX 470-365-2889  
 EMAIL jody@blumcampbell.com

\* Include any person having a property interest and/or a financial interest in any business entity having property interest (use additional sheets if necessary).

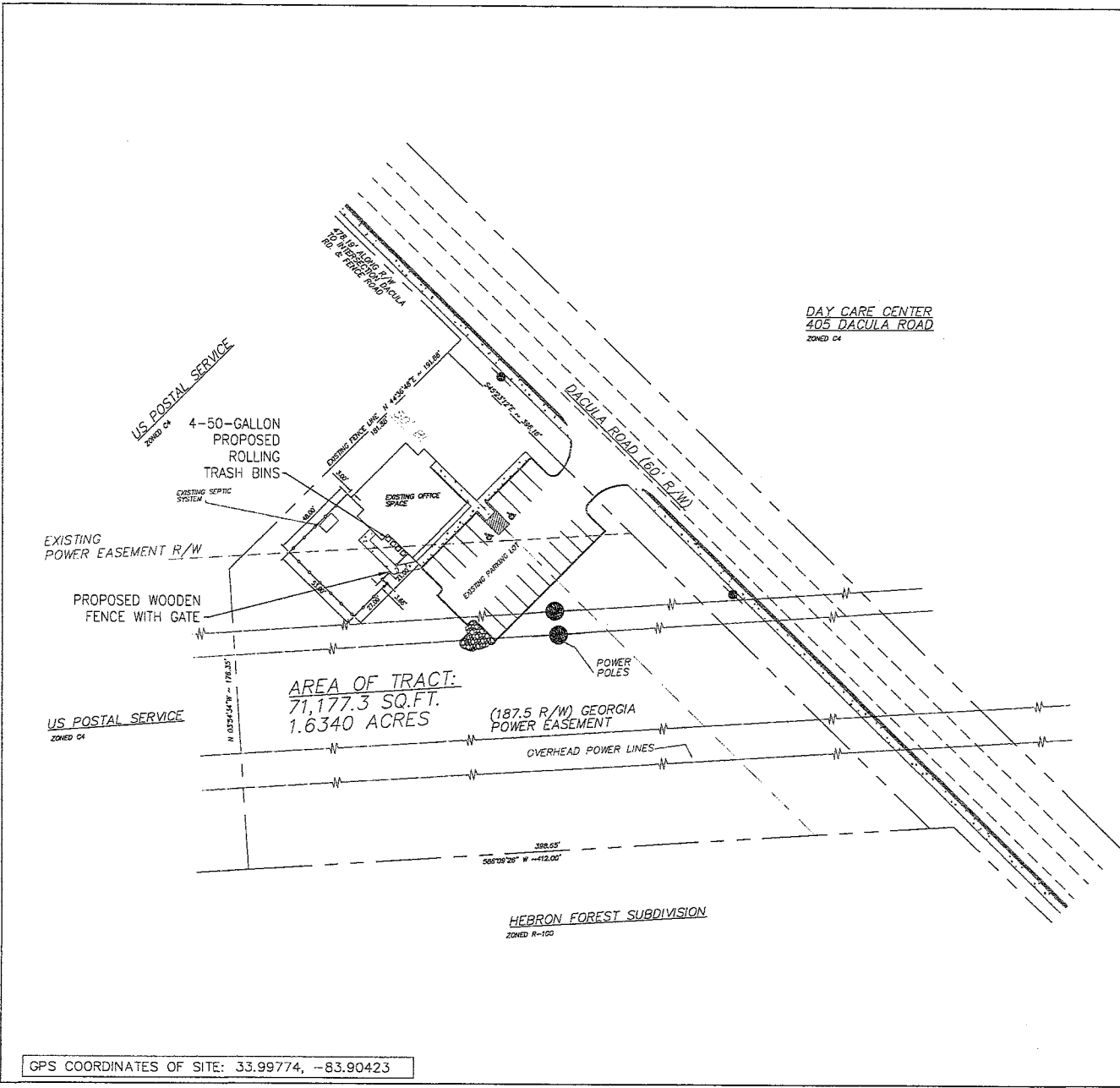
PRESENT ZONING DISTRICT(S) Ol- Office/Inst. REQUESTED ZONING DISTRICT C-3 Central Bus. Dist.  
 LAND LOT(S) 303 PARCEL # R5303 077 DISTRICT(S) 5th ACREAGE 1.6340  
 PROPOSED DEVELOPMENT OR SPECIAL USE REQUESTED Veterinary Hospital and Clinic.

<b>RESIDENTIAL DEVELOPMENT:</b>	<b>NON-RESIDENTIAL DEVELOPMENT:</b>
NO. OF LOTS/DWELLINGS UNITS _____	NO. OF BUILDINGS/LOTS <u>1</u>
DWELLING UNIT SIDE (SQ. FT.) _____	TOTAL GROSS SQ. FEET <u>1,967 sq. ft.</u>

**LETTER OF INTENT & LEGAL DESCRIPTION OF PROPERTY**

\*\*\* PLEASE ATTACH A "LETTER OF INTENT" EXPLAINING WHAT IS PROPOSED and TYPED "LEGAL DESCRIPTION" OF PROPERTY TO BE AMENDED \*\*\*

**CASE NUMBER**



GPS COORDINATES OF SITE: 33.99774, -83.90423

**STATE WATERS NOTE:**  
THERE ARE NO STATE WATERS ON OR WITHIN 200 FEET OF THIS PROPERTY THAT REQUIRE STATE BUFFERS

THERE ARE NO WETLANDS LOCATED ON THIS SITE  
THE DESIGN PROFESSIONAL, WHOSE SEAL APPEARS HEREON, CERTIFIES THE FOLLOWING: 1) THE NATIONAL WETLAND INVENTORY MAPS HAVE BEEN CONSULTED; AND, 2) THE APPROPRIATE PLAN SHEET DOES NOT INDICATE AREAS OF UNITED STATES ARMY CORPS OF ENGINEERS JURISDICTIONAL WETLANDS AS SHOWN ON THE MAPS/ AND, 3) IF WETLANDS ARE INDICATED, THE LAND OWNER OR DEVELOPER HAS BEEN ADVISED THAT LAND DISTURBANCE OF PROTECTED WETLANDS SHALL NO OCCUR UNLESS THE APPROPRIATE WETLANDS ALTERATION PERMIT HAS BEEN OBTAINED.

**AREA SUMMARY**  
TOTAL SITE AREA: 1.63 AC.  
**PERFORMANCE STANDARDS**  
CURRENT ZONING: O/I  
PROPOSED ZONING: C3

CLIENT/OWNER/DEVELOPER/PERMITTEE

**TRICON PROPERTIES, LLC**  
1310 ATLANTA HWY, AUBURN, GA 30011  
551-283-2149

**PROJECT**  
**DACULA ANIMAL HOSPITAL**  
420 DACULA ROAD, DACULA, GA 30019  
LL 303 5TH DISTRICT, THE CITY OF DACULA, GWINNETT COUNTY, GA  
TerreBuild PROJECT NO. E24396



P.O. BOX 601 ELBURN, GEORGIA 30145  
Office: 770.900.7619  
www.TerreBuildUSA.com



NET AREA WITHOUT SETBACKS AND DATE  
These drawings are instruments of service and are the exclusive property of TerreBuild USA, Inc. (TerreBuild). That any one publication shall be restricted to the project for which they were prepared. Resale, reproduction, or publication in any medium, in whole or in part, is prohibited except by written permission from TerreBuild.

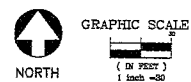
DESIGNED BY: JTH  
DRAWN BY: MAN  
CHECKED BY: JTH  
APPROVED BY: SYI

DATE: JUNE 27, 2024

REVISIONS:  
1: 7-10-24 REVISED COMMENTS JTH



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DRAWING TITLE  
**ZONING PLAT**  
DRAWING NUMBER  
**Z1.01**

MANAGE • BUILD • DESIGN • PLAN • ENVISION



# BLUM & CAMPBELL, LLC

Attorneys at Law

JODY CHARLES CAMPBELL  
ATTORNEY AT LAW  
LICENSED IN GA

3000 Langford Road, Building 100  
Peachtree Corners, Georgia 30071

TELEPHONE: (470) 365-2890  
FACSIMILE: (470) 365-2899  
JODY@BLUMCAMPBELL.COM

July 11, 2024

**VIA Hand Delivery**

Honorable Mayor Trey King  
Councilmember Denis W. Haynes, Jr.  
Councilmember Ann Mitchell  
Councilmember Daniel Spain  
Councilmember Sean Williams  
Dacula City Hall  
442 Harbins Road  
Dacula, Georgia 30019

**Re: Tricon Properties, LLC  
Application for Rezoning  
Property Address: 420 Dacula Road, Dacula, Georgia 30019  
Parcel No. R5303 077**

Dear Mayor King and Councilmembers:

This law firm has the pleasure of representing Tricon Properties, LLC. My client is the owner of the property located at 420 Dacula Road, Dacula, Georgia 30019. (the "Property"). The Property is currently located approximately 478 feet to the southeast of the intersection of Dacula Road and Fence Road next to the Dacula Post Office. The Property consists of 1.6340 acres of property and contains a single-story, brick building 1,967 square feet in size and with an eighteen (18) space, asphalt parking lot. The building was constructed in 1986. The Property is currently zoned Office-Institutional (OI) and was previously used as a dental and orthodontic office. Tricon Properties, LLC seeks to rezone the Property to Central Business District (C-3) to allow for the operation of a veterinary clinic by Dacula Animal Hospital.

Dacula Animal Hospital has operated for the last thirty years off Winder Highway in unincorporated Gwinnett County. Due to untenable development conditions along the Highway 29 corridor and displacement caused by the Rowen Project, Dr. Neal believes that now is the perfect time to relocate his veterinary practice and become part of the community that the practice has served since its inception. If approved, the veterinary clinic will operate during normal business hours only from 9:00am to 5:00pm Monday through Friday and 9:00am through 1:00pm on Saturday. The clinic will be closed on Sundays. The clinic does not offer overnight boarding or kenneling services, and no such business activity will be conducted at the location.

No modification to the exterior of the building will be required in order to relocate the business, and any interior modifications will be approved by the planning department prior to commencement. Dr. Neal intends to replace the existing signage on the Property with identical size and shape signage, meaning no change to the present sign structures will be required. Dr. Neal does plan to install a six (6) foot high wooden fence in the rear of the building to create an area approximately 48' x 53' to allow for an area where animals can be walked and observed in the course of medical diagnosis. Although there are no specific fencing design standards stated in City's Zoning Resolution for such a use, all other commercial uses in other zoning classifications where fences are required provide for a minimum of six (6) feet in height and opaque building materials. My client will ensure that the fence complies with these requirements. The proposed fence is depicted on the attached site plan.

Dr. Neal does not intend to use a dumpster for solid waste disposal. Instead, waste and rubbish will be stored and disposed of using four 95-gallon trash cans that will be shielded completely from view of the public within the fenced area. Dr. Neal is confident that all trash and waste can be sustained using these cannisters. However, if additional trash service is required in the future, Dr. Neal would consider placement of a 2-yard dumpster on the southernmost parking space, enclosed within a three-sided brick enclosure with opaque metal gate to match the materials of the primary structure. Of course, any such improvements would be submitted to the City for permitting and approval prior to construction, and we would welcome a zoning condition confirming said requirements.

We believe that the proposed use as a veterinary clinic is consistent with and in furtherance of the City's 2050 Comprehensive Plan Update. The Property contains 400 feet of frontage along Dacula Road less than 500 feet from the intersection with Fence Road. Both of these roads are identified as Major Arterials, which are uniquely suited for commercial applications. The Property is identified as "Commercial Office" on the Future Land Use Map and is located in the heart of the City's Commercial Corridor. The proposed use will further the stated goal of providing diverse land uses in the downtown area through "redevelopment of underutilized or abandoned...properties." See, 2050 Comprehensive Plan Update, p. 57. Finally, the Property is located with the Downtown Dacula Character area, which is designed primarily for commercial retail and office uses that support existing residents. Providing medical facilities and care for the family pets of the City is consistent with that goal and increases the diversity of land uses for commercial applications.

We further submit that the proposed use will have little to no impact on adjacent properties and businesses. This is true for a number of reasons. First, the majority of the Property is currently encumbered by a Georgia Power utility easement on which multiple high voltage, transmission lines are located. The presence of both a 500kv and 230kv transmission line has a much greater impact on neighboring residential properties than what amounts to the continuation of an office use of the property that has been ongoing for decades. Second, the electric utility easement effectively creates a 185-foot buffer between the footprint of the existing building and the closest residential property. Third, the specific business model of Dr. Neal, including restrictions on boarding and kenneling as well as hours of operation, ensures that the veterinary clinic will not impair the quiet enjoyment of neighboring properties. These restrictions can further be memorialized in the form of zoning conditions to provide legal assurances said restrictions will be

adhered to. Finally, while we believe the useable area of the property would not permit any other C-3 application on the Property, however, any concern about such other permissible C-3 uses can be completely eliminated by a zoning condition eliminating any other C-3 use without further approval of the Mayor and City Council.

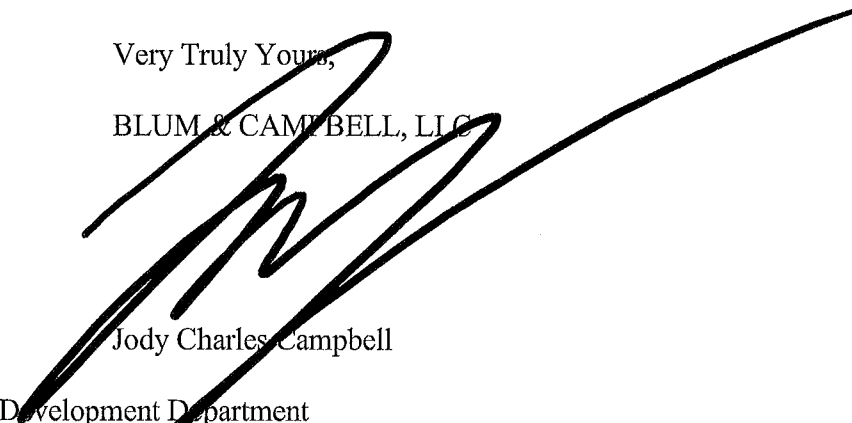
We believe that this development and project is uniquely tailored to this location and would be a valuable addition to the downtown area. The business would provide a much needed service for neighboring residents, will providing jobs and economic development, and revitalize a property that has become vacant since the previous owner relocated their business. Additionally, rezoning the property to C-3 would increase the property's value thereby increasing the property tax digest in the area.

In closing, we believe that the denial of this proposed rezoning or the grant of such rezoning with unreasonable conditions will result in substantial monetary damage to my client. The subject property is currently underutilized and the present zoning can no longer support the highest and best use of the Property. The denial of this request will violate the owner's rights of due process and equal protection, procedural and substantive, and violation of Article I, Section I, Paragraphs 1 and 2, and Article I, Section III, Paragraph 1 of the Georgia Constitution and the Fifth and Fourteenth Amendments to the United States Constitution. Denial of the rezoning will destroy owner's property rights without first paying just compensation and would constitute an arbitrary and capricious act by the City of Dacula without any rational basis therefore, constituting an abuse of discretion. Further, a refusal to rezone the subject property so as to permit the highest and best use of the property consistent with the 2050 Comprehensive Plan Update would be unconstitutional and would discriminate in an arbitrary and capricious and unreasonable manner between the owner and owners' of similarly situated property. This application meets the prescribed test set out by the Georgia Supreme Court to be used in establishing the constitutional balance between private property rights and zoning as an expression of the government's police power.

My clients look forward to working with the City to bring a valuable member of the business community into the City limits and finally make Dacula Animal Hospital a location worthy of its name. If you have any questions or need any additional information to process this application, please do not hesitate to contact me.

Very Truly Yours,

BLUM & CAMPBELL, LLC



Jody Charles Campbell

Cc: City of Dacula Planning and Development Department

**Legal Description**

All that tract or parcel of land lying and being in Land Lot 303 of the 5<sup>th</sup> District, Gwinnett County, Georgia, containing 1.6340 acres as per plat of survey for Leonard O. Hinton, as prepared by Cornerstone Planning Co., Georgia Land Surveyor No. 2487, dated May 31, 1991 and recorded in Plat Book 53, Page 131, Gwinnett County Records, which plat is hereby referred to and made a part of this description.

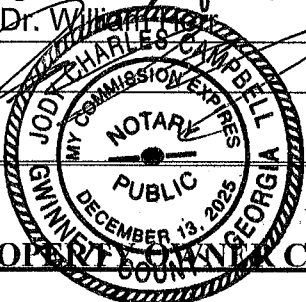
**APPLICANT CERTIFICATION**

The undersigned is authorized to make this application and is aware that if an application is denied, no application or re-application affecting the same property shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Applicant [Handwritten Signature] Date 7/11/24

Type or Print Name/Title Dr. William Herr

Notary Public \_\_\_\_\_ Date 7/11/24



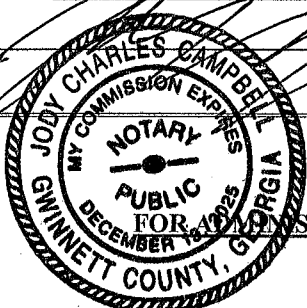
**PROPERTY OWNER CERTIFICATION**

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that if an application is denied, no application or re-application affecting the same land shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Property Owner [Handwritten Signature] Date 7/11/24

Type or Print Name/Title Dr. William Herr

Notary Public \_\_\_\_\_ Date 7/11/24



**ADMINISTRATIVE USE ONLY**

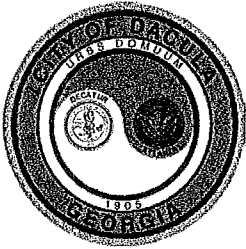
DATE RECEIVED \_\_\_\_\_ RECEIVED BY \_\_\_\_\_ FEE \_\_\_\_\_ RECEIPT # \_\_\_\_\_

LAND LOT \_\_\_\_\_ DISTRICT \_\_\_\_\_ PARCEL # \_\_\_\_\_ HEARING DATE \_\_\_\_\_

ACTION TAKEN \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

STIPULATIONS \_\_\_\_\_



**City of Dacula**  
P. O. Box 400  
Dacula, GA 30019  
(770) 962-0055 / Fax (770) 513-2187

**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes  No

If the answer is *Yes*, please complete the following section:

<b>Name of Government Official</b>	<b>Contributions</b> <i>(All which aggregate to \$250.00+)</i>	<b>Contribution Date</b> <i>(within last 2 years)</i>

Have you, within the two years immediately preceding the filing of this application, made gifts having in the aggregate a value of \$250.00 or more to the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes  No

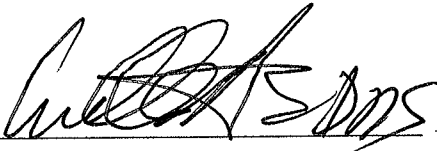
If the answer is *Yes*, please complete the following section:

<b>Name of Government Official</b>	<b>Description of Gifts</b> <i>(Valued aggregate \$250.00+)</i>	<b>Date Gift was Given</b> <i>(within last 2 years)</i>

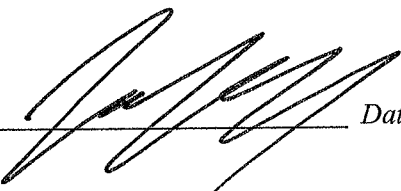
*(Attach additional sheets if necessary to disclose or describe all contributions/gifts)*

**CONFLICT OF INTEREST CERTIFICATION**

The undersigned, making application for rezoning/SUP, has complied with the Official Code of Georgia, Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions and has submitted or attached the required information on the forms provided.

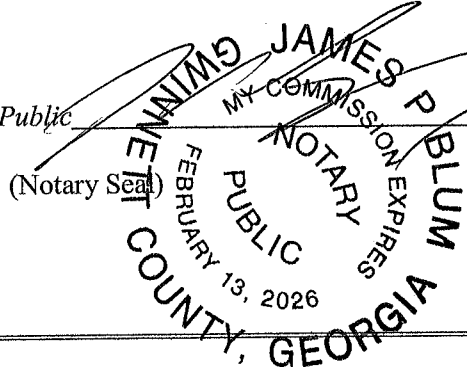
Signature of Applicant  Date 7/11/24

Type or Print Name/Title Dr. William Herr, Manager

Signature of Applicant' Attorney  Date 7/11/24

Type or Print Name/Title Jody Charles Campbell

Notary Public  Date 7-11-2024



**Official Use Only**

DATE RECEIVED \_\_\_\_\_ ZONING CASE NUMBER \_\_\_\_\_

RECEIVED BY \_\_\_\_\_



City of Dacula  
P. O. Box 400  
Dacula, GA 30019  
(770) 962-0055 / Fax (770) 513-2187

**IMPACT ANALYSIS STATEMENT**

As required by the Zoning Resolution of the City of Dacula, the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power. **ALL APPLICATIONS MUST BE COMPLETED WITH THE COMPLETED IMPACT ANALYSIS STATEMENT.**

DATE 6/12/2024 APPLICANT Tricon Properties, LLC

- A. Whether a proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property: Yes. Dacula Road is characterized by a variety of commercial uses. The proposed use is consistent with the previous use of the property.
- B. Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property: No. The proposed use is substantially similar to the prior use of the property and will not constitute an increase in intensity of use. No additional buildings or development is proposed, and current building is almost 200 feet from nearest residential property line. The existing power lines and easement provide buffer to all adjacent residential properties.
- C. Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned: Yes. The property has been utilized for a commercial purpose, specifically for medical/dental offices.
- D. Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. No. The property is located on a section of Dacula Road, which is identified as a Major Arterial, in the Dacula Downtown/Commercial Corridor. The proposed use will not cause a substantial increase in traffic over the present use.
- E. Whether the proposed rezoning is in conformity with the policy and intent of the Land Use Plan: Yes. The property lies within the Commercial Corridor identified in the 2050 Comprehensive Plan and the Dacula Downtown Character Area, which is designated primarily for commercial retail, office, and residential land uses with an emphasis on commercial uses that support and fulfill the commercial and employment needs of residential properties.
- F. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning: Yes. The presence of the Georgia Power transmission lines on the rear of the property prevents economic development and use of the majority of the property, thus commercial applications must be directed to the front of the property. The existing conditions and prior use of the property are substantially similar to the requested use, and adverse uses can be limited by appropriate zoning conditions.



**ADJACENT PROPERTY OWNER****MAILING MATRIX**

<b>Property Owners</b>	<b>Parcel No.</b>	<b>Property Address</b>	<b>Mailing Address</b>
Mary Ruth Dubard	R5303 049	398 Dacula Road Dacula, Georgia 30019	3005 Superior Court Dacula, Georgia 30019
Kompong, LLC	R5303 064	2490 Hinton Road Dacula, Georgia 30019	1725 Marcia Overlook Drive Cumming, Georgia 30041
JPAC Properties, LLC	R5303 063	2470 Hinton Road Dacula, Georgia 30019	5900 Spout Springs Rd. Suite 3C-1043 Flowery Branch, Georgia 30542
United States Postal Service	R5303 051	470 Dacula Road Dacula, Georgia 30019	2825 Lone Oak Pkwy Eagan, Michigan 55121

# Memorandum

**To:** City of Dacula Planning Commission /  
City of Dacula Mayor and City Council

**From:** Hayes Taylor, City Planner

**Date:** August 26, 2024

**Subject:** 2024-CD-SUP-02 & 2024-CD-COC-03

**Proposed Zoning:** PMUD (Planned Mixed-Use District)

**Existing Zoning:** PMUD (Planned Mixed-Use District)

**Size:** 3.87 acres

**Proposed Use:** Tractor Supply Retail Store

**Applicant:** Trinity PD Dacula, LLC c/o Andersen Tate & Carr, P.C.  
1960 Satellite Boulevard, Suite 4000  
Duluth, Georgia 30097

**Owner:** WREG Harbins Land, LLC  
1948 Monroe Drive  
Atlanta, Georgia 30324

**Location:** LL 300 - 5th District

## Existing Land Use and Zoning:

The subject property totals 3.87 acres and is an outparcel within the northern portion of the Harbins 316 PMUD development off of Davis Rock Rd. In 2020, the property was zoned PMUD (Planned Mixed-Use District) pursuant to 2020-CD-RZ-03. Within the development there are various uses including an existing gas station, fast food, and retail center. The master development also includes multi-family residential, and senior living, which are under development.

## The Proposed Development:

The Applicant has submitted a special use permit and change of conditions application to permit a Tractor Supply with outdoor storage within an outparcel of the Harbins 316 planned mixed-used development. The site plan depicts a proposed 21,072 square foot building for indoor retail, an adjoining 20,000 square foot fenced outdoor display area, a 2,800 square foot rear trailer display area and 95 parking spots, including three (3) oversized parking spaces for large commercial vehicles. Automotive traffic would enter the parcel from Davis Rock Rd. There are two inter parcel access points from the adjacent QuikTrip to the west, and two (2) inter parcel access points from the proposed self-storage to the east. The site provides pedestrian access from Davis Rock Rd via a five (5) foot wide raised concrete

pedestrian crosswalk. The proposed cross walk bisects the parking lot and could also serve to decrease automotive speeds in the parking lot.

Tractor Supply Company (TSC) requests a Special Use Permit to allow outdoor storage, and to allow sales of minibikes, dirt bikes and scooters.

Per Zoning Condition Set #2, Condition #4, all forms of on-site outdoor storage require a special use permit. TSC has requested approval of outdoor storage areas on-site. The letter of intent states that TSC plans to store some of the items within the “Live Good Center,” which is a fenced area to the side of the building. Items for outdoor display and storage include lawn and garden equipment, tools, vehicle equipment, all-terrain vehicles, sporting goods, and other larger items sold at many of their locations. The submitted site plan also shows a trailer and large equipment display area to the rear of the principal building, not easily visible from Davis Rock Rd. The proposed outside storage would be contained within the designated areas and shielded from the right-of-way. The site is located interior of the planned development and does not front Harbins Road. As such, outdoor storage may be considered permissible with the proper screening and separation from pedestrian areas.

Application materials also state that TSC customarily sells minibikes, dirt bikes and scooters, incidental to its primary use. These items are typically offered for TSC stores and total a small percentage of their retail sales. Per Zoning Condition Set #2, Condition #3, a special use permit is required for automotives sales, tire stores and boat sales. The Special Use Permit to allow for the incidental sale of the aforementioned items could be considered acceptable, provided that the sale of said items remains incidental.

The Applicant has also requested a change of conditions to amend 2020-CD-RZ-03 Zoning Condition Set #2, Condition #8. Condition #8 limits non-residential building front façade materials to brick, stone, stacked stone, stucco, EIFS, tilt-up concrete, and/or glass and limit the rear finish materials to a combination of stone, stucco, tilt-up concrete, glass, split faced block (CMU), and painted block. Tractor Supply Co. requests a change in conditions to allow for the use of corrugated metal for the entrance tower, awnings, front façade detailing, and the permanent outdoor storage area canopy. The letter of intent asserts that the use of corrugated metal is needed to conform with company brand standards. The inclusion of brick, increased transparency, and cornice on three (3) of the proposed building facades minimizes the break from architectural precedent throughout the master development. The use of corrugated metal as a building façade element as shown in the submitted elevations could be considered acceptable.

### **Summary:**

Tractor Supply Company would provide a service to existing and future nearby community members in the Emerging Commercial Character Area and the inclusion of the pedestrian walkway could contribute to the pedestrian connectivity heavily emphasized in the character area description. As such, the Department recommends the requested Special Use Permit for outdoor storage and Special Use Permit to allow for the incidental sale of tires, small boats and kayaks, and small automotive vehicles be approved with conditions at this location. The Department recommends the approval of the requested change of conditions to allow for

corrugated metal for no more than 30% of the front building face per the submitted elevations.

### **Comprehensive Plan:**

The subject parcel is within Emerging Commercial Character Area on the City of Dacula's 2050 Future Land Use Map and designated Innovation District on the Gwinnett County 2040 Unified Plan.

The Dacula 2050 Comprehensive Plan describes the Emerging Commercial character areas as being "more pedestrian oriented" with "mixed-use buildings" with "non-residential uses... oriented towards the street with direct pedestrian access, outdoor patios, plazas etc," while balancing both housing and employment opportunities (page 66).

The analysis of the application should be made based upon the "Standards Governing Exercise of the Zoning Power" as stated in Section 1702 of The 2000 Zoning Resolution of the City of Dacula.

**1. *Whether the proposed special use permit and change of conditions will permit a use that is suitable in view of the use and development of an adjacent and nearby property?***

The proposed development could be considered suitable in view of the adjacent gas station and self-storage uses.

**2. *Whether the proposed special use permit and change of conditions will adversely affect the existing use or usability of adjacent or nearby properties?***

With the recommended conditions, adverse impacts on surrounding properties could be minimized.

**3. *Whether the property to be affected by the proposed special use permit and change of conditions has a reasonable economic use as currently zoned?***

Yes, the property has reasonable economic use as currently zoned.

**4. *Whether the proposed special use permit and change of conditions will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools?***

An excessive or burdensome use of existing streets, transportation facilities, utilities, or schools is not expected from approval of the proposed uses.

**5. *Whether the proposed special use permit and change of conditions request is in conformity with the policy and intent of the Land Use Plan?***

The requested special use permit and change of conditions could be considered consistent with portions of the Emerging Commercial designation of the 2050 Future Land Use Map with the proper conditions.

**6. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning?**

There is a clear City Council precedent to prioritize pedestrian connectivity and safety within the Harbins 316 development. With the proper conditions to facilitate a shared space between pedestrians and drivers, the effects of outdoor storage and sale of large equipment and machinery may be minimized.

**Recommendation:**

Based upon the application, the requested special use permit and change of conditions are recommended for **approval with the following conditions.**

*The Department notes the Planning Commission unanimously recommended approval with staff's recommended conditions for the requested Special Use Permits and Change of Conditions at the Public Hearing on August 26, 2024.*

*Changes from 2020-CD-RZ-3, Approved Conditions are below. Additions are shown in **bold** and deletions in ~~strikethrough~~.*

**Condition Set #1**

Resulting from regional review (DRI) by the Atlanta Regional Commission (ARC) & the Georgia Regional Transportation Authority (GRTA)

**Attachment A - GRTA General Conditions**

Pedestrian, Bicycle, and Transit Facilities

- 1) Provide pedestrian connectivity between all buildings and uses.
- 2) Install sidewalks along the entire property frontage of Harbins Road.

Harbins Road at W Drowning Creek Road

- 3) Install a traffic signal, if and when warranted, per Gwinnett County Department of Transportation standards and approval.
- 4) Install a southbound left turn lane.
- 5) Install a northbound right turn deceleration lane.
- 6) Install a northbound left turn lane.

**Attachment B - Required Elements of the DRI Plan of Development:  
Conditions Related to Altering Site Plan after GRTA Notice of Decision**

The on-site development will be constructed materially (substantially) in accordance with the Site Plan. Changes to the Site Plan will not require re-review from GRTA so long as the following GRTA conditions are included as part of any changes:

- 7) All “Proposed Conditions to GRTA Notice of Decision” set forth in Attachment A are provided. **Attachment C – Required Improvements to Serve the DRI**

Pursuant to Section 1-201.R. of the *Procedures and Principles for GRTA Development of Regional Impact Review*, a “Required Improvement means a land transportation service [def. in Section 1-201.N] or access [def. in Section 1-201.A.] improvement which is necessary in order to provide a safe and efficient level of service to residents, employees and visitors of a proposed DRI.”

The Required Improvements in the study network were identified in the Review Package as necessary to bring the level of service up to an applicable standard before the build-out of the proposed project. These requirements are identified in Sections 1 and 2 of this Attachment. Section 1 contains improvements that do not require GRTA approval at this time because they are to be constructed prior to the completion of the DRI Plan of Development. However, GRTA approval shall be required in the event state and/or federal funds are proposed at a later date to be used for any portion of the improvements described in Section 1. Section 2 contains improvements that require GRTA approval prior to the expenditure of state and/or federal funding. Subject to the conditions set forth in Attachment A and Attachment B, GRTA approves the expenditure of state/and or federal funding for the improvements contained in Section 2.

***Section 1:***

***General Conditions of Approval to GRTA Notice of Decision:***

**Pedestrian, Bicycle and Transit Facilities**

- 8) Provide pedestrian connectivity between all buildings and uses.
- 9) Install sidewalks along the entire property frontage of Harbins Road.

***Roadway Improvement Conditions to GRTA Notice of Decision:***

**Harbins Road at W Drowning Creek Road**

- 10) Install a traffic signal, if and when warranted per Gwinnett County Department of Transportation standards and approval.
- 11) Install a southbound left turn lane.
- 12) Install a northbound right turn deceleration lane.
- 13) Install a northbound left turn lane.

***Section 2:*****Pedestrian, Bicycle and Transit Facilities**

- 14) Include pedestrian connections from the proposed apartment and senior living tracts to the proposed community park on the eastern portion of the project.
- 15) Include pedestrian connections from the proposed apartment tract to the proposed retail/grocer and shops tract.

**Harbins Road at W Drowning Creek Road**

- 16) Install an eastbound left turn lane.
- 17) Install a southbound right turn deceleration lane.

**Harbins Road at New Hope Road**

Monitor traffic conditions and identify needed improvements, as necessary

**Condition Set #2**

Conditions of the City of Dacula

**Concept Plan and Land Use**

- 1) The property shall be developed in accordance with the conceptual site plan prepared by ~~Doulgerakis Consulting Engineers, Inc entitled Inland Pass: A Planned Mixed-Use Development revised on June 17, 2021~~ **Foresite Group entitled Tractor Supply Co. dated on July 7, 2024.** Any substantial deviation from the approved conceptual plan and / or remaining conditions of zoning shall be resubmitted to the City Council for consideration. The City Administrator shall determine what constitutes substantial deviation.
- 2) The following uses in the PMUD Zoning District shall be prohibited and made part of the owner's restrictive covenants: adult entertainment establishments, log splitting operations or storage lots, mobile home leasing or sales lots, taxi cab, limousine, or other for hire vehicle services (excluding public or private ambulatory services), solid waste transfer stations, the storage or warehousing of caustic or hazardous materials, animal rendering plants, bulk petroleum or natural gas plant and/or storage facilities, landfills, composting facilities, fertilizer manufacturing, foundries, heavy equipment rental or repair, hardship mobile homes, incinerators, junkyards, lawnmower repair shops, livestock feedlots, materials recovery facility, pawn shops, title loan and check cashing facilities, poultry houses, the raising of dangerous animals for profit or gain, privately owned septic treatment facilities, stack houses, stand-alone crematories, truck stops and/or semi storage lots.

- 3) The following uses in the PMUD Zoning District shall be allowed with the approval of a Special Use Permit by the Mayor and City Council of the City of Dacula: contractor's offices with outdoor storage, machine/welding/radiator or muffler repair shops, vehicle rental (without driver), churches and/or religious facilities that are not located in a standalone building or structure, automotive sales lots, general auto repair, tire stores, muffler shops, boat sales establishments, crematories as an accessory to a funeral home, equipment rental sales or service (excluding heavy equipment) with associated outside storage, helicopter landing pads, mini-warehouse / personal storage facilities, fleet vehicle parking lots, tattoo and body piercing parlors, pool or billiard halls, liquor and/or package stores, van, moving or truck rental ( i.e. U-Haul, Ryder) or any other non-specified commercial and/or industrial business or use that could require outside storage.
- 4) All forms of on-site outdoor storage shall be subject to Special Use Permit approval by the Mayor and City Council. Garages within the multifamily and senior living projects shall be allowed.
- 5) Only one (1) fast food restaurant with or without drive-thru windows and/or curb service shall be permitted. A fast food restaurant shall be defined as any establishment which dispenses food for consumption on or off the premises, and which has the following characteristics: a limited menu, items prepared in advance or prepared or heated quickly, no table orders, and food served in disposable wrapping or containers. Said definition shall exclude restaurants with drive-thru services whose primary product focuses on specialty coffees or donuts and exclude restaurants without a drive thru in a multi-tenant building.
- 6) The senior living facility shall include improvements to accommodate and assist the senior age group. Necessary improvements and services include elevators, interior corridors, larger hallways (minimum width of 72 inches or compliant with ADA requirements, whichever is greater), resident programming, on-site staff to assist with the needs of residents, and off-site transit / shuttle bus services for residents. In addition, seven (7) of the following amenities / services shall be provided: social clubs, a weekly schedule of activities, nail and hair salon, on-site physical therapy, water aerobics, massage and meditation rooms, wine bar, game rooms, movie theatre, and/or a community concierge.
- 7) The maximum number of senior living units shall not exceed 180.

#### Architectural Design

- 8) The fronts and visible sides of non-residential building exteriors shall be constructed of brick, stone, stacked stone, stucco, EIFS, tilt-up concrete, **corrugated metal** and/or glass. **The use of corrugated metal must be in accordance with the submitted elevations dated March 8, 2024.** The rear of the structures shall be finished with brick, stone, stucco, tilt-up concrete, glass, split faced block (CMU), painted block on the rear of the structures, or any combination thereof. Non-residential structures may contain accents of fiber-cement siding in addition to the primary construction materials. The



Department of Planning and Development shall decide what is considered rear of the structure (if any). All non-residential buildings shall be constructed with flat roofs with architectural treatments to include canopies and varying parapet heights. A combination of pitched roofs and architectural parapet treatments shall be allowed with City approval. The appearance of flat roof structures shall be avoided. Mansard style roofs shall be prohibited. Ground mounted mechanical, HVAC and like systems shall be screened on all sides by an opaque wall of brick, stucco, split faced block or wood. Elevated or roof mounted mechanical, HVAC and like systems shall be positioned in such a way as to not be visible from the front street level or surface parking areas of the development. Architectural design shall lend the appearance of multi-tenant occupancy; facades of multi-tenant buildings shall have varied parapet height. Final architectural plans and color palate shall be submitted to the Department of Planning and Development for approval.

- 9) Residential building exteriors shall, at a minimum, be constructed of fiber cement siding with accents of brick, stone, stacked stone, stucco, or cedar shake on all sides. Vinyl siding shall be prohibited except as used for maintenance free accent elements such as soffits, and window casings. Residential buildings shall be constructed with a pitched roof, minimum 4 to 12 pitch, or flat roof with architectural treatments to include canopies and parapets of varying heights to avoid the appearance of a flat roof. A combination of pitched roofs and architectural parapet treatments shall be allowed with City approval. Ground mounted mechanical, HVAC and like systems shall be screened from public view by an opaque wall of brick, stucco, split faced block or wood, or landscaping. Elevated or roof mounted mechanical, HVAC and like systems shall be positioned in such a way as to not be visible from the front street level or parking areas of the development. Final architectural plans and color palate shall be submitted to the Department of Planning and Development for approval.
- 10) Architectural design of multi-family and senior living facilities shall be developed in accordance with the elevations/renderings received on March 28, 2021. Any substantial deviation shall be resubmitted to the City Council for consideration. The City Administrator or his/her designee shall determine what constitutes substantial deviation. Color changes shall not constitute a substantial deviation.
- 11) Multi-family and senior living facilities shall be limited to a maximum of 5-stories.
- 12) Attached residential units shall be a minimum of 720 square feet for single bedroom, 1,000 square feet for two bedroom, and 1,200 square feet for three bedrooms.
- 13) Any accessories provided such as railings, benches, trash receptacles and / or bicycle racks shall complement the building design and style.
- 14) Chain link fence shall be prohibited except around the stormwater management ponds and the multifamily and senior living dog parks. All chain link fences shall be black vinyl.
- 15) All trash dumpsters shall be screened by an enclosure using the same exterior building material as the adjacent occupied buildings. Pickup shall be limited to the hours of 7:00

a.m. to 9:00 p.m. Monday through Saturday. Dumpster enclosures shall remain closed, locked, and in good repair at all times.

### Landscaping and Parking

- 16) A ten (10) foot wide landscape strip from the proposed ROW shall be provided along the entire tract frontage of Harbins Road. The landscape strip shall be planted so as to not impede site distance along Harbins Road.
- a. Provide non-ornamental shade trees spaced 30-feet on-center along the Harbins Road right-of-way and both sides of the private drive. All street trees shall be a minimum 3-inch caliper (dbh) at the time of planting. Street trees shall be planted at least six-feet from back-of-curb subject to review and approval of the City of Dacula and Gwinnett Department of Transportation.

Street trees shall be of one or a combination of the following species:

1. Willow Oak
2. Overcup Oak
3. Nuttall Oak
4. Pin Oak
5. Shumard Oak
6. Lacebark Elm
7. Japanese Zelkova

- 17) A fifty (50) foot wide landscape strip measured from the property line shall be provided along the southern property line of the multi-family tract. The landscape strip shall be planted with a minimum of two (2), 6-foot high trees staggered every 15 linear feet and supplemented with understory plantings.
- 18) Provide a 20-foot wide landscaped buffer along the rear boundary line of the retail tract as shown on the concept plan. The landscape buffer shall be planted with a row of Leyland Cypress or Cryptomeria trees, planted 20-foot on center, and include a 6-foot height decorative fence. Said fence shall be maintained by the property owner and be in good repair at all times.
- 19) Provide a 10-foot wide landscaped buffer along the side and rear property lines of developing parcels, units, or phases. Landscape buffers shall be planted with a single row of Leyland Cypress or Cryptomeria trees, planted 30-foot on center. The buffer can be eliminated after a Building Permit has been issued on adjacent property.
- 20) A parking lot landscape plan shall be submitted to the City for approval prior to a development permit issuance. At a minimum, the landscape plan shall include monument sign locations and should insure that each parking island/strip will have a minimum of one (1) ornamental shade tree per 25 feet. Fifty (50) percent of all parking area trees shall be a minimum of 2-inch dbh caliper and fifty (50) percent shall be a minimum of 3-inch dbh caliper.

- 21) Parking lot lighting shall be directed in toward the property so as not to shine directly into adjacent properties.
- 22) Natural vegetation shall remain on the property until issuance of a land disturbance permit.

### Signage and Advertising

- 23) The subject site shall be limited to two (2) planned multi-use center signs along Harbins Road. Each sign is limited to a maximum 150-square foot of advertising space. Monument signs shall not exceed a maximum 20-foot in height for Harbins Road, signs shall be constructed with a brick or masonry base (minimum two feet in height) matching the materials of the buildings. Signs shall be located so as to not impede site distance along Harbins Road. Internally illuminated and indirect lighting shall be allowed for signage at the project entrance(s) along Harbins Road. Sign location and design criteria are subject to review and approval by the City of Dacula.
- 24) Ground signage shall be limited to one monument-type sign for each commercial out lot / out parcel fronting Harbins Road and one monument-type sign per road frontage abutting each of the specified tracts: retail/grocer tract, office/commercial/industrial tract, multi-family tract, and senior living tract. Each sign is limited to a maximum 50-square foot of advertising space. Monument signs shall not exceed a maximum of 6-foot in height and shall be constructed with a brick base (minimum two feet in height) matching the materials of the buildings. Neon signs shall be prohibited. Signs shall be set back 15-feet from right-of-way of Harbins Road and located so as to not impede site distance along Harbins Road. Sign location and design subject to review and approval by the City of Dacula.
- 25) Temporary signage shall be regulated and/or permitted as stated in Article XII (Signs and Advertising) of the City of Dacula Zoning Resolution with the following exceptions:
  - a. Business specific temporary signage must be mounted flush onto or against existing permitted structures within the development.
  - b. Temporary signage shall be prohibited on individual residential units.
- 26) Live human advertisement shall be prohibited within the subject area. To include, but not necessarily be limited to, sign spinners, twirlers, dancers, clowns, and / or other similar temporary advertising methods commonly provided by costumed or animated humans.
- 27) Tents, free-standing-canopies, streamers or roping decorated with flags, tinsel, decorative balloons, hot-air balloons or other similar materials shall be prohibited on the site. Yard and sail signs shall be permitted for residential leasing purposes only.
- 28) Oversized signs or billboards shall be reviewed and permitted separately and must abide by the procedures and regulations as stated in Article XII of the Zoning Resolution.

### Transportation and Infrastructure

- 29) A Traffic Impact Study shall be provided prior to the issuance of a development permit. Prior to the issuance of the first certificate of occupancy, the applicant shall make any improvements recommended by the traffic impact study, provided the improvements are approved by the City of Dacula and Gwinnett County Department of Transportation respectively. All design and construction will be subject to Gwinnett County D.O.T. review and approval.
- 30) Provide a Signal Warrant Study for the signalization of the intersection of West Drowning Creek Road and Harbins Road to the City of Dacula and Gwinnett County Department of Transportation for review. If it is determined by the signal warrant study that a signal is warranted, and the signal is approved by the Gwinnett County D.O.T., The developer shall incur all costs of the required signal including studies, design with interconnect to adjoining signals, any additional right of way/easements, utility relocations and construction. The developer shall also contract for the installation of the signal by a D.O.T. approved contractor. All design and construction will be subject to Gwinnett County D.O.T. review and approval. The signal will be installed and operational prior to the issuance of the first certificate of occupancy. The developer shall provide documentation to the City verifying payment for materials and installation of the traffic signal. Include Interconnect with the signalized intersections of SR 316 and Harbins Road.
- 32) Coordinate with the Georgia Department of Transportation (DOT) for their project PI#0013899 located on SR 316 University Parkway All intersection/street widening/entrance plans for Harbins 316.
- 33) Road shall be submitted and are subject to review and approval by the City of Dacula and the Gwinnett County Department of Transportation.
- 34) Street widening and road improvements, to include the first 400 linear feet of the new two-lane private drive with planted median, shall be installed and functional prior to the issuance of a certificate of occupancy for any portion of the development.
- 35) It shall be the responsibility of the applicant to secure at no cost to the City and/or Gwinnett County, all necessary right-of-way to implement the required improvements.
- 36) Ownership and maintenance of drives, roads, side streets, alleys, and/or parking lots found on the subject site shall be the responsibility of the developer and/or private property owner.
- 37) All new utility lines shall be located underground. The developer shall be responsible for the relocation of public or private utilities and stormwater infrastructure.
- 38) Utilities shall be placed on the developer's property whenever possible, appropriate access and maintenance easements shall be filed at the time of final plat approval for any one parcel or section of the subject development.
- 39) Provide inter-parcel access (curb cuts) where possible to contiguous parcels of the mixed use development.

- 40) All vehicular access onto the proposed private drive must meet the City of Dacula's project access improvement standards of a public road. All improvements shall be provided by the developer.
- 41) A five-foot sidewalk shall be required adjacent to Harbins Road right-of-way. The sidewalk location shall be reviewed and approved by the City of Dacula and Gwinnett County Department of Transportation.
- 42) Five-foot wide sidewalks shall be required adjacent to both sides of the proposed private drive. Sidewalks shall be constructed with an additional 2-foot by 8-foot pad approximately every 300 linear feet to accommodate pedestrian amenities such as benches, planters, and trash containers. All such required amenities shall be decorative, commercial-quality fixtures. Sidewalk design and placement of any of these amenities shall be reviewed and approved by the City of Dacula.
- 43) Provide decorative light poles / fixtures along Harbins Road right-of-way and the interior private drive. Streets lights shall be staggered, 150 feet on-center. Light poles shall be black and a maximum 20 feet high. All street lighting shall be subject to review and approval of the City of Dacula and Gwinnett County Department of Transportation. Where applicable, streetlights shall be placed adjacent to required pedestrian amenity sidewalk pads. The property owner shall be responsible for street light maintenance and lighting fees. A separate lighting plan showing type of light and locations shall be submitted to the City for review and approval.
- 44) Applicant shall construct a southbound right turn deceleration lane along Harbins Road at W Drowning Creek Road with any modification or variation from design approved in writing by the Director of Gwinnett Department of Transportation.

#### Private Access

- 45) The free-standing multi-family residential and senior living portion(s) of the mixed use development may be gated, with controlled resident access, both vehicular and pedestrian.
- 46) It is the responsibility of the owner and/or developer to provide pass codes, keys, and/or up to date contact information for controlled entrance locations to the Dacula Marshal's Department, Gwinnett County Police Department, and Gwinnett County Fire Department.
- 47) Contact information for any maintenance associations, homeowner associations, and/or private security company's shall be submitted and updated regularly with the Dacula Marshal's Department.
- 48) Provide controlled access for all residential apartment pods. Controlled access shall consist of gates, swing fences, entry posts, or other similar mechanism to control vehicular or pedestrian movement within residential (apartment) pods.

#### Grading and Phasing

49) Prior to the issuance of a Land Disturbance Permit or Development Permit for mass grading, the Developer or Land Owner will submit a “Bond Stabilization and Landscape Plan” to the City of Dacula which will provide for the permanent stabilization of disturbed area(s) via rye grass seeding, tree replanting and landscaping in accordance with the City’s Development Regulations and these conditions of zoning. Tree replanting along the frontage of Harbins Road and both sides of the private drive shall include non-ornamental shade trees spaced 30-feet on-center, six feet from the right-of-way or pavement edge of the private drive. All street trees shall be a minimum 2-inch caliper (dbh) at the time of planting. Interior replanting of disturbed areas shall include five (5) two-inch caliper trees (DBH) per acre.

Once the “Bond Stabilization and Landscape Plan” has been approved by the City Administrator, and prior to the issuance of any Land Disturbance or Development Permit, Developer or Land Owner shall post a performance bond in favor of the City of Dacula to guarantee the replanting of the disturbed acreage in accordance with the City’s Development Regulations and these conditions of zoning. The performance bond amount shall be equal to \$15,000.00 per acre disturbed. The bond shall be in the form of a Letter of Credit from an FDIC insured institution or an insurance company in good standing with the Georgia Insurance Commissioner’s office, authorized to do business in Georgia, and rated “A” or better by the rating agency A.M. Best. The Surety must also be listed on the U.S. Department of Treasury’s Circular 570. The City staff shall approve the form of the performance bond and the qualifications of the surety prior to execution of the bond.

In the event that Developer/Land Owner has not obtained a building permit within twelve (12) months of the issuance of the Land Disturbance or Development Permit, whichever is first issued, then the City of Dacula will redeem the performance bond [or equivalent security acceptable to the City of Dacula] to fund the implementation of the Bond Stabilization and Landscape Plan. The performance bond [or equivalent security acceptable to the City of Dacula] will terminate and/or be surrendered or returned once the improvements shown in the Bond Stabilization and Landscape Plan have been completed or a building permit is issued on any parcel of the development.

50) Site grading adjacent to the main project entrance shall be consistent in elevation to the right-of-way of Harbins Road to ensure adequate sight distance.

### **Condition Set #3**

Approved Conditions of requested variances, variations, and waivers to City ordinances and regulations.

1) The maximum number of multi-family units shall not exceed 320.

**Condition Set #4**

Recommended Conditions of the requested special use permit.

- 1) Trailer and large equipment storage will be limited to the designated trailer display area per the submitted site plan prepared by Foresite Group titled Tractor Supply Co. dated July 7, 2024. All outdoor storage items shall not be visible from Davis Rock Road.**
- 2) Wrought iron style fencing surrounding the “Live Good Center” shall be required. The fencing shall be a minimum of 8-foot high and shall have a 2-foot high brick knee wall at the base of the fence, per the submitted elevations dated March 8, 2024.**
- 3) Outdoor display of mini boats, motor bikes, lawn mowers, and similar items shall be limited to the “Live Good Center” storage area and must be behind the wrought iron fence, per the submitted elevations dated March 8, 2024. Small products may be stored in front of the store’s main entrance, provided they are not visible from the parking lot and are screened by landscape planters and landscaping. The landscape planters shall match the front façade of the primary structure. Proper entrance screening is subject to City Administrator approval.**
- 4) Outdoor storage is not permitted outside of the designated areas and is not permitted within the parking lot.**
- 5) The sale of small boats and kayaks, and small automotive vehicles, such as mini-bikes, dirt bikes and scooters is permitted if the sale is incidental to the primary use. The City Administrator will determine what sales are considered incidental.**
- 6) The building facades must be constructed in accordance with the submitted elevations dated March 8, 2024. No more than 30% of the façade shall be constructed of corrugated metal. Any substantial deviations will be submitted to the City for approval. The City Administrator shall determine what constitutes a substantial deviation.**
- 7) The owner/developer must provide a five (5) foot wide raised pedestrian crosswalk, providing pedestrian access from Davis Rock Road to the entrance of the store, per the submitted site plan prepared by Foresite Group titled Tractor Supply Co. dated July 7, 2024.**
- 8) A landscape plan must be submitted to the Planning & Development Department for approval. The landscape must include planters and decorative landscaping designed to obstruct the view of outdoor storage near the primary building entrance. The planters and decorative landscaping may include understory shade trees, shrubs, native foliage and/or flowers. The trailer display area must be well landscaped and**

**not visible from Davis Rock Road.**

**9) A commercial 2-foot by 8-foot pedestrian pad shall be constructed at the beginning of the pedestrian crosswalk to accommodate pedestrians. The pedestrian amenity pad may include benches, planters, and trash containers. All such required amenities shall be decorative, commercial-quality fixtures. Sidewalk design and placement of any of these amenities shall be reviewed and approved by the City of Dacula.**

**10) Provide two (2) inter-parcel access points to the northeast adjacent parcel.**

**11) Five (5) parking spaces are required per 1,100 square feet.**





City of Dacula
P. O. Box 400
Dacula, GA 30019
(770) 962-0055 / Fax (770) 513-2187

REZONING/ CHANGE OF CONDITIONS/ SPECIAL USE PERMIT APPLICATION

AN APPLICATION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF DACULA, GEORGIA.
(Please Type or Print using BLACK INK)

Table with 2 columns: APPLICANT \* and PROPERTY OWNER \*. Includes fields for NAME, ADDRESS, CITY, STATE, ZIP, PHONE, and FAX.

APPLICANT IS THE:

- Owner's Agent
Property Owner
Contract Purchaser (checked)

Contact Person: Melody A. Glouton
Company Name: Andersen Tate & Carr
Address: 1960 Satellite Blvd S-4000
Duluth, GA 30097
Phone: 770-822-0900
Fax: 770-822-9680
Email: mglouton@atclawfirm.com

\* Include any person having a property interest and/or a financial interest in any business entity having property interest (use additional sheets if necessary).

PRESENT ZONING DISTRICT(S) PMUD REQUESTED ZONING DISTRICT PMUD
LAND LOT(S) 300 PARCEL # 139 DISTRICT(S) 5th ACREAGE 3.87

PROPOSED DEVELOPMENT OR SPECIAL USE REQUESTED

- 1. Outdoor/Outside Storage (Condition #3, #4 of Rezoning Case 2020-CD-RZ-03) for the purpose of a Tractor Supply Company Store.
2. Allowance of tire sales and boat sales for a proposed Tractor Supply Company Store. Although a Tractor Supply Company Store is not a boat or tire store, tire and boat sales are allowed as incidental part of the business.
3. Variance to Allow for "Corrugated Metal for front Entry Tower, Awnings and Live Good Center Structure"

Handwritten note: Change in condition +0

RESIDENTIAL DEVELOPMENT: NO. OF LOTS/DWELLINGS UNITS N/A DWELLING UNIT SIDE (SQ. FT.) N/A
NON-RESIDENTIAL DEVELOPMENT: NO. OF BUILDINGS/LOTS 1 TOTAL GROSS SQ. FEET 21,072 SF

LETTER OF INTENT & LEGAL DESCRIPTION OF PROPERTY

\*\*\* PLEASE ATTACH A "LETTER OF INTENT" EXPLAINING WHAT IS PROPOSED and TYPED "LEGAL DESCRIPTION" OF PROPERTY TO BE AMENDED \*\*\*

CASE NUMBER

## Tract 1

All that tract or parcel of Land lying and being in Land Lot 300 of the 5<sup>th</sup> District, Gwinnett County, Georgia and being more particularly described as follows:

BEGINNING at the southwest corner of the Commercial/Office/Industrial Parcel per Exemption Plat for WREG Harbins Land, LLC recorded in Plat Book 156, pages 254-256, Gwinnett County records, said point lying on the northwestern margin of Davis Rock Drive (70' Private Drive at this point), from point thus established thence leaving said northwestern margin of Davis Rock Drive North 31° 28' 32" West a distance of 459.37 feet to an iron pin set; thence North 56° 46' 28" East a distance of 111.22 feet to a 1/2" rebar found; thence North 56° 46' 41" East a distance of 199.85 feet to a 1" crimp top pipe found; thence North 56° 43' 45" East a distance of 52.25 feet to an iron pin set; thence South 31° 02' 20" East a distance of 473.25 feet to an iron pin set on the aforementioned northwestern margin of Davis Rock Drive (70' Private Drive at this point); thence running along the northwestern margin of Davis Rock Drive South 58° 57' 40" West a distance of 359.56 feet to the POINT OF BEGINNING. Said tract contains 3.868 Acres (168,487 Square Feet).



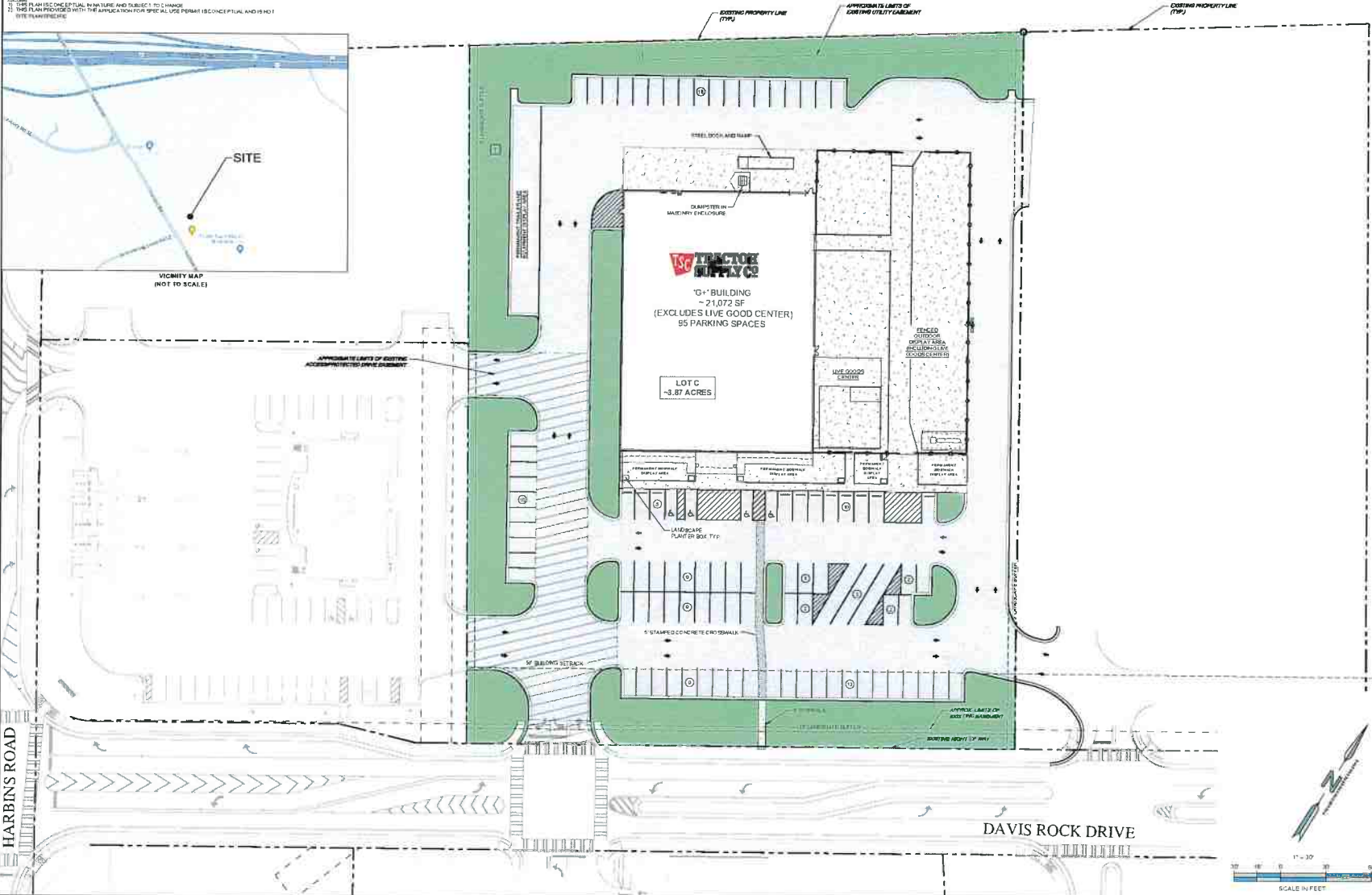
**PROJECT DATA**  
 SHEET NO. 001  
 COUNTY: HARDEE COUNTY, GA 30016

**SITE DATA**  
 PROJECT AREA: 3.87 AC (APPROX.)

**BUILDING DATA**  
 BUILDING AREA: 21,072 SF  
 (EXCLUDES LIVE GOOD CENTER)

**PARKING DATA**  
 TOTAL PARKING SPACES: 95  
 TOTAL PARKING PROVIDED: 95

**NOTES**  
 1. THIS PLAN IS CONCEPTUAL IN NATURE AND SUBJECT TO CHANGE.  
 2. THIS PLAN PROVIDED WITH THE APPLICATION FOR SPECIAL USE PERMIT IS CONCEPTUAL AND IS NOT A FINAL PLAN.



ENGINEER:  
**FORESITE group**  
 ForeSite Group, LLC  
 11455 GARDEN DR. | SUITE 100  
 FARMERS BRANCH, GA 30804  
 TEL: 770-481-2999

DEVELOPER:  
**TRINITY PD DACULA, LLC**  
 TRINITY PD DACULA  
 ROSWELL, GA 30075  
 TEL: 770-481-2999

CONTACT: MRS MICHELLE BENDERRO

**TRACTOR SUPPLY CO.**

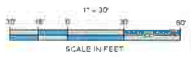
DATE:  
DRAFT

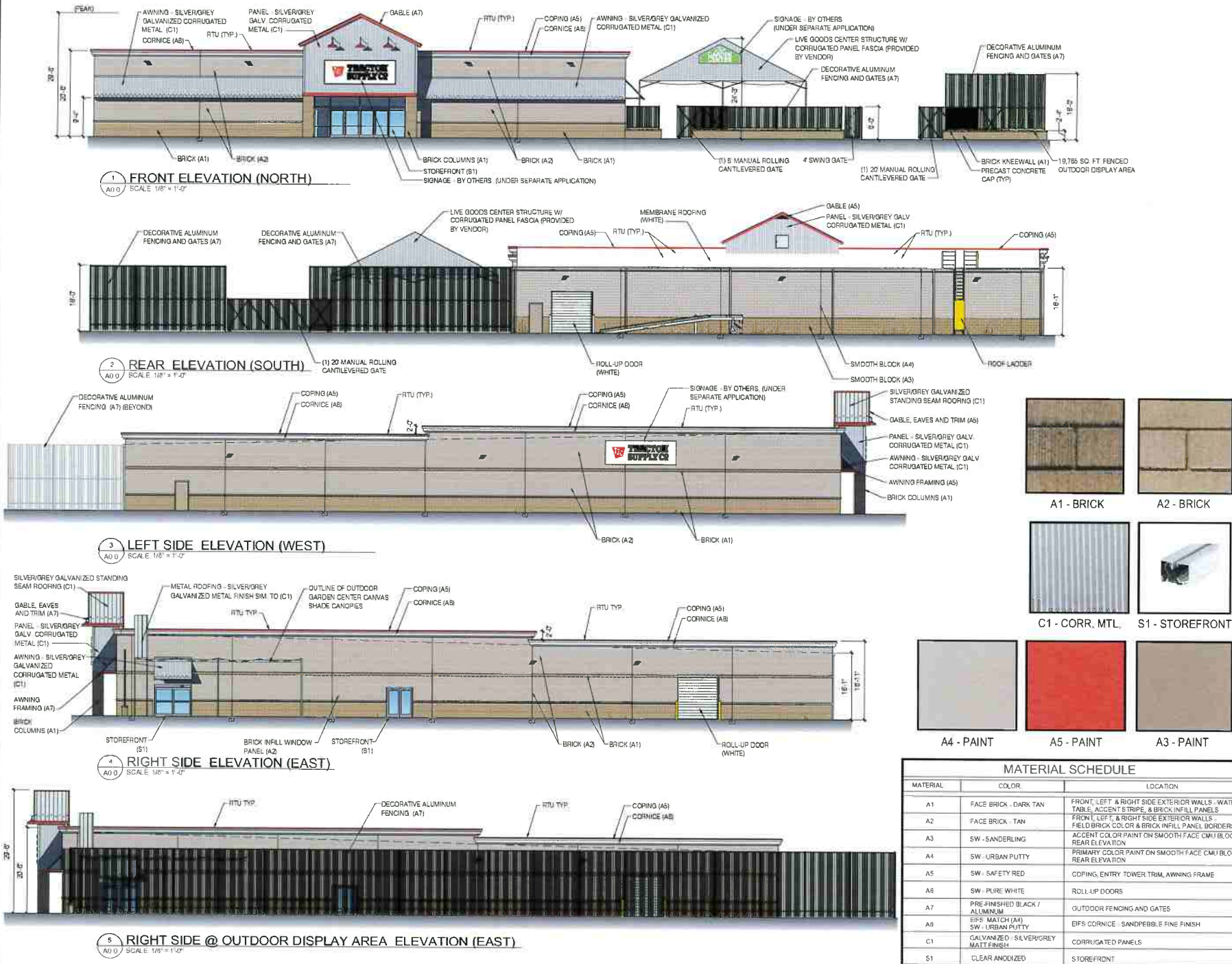
REVISION	DATE

PROJECT MANAGER: WBL  
 DRAWING BY: WBL  
 APPROVED BY: DACULA (D)  
 DATE: 1/19/2024  
 SCALE: 1/4" = 1'-0"

**TITLE: SPECIAL USE PLAN**

SHEET NUMBER: SUP-1  
 COMMENTS: CONCEPTUAL PLAN - SUBJECT TO CHANGE  
 PROJECT NUMBER: 341.102





MATERIAL SCHEDULE		
MATERIAL	COLOR	LOCATION
A1	FACE BRICK - DARK TAN	FRONT, LEFT & RIGHT SIDE EXTERIOR WALLS - WATER TABLE, ACCENT STRIPE, & BRICK INFILL PANELS
A2	FACE BRICK - TAN	FRONT, LEFT & RIGHT SIDE EXTERIOR WALLS - FIELD BRICK, COLOR & BRICK INFILL PANEL BORDERS
A3	SW - SANDERLING	ACCENT COLOR PAINT ON SMOOTH FACE CMU BLOCK, REAR ELEVATION
A4	SW - URBAN PUTTY	PRIMARY COLOR PAINT ON SMOOTH FACE CMU BLOCK, REAR ELEVATION
A5	SW - SAFETY RED	COPING, ENTRY TOWER TRIM, AWNING FRAME
A6	SW - PURE WHITE	ROLL-UP DOORS
A7	PRE-FINISHED BLACK / ALUMINUM	OUTDOOR FENCING AND GATES
A8	EFS MATCH (A4) SW - URBAN PUTTY	EFS CORNICE - SANDPEBBLE FINE FINISH
C1	GALVANIZED SILVER/GRAY MATTE FINISH	CORRUGATED PANELS
S1	CLEAR ANODIZED	STOREFRONT

DATE	DESCRIPTION	BY	CHK
03/09/24	FOR REVIEW		

TRACTOR SUPPLY CO.  
Dacula, GA

G3 - PROTOTYPE Q4 - 23  
121-21578-00

EXTERIOR ELEVATIONS

July 12, 2024

**LETTER OF INTENT FOR SPECIAL USE PERMIT  
AND VARIANCE APPLICATION**

**Special Use Permit and Variance Application  
City of Dacula, Georgia**

**Applicant:**

Trinity PD Dacula, LLC

**Tract:**

Tax Parcel ID R5300 139  
± 6.37 Acres of Land (Portion only)  
Located at 2544 Davis Rock Drive, Dacula, Georgia

**Submitted for Applicant by:**

Melody A. Glouton, Esq.  
ANDERSEN TATE & CARR, P.C.  
One Sugarloaf Centre  
1960 Satellite Blvd.  
Suite 4000  
Duluth, Georgia 30097  
770.822.0900  
[mglouton@atclawfirm.com](mailto:mglouton@atclawfirm.com)

**I. INTRODUCTION**

This Application for a Special Use Permit and Variance is submitted for a 6.37-acre parcel of land located at 2544 Davis Rock Drive, Dacula, Georgia (hereinafter the “Property”).<sup>1</sup> The Property is a single tax parcel with frontage on Davis Rock Drive just east of its intersection with Harbins Road. The Property is shown on the survey prepared by Technical Survey Services, Inc., dated March 15, 2024, and filed with this Application. The Property is further identified below from the Gwinnett County GIS:



The Property is currently zoned PMUD (Planned Mixed-Use District) pursuant to The Zoning Resolution of the City of Dacula (the “Zoning Resolution”). The Applicant, Trinity PD Dacula, LLC (the “Applicant”) now seeks to obtain a Special Use Permit and Variance in order to develop a Tractor Supply Store. This document is submitted as the Letter of Intent, Impact Analysis Statement, and other materials required by the “Zoning Resolution of the City of Dacula” (the “Zoning Resolution”).

**II. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA**

The Property is a small tract located within an existing PMUD development with frontage on Davis Rock Road. The surrounding zoning classifications and uses are as follows:

<b>Location</b>	<b>Zoning</b>
<i>Proposed Site</i>	<i>Currently PMUD; will remain PMUD</i>
North	RA-200 (Gwinnett County)
East	PMUD
South	PMUD
West	PMUD and C-2

<sup>1</sup> The Applicant is seeking a Special Use Permit and a Variance for a portion of the tax parcel, identified as 3.868 acres, Tract 1 on the survey.



The Applicant is requesting a Special Use Permit and Variance to allow for a Tractor Supply Company store. The Property is cleared and ready for development as the site is located within a previously approved PMUD which includes a new Publix shopping center, with various outparcels including McDonald’s, Quick Trip and Jersey Mike’s Subs.

As stated in the City of Dacula’s 2050 Comprehensive Plan (the “Comprehensive Plan”), the Property, is located in the “Emerging Commercial” Character Area. This area is planned to be a primarily mixed-use area of the City along Harbins Road south of State Route 316. The Emerging Commercial character area is primarily for any combination of residential, commercial, office, and public/institutional uses. The recommended zoning classifications for this area include PMUD, C-1, C-2 and OI. Accordingly, the development of a Tractor Supply Store in this location is consistent with the encouraged uses and the existing development in the area. While the Tractor Supply use is generally permitted, the storage and sale of products outdoors and the use of corrugated metal even as accent materials necessitate a Special Use Permit as well as a Variance.

**III. PROJECT SUMMARY**

As shown on the site plan prepared by Foresite Group, dated July 10, 2024, and Color Elevations prepared by Little, dated March 8, 2024 and filed with this Application (hereinafter the “Site Plan and Color Elevations”), the Applicant is requesting a Special Use Permit to allow for the storage display and sale of outdoor products as well as a Variance to allow for Corrugated Metal to be used on the entry tower, awnings and Live Goods Structure for the development of a Tractor Supply Store on 3.868 acres of the site. The development will include a 21,072 square foot building, with 95 parking spaces. The proposed building is oriented to face Davis Rock Drive, with an attached Live Goods Center and fenced outdoor display area on the east side of the building. The site is accessible via two full-access driveways along Davis Rock Drive and maintains inter-parcel connectivity to the adjacent properties. The site will include parking along the front, west side and rear of the building. As shown on the site plan, the development will include outdoor storage and display areas consistent with their business operations. The Tractor Supply Company is a retail facility primarily used for the sale of farm/ranch equipment and maintenance products, including general maintenance products, animal (domestic and farm) feed, equipment and health products, horse and rider tack equipment and related



products, bird feed, housing and related products, lawn and garden equipment and products, tools and hardware, vehicle equipment and maintenance products, all-terrain vehicles, utility vehicles, sporting goods, food, sporting goods, clothing and footwear, and many other items typically sold in their stores. Due to the size and amount of equipment that is available at the store, it is not feasible to store certain products in the building and require the ability to store, display and sell certain items outside the store such as bulk propane, welding gas, trailers, pedal boats and motorized vehicles, including mini bikes, dirt bikes, scooters and ATV's. Some of the outside items are stored in a fenced area beside and to the rear of the building and the trailers and equipment are displayed on the side of the building and other products are stored and displayed in the front of the building (as identified on the site plan). Items are not stored in any parking space.

The Applicant has included proposed elevations of the development, showing the following improvements:

- Landscape boxes between the front store wall and front parking stalls to add appeal and soften the front outdoor storage items;
- Two tone brick on front, and side r walls;
- Aluminum wrought iron style fencing around outdoor garden center and Fenced Outdoor Display Area along with a decorative accent brick knee wall at base of fence(see Live Goods Center and Fenced Outdoor Display Area on the color elevations)
- Corrugated metal entry tower and front awnings (See variance request below);
- Raised parapet walls and decorative cornice added to front and side walls; and
- Decorative Stamped Concrete Walkway across the parking lot from Davis Rock Road to the front door of building.

The Applicant is also requesting variances to develop the site in compliance with the proposed site plan, and respectfully seek relief as related to the use of corrugated metal on certain portions of the building tower, front awnings and Live Goods Center structure (see proposed renderings). Likewise, the Applicant is requesting a Special Use Permit for the outdoor storage as detailed above as identified on the site plan. The Applicant's requested Special Use Permit and Variance are the minimum necessary to afford the Applicant relief so that the Property may be developed for use as a Tractor Supply Store. Based on the Harbins 360 Declaration of Easements and Covenants, Watkins Development has approved the Site Plan and Color Elevations as a requirement of this document.

**IV. SITE IMPACT ANALYSIS**

Pursuant to the Zoning Resolution, the Applicant submits its written responses to the impact analysis which shows that a Special Use Permit satisfies the "Standards Governing Exercise of the Zoning Power," as follows:

- A) Whether a proposed Special Use Permit and Variance will permit a use that is suitable in view of the use and development of adjacent and nearby property:

Yes, approval of the requested special use permit will permit a use that is suitable in view of the use and development of adjacent and nearby property. The proposed development will provide a neighborhood serving commercial use, which is anticipated commercial growth near Harbins Road and State Route 316.

- B) Whether a proposed Special Use Permit and Variance will adversely affect the existing use or useability of adjacent or nearby property:

No, approval of the special use permit will not adversely affect the existing use or usability of adjacent or nearby properties. The proposed development is compatible with the Comprehensive Plan and complimentary to adjacent and nearby uses.

- C) Whether the property to be affected by a proposed Special Use Permit and Variance has reasonable economic use as currently zoned:

As the Applicant is not seeking a rezoning of the property, the Applicant submits the requested special use permit will allow for an economic use as currently zoned.

- D) Whether the proposed Special Use Permit and Variance will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools:

No, approval of the proposed special use permit will not result in an excessive or burdensome use of the existing infrastructure systems. Moreover, the Subject Property is located at a major node with convenient access to major thoroughfares, utilities and sewer. The Property has convenient access to Highway 316. The proposed development would complement the existing and nearby residential uses.

- E) Whether the proposed Special Use Permit and Variance is in conformity with the policy and intent of the Land Use Plan:

Yes, the proposed special use permit conforms with the policy and intent of the Comprehensive Plan and Future Land Use Map. The Subject Property is identified in the "Emerging Commercial" character area.

- F) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either the approval or disapproval of the Special Use Permit and Variance proposal:

Yes. The proposed special use permit provides additional commercial development to service the surrounding communities and neighbors and would bring a neighborhood serving retail/commercial uses to the residents of Dacula.

V. CONCLUSION

For the foregoing reasons, the Applicant respectfully requests that this Application for a Special Use Permit and Variance be approved. The Applicant welcomes the opportunity to meet with the City of Dacula Planning Department staff to answer any questions or to address any concerns relating to this Letter of Intent or supporting materials.

Respectfully submitted this 12<sup>th</sup> day of July, 2024.

**ANDERSEN, TATE & CARR, P.C.**

*Melody A. Glouton*

Melody A. Glouton, Esq.

Enclosures  
MAG/dwb  
4896-0153-0320, v. 1

**APPLICANT CERTIFICATION**

The undersigned is authorized to make this application and is aware that if an application is denied, no application or re-application affecting the same property shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Applicant Melody A. Glouton Date 7/12/24  
Type or Print Name/Title Melody A. Glouton, Attorney for Applicant  
Notary Public D. Lane Date 7/12/24

**PROPERTY OWNER CERTIFICATION**

The undersigned, or as attached, is the record owner of the property considered in this application and is aware that if an application is denied, no application or re-application affecting the same land shall be acted upon within twelve (12) months from the date of last action unless waived by the City.

Signature of Property Owner Melody A. Glouton Date 07/12/24  
Type or Print Name/Title WREG Harbins Land, LLC (By Melody A. Glouton with express permission)  
Notary Public D. Lane Date 07/12/24

**FOR ADMINISTRATIVE USE ONLY**

DATE RECEIVED \_\_\_\_\_ RECEIVED BY \_\_\_\_\_ FEE \_\_\_\_\_ RECEIPT # \_\_\_\_\_

LAND LOT \_\_\_\_\_ DISTRICT \_\_\_\_\_ PARCEL # \_\_\_\_\_ HEARING DATE \_\_\_\_\_

ACTION TAKEN \_\_\_\_\_

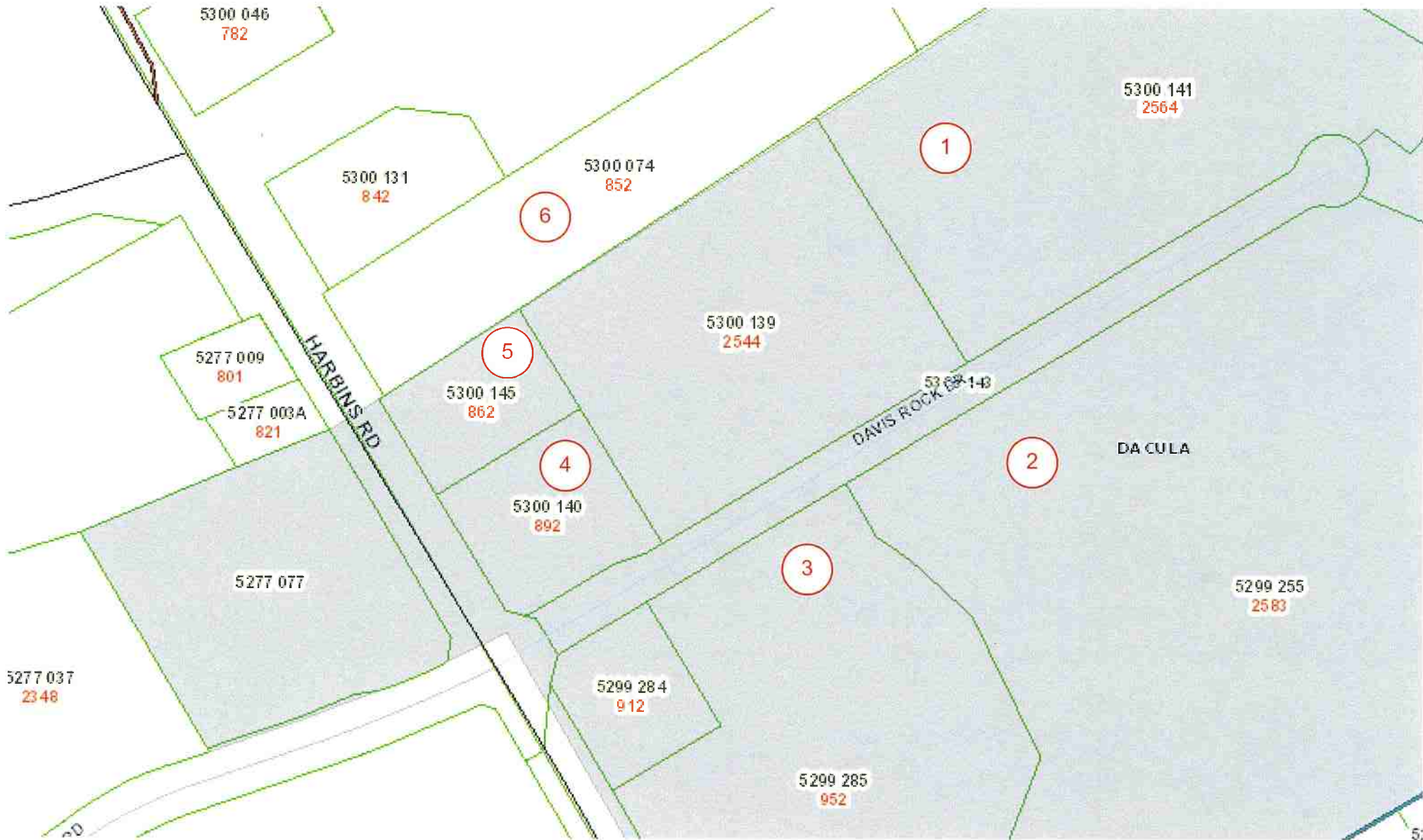
SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

STIPULATIONS \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# ADJACENT PROPERTY OWNERS EXHIBIT



## ADJACENT PROPERTY OWNERS

1. Undeveloped
  - a. Property Address: 2564 Davis Rock Dr, Dacula, GA 30019
  - b. PIN: 5300 141
  - c. Owner(s): Wreg Harbins Land, LLC.
  - d. Owner's Address: 1958 Monroe Dr NW, Atlanta, GA 30324
  
2. Undeveloped
  - a. Property Address: 2583 Davis Rock Dr, Dacula, GA 30019
  - b. PIN: 5299 255
  - c. Owner(s): Wreg Harbins Land, LLC.
  - d. Owner's Address: 1958 Monroe Dr NW, Atlanta, GA 30324
  
3. Publix Supermarket
  - a. Property Address: 952 Harbins Rd, Dacula, GA 30019
  - b. PIN: 5299 285
  - c. Owner(s): Wreg Harbins Retail, LLC.
  - d. Owner's Address: 1958 Monroe Dr NW, Atlanta, GA 30324
  
4. QuikTrip
  - a. Property Address: 892 Harbins Rd, Dacula, GA 30019
  - b. PIN: 5300 140
  - c. Owner(s): QuikTrip Corporation
  - d. Owner's Address: 4705 S 129<sup>th</sup> East Ave, Tulsa, OK 74134
  
5. Undeveloped
  - a. Property Address: 2563 Davis Rock Dr, Dacula, GA 30019
  - b. PIN: 5300 145
  - c. Owner(s): Wreg Harbins Land, LLC.
  - d. Owner's Address: 1958 Monroe Dr NW, Atlanta, GA 30324
  
6. Residential
  - a. Property Address: 852 Harbins Rd, Dacula, GA 30019
  - b. PIN: 5300 074
  - c. Owner(s): Lynn Chang & Bing Tai Chang
  - d. Owner's Address: 1598 Brandon Sq, Lawrenceville, GA 30044

**CONFLICT OF INTEREST CERTIFICATION**

The undersigned, making application for rezoning/SUP, has complied with the Official Code of Georgia, Section 36-67A-1, et. seq, Conflict of Interest in Zoning Actions and has submitted or attached the required information on the forms provided.

Signature of Applicant Melody A. Glouton Date 07/12/24

Type or Print Name/Title Mark K. Renier, By Melody A. Glouton with express permission (Attorney for Application)

Signature of Applicant' Attorney Melody A. Glouton Date 07/12/24

Type or Print Name/Title Melody A. Glouton, Attorney for Applicant

Notary Public [Signature] Date 07/12/24

(Notary Seal)



**Official Use Only**

DATE RECEIVED \_\_\_\_\_ ZONING CASE NUMBER \_\_\_\_\_

RECEIVED BY \_\_\_\_\_



City of Dacula  
P. O. Box 400  
Dacula, GA 30019  
(770) 962-0055 / Fax (770) 513-2187

**IMPACT ANALYSIS STATEMENT**

\*See attached Letter of Intent

As required by the Zoning Resolution of the City of Dacula, the following standards are relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property and shall govern the exercise of the zoning power. **ALL APPLICATIONS MUST BE COMPLETED WITH THE COMPLETED IMPACT ANALYSIS STATEMENT.**

DATE \_\_\_\_\_ APPLICANT \_\_\_\_\_

A. Whether a proposed rezoning will permit a use that is suitable in view of the use and development of adjacent and nearby property: \_\_\_\_\_

B. Whether a proposed rezoning will adversely affect the existing use or usability of adjacent or nearby property: \_\_\_\_\_  
\_\_\_\_\_

C. Whether the property to be affected by a proposed rezoning has a reasonable economic use as currently zoned: \_\_\_\_\_  
\_\_\_\_\_

D. Whether the proposed rezoning will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

E. Whether the proposed rezoning is in conformity with the policy and intent of the Land Use Plan: \_\_\_\_\_  
\_\_\_\_\_

F. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed rezoning: \_\_\_\_\_  
\_\_\_\_\_





City of Dacula  
P. O. Box 400  
Dacula, GA 30019  
(770) 962-0055 / Fax (770) 513-2187

AMENDED  
**DISCLOSURE OF CAMPAIGN CONTRIBUTIONS**

Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes  No

If the answer is Yes, please complete the following section:

Name of Government Official	Contributions <i>(All which aggregate to \$250.00+)</i>	Contribution Date <i>(within last 2 years)</i>
_____		
_____		
_____		
_____		

Have you, within the two years immediately preceding the filing of this application, made gifts having in the aggregate a value of \$250.00 or more to the Mayor and/or a member of the City Council or a member of the Dacula Planning Commission.

Yes  No

If the answer is Yes, please complete the following section:

Name of Government Official	Description of Gifts <i>(Valued aggregate \$250.00+)</i>	Date Gift was Given <i>(within last 2 years)</i>
_____		
_____		
_____		
_____		

*(Attach additional sheets if necessary to disclose or describe all contributions/gifts)*



# MEMO

TO: Mayor and City Council of the City of Dacula/  
City of Dacula Planning Commission

FROM: Hayes Taylor, City Planner

DATE: August 26, 2024

SUBJECT: House Bill 1073 – Drug Rehabilitation Center Public Hearing Procedures

---

The Georgia State House passed House Bill 1073 during the 2023-2024 Regular Session. HB 1073 repeals the additional hearing and notice provisions regarding halfway houses, drug rehabilitation centers, or other facilities for treatment of drug dependency on a state level. The proposed ordinance would codify the City of Dacula’s current public hearing procedures pertaining to halfway houses, drug rehabilitation centers, or other facilities for treatment of drug dependency and remove reference to state law requirements, as they are no longer required by state law.



**AN ORDINANCE TO AMEND THE CITY'S ZONING ORDINANCE FOR  
HEARING REGARDING  
DRUG DEPENDENCE TREATMENT FACILITIES.**

WHEREAS, the City has reviewed its policies and procedures with respect to the Hearing for Drug Dependence Treatment Facilities; and

WHEREAS, the current references to Hearing for Drug Dependence Treatment Facilities are outdated and should be updated; and

WHEREAS, it is in the best interest of the health, safety and welfare of the citizens of the City of Dacula to amend the City Code to adopt the amendment outlined herein;

NOW THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DACULA HEREBY ORDAINS that the existing Section 1710, Special Public Hearing for Drug Dependence Treatment Facilities be deleted, and the following adopted and substituted in its place:

**Section 1710. Special Public Hearing for Drug Dependence Treatment Facilities.**

The following procedure shall be followed for advanced hearing related to any proposed drug dependence treatment facilities:

- (a) When a proposed map amendment or special use application relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependence, a special public hearing shall be held on the proposed request. Such special public hearing shall be held at least six (6) months and not more than nine (9) months prior to the date of final action on the application by the City Council. The hearing required by this subsection shall be in addition to the public hearing required under the City Code.
- (b) Notice of Special Public Hearing.
  1. The City shall give notice of such special public hearing by providing notice of the hearing in the same manner as required for public hearings under the City Code.
  2. Both the posted notice and the published notice shall include a prominent statement that the proposed map amendment or special use application relates to or would allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency.

SECTION 2

In the event any Court of competent jurisdiction determines that any portion of the foregoing amendment is invalid, unconstitutional or otherwise illegal, such rulings shall not impair the validity of the rest and remainder of this amendment.

SECTION 3

All laws and parts of laws in conflict with this Ordinance are hereby repealed.

SECTION 4

The City Administrator, Assistant City Administrator, and Director of Planning and Economic Development are further authorized to correct typographical errors in the text of the existing Code of Ordinances and to produce and publish a final codified version of the City Code with the amendments and revisions outlined herein.

SECTION 5

This Ordinance and the amendments outlined herein shall be effective immediately upon their adoption by the Mayor and City Council.

SO ORDAINED by the governing authority of the City of Dacula, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

AYES: \_\_\_\_

NAYES: \_\_\_\_

ATTEST:

\_\_\_\_\_  
HUGH D. KING, III  
MAYOR, CITY OF DACULA

\_\_\_\_\_  
BRITTNI NIX,  
CITY ADMINISTRATOR



## MEMO

TO: Mayor and City Council of the City of Dacula  
FROM: Brittni Nix, City Administrator  
DATE: August 29, 2024  
SUBJECT: Design proposal for Brookton North Subdivision improvement project

---

The City of Dacula staff requested a proposal from Bowman Consulting Group Ltd. to design and bid the Brookton North Subdivision Asphalt Milling and Paving Improvement Project. The provided proposal includes creating construction documents, bid management, and construction administration for \$40,000.

The improvement project includes 6" deep patch milling sections of asphalt failures, standard 2 1/2" asphalt milling, asphalt repaving, and restriping. Additional items may be added after field site visits. The listed corrections would serve to bridge insufficient subsurface soil conditions while correcting failures in the existing roadway.

Staff requests approving Bowman's proposal in the amount of \$40,000 for the stated services as provided. The City anticipates applying for LMIG (Local Maintenance Improvement Grant) funding and utilizing SPLOST funds for this project.





August 22, 2024

Mayor & Council  
**City of Dacula**  
P.O. Box 400  
Dacula, GA 30019

RE: Job #24-0806  
Brookton North Subdivision Asphalt Milling and Paving Improvements Project

Dear Mayor & Council:

Bowman Consulting Group (Bowman) is pleased to offer this Proposal/Agreement for Engineering Design, Bid Phase, and Construction Administration Services for the "Brookton North Subdivision Asphalt Milling and Paving Improvements Project". Bowman will prepare Construction Drawings and Specifications, Bid Documents, and perform Construction Administration Services as described in the project referenced above.

Following discussion with City Staff we have prepared the following Scope of Services.

**I. Design Phase .....\$ 18,000.00**

Bowman will utilize Gwinnett County GIS to prepare construction documents (CD's) for the asphalt milling and paving scope for the work. The consultant will walk the streets within the subdivision to identify and mark deep patch milled areas, other milling limits and areas for repaving. Concrete curb & gutter and storm catch basin tops which require repair will also be incorporated into the scope of the project. Preparation of documents and other items included:

- Field Site visits for scope, measurements, and marking with orange paint. Paint and repaint streets as required for bid and Contractor site visits.
- Meet with City to review Engineering Documents and drawings.
- Coordinate with geotechnical engineer for pavement coring's. Evaluate geotechnical coring's and incorporate into drawings.
- Prepare Opinion of Probable Construction Cost (OPCC).

Prepare:

- A) Prepare Asphalt Coring Plan for Geotechnical Consultant to perform Asphalt Coring's and Report. Coordinate with consultant and incorporate results into design.

- B) Demolition Plans to identify asphalt coring results/locations; deep patch milling areas and other milling limits and areas for repaving.
- C) Site layout plans to identify new asphalt pavement areas for deep patch milling and other milling areas.
- D) Site Layout Plans to identify any and all areas for concrete curb & gutter, driveway apron, and storm catch basin top repairs.
- E) Soil and erosion control plans and details.
- F) Construction details.
- G) Specifications.

**II. Bid Phase .....\$ 10,000.00**

Bowman will prepare Bid Phase Documents and send to City, Advertisers, and Bidders for bidding the project out for construction. These services include:

- A. Prepare Contract Bid Documents.
- B. Send Drawings and Documents out to prospective bidders.
- C. Prepare advertisement for Bid and send to appropriate advertisers.
- D. Respond to Request for Information during the bid phase.
- E. Prepare addenda as required.
- F. Attend Bid Opening as the Owners Representative.
- G. Evaluate Bids.
- H. Award the Contract.

**III. Construction Administration Phase.....\$ 12,000.00**

Bowman will provide construction administration services throughout construction of the project to ensure that the project is being constructed per the contract documents. These services include:

- A. Daily/Weekly Site Visits as needed.
- B. Coordinate with Contractor on construction and/or questions.
- C. Review and respond to RFI's and/or Change Orders, as required.
- D. Review asphalt, concrete, and storm drainage submittals, as required.
- E. Review and approve Pay Applications.
- F. Site Visit and Preparation of Final Punchlist. Coordinate with Contractor for corrections.
- G. Coordinate Project Closeout. Prepare closeout documents and coordinate with Contractor to complete required items.

The Scope of Services of this Proposal/Agreement is limited to those items outlined above. Services of any nature beyond those outlined above shall be performed as an Additional Service on an hourly fee basis per the attached fee schedule, plus reimbursable expenses at cost plus 15%. Invoices are due and payable within thirty days from date of invoice. Bowman Standard Terms and Conditions are attached herewith and become part of this Contract.

If this proposal is acceptable, please sign in the space provided below and return a copy to our office. Upon your acceptance, this document shall serve as our Agreement for Basic Services and our Notice to Proceed. We appreciate the opportunity to serve you again and look forward to working with you. If you have questions or require additional information, please call. We are at your service.

Sincerely,

**Bowman Consulting Group**



Kevin D. Whigham, P.E., M.ASCE  
Civil Engineering, Team Lead

KDW/mrf

P: 24-0406/Admin/24-0404\_3125 Superior Dr - Engineering Proposal 04-22-2024

**Accepted and Approved By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_





## MEMO

TO: Mayor and City Council of the City of Dacula  
 FROM: Brittni Nix, City Administrator  
 DATE: March 21, 2024  
 SUBJECT: Bid results for Superior Drive storm drainage improvements project

---

The City requested bids for the approved 3125 Superior Drive Storm Drainage Improvements project. The project includes replacing a section of the storm system located within a drainage easement at 3125 Superior Drive. All disturbed areas will be sodded as needed.

The bid results are below:

Civil Construction & Utilities, LLC - \$54,255.00  
 R & B Developers, Inc. - \$68,900.00  
 N.S.E.W., Inc. - \$70,000.00  
 Zaveri Enterprises, Inc. - \$74,200.00  
 Allied Paving Contractors, Inc. - \$92,500.00  
 Blount Construction Company, Inc. - \$116,520.99

The lowest qualified bid was \$54,255 from Civil Construction & Utilities, LLC. The bids received exceeded the opinion of probable construction cost (OPCC) of \$45,067.09. This is due to contractor demand in the construction industry and the small size of the project. Staff recommends awarding the bid to Civil Construction & Utilities, LLC at \$54,255 and authorizing the Mayor and City Administrator to execute all necessary documents to implement the subject project.



4174 Silver Peak Parkway, Suwanee, GA 30024

Office 770.932.6550 • Fax 770.932.6551 • bowman.com

August 21, 2024

Mayor & Council

**City of Dacula**

P.O. Box 400

Dacula, GA 30019

RE: Bid Evaluation & Recommendation  
3125 Superior Drive Storm Drainage Improvements Project

Dear Mayor & Council,

We have reviewed the bids which were submitted to the City of Dacula on August 15, 2024, for the "3125 Superior Drive Storm Drainage Improvements" Project. The Bidders and their bid amounts are listed below beginning with the apparent lowest Bidder for work described in Section 00 300 and set forth as Total Bid in the Bid Proposal Form.

<b>Bid Submitted By:</b>	<b>Addenda #1 Attached</b>	<b>Bid Bond Attached</b>	<b>Total Bid</b>
<b>** Civil Construction &amp; Utilities, LLC.</b>	<b>X</b>	<b>X</b>	<b>\$ 54,255.00</b>
R & B Developer, Inc.	X	X	\$ 68,900.00
N.S.E.W. Inc.	X	X	\$ 70,000.00
Zaveri Enterprises, Inc.	X	X	\$ 74,200.00
Allied Paving Contractors, Inc.	X	X	\$ 92,500.00
Blount Construction Company, Inc.	X	X	\$ 116,520.99

*\*Bid Bonds verified for authenticity and for bonding capacity for Performance & Payment Bonds.*

*\*\*Apparent Low Bidder*

City of Dacula  
3125 Superior Drive Storm Drainage Improvements Project  
Page 2 of 2

Based on our evaluation of the bids outlined above, we recommend that the City of Dacula issue a "Letter of Intent" stating that the "3125 Superior Drive Storm Drainage Improvements" Project be awarded to Civil Construction & Utilities, LLC. with a Total Base Bid in the amount of **Fifty-Four Thousand, Two Hundred Fifty-Five and 00/100 Dollars (\$54,255.00)** with said amounts determined as representing the lowest, responsive, responsible bid for the Work as illustrated by the Specifications and Drawings entitled "3125 Superior Drive Storm Drainage Improvements" Project prepared by Bowman Consulting Group and dated June 21, 2024.

It is recommended that the City should state in their "Letter of Intent" to the successful Contractor that the following documentation should be provided to the City prior the processing of any payments for the work. The Letter of Intent shall be accompanied by a "draft" Contract for their review and use in securing Performance and Payment bonds. The successful Contractor shall provide the following documents on or before commencing work.

1. Performance / Payment Bonds for 100% of Contract Amount.
2. Schedule of Values (Breakdown of Bid Amounts).
3. Certificate of Insurance.
4. List of Sub-Contractors to be performing work on this Project.
5. Georgia Security and Immigration Sub-Contractors Affidavit.

The actual Contract will be signed and sealed by the City and the Contractor upon receipt of the above documentation. The "Notice to Proceed" will be issued by a date agreed upon by the City and the Contractor. Once issued by the City and accepted by the successful Contractor, work shall begin within 10 days of the date of the Notice to Proceed.

Should you have any questions, please feel free to call.

Sincerely,

**Bowman Consulting Group**



Kevin D. Whigham, P.E.  
Director of Engineering  
KDW/mrf

*(P: 2024/0406/Bid/Low Bid Documents/Letter of Recommendation*

City of Dacula

Job # 24-0406

3125 Superior Drive Storm Drainage Improvements

August 15, 2024 @ 2:30pm

Bid Submitted By:	Addenda #1 Attached	Bid Bond Attached	Base Bid
Allied Paving Contractors Inc.	✓	✓	\$ 92,500 <sup>00</sup>
Blount Construction Company, Inc.	✓	✓	\$ 116,520 <sup>99</sup>
Civil Construction + Utilities, LLC	✓	✓	\$ 54,255 <sup>00</sup>
N.S.E.W. Inc.	✓	✓	\$ 70,000 <sup>00</sup>
R+B Developer, Inc.	✓	✓	\$ 68,900 <sup>00</sup>
Zaveri Enterprises, Inc.	✓	✓	\$ 74,200 <sup>00</sup>
Sealed Bids opened & reviewed by: Kevin Whigham			
Recorded Bids by: Brittini Nix			



## MEMO

TO: Mayor and City Council of the City of Dacula

FROM: Courtney Mahady, Administrative Clerk

DATE: August 29, 2024

SUBJECT: Adopt the Georgia Municipal Employees Benefit System (GMEBS) Restated Defined Benefit Retirement Plan

---

Georgia Municipal Association (GMA) has requested that the City adopt and codify the Georgia Municipal Employees Benefit System (GMEBS) Restated Defined Benefit Retirement Plan to continue receiving tax-favored treatment from the Internal Revenue Service (IRS). Amendments from the previously approved plan include federal law and administrative updates adopted by the GMEBS Board of Trustees. A summary of key amendments as well as the Ordinance and Adoption Agreement have been included for your consideration.

Staff recommends that the Mayor and Council approve the Adoption Agreement and authorize the Mayor and City Administrator to execute all necessary documents.



**SUMMARY OF KEY AMENDMENTS  
TO THE RESTATED  
GEORGIA MUNICIPAL EMPLOYEES BENEFIT SYSTEM  
DEFINED BENEFIT RETIREMENT PLAN**

**I. GENERAL OVERVIEW**

On August 31, 2023, the IRS issued a favorable opinion letter for the Amended and Restated Third Six-Year Cycle Georgia Municipal Employees Benefit System Defined Benefit Retirement Plan ("DB Plan" or "Plan"). The Plan, as approved, incorporates required federal law updates, as well as administrative updates adopted by the Board of Trustees of GMEBS over the last several years. The IRS requires that each Adopting Employer sign an updated DB Plan Adoption Agreement (and Addendum, if applicable).

**II. SUMMARY OF KEY CHANGES TO THE BASIC PLAN DOCUMENT**

Participating employers have already been apprised of the content of all amendments adopted by the Board before August 31, 2023. However, during its review, the IRS required GMEBS to include additional amendments in the restated Plan documents. The following information summarizes those amendments, as well as Amendment 1 to the Basic Plan Document, which was approved by the Board of Trustees on September 22, 2023.

- ❖ **Change from “Master Plan Document” to “Basic Plan Document”** – The IRS changed its terminology for pre-approved plan documents from “Master Plan document” to Basic Plan Document.”
- ❖ **Removal of Outdated Language** – GMEBS amended the Plan for administrative purposes to move provisions that were no longer in effect or no longer applicable.
- ❖ **Minimum Age Limits for In-Service Distribution** – As a general rule, employees or elected officials may not draw retirement benefits while employed. The Basic Plan document states that if a plan allows in-service distribution, a participant must be at least age 62, or satisfy certain “safe harbor” age and service combinations established in IRS regulations, to receive retirement benefits while employed. If a plan allows in-service distribution and has an alternative normal retirement provision with a minimum age of at least 50 specifically for public safety employees (or that satisfies certain IRS “safe harbor” age and service qualifications that apply to public safety employees), public safety employees who are eligible for the alternative normal retirement may receive an in-service distribution even if they are younger than age 62. Though Congress amended federal law in 2019 to allow plans to set normal retirement ages at a minimum age of 59 ½, the IRS’s opinion letter for the DB Plan specified it would not apply to plans that allowed in-service distribution at ages younger than 62 (or 50 for public safety employees) or that did not satisfy one of the IRS’s safe harbors for in-service distribution. **As in prior restatements, GMEBS plans that currently have in-service distribution provisions that don’t meet these requirements will have the opportunity to file for separate IRS approval of these provisions.** “In-service distribution” means a distribution of normal or alternative normal retirement benefits without a bona fide separation from service. A “bona fide

## SUMMARY OF KEY AMENDMENTS

separation from service” is a separation from service of at least six months with no expectation of returning to service.

- ❖ **Removal of Public Employment Related Crime Provisions** – At the request of the IRS, GMEBS removed language concerning the reduction or forfeiture of a participant’s benefits following a final conviction of a public employment related crime from the Basic Plan Document. State laws requiring a reduction in or forfeiture of retirement benefits if a participant is convicted of a public employment related crime still apply but are no longer mentioned in the Plan documents.
- ❖ **Clarification of Process for Locating an Individual Owed Benefits** – As required by the IRS, the restated Basic Plan Document details the steps an employer offering benefits under the DB Plan must take to locate an individual to whom benefits are owed under the Plan. These steps include searching Plan-related and publicly available records or directories for alternative contact information; sending certified mail to the individual’s last known mailing address and reaching out through appropriate means for address or contact information (such as email addresses and phone numbers) available to the employer; and using either a commercial locator service, a credit reporting agency or internet search tools to find the individual.
- ❖ **Federal Tax Law Updates** – The Basic Plan Document contains several federal tax law updates, including allowing rollovers to SIMPLE IRAs in certain situations, updating mortality table language relating to annual benefit limits, and allowing employers to amend the plan as necessary to satisfy Section 415 of the Internal Revenue Code, even if doing so impacts benefits.
- ❖ **Voting Representative; Trustees** – GMEBS updated language in the Basic Plan Document designating employers’ voting representative for GMEBS purposes to be consistent with the GMEBS Bylaws. The language provides that, unless otherwise directed by an employer’s chief executive, a GMEBS trustee will be considered his or her employer’s designated voting representative. For all other employers, the chief executive or administrative officer will be the employer’s voting representative.
- ❖ **Use of Trust Fund Assets** – The Basic Plan Document stipulates that trust fund assets can be used to pay reasonable fees, taxes and expenses of the Plan and Trust.
- ❖ **Reversion of Assets in Event of Plan Termination** – Per the request of the IRS, GMEBS amended the Basic Plan Document to state that, in the event an employer’s plan is terminated, excess trust fund assets remaining after paying all vested accrued benefits to all participants can only revert to the employer if the excess was due to an actuarial error.
- ❖ **Added Language to Adoption Agreement Regarding Compliance with Federal Law when an Employer Has More than One Defined Benefit Retirement Plan** – Per the request of the IRS, the Adoption Agreement contains a new Section 15(G) concerning Section 415(b) of the Internal Revenue Code, when an employer has more than one defined benefit retirement plan. This provision will be blank in most GMEBS employers’ Adoption Agreements.

## SUMMARY OF KEY AMENDMENTS

- ❖ **Adjusted Minimum Ages for Commencement of Required Minimum Contributions** – The SECURE Act of 2019 and 2022’s SECURE 2.0 raised the age at which participants have to start drawing retirement benefits. These changes were not included in the restated Basic Plan Document reviewed by the IRS. However, on September 23, 2023, the Board of Trustees of GMEBS adopted Amendment 1 to the Restated Plan to implement these updates. Currently, a terminated vested participant must retire no later than the April 1 following the date the participant turns 73. Starting in 2033, a terminated vested participant must retire no later than the April 1 following the date the participant turns 75.



**GEORGIA MUNICIPAL EMPLOYEES**  
**BENEFIT SYSTEM**

**DEFINED BENEFIT RETIREMENT PLAN**

**AN ORDINANCE**  
**and**  
**ADOPTION AGREEMENT**  
**for**  
**City of Dacula**

**Form Pre-approved Plan Adoption Agreement  
Amended and Restated for Third Six-Year Cycle, 2020 Cumulative List**

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## **I. AN ORDINANCE**

An Ordinance to amend and restate the Retirement Plan for the Employees of the City of Dacula, Georgia, in accordance with and subject to the terms and conditions set forth in the attached Adoption Agreement, any Addendum to the Adoption Agreement, the Georgia Municipal Employees Benefit System (GMEBS) Basic Plan Document, and the GMEBS Trust Agreement. When accepted by the authorized officers of the City and GMEBS, the foregoing shall constitute a Contract between the City and GMEBS, all as authorized and provided by O.C.G.A. § 47-5-1 et seq.

BE IT ORDAINED by the Mayor and Council of the City of Dacula, Georgia, and it is hereby ordained by the authority thereof:

**Section 1.** The Retirement Plan for the Employees of the City of Dacula, Georgia, is hereby amended and restated as set forth in and subject to the terms and conditions stated in the following Adoption Agreement, any Addendum to the Adoption Agreement, the Georgia Municipal Employees Benefit System (GMEBS) Basic Plan Document, and the GMEBS Trust Agreement.

**Ordinance continued on page 37**

**II. GMEBS DEFINED BENEFIT RETIREMENT PLAN**  
**ADOPTION AGREEMENT**

**1. ADMINISTRATOR**

Georgia Municipal Employees Benefit System  
201 Pryor Street, SW  
Atlanta, Georgia 30303  
Telephone: 404-688-0472  
Facsimile: 404-577-6663

**2. ADOPTING EMPLOYER**

Name: **City of Dacula, Georgia**

**3. GOVERNING AUTHORITY**

Name: **Mayor and Council**  
Address: **P.O. Box 400, Dacula, GA 30019**  
Phone: **(770) 963-7451**  
Facsimile: **(770) 513-2187**

**4. PLAN REPRESENTATIVE**

**[To represent Governing Authority in all communications with GMEBS and Employees]**  
**(See Section 2.49 of Basic Plan Document)**

Name: **City Clerk**  
Address: **P.O. Box 400, Dacula, GA 30019**  
Phone: **(770) 963-7451**  
Facsimile: **(770) 513-2187**

### 5. PENSION COMMITTEE

[Please designate members by position. If not, members of Pension Committee shall be determined in accordance with Article XIV of the Basic Plan Document]

Position:  
Position:  
Position:  
Position:  
Position:

Pension Committee Secretary: **Administrative Clerk**  
Address: **P.O. Box 400, Dacula, GA 30019**  
Phone: **(770) 963-7451**  
Facsimile: **(770) 513-2187**

### 6. TYPE OF ADOPTION

This Adoption Agreement is for the following purpose (**check one**):

- This is a new defined benefit plan adopted by the Adopting Employer for its Employees. This plan does not replace or restate an existing defined benefit plan.
- This is an amendment and restatement of the Adopting Employer's preexisting non-GMEBS defined benefit plan.
- This is an amendment and restatement of the Adoption Agreement previously adopted by the Employer, as follows (**check one or more as applicable**):
  - To update the Plan to comply with the PATH Act, and other applicable federal laws and guidance under IRS Notice 2020-14 (the 2020 Cumulative List).
  - To make the following amendments to the Adoption Agreement (**must specify below revisions made in this Adoption Agreement; all provisions must be completed in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): \_\_\_\_\_

### 7. EFFECTIVE DATE

NOTE: This Adoption Agreement and any Addendum, with the accompanying Basic Plan Document, is designed to comply with Internal Revenue Code Section 401(a), as applicable to a governmental qualified defined benefit plan, and is part of the GMEBS Defined Benefit Retirement Plan. Plan provisions designed to comply with certain provisions of the Protecting Americans from Tax Hikes Act of 2015 ("PATH Act"); and Plan provisions designed to comply with certain provisions of additional changes in federal law and guidance from the Internal Revenue Service under Internal Revenue Service Notice 2020-14 (the 2020 Cumulative List) are effective as of the applicable effective dates set forth in the Adoption Agreement and Basic Plan

Document. By adopting this Adoption Agreement, with its accompanying Basic Plan Document, the Adopting Employer is adopting a plan document intended to comply with Internal Revenue Code Section 401(a), as updated by the PATH Act and the 2020 Cumulative List with the applicable effective dates.

- (1) Complete this item (1) only if this is a new defined benefit plan which does not replace or restate an existing defined benefit plan.**

The effective date of this Plan is \_\_\_\_\_.

**(insert effective date of this Adoption Agreement but not earlier than the first day of the current Plan Year in which the Plan is adopted).**

- (2) Complete this item (2) only if this Plan is being adopted to replace a non-GMEBS defined benefit plan.**

Except as otherwise specifically provided in the Basic Plan Document or in this Adoption Agreement, the effective date of this restatement shall be \_\_\_\_\_ **(insert effective date of this Adoption Agreement but not earlier than the first day of the current Plan Year in which the Plan is adopted (unless a retroactive corrective amendment is permitted under EPCRS, Rev. Proc. 2021-30 (or subsequent updated guidance))**. This Plan is intended to replace and serve as an amendment and restatement of the Employer's preexisting plan, which became effective on \_\_\_\_\_ **(insert original effective date of preexisting plan)**.

- (3) Complete this item (3) only if this is an amendment and complete restatement of the Adopting Employer's existing GMEBS defined benefit plan.**

Except as otherwise specifically provided in the Basic Plan Document or in this Adoption Agreement, the effective date of this restatement shall be **the date of its approval by the Governing Authority** **(insert effective date of this Adoption Agreement but not earlier than the first day of the current Plan Year in which the Plan is adopted (unless a retroactive corrective amendment is permitted under EPCRS, Rev. Proc. 2021-30 (or subsequent updated guidance))**.

This Plan is adopted as an amendment and restatement of the Employer's preexisting GMEBS Adoption Agreement, which became effective on **April 4, 2019** **(insert effective date of most recent Adoption Agreement preceding this Adoption Agreement)**.

The Employer's first Adoption Agreement became effective **January 1, 2003** **(insert effective date of Employer's first GMEBS Adoption Agreement)**. The Employer's GMEBS Plan was originally effective **December 1, 1985** **(insert effective date of Employer's original GMEBS Plan)**. (If the Employer's Plan was originally a non-GMEBS Plan, then the Employer's non-GMEBS Plan was originally effective \_\_\_\_\_ **(if applicable, insert effective date of Employer's original non-GMEBS Plan)**.)

### 8. PLAN YEAR

Plan Year means (check one):

- Calendar Year
- Employer Fiscal Year commencing \_\_\_\_\_.
- Other (must specify month and day commencing): December 1.

### 9. CLASSES OF ELIGIBLE EMPLOYEES

Only Employees of the Adopting Employer who meet the Basic Plan Document's definition of "Employee" may be covered under the Adoption Agreement. Eligible Employees shall not include non-governmental employees, independent contractors, leased employees, nonresident aliens, or any other ineligible individuals, and this Section 9 must not be completed in a manner that violates the "exclusive benefit rule" of Internal Revenue Code Section 401(a)(2).

#### A. Eligible Regular Employees

Regular Employees include Employees, other than elected or appointed members of the Governing Authority or Municipal Legal Officers, who are regularly employed in the services of the Adopting Employer. Subject to the other conditions of the Basic Plan Document and the Adoption Agreement, the following Regular Employees are eligible to participate in the Plan (check one):

- ALL** - All Regular Employees, provided they satisfy the minimum hour and other requirements specified under "Eligibility Conditions" below.
- ALL REGULAR EMPLOYEES EXCEPT** for the following employees (must specify; specific positions are permissible; specific individuals may not be named): \_\_\_\_\_.

#### B. Elected or Appointed Members of the Governing Authority

An Adopting Employer may elect to permit participation in the Plan by elected or appointed members of the Governing Authority and/or Municipal Legal Officers, provided they otherwise meet the Basic Plan Document's definition of "Employee" and provided they satisfy any other requirements specified by the Adopting Employer. Municipal Legal Officers to be covered must be specifically identified by position. Subject to the above conditions, the Employer hereby elects the following treatment for elected and appointed officials:

##### (1) Elected or Appointed Members of the Governing Authority (check one):

- ARE NOT** eligible to participate in the Plan.
- ARE** eligible to participate in the Plan.

Please specify any limitations on eligibility to participate here (e.g., service on or after certain date, or special waiting period provision): \_\_\_\_\_.



(2) **Municipal Legal Officers (check one):**

- ARE NOT** eligible to participate in the Plan.
- ARE** eligible to participate in the Plan. The term "Municipal Legal Officer" shall include only the following positions (**must specify - specific positions are permissible; specific individuals may not be named**): \_\_\_\_\_.

Please specify any limitations on eligibility to participate here (e.g., service on or after certain date) (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): \_\_\_\_\_.

**10. ELIGIBILITY CONDITIONS**

**A. Hours Per Week (Regular Employees)**

The Adopting Employer may specify a minimum number of work hours per week which are required to be scheduled by Regular Employees in order for them to become and remain "Eligible Regular Employees" under the Plan. **It is the responsibility of the Adopting Employer to determine whether these requirements are and continue to be satisfied.** The Employer hereby elects the following minimum hour requirement for Regular Employees:

- No minimum
- 20 hours/week (regularly scheduled)
- 30 hours/week (regularly scheduled)
- Other: \_\_\_\_\_ (must not exceed 40 hours/week regularly scheduled)

**Exceptions:** If a different minimum hour requirement applies to a particular class or classes of Regular Employees, please specify below the classes to whom the different requirement applies and indicate the minimum hour requirement applicable to them.

Class(es) of Regular Employees to whom exception applies (**must specify - specific positions are permissible; specific individuals may not be named**): \_\_\_\_\_.

Minimum hour requirement applicable to excepted Regular Employees:

- No minimum
- 20 hours/week (regularly scheduled)
- 30 hours/week (regularly scheduled)
- Other: \_\_\_\_\_ (must not exceed 40 hours/week regularly scheduled)

**B. Months Per Year (Regular Employees)**

The Adopting Employer may specify a minimum number of work months per year which are required to be scheduled by Regular Employees in order for them to become and remain "Eligible Employees" under the Plan. **It is the responsibility of the Adopting Employer to determine whether these requirements are and continue to be satisfied.** The Employer hereby elects the following minimum requirement for Regular Employees:

- No minimum
- At least 5 months per year (regularly scheduled)

**Exceptions:** If different months per year requirements apply to a particular class or classes of Regular Employees, the Employer must specify below the classes to whom the different requirements apply and indicate below the requirements applicable to them.

Regular Employees to whom exception applies (**must specify - specific positions are permissible; specific individuals may not be named**): \_\_\_\_\_.

The months to year requirement for excepted class(es) are:

- No minimum
- At least \_\_\_\_\_ months per year (regularly scheduled)

### 11. WAITING PERIOD

Except as otherwise provided in Section 4.02(b) of the Basic Plan Document, Eligible Regular Employees shall not have a waiting period before participating in the Plan. Likewise, elected or appointed members of the Governing Authority and Municipal Legal Officers, if eligible to participate in the Plan, shall not have a waiting period before participating in the Plan.

### 12. ESTABLISHING PARTICIPATION IN THE PLAN

Participation in the Plan is considered mandatory for all Eligible Employees who satisfy the eligibility conditions specified in the Adoption Agreement, except as provided in Section 4.03(e) of the Basic Plan Document. However, the Employer may specify below that participation is optional for certain classes of Eligible Employees, including Regular Employees, elected or appointed members of the Governing Authority, Municipal Legal Officers, City Managers, and/or Department Heads. If participation is optional for an Eligible Employee, then in order to become a Participant, the Employee must make a written election to participate within 120 days after employment, election or appointment to office, or if later, the date the Employee first becomes eligible to participate in the Plan. The election is irrevocable, and the failure to make the election within the 120 day time limit shall be deemed an irrevocable election not to participate in the Plan.

Classes for whom participation is optional (**check one**):

- None (Participation is mandatory for all Eligible Employees except as provided in Section 4.03(e) of the Basic Plan Document).
- Participation is optional for the following Eligible Employees (**must specify - specific positions are permissible; specific individuals may not be named; all positions or classes specified must be Eligible Employees**): \_\_\_\_\_.

### 13. CREDITED SERVICE

In addition to Current Credited Service the Adopting Employer may include as Credited Service the following types of service:

**A. Credited Past Service with Adopting Employer**

Credited Past Service means the number of years and complete months of Service with the Adopting Employer prior to the date an Eligible Employee becomes a Participant which are treated as credited service under the Plan.

**(1) Eligible Employees Employed on Original Effective Date of GMEBS Plan.**

With respect to Eligible Employees who are employed by the Adopting Employer on the original Effective Date of the Employer's GMEBS Plan, Service with the Adopting Employer prior to the date the Eligible Employee becomes a Participant (including any Service prior to the Effective Date of the Plan) shall be treated as follows **(check one)**:

- All Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service).
- All Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service), except for Service rendered prior to \_\_\_\_\_ **(insert date)**.
- All Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service), except as follows **(must specify other limitation in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i))**: \_\_\_\_\_.
- No Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service).

**(2) Previously Employed, Returning to Service after Original Effective Date.**

If an Eligible Employee is not employed on the original Effective Date of the Employer's GMEBS Plan, but returns to Service with the Adopting Employer sometime after the Effective Date, said Eligible Employee's Service prior to becoming a Participant (including any Service prior the Effective Date) shall be treated as follows **(check one)**:

- All Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service), subject to any limitations imposed above with respect to Eligible Employees employed on the Effective Date.
- All Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service), provided that after returning to employment, the Eligible Employee performs Service equal to the period of the break in Service or one (1) year, whichever is less. Any limitations imposed above with respect to Eligible Employees employed on the Effective Date shall also apply.
- No Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service).

Other limitation(s) on Recognition of Credited Past Service **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i))**: \_\_\_\_.

**(3) Eligible Employees Initially Employed After Effective Date.** If an Eligible Employee's initial employment date is after the original Effective Date of the Employer's GMEBS Plan, said Employee's Credited Past Service shall include only the number of years and complete months of Service from the Employee's initial employment date to the date the Employee becomes a Participant in the Plan.

**(4) Newly Eligible Classes of Employees.** If a previously ineligible class of Employees becomes eligible to participate in the Plan, the Employer must specify in an addendum to this Adoption Agreement whether and to what extent said Employees' prior service with the Employer shall be treated as Credited Past Service under the Plan.

**B. Prior Military Service**

**Note: This Section does not concern military service required to be credited under USERRA – See Section 3.02 of the Basic Plan Document for rules on the crediting of USERRA Military Service.**

**(1) Credit for Prior Military Service.**

The Adopting Employer may elect to treat military service rendered prior to a Participant's initial employment date or reemployment date as Credited Service under the Plan. Unless otherwise specified by the Employer under "Other Conditions" below, the term "Military Service" shall be as defined in the Basic Plan Document. Except as otherwise required by federal or state law or under "Other Conditions" below, Military Service shall not include service which is credited under any other local, state, or federal retirement or pension plan.

Military Service credited under this Section shall not include any service which is otherwise required to be credited under the Plan by federal or state law. Prior Military Service shall be treated as follows **(check one)**:

- Prior Military Service is **not** creditable under the Plan **(if checked, skip to Section 13.C. – Prior Governmental Service)**.
- Prior Military Service shall be counted as Credited Service for the following purposes (check one or more as applicable):
  - Computing amount of benefits payable.
  - Meeting minimum service requirements for vesting.
  - Meeting minimum service requirements for benefit eligibility.

**(2) Maximum Credit for Prior Military Service.**

Credit for Prior Military Service shall be limited to a maximum of \_\_\_\_ years **(insert number)**.

**(3) Rate of Accrual for Prior Military Service.**

Credit for Prior Military Service shall accrue at the following rate **(check one)**:

- One month of military service credit for every \_\_\_\_\_ month(s) **(insert number)** of Credited Service with the Adopting Employer.
- One year of military service credit for every \_\_\_\_\_ year(s) **(insert number)** of Credited Service with the Adopting Employer.
- All military service shall be creditable (subject to any caps imposed above) after the Participant has completed \_\_\_\_\_ years **(insert number)** of Credited Service with the Employer.
- Other requirement **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i))**: \_\_\_\_\_.

**(4) Payment for Prior Military Service Credit (check one):**

- Participants shall **not** be required to pay for military service credit.
- Participants shall be required to pay for military service credit as follows:
  - The Participant must pay \_\_\_\_\_% of the actuarial cost of the service credit (as defined below).
  - The Participant must pay an amount equal to **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i))**: \_\_\_\_\_.

Other Conditions for Award of Prior Military Service Credit **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i))**: \_\_\_\_\_.

**(5) Limitations on Service Credit Purchases.** Unless otherwise specified in an Addendum to the Adoption Agreement, for purposes of this Section and Section 13.C. concerning prior governmental service credit, the term "actuarial cost of service credit" is defined as set forth in the Service Credit Purchase Addendum. In the case of a service credit purchase, the Participant shall be required to comply with any rules and regulations established by the GMEBS Board of Trustees concerning said purchases.

**C. Prior Governmental Service**

**Note:** A Participant's prior service with other GMEBS employers shall be credited for purposes of satisfying the minimum service requirements for Vesting and eligibility for Retirement and pre-retirement death benefits as provided under Section 9.05 of the Basic Plan Document, relating to portability service. This Section 13(C) does not need to be completed in order for Participants to receive this portability service credit pursuant to Section 9.05 of the Basic Plan Document.

**(1) Credit for Prior Governmental Service.**

The Adopting Employer may elect to treat governmental service rendered prior to a Participant's initial employment date or reemployment date as creditable service under the Plan. Subject to any limitations imposed by law, the term "prior governmental service" shall be as defined by the Adopting Employer below. The Employer elects to treat prior governmental service as follows **(check one)**:

- Prior governmental service is **not** creditable under the Plan **(if checked, skip to Section 13.D. – Unused Sick/Vacation Leave)**.
- Prior governmental service shall be counted as Credited Service for the following purposes under the Plan **(check one or more as applicable)**:
  - Computing amount of benefits payable.
  - Meeting minimum service requirements for vesting.
  - Meeting minimum service requirements for benefit eligibility.

**(2) Definition of Prior Governmental Service.**

Prior governmental service shall be defined as follows: **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i))**: \_\_\_\_\_.

Unless otherwise specified above, prior governmental service shall include only full-time service (minimum hour requirement same as that applicable to Eligible Regular Employees).

**(3) Maximum Credit for Prior Governmental Service.**

Credit for prior governmental service shall be limited to a maximum of \_\_\_\_\_ years **(insert number)**.

**(4) Rate of Accrual for Prior Governmental Service Credit.**

Credit for prior governmental service shall accrue at the following rate **(check one)**:

- One month of prior governmental service credit for every \_\_\_\_\_ month(s) **(insert number)** of Credited Service with the Adopting Employer.
- One year of prior governmental service credit for every \_\_\_\_\_ year(s) **(insert number)** of Credited Service with the Adopting Employer.
- All prior governmental service shall be creditable (subject to any caps imposed above) after the Participant has completed \_\_\_\_\_ years **(insert number)** of Credited Service with the Adopting Employer.
- Other requirement **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i))**: \_\_\_\_\_.

**(5) Payment for Prior Governmental Service Credit.**

- Participants shall **not** be required to pay for governmental service credit.
- Participants shall be required to pay for governmental service credit as follows:
  - The Participant must pay \_\_\_\_% of the actuarial cost of the service credit.
  - The Participant must pay an amount equal to **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)):** \_\_\_\_\_.

Other Conditions for Award of Prior Governmental Service Credit **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)):** \_\_\_\_\_.

**D. Leave Conversion for Unused Paid Time Off (e.g., Sick, Vacation, or Personal Leave)**

**(1) Credit for Unused Paid Time Off.**

Subject to the limitations in Section 3.01 of the Basic Plan Document, an Adopting Employer may elect to treat accumulated days of unused paid time off for a terminated Participant, for which the Participant is not paid, as Credited Service. The only type of leave permitted to be credited under this provision is leave from a paid time off plan which qualifies as a bona fide sick and vacation leave plan (which may include sick, vacation or personal leave) and which the Participant may take as paid leave without regard to whether the leave is due to illness or incapacity. The Credited Service resulting from the conversion of unused paid time off must not be the only Credited Service applied toward the accrual of a normal retirement benefit under the Plan. The Pension Committee shall be responsible to certify to GMEBS the total amount of unused paid time off that is creditable hereunder.

**Important Note:** Leave cannot be converted to Credited Service in lieu of receiving a cash payment. If the Employer elects treating unused paid time off as Credited Service, the conversion to Credited Service will be automatic, and the Participant cannot request a cash payment for the unused paid time off.

The Employer elects the following treatment of unused paid time off:

- Unused paid time off shall **not** be treated as Credited Service **(if checked, skip to Section 14 – Retirement Eligibility).**
- The following types of unused paid time off for which the Participant is not paid shall be treated as Credited Service under the Plan **(check one or more as applicable):**
  - Unused sick leave
  - Unused vacation leave
  - Unused personal leave

- Other paid time off (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): \_\_\_\_\_.

**(2) Minimum Service Requirement.**

In order to receive credit for unused paid time off, a Participant must meet the following requirement at termination (**check one**):

- The Participant must be 100% vested in a normal retirement benefit.
- The Participant must have at least \_\_\_\_\_ years (**insert number**) of Total Credited Service (not including leave otherwise creditable under this Section).
- Other (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): \_\_\_\_\_.

**(3) Use of Unused Paid Time Off Credit.** Unused paid time off for which the Participant is not paid shall count as Credited Service for the following purposes under the Plan (**check one or more as applicable**):

- Computing amount of benefits payable.
- Meeting minimum service requirements for vesting.
- Meeting minimum service requirements for benefit eligibility.

**(4) Maximum Credit for Unused Paid Time Off.**

Credit for unused paid time off for which the Participant is not paid shall be limited to a maximum of \_\_\_\_\_ months (**insert number**).

**(5) Computation of Unused Paid Time Off.**

Unless otherwise specified by the Adopting Employer under "Other Conditions" below, each twenty (20) days of creditable unused paid time off shall constitute one (1) complete month of Credited Service under the Plan. Partial months shall not be credited.

**(6) Other Conditions (please specify, subject to limitations in Section 3.01 of Basic Plan Document; must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)):** \_\_\_\_\_.

## 14. RETIREMENT ELIGIBILITY

### A. Early Retirement Qualifications

Early retirement qualifications are (**check one or more as applicable**):

- Attainment of age 55 (**insert number**)
- Completion of 10 years (**insert number**) of Total Credited Service



**Exceptions:** If different early retirement eligibility requirements apply to a particular class or classes of Eligible Employees, the Employer must specify below the classes to whom the different requirements apply and indicate below the requirements applicable to them.

Eligible Employees to whom exception applies (must specify - specific positions are permissible; specific individuals may not be named): \_\_\_\_\_.

Early retirement qualifications for excepted class(es) are (check one or more as applicable):

- Attainment of age \_\_\_\_\_ (insert number)
- Completion of \_\_\_\_\_ years (insert number) of Total Credited Service

**B. Normal Retirement Qualifications**

**Note:** Please complete this Section and also list "Alternative" Normal Retirement Qualifications, if any, in Section 14.C.

**(1) Regular Employees**

Normal retirement qualifications for Regular Employees are (check one or more as applicable):

- Attainment of age **62** (insert number)
- Completion of **5** years (insert number) of Total Credited Service
- In-Service Distribution to Eligible Employees permitted (i.e., a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to (check one):  all Participants  only the following class(es) of Participants (must specify - specific positions are permissible; specific individuals may not be named): \_\_\_\_\_.

**Exceptions:** If different normal retirement qualifications apply to a particular class or classes of Regular Employees, the Employer must specify below the classes to whom the different requirements apply and indicate below the requirements applicable to them.

Class(es) of Regular Employees to whom exception applies (must specify - specific positions are permissible; specific individuals may not be named): \_\_\_\_\_.

Normal retirement qualifications for excepted class(es) are (check one or more as applicable):

- Attainment of age \_\_\_\_\_ (insert number)
- Completion of \_\_\_\_\_ years (insert number) of Total Credited Service

- In-Service Distribution to Eligible Employees permitted (*i.e.*, a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to **(check one)**:  all Participants  only the following class(es) of Participants (**must specify - specific positions are permissible; specific individuals may not be named**): \_\_\_\_\_.

**(2) Elected or Appointed Members of Governing Authority**

**Complete this Section only if elected or appointed members of the Governing Authority or Municipal Legal Officers are permitted to participate in the Plan.** Normal retirement qualifications for this class are **(check one or more as applicable)**:

- Attainment of age \_\_\_\_\_ **(insert number)**
- Completion of \_\_\_\_\_ years **(insert number)** of Total Credited Service
- In-Service Distribution to Eligible Employees permitted (*i.e.*, a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to **(check one)**:  all Participants  only the following class(es) of Participants (**must specify - specific positions are permissible; specific individuals may not be named**):\_\_\_\_\_.

**Exceptions:** If different normal retirement qualifications apply to particular elected or appointed members of the Governing Authority or Municipal Legal Officers, the Employer must specify below to whom the different requirements apply and indicate below the requirements applicable to them.

Particular elected or appointed members of the Governing Authority or Municipal Legal Officers to whom exception applies **(must specify - specific positions are permissible; specific individuals may not be named)**: \_\_\_\_\_.

Normal retirement qualifications for excepted elected or appointed members of the Governing Authority or Municipal Legal Officers are **(check one or more as applicable)**:

- Attainment of age \_\_\_\_\_ **(insert number)**
- Completion of \_\_\_\_\_ years **(insert number)** of Total Credited Service

- In-Service Distribution to Eligible Employees permitted (i.e., a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to **(check one)**:  all Participants  only the following class(es) of Participants **(must specify - specific positions are permissible; specific individuals may not be named)**:\_\_\_\_\_.

**C. Alternative Normal Retirement Qualifications**

The Employer may elect to permit Participants to retire with unreduced benefits after they satisfy service and/or age requirements other than the regular normal retirement qualifications specified above. The Employer hereby adopts the following alternative normal retirement qualifications:

**Alternative Normal Retirement Qualifications (check one or more, as applicable):**

- (1)**  Not applicable (the Adopting Employer does not offer alternative normal retirement benefits under the Plan).

- (2)**  **Alternative Minimum Age & Service Qualifications (if checked, please complete one or more items below, as applicable):**

- Attainment of age \_\_\_\_\_ **(insert number)**
- Completion of \_\_\_\_\_ years **(insert number)** of Total Credited Service
- In-Service Distribution to Eligible Employees permitted (i.e., a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to **(check one)**:  all Participants  only the following class(es) of Participants **(must specify - specific positions are permissible; specific individuals may not be named)**: \_\_\_.

This alternative normal retirement benefit is available to:

- All Participants who qualify.
- Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named)**: \_\_\_\_\_.

A Participant (**check one**):  is required  is not required to be in the service of the Employer at the time the Participant satisfies the above qualifications in order to qualify for this alternative normal retirement benefit.

Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): \_\_\_\_\_.

- (3)  **Rule of \_\_\_\_\_ (insert number).** The Participant's combined Total Credited Service and age must equal or exceed this number. Please complete additional items below:

To qualify for this alternative normal retirement benefit, the Participant (**check one or more items below, as applicable**):

- Must have attained at least age \_\_\_\_\_ (**insert number**)
- Must not satisfy any minimum age requirement
- In-Service Distribution to Eligible Employees permitted (*i.e.*, a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if the Participant meets the minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to (**check one**):  all Participants  only the following class(es) of Participants (**must specify - specific positions are permissible; specific individuals may not be named**): \_\_\_\_\_.

This alternative normal retirement benefit is available to:

- All Participants who qualify.
- Only the following Participants (**must specify - specific positions are permissible; specific individuals may not be named**): \_\_\_\_\_.

A Participant (**check one**):  is required  is not required to be in the service of the Employer at the time the Participant satisfies the Rule in order to qualify for this alternative normal retirement benefit.

Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): \_\_\_\_\_.

(4)  **Alternative Minimum Service.** A Participant is eligible for an alternative normal retirement benefit if the Participant has at least \_\_\_\_\_ years **(insert number)** of Total Credited Service, regardless of the Participant's age.

In-Service Distribution to Eligible Employees permitted (*i.e.*, a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if the Participant meets the minimum service requirement specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to **(check one)**:  all Participants  only the following class(es) of Participants **(must specify - specific positions are permissible; specific individuals may not be named)**: \_\_\_.

This alternative normal retirement benefit is available to:

- All Participants who qualify.
- Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named)**: \_\_\_\_\_.

A Participant **(check one)**:  is required  is not required to be in the service of the Employer at the time the Participant satisfies the qualifications for this alternative normal retirement benefit.

Other eligibility requirement **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i))**: \_\_\_\_\_.

(5)  **Other Alternative Normal Retirement Benefit.**

**Must specify qualifications (in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i))**: \_\_\_\_\_.

In-Service Distribution to Eligible Employees permitted (*i.e.*, a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if the Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to **(check one)**:  all Participants  only the following class(es) of Participants **(must specify -**

**specific positions are permissible; specific individuals may not be named):** \_\_\_\_\_.

This alternative normal retirement benefit is available to:

- All Participants who qualify.
- Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named):** \_\_\_\_\_.

A Participant **(check one)**:  is required  is not required to be in the service of the Employer at the time the Participant satisfies the qualifications for this alternative normal retirement benefit.

Other eligibility requirement **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)):** \_\_\_\_\_.

**(6)  Other Alternative Normal Retirement Benefit for Public Safety Employees Only.**

**Must specify qualifications (in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)):** \_\_\_\_\_.

- In-Service Distribution to Eligible Employees who are Public Safety Employees permitted (*i.e.*, a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if the Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution Described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to **(check one)**:  all Participants  only the following class(es) of Participants **(must specify - specific positions are permissible; specific individuals may not be named):** \_\_\_\_\_.

This alternative normal retirement benefit is available to:

- All public safety employee Participants who qualify.
- Only the following public safety employee Participants **(must specify - specific positions are permissible; specific individuals may not be named):** \_\_\_\_\_.

A public safety employee Participant (**check one**):  is required  is not required to be in the service of the Employer at the time the Participant satisfies the qualifications for this alternative normal retirement benefit.

Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): \_\_\_\_\_.

**Note:** "Public safety employees" are defined under the Internal Revenue Code for this purpose as employees of a State or political subdivision of a State who provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision.

**D. Disability Benefit Qualifications**

Subject to the other terms and conditions of the Basic Plan Document and except as otherwise provided in an Addendum to this Adoption Agreement, disability retirement qualifications are based upon Social Security Administration award criteria or as otherwise provided under Section 2.23 of the Basic Plan Document. The Disability Retirement benefit shall commence as of the Participant's Disability Retirement Date under Section 2.24 of the Basic Plan Document.

To qualify for a disability benefit, a Participant must have the following minimum number of years of Total Credited Service (**check one**):

- Not applicable (the Adopting Employer does not offer disability retirement benefits under the Plan).
- No minimum.
- \_\_\_\_\_ years (**insert number**) of Total Credited Service.

Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): \_\_\_\_\_.

**15. RETIREMENT BENEFIT COMPUTATION**

**A. Maximum Total Credited Service**

The number of years of Total Credited Service which may be used to calculate a benefit is (**check one or all that apply**):

- not limited.
- limited to \_\_\_\_\_ years for all Participants.
- limited to \_\_\_\_\_ years for the following classes of Eligible Regular Employees:
  - All Eligible Regular Employees.

- Only the following Eligible Regular Employees: \_\_\_\_\_.
- limited to \_\_\_\_\_ years as an elected or appointed member of the Governing Authority.
- limited to \_\_\_\_\_ years as a Municipal Legal Officer.
- Other (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): \_\_\_\_\_.

**B. Monthly Normal Retirement Benefit Amount**

**(1) Regular Employee Formula**

The monthly normal retirement benefit for Eligible Regular Employees shall be 1/12 of (check and complete one or more as applicable):

- (a) **Flat Percentage Formula. 2.0% (insert percentage)** of Final Average Earnings multiplied by years of Total Credited Service as an Eligible Regular Employee.

This formula applies to:

- All Participants who are Regular Employees.
- Only the following Participants (must specify - specific positions are permissible; specific individuals may not be named):  
\_\_\_\_\_.

- (b) **Alternative Flat Percentage Formula. \_\_\_\_\_% (insert percentage)** of Final Average Earnings multiplied by years of Total Credited Service as an Eligible Regular Employee. This formula applies to the following Participants (must specify - specific positions are permissible; specific individuals may not be named): \_\_\_\_\_.

- (c) **Split Final Average Earnings Formula. \_\_\_\_\_% (insert percentage)** of Final Average Earnings up to the amount of **Covered Compensation (see subsection (2) below for definition of Covered Compensation)**, plus \_\_\_\_\_% (insert percentage) of Final Average Earnings in excess of said Covered Compensation, multiplied by years of Total Credited Service as an Eligible Regular Employee.

This formula applies to:

- All Participants who are Regular Employees.
- Only the following Participants (must specify - specific positions are permissible; specific individuals may not be named):\_\_\_\_\_.

- (d) **Alternative Split Final Average Earnings Formula. \_\_\_\_\_% (insert percentage)** of Final Average Earnings up to the amount of **Covered**



**Compensation (see subsection (2) below for definition of Covered Compensation), plus \_\_\_\_\_% (insert percentage) of Final Average Earnings in excess of said Covered Compensation, multiplied by years of Total Credited Service as an Eligible Regular Employee.**

This formula applies to:

- All Participants.
- Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named):** \_\_\_\_\_.

**[Repeat above subsections as necessary for each applicable benefit formula and Participant class covered under the Plan.]**

**(2) Covered Compensation (complete only if Split Formula(s) is checked above):**

Covered Compensation is defined as (check one or more as applicable):

- (a) **A.I.M.E. Covered Compensation** as defined in Section 2.18 of the Basic Plan Document. This definition of Covered Compensation shall apply to **(check one)**:
  - All Participants who are Regular Employees.
  - Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named):** \_\_\_\_\_.
- (b) **Dynamic Break Point** Covered Compensation as defined in Section 2.19 of the Basic Plan Document. This definition of Covered Compensation shall apply to **(check one)**:
  - All Participants who are Regular Employees.
  - Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named):**\_\_\_\_\_.
- (c) **Table Break Point** Covered Compensation as defined in Section 2.20 of the Basic Plan Document. This definition of Covered Compensation shall apply to **(check one)**:
  - All Participants who are Regular Employees.
  - Only the following class(es) of Participants **(must specify - specific positions are permissible; specific individuals may not be named):** \_\_\_\_\_.
- (d) **Covered Compensation** shall mean a Participant's annual Earnings that do not exceed \$ \_\_\_\_\_ **(specify amount)**. This definition shall apply to **(check one)**:
  - All Participants who are Regular Employees.
  - Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named):**\_\_\_\_\_.

**(3) Final Average Earnings**

Unless otherwise specified in an Addendum to the Adoption Agreement, Final Average Earnings is defined as the monthly average of Earnings paid to a Participant by the Adopting Employer for the **60 (insert number not to exceed 60)** consecutive months of Credited Service preceding the Participant's most recent Termination in which the Participant's Earnings were the highest, multiplied by 12. Note: GMEBS has prescribed forms for calculation of Final Average Earnings that must be used for this purpose.

This definition of Final Average Earnings applies to:

- All Participants who are Regular Employees.
- Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named):** \_\_\_\_\_.

**[Repeat above subsection as necessary for each applicable definition and Participant class covered under the Plan.]**

**(4) Formula for Elected or Appointed Members of the Governing Authority**

The monthly normal retirement benefit for members of this class shall be as follows **(check one)**:

- Not applicable (elected or appointed members of the Governing Authority or Municipal Legal Officers are not permitted to participate in the Plan).
- \$ \_\_\_\_\_ **(insert dollar amount)** per month for each year of Total Credited Service as an elected or appointed member of the Governing Authority or Municipal Legal Officer (service of at least 6 months and 1 day is treated as a year of Total Credited Service; provided, however, than an elected or appointed member of the Governing Authority or Municipal Legal Officer may accrue a maximum of one year of Total Credited Service for every 12-month period of Service as an elected or appointed member of the Governing Authority or Municipal Legal Officer).

This formula applies to:

- All elected or appointed members of the Governing Authority or Municipal Legal Officers eligible to participate.
- Only the following elected or appointed members of the Governing Authority or Municipal Legal Officers eligible to participate **(must specify - specific positions are permissible; specific individuals may not be named):** \_\_\_\_\_.

**[Repeat above subsection as necessary for each applicable formula for classes of elected or appointed members covered under the Plan.]**

**C. Monthly Early Retirement Benefit Amount**

**Check and complete one or more as applicable:**

- (1) **Standard Early Retirement Reduction Table.** The monthly Early Retirement benefit shall be computed in the same manner as the monthly

Normal Retirement benefit, but the benefit shall be reduced on an Actuarially Equivalent basis in accordance with Section 12.01 of the Basic Plan Document to account for early commencement of benefits. This provision shall apply to:

- All Participants.
- Only the following Participants (**must specify - specific positions are permissible; specific individuals may not be named**):\_\_\_\_\_.

(2) **Alternative Early Retirement Reduction Table.** The monthly Early Retirement benefit shall be computed in the same manner as the monthly Normal Retirement benefit, but the benefit shall be reduced to account for early commencement of benefits based on the following table. This table shall apply to:

- All Participants.
- Only the following Participants (**must specify - specific positions are permissible; specific individuals may not be named**):\_\_\_\_\_.

**Alternative Early Retirement Reduction Table**

<u>Number of Years Before</u> <u>[Age (Insert Normal</u> <u>Retirement Age)]</u> (check as applicable)	<u>Percentage of</u> <u>Normal Retirement Benefit*</u> (complete as applicable)
<input type="checkbox"/> 0	1.000
<input type="checkbox"/> 1	0.____
<input type="checkbox"/> 2	0.____
<input type="checkbox"/> 3	0.____
<input type="checkbox"/> 4	0.____
<input type="checkbox"/> 5	0.____
<input type="checkbox"/> 6	0.____
<input type="checkbox"/> 7	0.____
<input type="checkbox"/> 8	0.____
<input type="checkbox"/> 9	0.____
<input type="checkbox"/> 10	0.____
<input type="checkbox"/> 11	0.____
<input type="checkbox"/> 12	0.____
<input type="checkbox"/> 13	0.____
<input type="checkbox"/> 14	0.____
<input type="checkbox"/> 15	0.____

\*Interpolate for whole months

**D. Monthly Late Retirement Benefit Amount (check one):**

- (1) The monthly Late Retirement benefit shall be computed in the same manner as the Normal Retirement Benefit, based upon the Participant's Accrued Benefit as of the Participant's Late Retirement Date.
- (2) The monthly Late Retirement benefit shall be the greater of: (1) the monthly retirement benefit accrued as of the Participant's Normal Retirement Date, actuarially increased in accordance with the actuarial table contained in Section 12.05 of the Basic Plan Document; or (2) the monthly retirement benefit accrued as of the Participant's Late Retirement Date, without further actuarial adjustment under Section 12.06 of the Basic Plan Document.

**E. Monthly Disability Benefit Amount**

The amount of the monthly Disability Benefit shall be computed in the same manner as the Normal Retirement benefit, based upon the Participant's Accrued Benefit as of the Participant's Disability Retirement Date.

**Minimum Disability Benefit.** The Adopting Employer may set a minimum Disability Benefit. The Employer elects the following minimum Disability benefit (**check one**):

- Not applicable (the Adopting Employer does not offer disability retirement benefits under the Plan).
- No minimum is established.
- No less than (**check one**):  20%  10%  \_\_\_\_% (**if other than 20% or 10% insert percentage amount**) of the Participant's average monthly Earnings for the 12 calendar month period (excluding any period of unpaid leave of absence) immediately preceding the Participant's Termination of Employment as a result of a Disability. (Unless otherwise specified in an Addendum to the Adoption Agreement, no minimum will apply to elected or appointed members of the Governing Authority or Municipal Legal Officers.)
- No less than (**check one**):  66 2/3 %  \_\_\_\_% (**if other than 66 2/3%, insert percentage amount**) of the Participant's average monthly Earnings for the 12 calendar month period (excluding any period of unpaid leave of absence) immediately preceding the Participant's Termination of Employment as a result of a Disability, less any monthly benefits paid from federal Social Security benefits as a result of disability as reported by the Employer. (Unless otherwise specified in an Addendum to the Adoption Agreement, no minimum will apply to elected or appointed members of the Governing Authority or Municipal Legal Officers.)

**F. Minimum/Maximum Benefit For Elected Officials**

In addition to any other limitations imposed by federal or state law, the Employer may impose a cap on the monthly benefit amount that may be received by elected or appointed members of the Governing Authority. The Employer elects **(check one)**:

- Not applicable (elected or appointed members of the Governing Authority do not participate in the Plan).
- No minimum or maximum applies.
- Monthly benefit for Service as an elected or appointed member of the Governing Authority may not exceed 100% of the Participant's final salary as an elected or appointed member of the Governing Authority.
- Other minimum or maximum **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i))**: \_\_\_\_\_.

**G. Multiple Plans**

In the event that the Employer maintains multiple plans, the following provisions will apply to the extent necessary to satisfy Code § 415.

\_\_\_\_\_

**16. SUSPENSION OF BENEFITS FOLLOWING BONA FIDE SEPARATION OF SERVICE; COLA**

**A. Re-Employment as Eligible Employee After Normal, Alternative Normal, or Early Retirement and Following Bona Fide Separation of Service (see Basic Plan Document Section 6.06(c) Regarding Re-Employment as an Ineligible Employee and Basic Plan Document Section 6.06(e) and (f) Regarding Re-Employment After Disability Retirement)**

**(1) Reemployment After Normal or Alternative Normal Retirement.** In the event that a Retired Participant 1) is reemployed with the Employer as an Eligible Employee (as defined in the Plan) after the Participant's Normal or Alternative Normal Retirement Date and after a Bona Fide Separation from Service, or 2) is reemployed with the Employer in an Ineligible Employee class, and subsequently again becomes an Eligible Employee (as defined in the Plan) due to the addition of such class to the Plan after the Participant's Normal or Alternative Normal Retirement Date, the following rule shall apply **(check one)**:

- (a) The Participant's benefit shall be suspended in accordance with Section 6.06(a)(1) of the Basic Plan Document for as long as the Participant remains employed.

- ☒ (b) The Participant may continue to receive retirement benefits in accordance with Section 6.06(b) of the Basic Plan Document. This rule shall apply to **(check one)**: ☒ all Retired Participants ☐ only the following classes of Retired Participants **(must specify (specific positions are permissible; specific individuals may not be named) - benefits of those Retired Participants not listed shall be suspended in accordance with Section 6.06(a) of the Basic Plan Document if they return to work with the Employer)**: \_\_\_\_\_.

**(2) Reemployment After Early Retirement.** In the event a Participant Retires with an Early Retirement benefit after a Bona Fide Separation from Service 1) is reemployed with the Employer as an Eligible Employee before the Participant's Normal Retirement Date; or 2) is reemployed with the Employer in an Ineligible Employee class, and subsequently again becomes an Eligible Employee (as defined in the Plan) before the Participant's Normal Retirement Date due to the addition of such class to the Plan, the following rule shall apply **(check one or more as applicable)**:

- (a) ☐ The Participant's Early Retirement benefit shall be suspended in accordance with Section 6.06(a)(1) of the Basic Plan Document for as long as the Participant remains employed.

This rule shall apply to **(check one)**: ☐ all Retired Participants; ☐ only the following classes of Retired Participants **(must specify - specific positions are permissible; specific individuals may not be named)**: \_\_\_\_\_.

- (b) ☒ The Participant's Early Retirement benefit shall be suspended in accordance with Section 6.06(a)(1) of the Basic Plan Document. However, the Participant may begin receiving benefits after satisfying the qualifications for Normal Retirement or Alternative Normal Retirement, as applicable, and after satisfying the minimum age parameters of Section 6.06(a)(3) of the Basic Plan Document, in accordance with Section 6.06(b)(2)(B)(i) of the Basic Plan Document.

This rule shall apply to **(check one)**: ☒ all Retired Participants; ☐ only the following classes of Retired Participants **(must specify - specific positions are permissible; specific individuals may not be named)**: \_\_\_\_\_.

- (c) ☐ The Participant's Early Retirement benefit shall continue in accordance with Section 6.06(b)(2)(B)(ii) of the Basic Plan Document.

This rule shall apply to **(check one)**: ☐ all Retired Participants; ☐ only the following classes of Retired Participants **(must specify - specific positions are permissible; specific individuals may not be named)**: \_\_\_\_\_.

**B. Cost Of Living Adjustment**

The Employer may elect to provide for an annual cost-of-living adjustment (COLA) in the amount of benefits being received by Retired Participants and Beneficiaries, which shall be calculated and paid in accordance with the terms of the Basic Plan Document. The Employer hereby elects the following (check one):

- (1) No cost-of-living adjustment.
- (2) Variable Annual cost-of-living adjustment not to exceed \_\_\_\_\_% (insert percentage).
- (3) Fixed annual cost-of-living adjustment equal to \_\_\_\_\_% (insert percentage).

The above cost-of-living adjustment shall apply with respect to the following Participants (and their Beneficiaries) (check one):

- All Participants (and their Beneficiaries).
- Participants (and their Beneficiaries) who terminate employment on or after \_\_\_\_\_ (insert date).
- Other (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)); specific positions are permissible; specific individuals may not be named): \_\_\_\_\_.

The Adjustment Date for the above cost-of-living adjustment shall be (if not specified, the Adjustment Date shall be January 1): \_\_\_\_\_.

**17. TERMINATION OF EMPLOYMENT BEFORE RETIREMENT;  
VESTING**

**A. Eligible Regular Employees**

Subject to the terms and conditions of the Basic Plan Document, a Participant who is an Eligible Regular Employee and whose employment is terminated for any reason other than death or retirement shall earn a vested right in the Participant's accrued retirement benefit in accordance with the following schedule (check one):

- No vesting schedule (immediate vesting).
- Cliff Vesting Schedule.** Benefits shall be 100% vested after the Participant has a minimum of 7 years (insert number not to exceed 10) of Total Credited Service. Benefits remain 0% vested until the Participant satisfies this minimum.
- Graduated Vesting Schedule.** Benefits shall become vested in accordance with the following schedule (insert percentages):

<u>COMPLETED YEARS OF TOTAL CREDITED SERVICE</u>	<u>VESTED PERCENTAGE</u>
1	%
2	%
3	%
4	%
5	%
6	%
7	%
8	%
9	%
10	%

**Exceptions:** If a vesting schedule other than that specified above applies to a special class(es) of Regular Employees, the Employer must specify the different vesting schedule below and the class(es) to whom the different vesting schedule applies.

Regular Employees to whom exception applies (must specify - specific positions are permissible; specific individuals may not be named): \_\_\_\_\_.

Vesting Schedule for excepted class (Must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i). Must be at least as favorable as one of the following schedules: (i) 15-year cliff vesting, (ii) 20-year graded vesting, or (iii) for qualified public safety employees, 20-year cliff vesting.): \_\_\_\_\_.

**B. Elected or Appointed Members of the Governing Authority**

Subject to the terms and conditions of the Basic Plan Document, a Participant who is an elected or appointed member of the Governing Authority or a Municipal Legal Officer shall earn a vested right in the Participant's accrued retirement benefit for Credited Service in such capacity in accordance with the following schedule (check one):

- Not applicable (elected or appointed members of the Governing Authority are not permitted to participate in the Plan).
- No vesting schedule (immediate vesting).
- Other vesting schedule (Must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i). Must be at least as favorable as one of the following schedules: (i) 15-year cliff vesting, (ii) 20-year graded vesting, or (iii) for qualified public safety employees, 20-year cliff vesting.): \_\_\_\_\_.



## 18. PRE-RETIREMENT DEATH BENEFITS

### A. In-Service Death Benefit

Subject to the terms and conditions of the Basic Plan Document, the Employer hereby elects the following in-service death benefit, to be payable in the event that an eligible Participant's employment with the Employer is terminated by reason of the Participant's death prior to Retirement (**check and complete one**):

- (1)  **Auto A Death Benefit.** A monthly benefit payable to the Participant's Pre-Retirement Beneficiary, equal to the decreased monthly retirement benefit that would have otherwise been payable to the Participant, had the Participant elected a 100% joint and survivor benefit under Section 7.03 of the Basic Plan Document. In order to be eligible for this benefit, a Participant must meet the following requirements (**check one**):

- The Participant must be vested in a normal retirement benefit.
- The Participant must have \_\_\_\_\_ years (**insert number**) of Total Credited Service.
- The Participant must be eligible for Early or Normal Retirement.
- Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i): Participant must have 10 years of Total Credited Service or be eligible for Normal Retirement.**)

- (2)  **Actuarial Reserve Death Benefit.** A monthly benefit payable to the Participant's Pre-Retirement Beneficiary, actuarially equivalent to the reserve required for the Participant's anticipated Normal Retirement benefit, provided the Participant meets the following eligibility conditions (**check one**):

- The Participant shall be eligible upon satisfying the eligibility requirements of Section 8.02(c) of the Basic Plan Document.
- The Participant must have \_\_\_\_\_ years (**insert number**) of Total Credited Service.
- Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i): \_\_\_\_\_.**)

**Imputed Service.** For purposes of computing the actuarial reserve death benefit, the Participant's Total Credited Service shall include (**check one**):

- Total Credited Service accrued prior to the date of the Participant's death.

- Total Credited Service accrued prior to the date of the Participant's death, plus **(check one)**:  one-half (1/2)  \_\_\_\_\_ **(insert other fraction)** of the Service between such date of death and what would otherwise have been the Participant's Normal Retirement Date. **(See Basic Plan Document Section 8.02(b) regarding 10-year cap on additional Credited Service.)**

Minimum In-Service Death Benefit for Vested Employees Equal to Terminated Vested Death Benefit. Unless otherwise specified under "Exceptions" below, if a Participant's employment is terminated by reason of the Participant's death prior to Retirement, and if as of the date of death the Participant is vested but does not qualify for the in-service death benefit, then the Auto A Death Benefit will be payable, provided the Auto A Death Benefit is made available to terminated vested employees under the Adoption Agreement (see "Terminated Vested Death Benefit" below).

**(3) Exceptions:** If an in-service death benefit other than that specified above applies to one or more classes of Participants, the Employer must specify below the death benefit payable, the class(es) to whom the different death benefit applies, and the eligibility conditions for said death benefit.

Alternative Death Benefit **(must specify formula that satisfies the definite written program and definitely determinable requirements of Treasury Regulations Sections 1.401-1(a)(2) and 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415):** \_\_\_\_\_.

Participants to whom alternative death benefit applies **(must specify - specific positions are permissible; specific individuals may not be named):** \_\_\_\_\_.

Eligibility conditions for alternative death benefit **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i):** \_\_\_\_\_.

**B. Terminated Vested Death Benefit**

**(1) Complete this Section only if the Employer offers a terminated vested death benefit.** The Employer may elect to provide a terminated vested death benefit, to be payable in the event that a Participant who is vested dies after termination of employment but before Retirement benefits commence. Subject to the terms and conditions of the Basic Plan Document, the Employer hereby elects the following terminated vested death benefit **(check one)**:

- Auto A Death Benefit.** A monthly benefit payable to the Participant's Pre-Retirement Beneficiary, equal to the decreased monthly retirement benefit that would have otherwise been payable to the Participant had the Participant elected a 100% joint and survivor benefit under Section 7.03 of the Basic Plan Document.
- Accrued Retirement Benefit.** A monthly benefit payable to the Participant's Pre-Retirement Beneficiary which shall be actuarially equivalent to the

Participant's Accrued Normal Retirement Benefit determined as of the date of death.

(2) **Exceptions:** If a terminated vested death benefit other than that specified above applies to one or more classes of Participants, the Employer must specify below the death benefit payable, the class(es) to whom the different death benefit applies, and the eligibility conditions for said death benefit.

Alternative Death Benefit (must specify formula that satisfies the definite written program and definitely determinable requirements of Treasury Regulations Sections 1.401-1(a)(2) and 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415): \_\_\_\_\_.

Participants to whom alternative death benefit applies (must specify - specific positions are permissible; specific individuals may not be named): \_\_\_\_\_.

Eligibility conditions for alternative death benefit (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): \_\_\_\_\_.

## 19. EMPLOYEE CONTRIBUTIONS

(1) **Employee contributions (check one):**

- Are not required.
- Are required in the amount of \_\_\_\_\_ % (insert percentage) of Earnings for all Participants.
- Are required in the amount of \_\_\_\_\_ % (insert percentage) of Earnings for Participants in the following classes (must specify - specific positions are permissible; specific individuals may not be named): \_\_\_\_\_.

[Repeat above subsection as necessary if more than one contribution rate applies.]

(2) **Pre-Tax Treatment of Employee Contributions.** If Employee Contributions are required in Subsection (1) above, an Adopting Employer may elect to "pick up" Employee Contributions to the Plan in accordance with IRC Section 414(h). In such case, Employee Contributions shall be made on a pre-tax rather than a post-tax basis, provided the requirements of IRC Section 414(h) are met. If the Employer elects to pick up Employee Contributions, it is the Employer's responsibility to ensure that Employee Contributions are paid and reported in accordance with IRC Section 414(h). The Adopting Employer must not report picked up contributions as wages subject to federal income tax withholding.

The Employer hereby elects (check one):

- To pick up Employee Contributions. By electing to pick up Employee Contributions, the Adopting Employer specifies that the contributions, although designated as Employee Contributions, are being paid by the Employer in lieu of Employee Contributions. The Adopting Employer confirms that the executor of

this Adoption Agreement is duly authorized to take this action as required to pick up contributions. This pick-up of contributions applies prospectively, and it is evidenced by this contemporaneous written document. On and after the date of the pick-up of contributions, a Participant does not have a cash or deferred election right (within the meaning of Treasury Regulation Section 1.401(k)-1(a)(3)) with respect to the designated Employee Contributions, which includes not having the option of receiving the amounts directly instead of having them paid to the Plan.

- Not to pick up Employee Contributions.

**(3) Interest on Employee Contributions.** The Adopting Employer may elect to pay interest on any refund of Employee Contributions.

- Interest shall not be paid.
  - Interest shall be paid on a refund of Employee Contributions at a rate established by GMEBS from time to time.
  - Other rate of interest **(must specify rate in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)):**
- 

## **20. MODIFICATION OF THE TERMS OF THE ADOPTION AGREEMENT**

If an Adopting Employer desires to amend any of its elections contained in this Adoption Agreement (or any Addendum), the Governing Authority by official action must adopt an amendment of the Adoption Agreement (or any Addendum) or a new Adoption Agreement (or Addendum) must be adopted and forwarded to the Board for approval. The amendment of the new Adoption Agreement (or Addendum) is not effective until approved by the Board and other procedures required by the Plan have been implemented.

The Administrator will timely inform the Adopting Employer of any amendments made by the Board to the Plan.

## **21. TERMINATION OF THE ADOPTION AGREEMENT**

This Adoption Agreement (and any Addendum) may be terminated only in accordance with the Plan. The Administrator will inform the Adopting Employer in the event the Board should decide to discontinue this pre-approved plan program.

## 22. EMPLOYER ADOPTION AND AUTHORIZATION FOR AMENDMENTS

**Adoption.** The Adopting Employer hereby adopts the terms of the Adoption Agreement and any Addendum, which is attached hereto and made a part of this ordinance. The Adoption Agreement (and, if applicable, the Addendum) sets forth the Employees to be covered by the Plan, the benefits to be provided by the Adopting Employer under the Plan, and any conditions imposed by the Adopting Employer with respect to, but not inconsistent with, the Plan. The Adopting Employer reserves the right to amend its elections under the Adoption Agreement and any Addendum, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Board of Trustees of GMEBS. The Adopting Employer acknowledges that it may not be able to rely on the pre-approved plan opinion letter if it makes certain elections under the Adoption Agreement or the Addendum, and that the failure to properly complete the Adoption Agreement may result in a failure of the Adopting Employer's Plan to be a qualified plan.

The Adopting Employer hereby agrees to abide by the Basic Plan Document, Trust Agreement, and rules and regulations adopted by the Board of Trustees of GMEBS, as each may be amended from time to time, in all matters pertaining to the operation and administration of the Plan. It is intended that the Act creating the Board of Trustees of GMEBS, this Plan, and the rules and regulations of the Board are to be construed in harmony with each other. In the event of a conflict between the provisions of any of the foregoing, they shall govern in the following order:

- (1) The Act creating the Board of Trustees of The Georgia Municipal Employees' Benefit System, O.C.G.A. Section 47-5-1 *et seq.* (a copy of which is included in the Appendix to the Basic Defined Benefit Plan Document) and any other applicable provisions of O.C.G.A. Title 47;
- (2) The Basic Defined Benefit Plan Document and Trust Agreement;
- (3) This Ordinance and Adoption Agreement (and any Addendum); and
- (4) The rules and regulations of the Board.

In the event that any section, subsection, sentence, clause or phrase of this Plan shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions or the other section or sections, subsections, sentences, clauses or phrases of this Plan, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part hereof. The Governing Authority hereby declares that it would have passed the remaining parts of this Plan or retained the previously existing provisions if it had known that such part or parts hereof would be declared or adjudicated invalid or unconstitutional.

This Adoption Agreement (and any Addendum) may only be used in conjunction with Georgia Municipal Employees Benefit System Basic Defined Benefit Retirement Plan Document approved by the Internal Revenue Service under opinion letter Q705465a dated August 31, 2023. The Adopting Employer understands that failure to properly complete this Adoption Agreement (or any Addendum), or to operate and maintain the Plan and Trust in accordance with the terms of the completed Adoption Agreement (and any Addendum), Basic Plan Document and Trust,

may result in disqualification of the Adopting Employer's Plan under the Internal Revenue Code. Inquiries regarding the adoption of the Plan, the meaning of Plan provisions, or the effect of the IRS opinion letter should be directed to the Administrator. The Administrator is Georgia Municipal Employees Benefit System, with its primary business offices located at: 201 Pryor Street, SW, Atlanta, Georgia, 30303. The business telephone number is: (404) 688-0472. The primary person to contact is: GMEBS Legal Counsel.

**Authorization for Amendments.** Effective on and after February 17, 2005, the Adopting Employer hereby authorizes the pre-approved plan provider who sponsors the Plan on behalf of GMEBS to prepare amendments to the Plan, for approval by the Board, on its behalf as provided under Revenue Procedure 2005-16, as superseded by Revenue Procedure 2015-36, Revenue Procedure 2011-49, and Announcement 2005-37. Effective January 1, 2013, Georgia Municipal Association, Inc., serves as the pre-approved plan provider for the Plan. Employer notice and signature requirements were met for the Adopting Employer before the effective date of February 17, 2005. The Adopting Employer understands that the implementing amendment reads as follows:

On and after February 17, 2005, the Board delegates to the Provider the authority to advise and prepare amendments to the Plan, for approval by the Board, on behalf of all Adopting Employers, including those Adopting Employers who have adopted the Plan prior to the January 1, 2013, restatement of the Plan, for changes in the Code, the regulations thereunder, revenue rulings, other statements published by Internal Revenue Service, including model, sample, or other required good faith amendments (but only if their adoption will not cause such Plan to be individually designed), and for corrections of prior approved plans. These amendments shall be applied to all Adopting Employers. Employer notice and signature requirements have been met for all Adopting Employers before the effective date of February 17, 2005. In any event, any amendment prepared by the Practitioner and approved by the Board will be provided by the Administrator to Adopting Employers.

Notwithstanding the foregoing paragraph, no amendment to the Plan shall be prepared on behalf of any Adopting Employer as of either:

- the date the Internal Revenue Service requires the Adopting Employer to file Form 5300 as an individually designed plan as a result of an amendment by the Adopting Employer to incorporate a type of Plan not allowable in a pre-approved plan as described in Revenue Procedure 2017-41; or
- as of the date the Plan is otherwise considered an individually designed plan due to the nature and extent of the amendments.

If the Adopting Employer is required to obtain a determination letter for any reason in order to maintain reliance on the opinion letter, the Provider's authority to amend the Plan on behalf of the Adopting Employer is conditioned on the Plan receiving a favorable determination letter.

The Adopting Employer further understands that, if it does not give its authorization hereunder or, in the alternative, adopt another pre-approved plan, its Plan will become an individually designed plan and will not be able to rely on the pre-approved plan opinion letter.

**Reliance on Opinion Letter.** As provided in Revenue Procedure 2017-41, the Adopting Employer may rely on the Plan's opinion letter, provided that the Adopting Employer's Plan is identical to the GMEBS Plan, and the Adopting Employer has not amended or made any modifications to the Plan other than to choose the options permitted under the Plan, Adoption Agreement, and any Addendum.

**AN ORDINANCE (continued from page 1)**

**Section 2.** Except as otherwise specifically required by law or by the terms of the Basic Plan Document or Adoption Agreement (or any Addendum), the rights and obligations under the Plan with respect to persons whose employment with the City was terminated or who vacated office with the City for any reason whatsoever prior to the effective date of this Ordinance are fixed and shall be governed by such Plan, if any, as it existed and was in effect at the time of such termination.

**Section 3.** The effective date of this Ordinance shall be the date of its approval by the Governing Authority **(not earlier than the first day of the current Plan Year in which the Plan is adopted, unless a retroactive corrective amendment is permitted under EPCRS, Rev. Proc. 2021-30 (or subsequent updated guidance))**.

**Section 4.** All Ordinances and parts of ordinances in conflict herewith are expressly repealed.

Approved by the Mayor and Council of the City of Dacula, Georgia, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Attest:

CITY OF DACULA, GEORGIA

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

(SEAL)

Approved:

\_\_\_\_\_  
City Attorney

The terms of the foregoing Adoption Agreement are approved by the Board of Trustees of Georgia Municipal Employees Benefit System.

IN WITNESS WHEREOF, the Board of Trustees of Georgia Municipal Employees Benefit System has caused its Seal and the signatures of its duly authorized officers to be affixed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Board of Trustees  
Georgia Municipal Employees  
Benefit System

(SEAL)

\_\_\_\_\_  
Secretary





## MEMO

TO: Mayor and City Council of the City of Dacula  
FROM: Brittni Nix, City Administrator  
DATE: August 29, 2024  
SUBJECT: Adoption of the Gwinnett County Multi-Jurisdictional Hazard Mitigation Plan

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The Federal Emergency Management Agency requires state and local governments to prepare and update multi-hazard mitigation plans every five years as a precondition for receiving FEMA Hazard Mitigation Assistance grant funding.

Staff from the Gwinnett County Office of Emergency Management has worked closely with Gwinnett cities to provide this 2025 update. That plan is now in the final approval stage at FEMA, conditional upon adoption by all municipalities. The Gwinnett County Multi-Jurisdictional Hazard Mitigation Plan is a County-wide service, funded by the County.

Dacula's portion of the 2025 update to the Gwinnett County Hazard Mitigation Plan has been provided for your review and approval.



**RESOLUTION  
TO INCLUDE MUNICIPAL BOUNDARIES  
AS PART OF THE GWINNETT COUNTY MULTI-JURISDICTIONAL  
HAZARD MITIGATION PLAN**

**WHEREAS**, the City of Dacula, Georgia, understands the need to develop a multi-jurisdictional hazard mitigation plan in order for the City to comprehend its vulnerability to natural and man-made hazards, and the actions needed to reduce or eliminate those risks.

**WHEREAS**, the City of Dacula, Georgia, realizes the development of such a plan is vital to the protection, health, safety and welfare of its citizens as well as its visitors.

**WHEREAS**, the City of Dacula, Georgia, understands that in order for the City to receive mitigation funding from the Federal Emergency Management Agency (FEMA), it must have a mitigation plan in place at the time of submitting a proposal.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY OF DACULA, GEORGIA, THAT THE CITY WILL WORK WITH GWINNETT COUNTY TO INCLUDE ITS MUNICIPAL BOUNDARIES AS PART OF THE GWINNETT COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN.**

**PASSED AND ADOPTED**, this the \_\_\_\_\_ day of \_\_\_\_\_, 2024 by the Mayor and Governing Board of Dacula, Georgia, assembled in regular session.

**BY:** \_\_\_\_\_  
**MAYOR**

**ATTESTED:**

**BY:** \_\_\_\_\_

# CITY OF DACULA, GEORGIA

## MITIGATION ACTION PLAN

### Geography/History

The City of Dacula (City) is located at 33°59'15"N, 83°53'31"W (33.987598, -83.891926). The City has a total area of 5.399 square miles (13.98 km<sup>2</sup>), all of which is land.

The City of Dacula began as the Town of Chinquapin Grove. When it was founded, the named was changed due to the fact that no chinquapin trees actually existed in the City. The name Dacula was formed by letters found in Decatur and Atlanta. Those two cities were near Dacula and were already prospering during the time of Dacula's founding.

There was a train station on a CSX line in Dacula, and though it closed in the mid-1950s, the City experienced immense growth. Formerly a small, one-light town in the early 80s, the City of Dacula now has nearly 10 public schools from both the Dacula and Mill Creek clusters of Gwinnett County.

### Significant Characteristics

With its 3,850-seat auditorium, Hebron Baptist Church is one of the largest Southern Baptist churches in the Southeast United States.

The City has several beautiful parks suitable for weddings, picnics, and other small outdoor functions.

Little Mulberry Park is a park that encompasses 485 acres of an 890-acre park. It features five miles of trails, including two paved multi-purpose trails and a handicap-accessible trail, and more than two miles of woodland foot trails. The park also offers many picnic pavilions, restrooms, a playground, and an observation terrace.

Dacula is also known for its large Memorial Day parade, as well as its professional and collegiate athletes.

Approved in 2020, Rowen is a new 2,000-acre development bordering Dacula to the east. It is being promoted as Georgia's hub for environmental, agricultural and medical innovation. Gwinnett County has committed to the project as demonstrated by the \$125 million Eastern Regional infrastructure Project that provides sewer upgrades and trail amenities in the area.

### Population and Demographics

In 2023, the estimated population of the City of Dacula was 8,101, representing a 82% increase from 2010. The growth rate in Dacula was significantly higher than for Gwinnett County and the state of Georgia. The population density is 1,333.0 people per square mile. The racial makeup of the City is 46 percent White, 28 percent African American, 10 percent multiracial, 4 percent Asian, and 11 percent from two or more races.

There are 2,057 households, of which 35.2 percent include children under the age of 18. Approximately 21.4 percent of all households are made up of individuals, while 7 percent have someone living alone who is 65 or older. The average household size is 3.26.

The median age of a Dacula resident is 33 years old. In the City, the population is spread out, with 35.2 percent under the age of 18, 6.9 percent from 18 to 24, 29.3 percent from 25 to 44, 32.6 percent from 45 to 64, and 9.6 percent who are 65 or older. For every 100 females, there are 93.6 males.

The City's population has grown more than 39.4 percent since 2020.

## Economy

The median income for a household in the City is \$87,666. The per capita income for the City is \$23,686. About 5.2 percent of families and 8.2 percent of the population are below the poverty line.

The most common industries are retail trade, health care and social assistance, and manufacturing.

Dacula-area historical tornado activity is slightly above the Georgia state average. It is 94 percent greater than the overall U.S. average.

On November 22, 1992, an F4 tornado with maximum wind speeds of 207-260 miles per hour (mph) struck 33.3 miles away from the City center, injuring 46 people and causing between \$5 million and \$50 million in damages.

On April 3, 1974, an F4 tornado struck 36.4 miles away from the City center, killing six people and injuring 30 others. Damages were estimated between \$500,000 and \$5 million.

**Table 1**  
**Single-Family New House Construction Building Permits**

Year	Permits	Average Cost
2013	84	\$107,800
2014	111	\$132,674
2015	96	\$146,408
2016	187	\$128,466
2017	42	\$103,030
2018	39	\$110,939
2019	55	121,984
2020	44	162,457
2021	159	151,396
2022	82	148,414
2023	105	200,383

## Infrastructure

The East Precinct of the Gwinnett County Police Department serves Dacula.

There are three parks located within the City of Dacula. Two are managed by the city and one is managed by Gwinnett County.

Fire services are provided to Dacula by the Gwinnett County Department of Fire and Emergency Services.

There are several public schools and private schools within the City Limits. Private schools include: Harbins Preparatory Schol, and Hebron Christian Academy.

**Capital Improvement Projects**

The City of Dacula maintains stormwater and roads within the city rights-of-way to mitigate and prevent infrastructure failures and accommodate growth.

**Table 2  
Dacula School Infrastructure**

School	Type	Enrollment
Dacula	Elementary	1,188
Dacula	Middle	1,811
Dacula	High	2,487

**Land Usage**

The City has a total area of 5.37 square miles (13.8 km<sup>2</sup>), all of which is land.

**Legal and Regulatory Capabilities**

The Legal and Regulatory Capability survey documents authorities available to the jurisdiction and/or enabling legislation at the state level affecting planning and land management tools that support local hazard mitigation planning efforts. The identified planning and land management tools are typically used by states and local and tribal jurisdictions to implement hazard mitigation activities.

**Table 3  
Legal and Regulatory Capability**

Regulatory Tools/Plans	Regulatory Type: Ordinance  Resolution Codes Plans, Etc.	Reference Number	Date Adopted	Local Authority	State Prohibited	Higher Authority
				Y	N	N
Building Codes				Y	N	N
Capital Improvements Plan	Referenced in the 2050 Comprehensive Plan			Y	N	N

Regulatory Tools/Plans	Regulatory Type: Ordinance  Resolution Codes Plans, Etc.	Reference Number	Date Adopted	Local Authority	State Prohibited	Higher Authority
Comprehensive Plan	2050 Comprehensive Plan		2/1/2024	Y	N	N
Continuity of Operations/Continuity of Government (COOP/COG) Plan	County COOP/COG Plan			N	N	Y
Community Rating System	County Rating			N	N	Y
Economic Development Plan	County Plan			N	N	Y
Emergency Management Accreditation Program Certified				N	N	Y
Emergency Response Plan	County EOP			N	N	Y
Flood Management Plan	Chapter 10, Article II – Floodplain Management / Flood Damage		3/5/20	Y	N	N
Growth Control Ordinance	Referenced in the 2050 Comprehensive Plan			Y	N	N
Hazard Setback Regulations						
Historic Ordinance	Referenced in the 2050 Comprehensive Plan			Y	N	N
National Flood Insurance Program Participant				N	N	Y
Post-Disaster Recovery Plan	County Emergency Operations Plan (EOP)			N	N	Y
Real Estate Disclosure	Real Estate Commission			N	N	Y
Site Plan Requirements	Referenced in 2050 Comprehensive Plan			Y	N	N
Subdivision Regulations	Referenced in 2050 Comprehensive Plan			Y	N	N

Regulatory Tools/Plans	Regulatory Type:	Reference Number	Date Adopted	Local Authority	State Prohibited	Higher Authority
	Ordinance Resolution Codes Plans, Etc.					
Zoning Ordinances	Zoning Ordinance			Y	N	N

### Administrative and Technical Capabilities

The City of Dacula has a number of administrative and technical capabilities. City departments include Administration, Planning and Development, Inspections, the Planning Commission, Public Works, Marshal’s Office, Elections, and the Municipal Court. The City government includes a Mayor and four city council members. The Planning Commission makes recommendation to the City Council on rezoning, permits, special exemptions, etc. The Planning Commission is composed of five members and are appointed by the Mayor and City Council at the beginning of every calendar year.

### Mitigation Actions

Each jurisdiction participating in this Plan is responsible for implementing specific mitigation actions as prescribed in the adopted mitigation action plan. In each mitigation action plan, every proposed action is assigned to a specific local department or agency in order to assign responsibility and accountability and increase the likelihood of subsequent implementation. This approach enables individual jurisdictions to update their unique mitigation strategy as needed without altering the broader focus of the countywide Plan. The separate adoption of locally specific actions also ensures that each jurisdiction is not held responsible for monitoring and implementing the actions of other jurisdictions involved in the planning process. A complete list of countywide mitigation strategies and additional action information is provided in Section 5 of the Gwinnett County Hazard Mitigation Plan.

**Table 4  
Mitigation Actions**

Action	Action/Project Description	Jurisdiction	Responsible	Estimated Cost	Est. Benefit	Funding Sources	Timeframe	Status	New/ Existing Infrastructure	Additional action information
<b>Goal 1: Reduce Gwinnett County’s risk and vulnerability to severe winter storms</b>										
<b>Objective 1.1: Increase citizen severe winter storm awareness, preparedness, and response</b>										
<b>Objective 1.2: Improve first responder capability to prepare for, respond to, and recover from severe winter storms</b>										

<b>Objective 1.3: Improve Gwinnett County's capability to prepare for, respond to, and recover from severe winter storms</b>										
1.3.9	Identify and bury utilities lines in densely populated and commercial areas in the City of Dacula	<b>City of Dacula</b>	City Officials, Public Works	\$250,000		City Budget, Grants	Ongoing	Ongoing from 2020	Existing	
<b>Goal 2: Minimize losses of life and property due to high winds from severe thunderstorms and windstorms in Gwinnett County, including all municipalities. *These actions also can apply to Hurricane(s) and Tropical Storms</b>										
<b>Objective 2.1: Increase citizen severe thunderstorm/windstorm awareness, preparedness and response</b>										
<b>Objective 2.2: Improve Gwinnett County's capability to prepare for, respond to, and recover from severe weather events, including thunderstorms and windstorms</b>										
2.2.2	Purchase and install a generator for Dacula City Hall	<b>City of Dacula</b>	City Officials	\$55,000	\$100,000	City Budget, Grants	Ongoing	Ongoing from 2020	Existing	
<b>Goal 3: Minimize the impacts of tropical storms and hurricanes in Gwinnett County, including municipalities</b>										
<b>Objective 3.1: Enhance advance warning and preparedness capabilities</b>										
<b>Goal 4: Reduce the loss of life and property caused by tornadoes in Gwinnett County</b>										
<b>Objective 4.1: Improve Gwinnett County's capability to prepare for, respond to, and recover from severe weather events including tornadoes</b>										
<b>Goal 5: Reduce Gwinnett County's risk and vulnerability to lightning.</b>										
<b>Objective 5.1: Increase citizen lightning awareness.</b>										
<b>Objective 5.2: Improve Gwinnett County's capability to prepare for, respond to, and recover from severe weather events involving lightning and its effects</b>										
<b>Goal 6: Minimize losses of life and property in Gwinnett County due to wildfires</b>										
<b>Objective 6.1: Protect critical facilities and vulnerable populations from the effects of wildfires.</b>										
<b>Objective 6.2: Encourage the protection of residential and commercial structures.</b>										
<b>Goal 7: Reduce Gwinnett County's risk and vulnerability to flood events.</b>										
<b>Objective 7.1 Improve Gwinnett County's flooding information distribution and warning to citizens.</b>										
7.1.5	Maintain NFIP status for flood mitigation	<b>City of Dacula</b>	City Officials	\$5,000	\$100,000	City Budget	Ongoing	Ongoing	Existing	
7.1.6	Improve the city stormwater infrastructure to manage older, undersized systems and	<b>City of Dacula</b>	City Officials	1.3 Million	2 Million	City Budget, Grants	Ongoing	Ongoing	Existing	Completed and ongoing



	mitigate runoff from growth.										
Objective 7.2: Improve Gwinnett County’s capability to prepare for, respond to, and recover from flood events.											
Goal 8: Minimize agricultural and property losses in Gwinnett County resulting from drought conditions.											
Objective 8.1: Protect critical facilities and vulnerable agriculture form effects of drought conditions											
Goal 9: Reduce Gwinnett County’s risk and vulnerability to earthquake events.											
Objective 9.1: Improve Gwinnett Conty’s earthquake information distribution and warning to citizens.											
Goal 10: Reduce Gwinnett County’s risk and vulnerability to dam failure events											
Objective 10.1: Improve Gwinnett County’s capabilities to prepare for and respond to a dam failure											
Goal 11: Reduce Gwinnett County’s risk and vulnerability to cyber security attacks.											
Objective 11.1: Reduce Gwinnett County’s risk and vulnerability to cyber security attacks.											
Goal 12: Reduce Gwinnett County’s risk and vulnerability to hazardous materials events.											
Objective 12.1: Increase citizen hazardous materials event awareness, preparedness, and response.											
Objective 12.2: Improve first responder capability to prepare for, respond to, and recover from hazardous materials events.											
Objective 12.3: Improve Gwinnett County’s capability to prepare for, respond to, and recover from hazardous materials events.											
Goal 13: Reduce Gwinnett county’s risk and vulnerability to pandemic/epidemic events											
Objective 13.1: Improve Gwinnett County’s pandemic/epidemic information distribution and warning to citizens											
Objective 13.2: Improve Gwinnett County’s first responder capabilities to prepare for and respond to pandemic/epidemic events											
Objective 13.3: Improve Gwinnett County’s capability to prepare for, respond to, and recover from pandemic/epidemic events											
Goal 14: Reduce Gwinnett County’s risk and vulnerability from domestic and international terrorism incidents											
Objective 14.1: Increase citizen knowledge on domestic and international terrorism awareness, preparedness, and response											
Objective 14.2: Improve first responder’s capability to prepare for and respond to terrorism incidents.											
Goal 15: Improve Gwinnett County’s capability to reduce risk and vulnerability to all-hazards events.											
Objective 15.1: Improve Gwinnett County’s information distribution and warning capabilities to citizens											
Objective 15.2: Improve Gwinnett County’s first responder capabilities to											
Objective 15.3: Improve Gwinnett County’s capability to prepare for, respond to, and recover from all-hazard events.											
15.3.1	Improve the city road infrastructure to prevent deterioration and	<b>City of Dacula</b>	City Officials	3.7 million	5.5 million	City Budget	Ongoing	Ongoing	Existing	Completed and ongoing	

	asphalt failure, and redesign roadways to accommodate growth.									
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## MEMO

TO: Mayor and City Council of the City of Dacula  
FROM: Brittni Nix, City Administrator  
DATE: August 29, 2024  
SUBJECT: Consulting Agreement with Stephen Mayer

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Stephen Mayer has offered to assist the City as a consultant after his resignation. The proposed Consulting Agreement provides for his services to the City, as needed, at the rate of \$55.00 per hour. This Agreement will assist the City in transitioning to a new Director of Finance by providing consulting services related to accounting, management, financial operations and investments, taxation, and other administrative matters.

Staff recommends that the Mayor and Council approve the Consulting Agreement and authorize the Mayor to sign on behalf of the City.



STATE OF GEORGIA

GWINNETT COUNTY

**CONSULTING AGREEMENT**

This Consulting Agreement (the "Agreement") is entered into this \_\_\_ day of September, 2024 by and between Stephen Mayer (collectively referred to as "Consultant") and The City of Dacula, Georgia (the "City").

WITNESSETH

WHEREAS, the City desires to enter into a consulting relationship with the Consultant for services related to certain daily operations, management, and financial matters; and

WHEREAS, Consultant has agreed to perform consulting work for the City in providing the services listed herein as specifically assigned by the City; and

WHEREAS, it is in the best interest of the City to enter into this Agreement for the services outlined herein;

NOW, THEREFORE, in consideration for the mutual promises and benefits outlined herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Consultant's Services. Consultant shall be available and shall provide to the City professional consulting services related to accounting, management, financial operations and investments, taxation, and other administrative matters for the City of Dacula. Consultant shall direct all communications with City personnel through the City Administrator and accept assignments and instructions from the City Administrator and Mayor only. The City shall not be bound by any instructions or requests for services from any employee other than the City Administrator and Mayor. The Consultant shall comply with all laws, statutes, ordinances, rules and regulations relating to the work performed. The City shall assign the Consultant certain tasks to be completed within the time designated by City.

2. Consideration. The City will pay the Consultant a fee of \$55.00 per hour for services rendered under this Agreement.

3. Independent Contractor. Nothing herein shall be construed to create an employer-employee relationship between the City and Consultant. Consultant is an independent contractor and not an employee of the City or any of its boards, committees, agencies or affiliates. The consideration set forth in Section 2 shall be the sole consideration due Consultant for the services rendered hereunder. It is understood that the City will not withhold any amounts for payment of taxes from the compensation of Consultant hereunder. Consultant will not represent to be or hold themselves out as an employee of the City. Consultant shall not be entitled to any benefits from the City other than the compensation outlined herein. Consultant shall be responsible and liable for the payment of all federal, state and local taxes arising out of or related to the work performed

by Consultant for the City. Consultant shall control the time, place, manner, and method of the delivery of services under this Agreement.

4. Confidentiality. In the course of performing Consulting Services, the parties recognize that Consultant may come in contact with or become familiar with information which the City or its affiliates may consider confidential or proprietary. Consultant agrees to keep all such information confidential and not to discuss or divulge it to anyone other than appropriate City personnel or their designees to the extent permitted by law.

5. Term. This Agreement shall commence on September 9, 2024 and shall terminate on September 5, 2025, unless earlier terminated by either party hereto. Either party may terminate this Agreement upon thirty (30) days written notice.

6. Indemnification. The Consultant shall indemnify, hold harmless and defend the City from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the Consultant.

7. Miscellaneous.

7.1 Entire Agreement and Amendments. This Agreement constitutes the entire agreement of the parties with regard to the subject matter hereof, and replaces and supersedes all other agreements or understandings, whether written or oral. No amendment or extension of the Agreement shall be binding unless in writing and signed by both parties.

7.2 Binding Effect, Assignment. This Agreement shall be binding upon and shall inure to the benefit of Consultant and the City and to the City's successors and assigns. Nothing in this Agreement shall be construed to permit the assignment by Consultant of any of its rights or obligations hereunder, and such assignment is expressly prohibited without the prior written consent of the City.

7.3 Governing Law, Severability. This Agreement shall be governed by the laws of the State of Georgia. The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision.

7.4 Forum Selection. The parties agree that any dispute arising under this agreement shall be heard and decided in the Superior Court of Gwinnett County, Georgia. The parties waive any defenses they have as to the jurisdiction of that Court and venue in Gwinnett County and expressly consent that all disputes be heard and decided in the Superior Court of Gwinnett County, Georgia.

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement on the date written above.

CITY OF DACULA, GEORGIA

Stephen Mayer

By: \_\_\_\_\_(SEAL)  
Hugh D. King, III, Mayor

By: \_\_\_\_\_  
Stephen Mayer