



Mayor and City Council Regular Meeting
Thursday, March 03, 2022 at 7:00 PM
Dacula City Hall, Council Chambers
442 Harbins Rd. | P.O. Box 400 | Dacula, Georgia 30019 | (770) 963-7451

Agenda

CALL TO ORDER AND ROLL CALL OF MEMBERS:

INVOCATION:

PLEDGE OF ALLEGIANCE:

CONSENT AGENDA:

1. Approval of the Minutes from the Regular Meeting on February 3, 2022
2. Approval of the Minutes from the Special Called Meeting on February 5, 2022

OLD BUSINESS:

NEW BUSINESS:

3. **PUBLIC HEARING:** Ordinance to amend Article IX and Article XII of the Zoning Resolution
4. Ordinance to amend Article IX and Article XII of the Zoning Resolution
5. Ordinance to amend the Development Regulations of the City of Dacula
6. Ordinance to amend Chapter 26, Article VI - Parking Regulations
7. Waiver Application: 2022-Waiver-01
8. Proposal to prepare the 2023 Community Development Block Grant Application

ARPA UPDATE:

9. Sewer tie-in
10. McMillan Road Stormwater Repair
11. Broadband

STAFF COMMENTS:

MAYOR AND COUNCIL COMMENT(S):

PUBLIC COMMENTS:

ADJOURNMENT:

CITY OF DACULA
442 Harbins Rd
P. O. Box 400
Dacula, GA, 30019

COUNCIL MEETING
MINUTES
February 3, 2022

I. CALL TO ORDER AND ROLL CALL OF MEMBERS:

Mayor Trey King called the February 3, 2022 Council Meeting to order at 7:00 p.m. and roll call of the members was taken. A quorum was present. He welcomed everyone to the meeting.

City Council Present

Trey King, Mayor
Sean Williams, Council
Daniel Spain, Council
Ann Mitchell, Council
Denis W. Haynes, Jr., Council

City Staff Present

Heather Coggins, Acting City Administrator
Jack Wilson, City Attorney
Brittini Nix, Director of Planning & Economic Development
Courtney Mahady, Administrative Assistant
Amy White, City Marshal
Chris Parks, Public Works Director

II. INVOCATION:

Invocation was given by Marshal Amy White.

III. PLEDGE OF ALLEGIANCE:

Mayor Trey King led the Pledge of Allegiance.

Mayor King called for a motion to amend the agenda to include Hebron Church Road Repaving Project Change Order as item #1 under new business.

Councilman Haynes, Jr. motioned to amend the agenda include item #1. Councilman Spain seconded. Motion passed unanimously.

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IV. CONSENT AGENDA:

- 1. Approval of the Minutes from the Regular Meeting on January 6, 2022**
- 2. Website Upgrade**
- 3. Broad Street / 2nd Avenue Storm Drainage Improvements Proposal**
- 4. Ordinance Amendment: Chapter 12, Sec. 11 - Massage Therapists**
- 5. Ordinance Amendment: Chapter 10, Sec.10-2(a) - Technical Building Code**

Councilman Williams motioned to approve the Consent Agenda items. Councilman Haynes, Jr. seconded. Motion passed unanimously.

V. OLD BUSINESS:

None

VI. NEW BUSINESS:

- 1. Hebron Church Road Repaving Project change order**

Mayor King called for a motion to approve the Hebron Church Road Repaving Project change order in the amount of \$36,800 and authorize the execution of all necessary documents.

Councilwoman Mitchell motioned to approve the change order. Councilman Spain seconded. Motion passed unanimously.

VII. STAFF COMMENTS:

None

VIII. MAYOR AND COUNCIL COMMENT(S):

None

IX. PUBLIC COMMENTS:

None

X. ADJOURNMENT:

Councilman Williams motioned to adjourn. Councilwoman seconded. Motion passed unanimously. Meeting adjourned at 7:05 p.m.

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Mayor King called for a motion to open and reconvene the Regular meeting.

Councilman Spain motioned to reconvene the Regular meeting. Councilman Haynes, Jr. seconded. Motion passed unanimously. Meeting reconvened at 7:06 p.m.

Councilwoman Mitchell motioned to appoint Mark Chandler to the Planning Commission. Councilman Williams seconded. Motion passed unanimously.

Mayor King called for a motion to adjourn the Regular meeting.

Councilman Spain motioned to adjourn. Councilman Haynes, Jr. seconded. Motion passed unanimously. Meeting adjourned at 7:07 p.m.

Minutes approved

Date

Signature

CITY OF DACULA

442 Harbins Rd
P. O. Box 400
Dacula, GA, 30019

SPECIAL CALLED MEETING MINUTES

February 5, 2022

I. CALL TO ORDER AND ROLL CALL OF MEMBERS:

Mayor King called the February 5, 2022 special called City Council Meeting to order at 9:01 a.m. and a roll call of the members was taken. A quorum was present.

Council Members Present:

- Hugh D. King, III, Mayor
- Sean Williams, Council member
- Daniel Spain, Council member
- Ann Mitchell, Council member
- Denis W. Haynes, Jr., Council member

City Staff Present:

Jack Wilson, City Attorney

II. NEW BUSINESS:

The Mayor announced the purpose of the meeting to interview candidates for employment with the City. Upon a Motion of Council Member Spain, seconded by Council Member Mitchell, the Council adjourned into executive session to conduct the interviews. Each candidate spoke with the Council separately.

After completion of the individual interviews, upon a motion duly made and seconded, the Council voted unanimously to return to regular session. The City Attorney reported there were no votes taken in executive session. The Council met to discuss personnel issues as allowed by the Open Meetings Act. The original documents required by State law were signed and delivered to the staff in accordance with the Open Meetings Act.

III. ADJOURNMENT:

Councilman Haynes motioned to adjourn. Councilwoman Mitchell seconded. The motion carried unanimously. Meeting adjourned at 3:50 p.m.

Minutes approved

Date

Signature

TO: Mayor and City Council of the City of Dacula
FROM: Brittni Nix, Director of Planning and Economic Development
DATE: February 17, 2022
SUBJECT: Ordinance Amendment - Zoning Resolution

Staff reviewed the City of Dacula's Zoning Resolution and recommends various amendments to balance the interests of the community. A brief overview of the proposed amendments are below.

- Adding provisions to the R-1100, R-1200, R-1400, and R-1600 Single-Family Residential District for single-family dwellings. Said provisions are based on the standard zoning conditions the City implements for new residential subdivisions.
- Requiring newly established Homeowners Associations within the City's single-family residential zoning districts (R-1100, R-1200, R-1400, R-1600, TRD, and R-TH) to include a statement in their covenants limiting the number of leased or rented homes to no more than twenty percent (20%) of the total number of units in the development.
- Listing "restaurants" as a permitted use within the commercial zoning districts (C-1, C-2, and C-3).
- Revising the temporary sign ordinance to permit one (1) sign per permit for every allowable type of sign (ex: flags, banners, and temporary yard signs).

Staff recommends approval of the proposed ordinance amendments to the Zoning Resolution as shown in the attached Ordinance effective immediately.

Best Regards,

Brittni Nix, Director of Planning & Economic Development

AN ORDINANCE

AN ORDINANCE TO AMEND THE ZONING RESOLUTION OF THE CITY OF DACULA; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, the City has adopted and maintained a comprehensive Zoning Resolution; and

WHEREAS, changes in development patterns, proposed land uses, infrastructure and other matters warrant reviewing and updating portions of the Zoning Resolution; and

WHEREAS, the Rowen development proposed for unincorporated Gwinnett County adjacent to the City proposes to create work space for hundreds of new jobs, workers and potential residents inside the City and in close proximity to the City; and

WHEREAS, it is in the best interest of the health, safety and welfare of the citizens of the City to review and evaluate the current Zoning Resolution in view of current development trends and future land use plans in and near the City; and

WHEREAS, the City has undertaken and completed such review and evaluation; and

WHEREAS, as a part of that review process, the Planning Commission and City Council have conducted public hearings in accordance with Georgia law seeking comment on the amendments and updates to the Zoning Resolution; and

WHEREAS, the City staff and Marshals frequently encounter issues related to property maintenance; and

WHEREAS, the proposed amendment related to rental units is intended to promote and encourage property ownership as a civic virtue, a path to economic advancement, and a mechanism for ensuring property maintenance and promotion of increasing property values; and

WHEREAS, amendment provides a balancing of interests by allowing for reasonable accommodation for some rental units in a manner which is economically and racially neutral;

WHEREAS, it is in the best interest of the health, safety and welfare of the citizens and businesses within the City of Dacula to amend the Zoning Resolution as outlined herein;

NOW THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DACULA HEREBY ORDAINS that the Zoning Resolution and City Code be amended as follows:

SECTION 1.

The following amendments are approved and adopted:

Subsection 901 (B)(1) is amended to add the new subsections listed herein so that the new Subsection (B)(1) provides as follows:

Section 901. R-1100, R-1200, R-1400 and R-1600 Single-Family Residential District.

B. Permitted Uses

1. Single Family Dwellings, except Manufactured Homes, meeting the following minimum requirements:

(a) The front façades of all dwelling units shall consist of a mixture of brick or stone architectural treatments. The rear façade of the dwelling units shall be constructed of brick, stone, stucco, concrete fiber, or similar material.

(b) All dwelling units shall have at least a two-car garage.

(c) Five (5)-foot wide sidewalks shall be constructed on both sides of the internal subdivision streets and the boundary of the property on the subdivision entrance street.

(d) Underground utilities shall be provided throughout any subdivision development.

(e) Any subdivision development containing ten acres or more shall include a recreation area in accordance with Section 5.9 of the City’s Development Regulations.

(f) Any subdivision development containing more than five (5) lots shall have a recorded declaration of covenants providing for a mandatory Homeowners Association to own and maintain common property; to carry out the provisions of this Ordinance; and for other purposes allowed by law.

(g) Street light service fees and maintenance are the responsibility of the mandatory Homeowners Association.

(h) All grassed areas except the open space/common area shall be sodded. The open space/common area shall be hydro-seeded or sodded.

(i) Each building lot shall have a minimum of two (2) decorative trees (maple, oak, birch, elm, etc.) at least 3 inches in diameter (DBH).

(j) The declaration of restrictive covenants for the mandatory Homeowners Association must include a statement limiting the number of leased or rented homes to no more than twenty percent (20%) of the total number of units in the development. The declaration shall also require owners wishing to lease their property to obtain a written permit from the Homeowners Association prior to renting or leasing.

Subsection 905(B) is amended to add the following permitted use:

(41) Restaurants

Subsection 906(B) is amended to add the following permitted use:

(61) Restaurants

Subsection 907(B) is amended to add the following permitted use:

(33) Restaurants

Subsection 912 is amended to add the following Section 912 (C)(10):

10. The declaration of restrictive covenants of the mandatory Homeowners Association must include a statement limiting the number of leased or rented homes to no more than twenty percent (20%) of the total number of units in the development. The declaration shall also require owners wishing to lease their property to obtain a written permit from the Homeowners Association prior to renting or leasing.

Subsection 915 is amended as follows:

Section 915 R-TH Single-Family Residence Townhouse District.

All references to “villas” and provision for the development and construction of “villas” in this district are hereby deleted.

The existing Subsection 915(A)(17) is deleted, and the following is substituted in its place:

17. The declaration of restrictive covenants of the mandatory Homeowners Association must include a statement limiting the number of leased or rented homes to no more than twenty percent (20%) of the total number of units in the

development. The declaration shall also require owners wishing to lease their property to obtain a written permit from the Homeowners Association prior to renting or leasing.

Subsection 1213 (B)(3) is deleted and the following new Subsection 1213(B)(3) is substituted in its place as follows:

3. One flag or banner with a maximum size of thirty-two (32) square feet, (not including official flags of the United States, State of Georgia, Gwinnett County, or City of Dacula).

SECTION 2

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 Zoning Resolution and to produce and publish a final codified version of the Zoning Resolution with the amendments and revisions outlined herein.

SECTION 3

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 4

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

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 March, 2022.

AYES: ____

NAYES: ____

ATTEST:

HUGH D. KING, III
MAYOR, CITY OF DACULA

HEATHER COGGINS,
ASSISTANT CITY ADMINISTRATOR

TO: Mayor and City Council of the City of Dacula
FROM: Brittni Nix, Director of Planning and Economic Development
DATE: February 17, 2022
SUBJECT: Ordinance Amendments - Development Regulations

Staff recommends updating the City of Dacula's Development Regulations. An explanation of the proposed amendments are provided for your review.

Roll back curbing

Currently, the City's Ordinance only permits vertical curbing. Roll-back curbing can be a viable and preferred alternative in certain circumstances. The proposed amendment would allow roll-back curbing as an option for residential and parking areas.

Duration of permit applications

Past applicants have submitted plans and do not respond to comments within a timely fashion causing a significant delay in plan reviews and permit issuance. To encourage applicants to follow thru on projects, staff is recommending that permit applications and plans for development and building activities expire after one (1) year if a permit has not been issued. The Director will be granted the authority to allow a three (3) month extension at his / her discretion.

Street cut trenches

For the safety of the community, staff recommends adding language to the street cut trenches ordinance requiring the trench to be backfilled and compacted or trench-plated at the end of every workday.

Staff recommends approving the proposed amendments to the Development Regulations as shown in the attached Ordinance effective immediately.

Best Regards,

Brittni Nix, Director of Planning & Economic Development

**AN ORDINANCE TO AMEND THE CITY’S DEVELOPMENT
REGULATIONS ADOPTED BY REFERENCE.**

WHEREAS, the City has reviewed its policies and procedures with respect to the Development Regulations; and

WHEREAS, the current references to Development Regulations 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 by reference the model and Development Regulations outlined herein;

NOW THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DACULA HEREBY ORDAINS that Section 6.7 and Section 3.4 be amended as follows:

SECTION 1

The existing Section 6.7.2 is amended to add a new subsection 6.7.2(D) as follows:

In the alternative, Residential Curbing may be vertical curbing or roll-back curbing. Roll-back curbing shall meet the specification attached hereto as Exhibit “A” and incorporated herein by reference.

The existing Section 6.7.5 is amended to add a new subsection 6.7.5(D) as follows:

In the alternative, Parking Area Curbing may be vertical curbing or roll-back curbing. Roll-back curbing shall meet the specification attached hereto as Exhibit “A” and incorporated herein by reference.

The existing Section 3.4, Durations of Permit Applications is amended to add a new Section 3.4 as follows:

Section 3.4. – DURATIONS OF PERMIT APPLICATIONS. All permit applications and plans for development or building activity expire one year after the initial submittal if no permit is issued. The applicant may request a three (3) month extension for extenuating circumstances beyond the applicant’s control. The Director of Planning & Economic Development may grant or deny such extension application in his or her discretion.

The existing Section 7.5.3 is deleted, and the following is substituted in its place:

7.5.3 Street cut trenches to be backfilled.

If approved, all trenches shall be backfilled and compacted the same day the trench is opened or trench-plated at the end of each workday. An asphalt ramp shall be placed around each trench plate to ensure that the plate shall not be dislodged. No plate may remain over a work area longer than seven (7) days.

- A. Trenches under the paving shall be returned to 95% compaction.
- B. Trenches elsewhere shall be returned to 90% compaction.
- C. See Section 6.6.1 for trench compaction and test requirements.

SECTION 2

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 Development Regulations and to produce and publish a final codified version of the Development Regulations with the amendments and revisions outlined herein.

SECTION 3

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 4

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

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 March, 2022.

AYES: ____

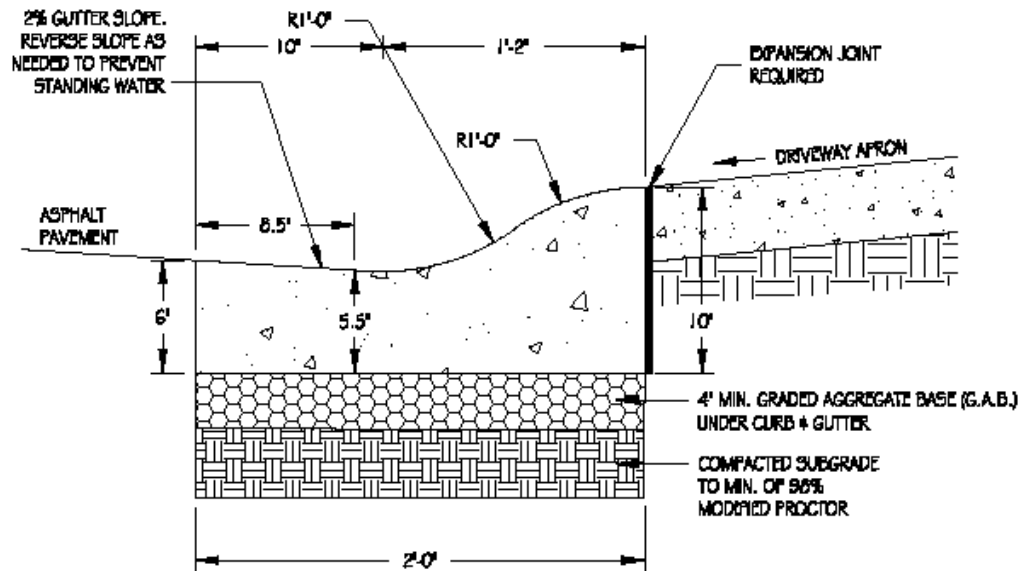
NAYES: ____

ATTEST:

HUGH D. KING, III
MAYOR, CITY OF DACULA

HEATHER COGGINS,
ACTING CITY ADMINISTRATOR

EXHIBIT "A"



- NOTE:
1. MAINTAIN 2% MINIMUM CROSS SLOPE FOR DRAINAGE. TYPICAL
 2. EDGE OF ROLL CURB & GUTTER IF DRIVEWAY APRON IS NOT ADJACENT SHOULD BE GRASSED SHOULDER OR SIDEWALK WITH MINIMUM 2% CROSS SLOPE TOWARD ROLL CURB & GUTTER.

ROLL BACK CONCRETE CURB AND GUTTER DETAIL
NTS.

TO: Mayor and City Council of the City of Dacula

FROM: Brittni Nix, Director of Planning and Economic Development
Amy White, City Marshal
Greg Chapel, City Marshal

DATE: February 23, 2022

SUBJECT: Ordinance Amendment – Parking regulations

The Marshal’s Department has received multiple complaints in regards to parking. The number of complaints are increasing and the Department currently does not have a mechanism in place to rectify the situation.

Complaints include residents maintaining their vehicles in a public road, parking commercial vehicles / trailers / boats in the street, and parking in a roundabout. These practices can create dangerous situations for residents by obstructing the flow of traffic and inhibiting line of sight.

Additional complaints include parking on grass / dirt in the front yard. Grassed areas are susceptible to damage from continual long-term parking. Said damage can include trenches, bare soil, and erosion washout.

Staff recommends amending the current ordinance in a holistic manner to address these concerns and prevent new issues from arising. The provided Amendments include, but are not limited to:

- Vehicles in excess of one-half ton, truck campers, camper trailers, motor homes, boats, boat trailers, utility trailers, and other recreational vehicles are limited to one-hour parking on a public street. Service vehicles actively engaged in a service, such as landscaping, are permitted to park in a public street for up to 12 hours (Sec. 26-152).
- “It is unlawful for the owner or operator of any motor vehicle or other vehicle to park the vehicle in or on any traffic circle or roundabout at any time” (Sec. 26-154(b)).
- Restricting vehicle parking to hard surface areas (concrete, asphalt, greenspace, grasscrete, pavers, and / or contained gravel) and limiting the

hard surface area in the front yard to 30% for single-family detached residences and 35% to single-family attached residences (Sec. 26-160).

- “No parking areas, public street, highway or other public place may be used for the sale, repair, dismantling, assembly, servicing or long-term storage of any vehicles or equipment, unless permitted by the zoning district in which the area is located” (Sec. 26-161).

Staff recommends approving the provided Ordinance to amend the City’s Parking Regulations effective immediately.

Best Regards,

Brittni Nix, Director of Planning & Economic Development

**AN ORDINANCE TO AMEND
THE CITY'S PARKING REGULATIONS
CHAPTER 26**

WHEREAS, the City has reviewed its policies and procedures with respect to certain parking regulations and ordinances; 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 update and revise certain parking regulations;

NOW THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DACULA HEREBY ORDAINS that Chapter 26 be amended as follows:

SECTION 1

The existing Section 26-152 is deleted and the following is substituted in its place:

Sec. 26-152. Manner of parking when no specific provisions.

On all street or alleys in the City for which no special parking provisions have been made, it is lawful to park vehicles on either side of the street or alley with the right side of the vehicle within 12 inches to the curb or roadway edge and with the vehicle parallel to such curb or edge, provided that a minimum of ten feet of unprotected passageway shall remain for the passage of other vehicles, provided the following provisions are met:

- (a) In no event shall a vehicle block the flow of traffic on a public street, highway or other public place. A law enforcement officer may direct the removal of any vehicle determined to be obstructing the flow of traffic or being stored on a public street, highway or public space.
- (b) No person shall park or stand any bus, truck or other freight- or passenger-carrying vehicle in excess of one-half ton capacity upon any public street or highway for a period longer than one hour at any time during the day or night.
- (c) No person shall stop or stand any truck or bus with a body more than eight feet wide or ten feet high on any street or public place without the driver or chauffeur being actually present and in charge thereof.
- (d) No person shall park or stand any truck camper, camper trailer, motor home, boat, boat trailer, utility trailer, or other recreational vehicle on any residential street or public place for more than one hour at any time during the day or night.
- (e) Vehicles associated with the provision of services for residences and/or residential properties, such as, but not limited to construction, landscaping, moving, utilities, etc., may park in the street adjacent to or near the residence(s), they are serving while those services are ongoing for up to 12 hours.

- (f) Any vehicle in violation of this article, and which remains in violation for the period of 24 hours or more, shall be presumed to be abandoned and may be impounded by the Marshal's Department.

Section 26-154 is deleted and the following is substituted in its place:

Section 26-154. Parking prohibited at all times in certain locations.

- (a) It is unlawful for the owner or operator of any motor vehicle or other vehicle to park the vehicle in any of the places on the streets and alleys of the City specifically designated by posted signs indicating the prohibited parking
- (b) It is unlawful for the owner or operator of any motor vehicle or other vehicle to park the vehicle in or on any traffic circle or roundabout at any time.

The following Section 26-160 is enacted as follows:

Sec. 26 – 160. Parking surfaces.

- (a) In any non-residential district, the parking of any vehicle on other than a paved surface or hardened or greenscape surface approved by the Planning and Development Department is prohibited.
- (b) In a residential district, the parking of any motor vehicle except on a hard surface area (concrete, asphalt, greenscape, grasscrete, pavers, and/or contained gravel) driveway or in carport or garage is prohibited. Any recreational vehicle or non-motor vehicle may only be parked in a carport, enclosed structure, or in the rear yard on a paved surface or approved porous or grassed paving system. Any vehicles parked in the rear yard not in a carport or an enclosed structure must be parked at least 15 feet from the property line. Vehicles or equipment used for agricultural purposes on residential property with 5 or more acres are exempt from hard surface requirements if parked outside the required front setback.
- (c) Maximum allowable paved parking or hard surface area in the front yards (excluding walkways and required sidewalks):
1. Single-family attached zoning districts - not more than 35 percent of the front yard area.
 2. Single-family detached zoning districts - not more than 30 percent of the front yard area.
 3. In the R-TH and multi-family zoning districts and developments, no parking shall be permitted except in driveways and designated parking lots.

The following Section 26-161 is enacted as follows:

Sec. 26 – 161. Prohibited uses. No parking areas, public street, highway or other public place may be used for the sale, repair, dismantling, assembly, servicing or long-term storage of any vehicles or equipment, unless permitted by the zoning district in which the area is located.

SECTION 2

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 3

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 4

All laws and parts of laws in conflict with this Ordinance are hereby repealed. All of the rest and remainder of Chapter 26 not specifically amended herein shall continue in full force and effect.

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 March, 2022.

AYES: ____

NAYES: ____

HUGH D. KING, III
MAYOR, CITY OF DACULA

ATTEST:

HEATHER COGGINS,
ACTING CITY ADMINISTRATOR

TO: Mayor and City Council of the City of Dacula
FROM: Brittni Nix, Director of Planning and Economic Development
DATE: February 23, 2022
SUBJECT: Waiver application: 2022-WAIVER-01

The City of Dacula received a waiver application for the Mayor and City Council's consideration. The Applicant, Elan Homes, installed an 18" storm drain pipe across Drowning Creek Road in association with The Porches at Mobley Lakes subdivision currently under development. The current placement of the pipe does not provide adequate vertical space to meet the City's Development Regulation standards for street cut trenches under paving.

As such, the Applicant is requesting approval of an alternative construction specification for a street cut trench under paving than the design standard provided in the City's Development Regulations (Article 7, Section 7.5.4).

Kevin Whigham of Bowman Consulting Group Ltd. has reviewed the Applicant's proposal and provided the following recommendation:

"Bowman has reviewed the waiver application submitted by Elan Homes for 760 Tanner Road Development. To ensure proper drainage for the existing ditch and 18" storm pipe, we recommend approval of the waiver with the following conditions:

- 1) Strength of Concrete Mix shall be increased to 4,000 psi.
- 2) Rebar grid shall be provided for entire concrete patch thickness that is less than the required 8" thickness.
- 3) Reduced concrete patch thickness is limited to just the area over the proposed 18" storm drainage pipe. Remaining concrete patch area for trench beyond limits of storm drainage pipe shall be 8" thick and follow Article 7.5.4 for street cut trenches under paving."

Staff recommends implementing two (2) additional conditions:

- 4) The Applicant must provide a certified stamped letter from a 3rd party engineer attesting the specifications approved by the Mayor and City Council have been met.
- 5) A 24-month maintenance bond / surety at 100% of the construction value will be submitted to the City for the roadwork performed on Drowning Creek Road. The maintenance bond / surety will be submitted to the Planning and Development Department for review. The maintenance bond / surety must be accepted prior to permit approval for the subject street cut trench under paving.

If approved by the Mayor and City Council, staff recommends approval with the foregoing conditions.

Best Regards,

Brittni Nix, Director of Planning & Economic Development



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

APPLICATION

Staff Approval Only

Modifications

City Council

Waivers

(Please Type or Print using BLACK INK)

APPLICANT *	PROPERTY OWNER *
NAME <u>Elan Homes & Communities Inc</u>	NAME <u>The Porches at Mobley Lake LLC</u>
ADDRESS <u>4050 Enterprise way</u>	ADDRESS <u>760 Tanner Rd</u>
CITY <u>Flowery Branch</u>	CITY <u>Dacula</u>
STATE <u>GA</u> ZIP <u>30542</u>	STATE <u>GA</u> ZIP <u>30019</u>
PHONE <u>801-636-1111</u> FAX _____	PHONE <u>801-636-1111</u> FAX _____

APPLICANT IS THE:

OWNER'S AGENT

PROPERTY OWNER

CONTACT PERSON Matt Kriser

COMPANY NAME Elan Homes

ADDRESS 4050 Enterprise way

Flowery Branch, GA 30542

PHONE 801-636-1111 FAX _____

** 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) R-1400 LAND LOT(S) _____ DISTRICT(S) _____

ADDRESS OF PROPERTY 760 Tanner Rd, Dacula GA 30019 ACREAGE 46.3

Describe your request in detail and state justification/hardship: _____

(Attach additional sheets if necessary)

HAS THE APPLICANT FILED ANY OTHER APPLICATIONS FOR THIS PROPERTY WITHIN THE PAST 12 MONTHS ? Yes No

If Yes, please describe: Berm modification

(Attach additional sheets if necessary)

WAIVER INFORMATION

The following Items are necessary in order to process Variance and Special Exception Applications:

1. APPLICATION FORM
 - a. Answer all questions.
 - b. Property owner must sign application.

2. APPLICATION FEE (Non refundable checks, payable to City of Dacula)
 \$350.00 plus \$25.00 each additional (on same property) plus \$25.00 Administrative Fee

3. LEGAL DESCRIPTION
 - a. Must be typed (not required if located within a recorded subdivision).

4. LETTER OF INTENT
 - a. The Letter of Intent must describe the proposed or existing use, the waiver(s) requested, and why you feel the waiver is justified.

5. SITE PLAN and/or copy of BOUNDARY SURVEY
 - a. All documents related to the application in order for the City Council to render a decision are necessary.
 - b. 8-1/2" x 11" reduction of site plan.
 - c. Detailed drawings showing dimensions, height, location, etc.

6. An Economic and Community Infrastructure Facilities Impact Worksheet must be completed and submitted with applications. Impact Worksheet requirement may be waived at the discretion of the City Administrator.

MEETINGS

The City Council meets on the First Thursday of each month at 7:00 P.M. at Dacula City Hall. The City will erect a Public Hearing sign 15 days before the public hearing. A legal advertisement appears in the official News Organ at least 15 days before the meeting. The Gwinnett Daily Post is the official news organ.



4050 Enterprise Way, Suite 170
Flowery Branch, GA 30518
Off: (470) 519-1500

February 18, 2022

To whom it may concern at Dacula City,

This Letter is to share the intent of Elan Homes & Communities Inc. to request a wavier on the property located at 760 Tanner Rd., Dacula, GA 30519 consisting of approximately 46.3 acres.

A wavier is being requested for Article 7.5.4 Street cut trenches under paving. All trenches under paving shall be concreted with eight (8") inches of Class "A" concrete base and one and one-half (1 1/2") inch of type "E" or "F" wearing course asphalt is to be spread.

The waiver is being requested because on one edge of the road there is only four inches of depth over the top of the pipe instead of the full 8 Inches of required concrete. The 18 inch storm drain pipe was place and set at the optimal placement to allow the storm drain pipe to meet evenly with the existing roadside ditch bottom. Dropping the storm drain pipe would have caused ponding of water at the discharge end of the pipe, so the grading contractor used good industry practices and placed the storm drain pipe at the optimal depth for drainage. This left only approximately 8 inches narrowing down to four inches of concrete over the pipe on approximately 30% of the road. 70% of the road meets the full 8 inch required thickness of concrete.

We are requesting that a rebar grid be placed in the area where the concrete would be less than 8 inches thick over the top of the reinforced concrete storm drain pipe so that the depth of the pipe can remain at the optimal depth for drainage into the storm drain ditch.

Thank you for your consideration of our proposed development.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Kriser".

Matthew Kriser

Elan Homes, President



LETTER OF INTENT & LEGAL DESCRIPTION OF PROPERTY

*** PLEASE ATTACH A "LETTER OF INTENT" EXPLAINING REQUEST and TYPED "LEGAL DESCRIPTION" OF PROPERTY TO BE AFFECTED ***

CASE NUMBER: _____

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.

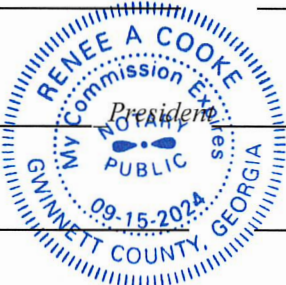
Matthew Kriser
Signature of Applicant

2-22-22
Date

Matthew Kriser
Type or Print Name/Title

Renée A. Cooke
Notary Public

2-22-22
Date



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.

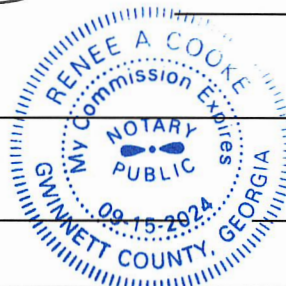
Matthew Kriser
Signature of Applicant

2-22-22
Date

Matthew Kriser
Type or Print Name/Title

Renée A. Cooke
Notary Public

2-22-22
Date



FOR ADMINISTRATIVE USE ONLY

DATE RECEIVED 2/22/22 RECEIVED BY [Signature] FEE 375⁰⁰ RECEIPT # 361049

LAND LOT _____ DISTRICT _____ PARCEL # _____ HEARING DATE 3/3/22

FOR ADMINISTRATIVE USE ONLY

ACTION TAKEN _____

SIGNATURE _____ DATE _____

STIPULATIONS _____



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 to the Mayor and/or a member of the City Council.

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 or Zoning Board of Appeals.

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)

ADJOINING PROPERTY OWNER(S)
RECORD NOTIFICATION

DATE: _____

TO: _____
(Sent by First Class Mail and Certified Mail - Return Receipt Requested)

FROM: _____

RE: Proposed Waiver Case # _____

Property Location: 5th District, Land Lot _____ Parcel _____

LOCATION/ADDRESS _____



You are hereby notified that an application for variance _____

_____ to _____ has been submitted to the City of

Dacula.

The proposed variance is contiguous to your property.

The CITY COUNCIL Public Hearing/Meeting will be held at the Dacula City Hall, 442 Harbins Rd.,
Dacula, Georgia on _____ at 7:00 P. M. in the Council Chambers.
(date)

If you have any comments or concerns concerning this matter, please plan to attend the public hearings.

Thank you.

TO: Mayor and City Council of the City of Dacula

FROM: Brittni Nix, Director of Planning and Economic Development

DATE: February 18, 2022

SUBJECT: Proposal to prepare the 2023 Community Development Block Grant Application

The City of Dacula requested a proposal from Bowman Consulting Group Ltd. to prepare the 2023 Community Development Block Grant (CDBG) Application on behalf of the City. The \$7,200 proposal includes research, data gathering, evaluation, compilation of required documents, and creating an Opinion of Probable Construction Cost (OPCC) as outlined in the attached proposal. The Application will include milling and repaving McMillan Road between Harbins Road and Church Street / Stanley Road, replacing damaged sidewalks and non-ADA compliant curb ramps, replacing non-standard guardrails, and stormwater maintenance.

Staff requests approving the proposal from Bowman Consulting Group Ltd. in the amount of \$7,200 for the stated services as provided.

Best Regards,

Brittni Nix, Director of Planning & Economic Development

Feb 17, 2022

Brittni Nix
City Administrator
City of Dacula
P.O. Box 400
Dacula, Georgia 30019

Re:	2023 CDBG Grant Application (the "Project") Dacula, Gwinnett County, Georgia 30019 Proposal to provide consulting Services (the "Proposal") Proposal No. 22-0217
------------	--

Dear Ms. Nix:

We are pleased to submit this Proposal to provide consulting services for the above referenced Project. Upon verbal or written direction to proceed with performance of the services described herein, this Proposal, along with all attachments thereto, will constitute a binding agreement (the "Agreement") between Bowman Consulting Group Ltd. ("Bowman") and City of Dacula (the "Client").

SCOPE OF SERVICES AND FEES

The scope of services (the "Scope") and associated fees shall be as follows:

Task	Description	Fee Type	Total
1	Prepare 2023 CDBG Application <ul style="list-style-type: none">Research, data gathering, evaluation and compilation of area maps, surveys, sketches, photos, project descriptions and Opinions of Probable Construction Costs (OPCCs) in order to complete the CDBG application for McMillan Road for submittal to Gwinnett County CDBG.	Lump Sum	\$7,200.00
Total Lump Sum			\$7,200.00

REIMBURSABLE EXPENSES

Reimbursable expenses shall include actual expenditures made by Bowman in the interest of the Project and will be invoiced at the actual cost to Bowman plus fifteen percent (15%) for handling and indirect costs. Reimbursable expenses shall include but not be limited to costs of the following:

- Mailing, shipping, and out source delivery (i.e. DHL, FedEx) costs.
- Fees and expenses of special consultants as authorized by the Client.
- Parking fees and mileage for employee travel by car to facilitate the project.

REPROGRAPHIC AND COURIER CHARGES

Reprographic, plotting, in-house courier, and archive retrieval services will be invoiced in accordance with Schedule A attached hereto.

OTHER TERMS

This proposal is based on the scope of services indicated herein and the information available at the time of the proposal preparation. If any additional services are required due to unforeseen circumstances and/or conditions, client or regulatory requested revisions, additional meetings, regulatory changes, etc., Bowman will notify the client that additional scope of work and fees are required and will obtain the client's written approval prior to proceeding with any additional work.

Bowman's Standard Terms and Conditions and Hourly Rate Schedule are attached hereto and incorporated into this Proposal by reference.

Please indicate your acceptance of this proposal by executing below and returning a copy to this office. Thank you for the opportunity to provide service to City of Dacula.

Sincerely,

Bowman Consulting Group Ltd.



Phyllis Lamme
Branch Manager

City of Dacula hereby accepts all terms and conditions of this Proposal (including the Standard Terms and Conditions) and authorizes Bowman to proceed with the Project, and the undersigned represents that he or she is authorized by City of Dacula to so execute this Proposal.

City of Dacula

By:

Title:

Date:

BOWMAN CONSULTING GROUP LTD.

SCHEDULE A - FEES FOR REPROGRAPHIC, DELIVERY, TRAVEL AND OTHER SERVICES

January 2022

Reprographic Services

B&W Photo Copies	\$0.35/sf, or \$0.23 for 8-1/2" x11" sheet
Color Photo Copies	\$0.50/sf, or \$0.32 for 8-1/2" x11" sheet
Printing (bond)	\$0.35/sf, or \$2.10 for 24" x 36" sheet
Printing (mylar)	\$3.00/sf, or \$18.00 for 24" x 36" sheet

Binding, Mounting and Folding of plan sets, reports, or drawings will be invoiced at our standard hourly rates. Copying of Plans that have been archived in storage is subject to a minimum archive retrieval fee of \$50 plus applicable reprographic fees above.

Delivery Services

In-house delivery services are invoiced at \$2.00 per mile (one way) and subject to a minimum \$20.00 charge for standard delivery during normal business hours. Rush services and times outside normal business hours are subject to a minimum \$20.00 surcharge.

Outsourced courier services (i.e. Federal Express, DHL, etc.) are invoiced at cost plus 15%.

Travel

Mileage for employee travel by car to facilitate the project, including travel to the project site and for meetings with the client, project team, contractors, or governmental agencies, will be invoiced at the current IRS standard mileage rate.

Airfare and/or lodging to facilitate the project will be coordinated with the client in advance and will be invoiced at cost plus 15%.

Miscellaneous

Other costs associated with sub-consultants, specialty equipment, laboratory testing, field testing, tolls, parking or other miscellaneous items will be invoiced at cost plus 15%.

Initials: Bowman *P.L.* / Client

BOWMAN CONSULTING GROUP LTD.

SCHEDULE B - HOURLY RATE

January 2022

CLASSIFICATION	HOURLY RATES
Principal	\$290.00/HR
Department Executive	\$230.00/HR
Senior Project Manager	\$215.00/HR
Project Manager	\$180.00/HR
Project Coordinator	\$105.00/HR
Senior Surveyor	\$195.00/HR
Engineer I II III	\$115.00/HR \$125.00/HR \$155.00/HR
Planner I II III	\$125.00/HR \$145.00/HR \$165.00/HR
Designer I II III	\$115.00/HR \$125.00/HR \$130.00/HR
CADD Drafter I II III	\$ 80.00/HR \$105.00/HR \$115.00/HR
Construction Inspector	\$165.00/HR
Landscape Architect I II III	\$115.00/HR \$130.00/HR \$155.00/HR
Right of Way Specialist I II III	\$110.00/HR \$125.00/HR \$140.00/HR
Survey Technician I II III	\$ 85.00/HR \$110.00/HR \$135.00/HR
Project Surveyor	\$165.00/HR
Survey Field Crew – 1 Man	\$145.00/HR
Survey Field Crew – 2 Man	\$180.00/HR
Survey Field Crew – 3 Man	\$220.00/HR
3D Scanning Crew	\$250.00/HR
Survey Field Technician	\$ 75.00/HR
3D/UAV Modeling Technician	\$155.00/HR
UAV Operation	\$280.00/HR
SUE Field Crew - 1 Man	\$140.00/HR
SUE Field Crew - 2 Man	\$165.00/HR
SUE Field Crew - 3 Man	\$210.00/HR
SUE Field Crew - 4 Man	\$265.00/HR
SUE Utility Coordinator	\$160.00/HR
SUE Technician I II III	\$ 85.00/HR \$110.00/HR \$135.00/HR
Machine Control Technician	\$145.00/HR
Administrative Professional	\$ 90.00/HR

Initials: Bowman *P.L.* / Client

Table 1812018 - DEFAULT 2022 Florida/Georgia

BOWMAN CONSULTING GROUP LTD. SCHEDULE C - REQUEST FOR INFORMATION

Accounts Payable Contact:	
Point of Contact:	
Phone:	
Fax:	
E-Mail:	
Billing Information:	
Billing Entity:	
Billing Address:	<input type="checkbox"/> Same as Proposal
	<input type="checkbox"/> If Different, Please Provide:
Billing Requirements:	
Invoice Due Date:	
Requirements/Attachments:	
Invoices Transmitted Via Electronic Mail to:	
Offer ACH Direct Deposit:	<input type="checkbox"/> Yes, Contact:
	<input type="checkbox"/> Not Sure, Contact Our Office
	<input type="checkbox"/> Not At This Time

Initials: Bowman *P.L.* / Client

BOWMAN CONSULTING GROUP LTD. TERMS AND CONDITIONS

These Terms and Conditions are incorporated by reference into the Proposal and its exhibits (the "Proposal") from Bowman Consulting Group, Ltd. ("Bowman") to City of Dacula ("Client") for performance of services described in the Proposal and associated with the project described in the Proposal (the "Project"), and in any subsequent approved Change Order related to the Project. These Terms and Conditions, the accepted Proposal, and any Change Orders or other amendments thereto, shall constitute a final, complete, and binding agreement (the "Agreement") between Bowman and Client, and supersede any previous agreement or understanding.

1. **Scope of Services.** Bowman will provide the services expressly described in and limited by the Proposal (the "Scope"). If in Bowman's professional judgment the Scope must be expanded or revised, Bowman will forward a change order agreement to Client that describes the revision to the Scope (the "Change Order") and the adjusted fee associated therewith.
2. **Standard of Care.** The standard of care for all services performed by Bowman for Client shall be the care and skill ordinarily used by members of the applicable profession practicing under similar circumstances at the same time and locality of the Project. Client shall not rely upon the correctness or completeness of any design or document prepared by Bowman unless such design or document has been properly signed and sealed by a licensed professional on behalf of Bowman.
3. **Payment Terms.** Bowman will invoice Client monthly or more frequently based on a percentage of the work completed for lump sum tasks, number of units completed for unit tasks, and actual hours spent for hourly tasks. Invoices are due and payable in full upon receipt without offset of any kind or for any reason. Bowman shall have the discretion to apply payments made by Client to an invoice or retainer account of Client in accordance with its business practices. Client agrees to pay a finance charge of one and one-half percent (1.5%) per month from the invoice date on any unpaid balance not received by Bowman within thirty (30) days of the invoice date. Payment of invoices is subject to the following further terms and conditions:
 - a. If any invoice is not paid in full within forty-five (45) days of the invoice date, and Client has not timely and in good faith disputed the invoice as provided below, Bowman shall have the right at its election by giving notice to Client to either: (i) suspend the performance of further services under this Agreement and, at its sole discretion, suspend the performance of further services on other projects which are being performed by Bowman on behalf of Client or any related Client entities, until all invoices are paid in full and Bowman has received a retainer in such amount as Bowman deems appropriate to be held as described below; or (ii) deem

Client to be in material breach of this Agreement and proceed pursuant to Section 17 below. Client agrees to pay any and all charges, costs or fees incurred in collection of unpaid invoices, including reasonable attorneys' fees and costs. Following Bowman's election above, Bowman shall bear no liability to Client or any other person or entity for any loss, liability or damage resulting from any resulting delay, and any schedule for the performance of services hereunder prepared previously shall be deemed void with any future schedule for the performance of services requiring the approval of both Client and Bowman.

- b. If Client disputes any submitted invoice, Client shall give written notice to Bowman within thirty (30) days of the invoice date detailing the dispute. If no written notice of a dispute is provided to Bowman within that time period, the invoice shall then be conclusively deemed good and correct. If part of an invoice is disputed, Client shall remain liable to timely pay the undisputed portion of the invoice in accordance with the terms of this Agreement. Client and Bowman shall promptly negotiate in good faith to resolve any disputed portion of an invoice.
4. **Retainer and Other Payments.** Bowman reserves the right to require that Client make a payment to be held by Bowman as an advance against future billings (the "Retainer"). The Retainer is not intended as the regular source of payment for invoices issued to Client under this Agreement or otherwise, and the parties intend that the Retainer be applied to the final invoice for the services described in the Agreement, or against any other unpaid amounts owed to Bowman should Client (or any affiliate of Client) fail to timely pay invoices due Bowman. The Retainer account may consist in part of payments applied by Bowman pursuant to the authority granted it under Paragraph 3 above. If the Retainer is applied during the course of the Agreement, Client agrees to promptly replenish the Retainer upon request of Bowman. Upon the conclusion of this Agreement, or its earlier termination, Bowman shall (a) apply the Retainer to any unpaid amount owed Bowman by Client (or its affiliates), and (b) return any unapplied portion to Client. The Retainer shall not be required to be held in a separate account nor shall it bear interest, and the Retainer may include other amounts paid to Bowman by Client with respect to the Project or other projects.
 5. **Client Duties and Responsibilities.** Client shall inform Bowman of any special criteria or requirements related to the Project or Scope, and shall timely and at its cost furnish any and all information in its possession relating to the Project, including reports, plans, drawings, surveys, deeds, topographical information and/or title reports. Bowman shall bear no responsibility for errors, omissions, inaccuracy or incompleteness in third-party information or additional costs arising out of its reliance upon such third-party information supplied by Client. Client warrants and represents that: (a) Client has obtained the full and unconditioned prior written consent from any third-party for Bowman to use such third-party information; (b) such consent shall be provided to Bowman upon request; and (c) such consent shall be in a form that, in Bowman's reasonable discretion, does not violate any applicable law, regulation, or code of ethics. If the Scope requires a current title report, Client shall timely and at its cost provide such title report to Bowman. If the Scope includes preparation of plats to be recorded in the land records of the Project jurisdiction, Client shall timely prepare, submit, and record necessary deeds and pay all recording fees

associated with deeds and plats. All off-site easements are the responsibility of Client. Client shall indemnify and hold harmless Bowman from and against any and all claims, demands, losses, costs, and liabilities, including without limitation reasonable attorney fees and expenses incurred by Bowman and arising out of (a) Client's breach of this Agreement or (b) an action by Client or a third-party with respect to any matter not included in the Scope or that is excluded from the responsibility of Bowman pursuant to this Agreement.

- 6. Insurance.** Bowman and its employees are protected by workman's compensation, commercial general liability, automobile liability, and professional liability insurance policies. Upon request of Client, Bowman shall provide a certificate of insurance to Client evidencing such coverage and shall attempt to include Client as an additional insured on those coverages that permit additional insured status. Client acknowledges it has been offered the opportunity to review the current limits of such coverage and finds them satisfactory, and further agrees that in no event shall Bowman's liability to Client or any party claiming through Client be greater than the limits of such insurance. From time to time Bowman may, without notice to Client, amend the carriers, conditions, exclusions, deductibles or limits of any such insurance; provided that prior to any decrease in any insurance limit becoming effective Bowman shall give notice thereof to Client.
- 7. Potential Liability of Bowman.** The following provisions shall operate with respect to any potential liability of Bowman arising under the Agreement:

 - a. Client may not assert that there is a breach, defect, error, omission or negligence in the services performed by Bowman that Client believes creates liability on the part of Bowman unless Client gave written notice to Bowman not later than the first to occur of (i) the beginning of any corrective work, or (ii) thirty (30) days after Client had knowledge of the existence of the breach, defect, error, omission or negligence. Bowman shall have the opportunity to participate in decisions regarding the corrective work, and Client shall ensure that corrective action is taken at the lowest reasonable expense under the circumstances.
 - b. Notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of Bowman and Bowman's officers, directors, partners, employees, agents, and consultants to Client and anyone claiming through Client, shall not in any manner whatsoever exceed the direct losses incurred by Client (to the extent of and in proportion to Bowman's comparative degree of fault) that resulted from the error, omission or negligent act of Bowman in the performance of services under this Agreement.
 - c. To the fullest extent permitted by law, Bowman and Bowman's officers, directors, partners, employees, agents, and sub-consultants shall not be liable to Client or anyone claiming through Client for any incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or this Agreement, regardless of whether such damages are alleged to be caused by the negligence, professional errors or omissions, strict liability, breach of contract, or breach of express or implied warranty.

- d. Client agrees that Bowman's shareholders, principals, partners, members, agents, directors, officers and/or employees shall have no personal liability whatsoever arising out of or in connection with this Agreement or the performance of services hereunder, except for any negligent acts performed by such individuals.
- 8. Certificate of Merit.** In addition to the requirement of notice under section 7(a) above, Client shall make no claim (whether directly or in the form of a third-party claim) against Bowman unless Client shall have first provided Bowman with a written certification executed by an independent professional licensed in the state in which the Project is located and licensed in the profession to which the claim relates. Such certificate shall: (a) contain the name and license number of the certifier; (b) specify each and every act or omission which the certifier contends constitutes a violation of the standard of care expected of a professional performing professional services under similar circumstances; (c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation; and (d) be provided to Bowman thirty (30) days prior to the presentation of and as a precondition to any such claim, or the institution of any mediation, arbitration, judicial or other dispute resolution proceeding.
- 9. Conflict Resolution and Applicable Law.** Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach thereof, that cannot be resolved by the parties and for which the amount in controversy is less than One Hundred Thousand Dollars (\$100,000.00) shall be settled by arbitration administered in Atlanta, Georgia by the American Arbitration Association in accordance with its Commercial Arbitration Rules and Expedited Procedures, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the parties. For any other dispute, controversy or claim arising out of or relating to this Agreement, or the breach thereof, the parties agree to first submit such dispute, controversy or claim to non-binding mediation, with each party to bear its own costs of such mediation and to equally share the costs of any mediator. If such mediation does not successfully resolve all issues, then the parties agree that the state and federal courts located in Georgia shall have jurisdiction and venue over such dispute. This Agreement shall be governed and interpreted in accordance with the laws of the state in which the Project is located, without giving effect to conflicts of laws principles thereof.
- 10. Ownership of Documents and Other Rights of Bowman.**
- a. All reports, plans, specifications, computer files, field data, notes, and other documents and instruments prepared by Bowman as instruments of service ("Work Product") shall remain the property of Bowman up until such time as all monies due to Bowman have been paid in full, at which time (i) Client may take possession of the Work Product, and (ii) Bowman shall be deemed to have granted Client a fully paid, non-exclusive license to use the same solely for the Project. Subject to such license Bowman shall retain all common law, statutory, and other reserved rights, including the copyright to all Work Product. If Client or a party acting on Client's behalf modifies any part of the Work Product or reuses them on a different project, Client agrees to indemnify and hold Bowman harmless from any claim,

liability or cost (including reasonable attorneys' fees and defense costs) arising therefrom. Client acknowledges that if Bowman provides Client with Work Product in an electronic or digital format ("Electronic Data"), Client is responsible for cross checking the Electronic Data with the applicable paper document for full conformance and consistency between such paper document and the Electronic Data.

- b. Bowman reserves the right to include photographs and descriptions of the Project in its promotional, marketing, and professional materials. Client grants its consent to Bowman for Bowman to install reasonable signage at the Project equivalent to that which is or could be installed by other vendors to the Project.
- 11. Modification.** From time to time Bowman may either in writing or by electronic mail submit a Change Order to Client and Client shall be deemed to have approved such Change Order if: (a) Client signs the Change Order; (b) Client signifies its consent to the Change Order by electronic mail; or (c) a representative of Client with actual or apparent authority to approve the Change Order orally approves it and Bowman subsequently confirms such approval in writing or by email and begins work associated therewith without receiving written or electronic mail objection thereto. Except for Change Orders authorized by Client as provided immediately above, this Agreement may be amended, modified, or supplemented only in writing signed by all parties hereto. Any signature required or permitted hereunder may be either by hand or by electronic signature.
- 12. Exclusions from Scope.** By way of illustration and not limitation, unless specifically included in the Scope, Bowman has no obligation or responsibility for: (a) favorable or timely comment or action by any governmental entity; (b) taking into account off-site conditions or circumstances that are not clearly visible or reasonably ascertainable by the performance of on-site services; (c) the accurate location or characteristics of any subsurface utility or feature that is not clearly and entirely visible from the surface; or (d) structural design (including, but not limited, to structural design of retaining wall(s) or of special drainage structure(s)).
- 13. Limits of Scope.**
- a. Early Bid Documents. Client agrees that if it requests submission of Work Product documents to contractors for bid purposes either prior to full completion thereof by Bowman or prior to final governmental approval, the potential exists for additional design and construction costs arising from required subsequent revisions and additions to Bowman design documents so as to conform to those of other design disciplines and/or governmental agencies, and any such costs shall be Client's responsibility.
 - b. Estimates. Any cost, timing or quantity estimates provided as a part of the Scope are estimates only and reflect Bowman's judgment as a design professional familiar with the construction industry, but expressly do not represent a guarantee of quantities or construction costs. Client agrees that Bowman has no control over contractors as to cost, timing, or quantity matters, and further agrees that if Client

desires greater accuracy as to construction costs it should engage an independent cost estimator.

- c. Construction Means and Methods. Client agrees that Bowman does not control and is not responsible for construction means, methods, techniques, sequences, or procedures, or for any safety precautions in connection with the Project or for the acts or omissions of any contractor, subcontractor, or any other person or entity performing work for the Project.
 - d. Shop Drawing Review. If specifically included in the Scope, Bowman shall review and check the contractor's shop drawings, product data, and samples, but only for the limited purpose of checking for general conformance with the intent of such contract documents. Client acknowledges that such review is not for the purpose of determining or substantiating the accuracy and completeness of other details, such as dimensions or quantities, or for substantiating instructions for installation or performance of equipment or systems designed by the contractor. Bowman's review shall not constitute approval of safety precautions, construction means, methods, techniques, schedules, sequences or procedures, or of structural features.
 - e. Plan and Permit Processing. If the Scope includes preparation of plans and/or plats for review and approval by public agencies, submission and processing of such plans and plats in a manner consistent with a normal course of business is included within the Scope. If Client requests Bowman to either expedite the plan review process by attending meetings, hand carrying plans and documents from agency to agency, or performing similar services, or to prepare and process permit applications of any type, then, unless specifically included in the Scope, those services will be performed by Bowman as hourly rate services under Section 14 below.
 - f. Building Plan Coordination. If the Scope includes preparation of site plans, site grading plans, subdivision plans, or similar plans that involve coordination with building plans (including architectural, mechanical, structural, or plumbing plans) to be prepared by others, Client shall provide such building plans to Bowman by such date and in such state as Bowman reasonably deems necessary to timely perform its services. If Client fails to so provide building plans to Bowman, Bowman may make reasonable assumptions regarding building characteristics in order to timely perform its services and any later revisions to Bowman plans required to properly coordinate them with building plans will require a Change Order, subject to an additional fee.
- 14. Fees by Hourly Rate Schedule.** If Client requests Bowman to perform services not included in the Proposal or an approved Change Order (including, without limitation, attending meetings and conferences on an as-needed basis with public agencies), Client shall compensate Bowman for such services in accordance with the Hourly Rate Schedule attached to and made a part of the Agreement. Expert witness testimony or participation at legal discussions, hearings or depositions, including necessary preparation time, will be

charged at 150% of the quoted rates. If the Project extends beyond the calendar year in which the Proposal is dated, Bowman may, by giving notice to Client, revise its Hourly Rate Schedule once each calendar year, but no sooner than twelve (12) months after the date of the Proposal.

- 15. Covenants Benefiting Third-Parties.** Bowman and Client acknowledge that from time to time third-parties may request Bowman to execute documents which benefit that third-party. These documents may include certifications, consent of assignment, and/or waiver of certain of Bowman's rights under this Agreement ("Requested Covenant"). Client acknowledges that execution of Requested Covenants is beyond the Scope, is at Bowman's discretion, and, if Bowman decides to so execute a Requested Covenant, the language, terms, and conditions of such Requested Covenant must be acceptable to Bowman, at Bowman's discretion.
- 16. Assignment.** This Agreement may not be assigned by one party without the express written consent of the other party. Notwithstanding the foregoing, Bowman may employ consultants, sub-consultants, or subcontractors as it deems necessary to perform the services described in the scope. Also, Bowman may assign its right to receive payments under this Agreement.
- 17. Termination.** Either party may terminate the provision of further services by Bowman under this Agreement for convenience with thirty (30) days advance notice to the other party. In addition, following a material breach by the other party, the non-breaching party may terminate the provision of further services by Bowman under this Agreement by giving ten (10) days prior notice and an opportunity to cure to the reasonable satisfaction of the non-breaching party. Client acknowledges that its failure to timely pay undisputed invoices is a material breach and that full payment of all undisputed invoices is required to cure such breach. Following any termination of services: (a) Client shall immediately pay Bowman for all services performed through the termination date, including reasonable costs of transitioning the Project to a new design professional designated by Client, if applicable; (b) if the termination by Bowman resulted from a material breach by Client, Bowman shall have the right to withdraw any Work Product or other documents filed with any governmental agency by Bowman in its name on behalf of Client; and (c) if Client selects a new design professional then, as a condition of transferring any files or documents, Client and Client's new design professional shall execute Bowman's standard Electronic File Transfer Agreement or such other similar agreement as the parties shall in good faith negotiate.
- 18. Miscellaneous.** If any provision of this Agreement shall be held invalid, illegal or unenforceable, the other provisions of this Agreement shall remain in full force and effect. The failure of a party to enforce any provision hereof shall not affect its right at a later time to enforce same. A waiver by a party of any condition or breach hereunder must be in writing to be effective and, unless that writing provides otherwise, shall waive only one instance of that condition or breach. This Agreement is solely for the benefit of the parties hereto and, to the extent provided herein, their respective affiliates, directors, officers, employees, agents and representatives, and no provision of this Agreement shall be to confer upon third-parties any remedy, claim, liability, reimbursement, cause of action, or

other right. The headings in this Agreement are for convenience and identification purposes only, are not an integral part of this Agreement, and are not to be considered in the interpretation of any part hereof. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. References in this Agreement to any gender shall include references to all genders. Unless the context otherwise requires, references in the singular include references in the plural and vice versa. The words "include," "including," or "includes" shall be deemed to be followed by the phrase "without limitation." The individual who signs this Agreement warrants that he has the authority to sign as, or on behalf of, Client, and to bind Client to all of the terms and conditions of this Agreement. To the extent that they are inconsistent or contradictory, the terms of the Proposal or an authorized Change Order shall supersede these Terms and Conditions.

- 19. Notices.** Any notice, request, instruction, or other document to be given hereunder by a party hereto shall be in writing and shall be deemed to have been deemed delivered: (a) on the day sent if delivered personally or by courier service during regular business hours (i.e., prior to 5:00 p.m. on weekdays that are not Federal holidays); (b) on the business day after the day sent if sent by overnight delivery service; or (c) two business days after the day sent if sent by certified mail or delivered by two-day delivery service.

If to Client, notice shall be addressed to the individual signing this Agreement at the address noted on the Proposal.

If to Bowman, notice shall be sent to the address set forth in the proposal, with a copy sent to:

Bowman Consulting Group, Ltd.
12355 Sunrise Valley Drive, Suite 520
Reston, Virginia 20191
Attn: Robert A. Hickey

or to such other individual or address as a party hereto may designate for itself by notice given as herein provided.

Initials: Bowman *P.L.* / Client

