



**MAYOR AND COUNCIL MEETING
MONDAY, SEPTEMBER 16, 2024
6:00 PM
DALTON CITY HALL - COUNCIL CHAMBERS**

A G E N D A

Call to Order

Pledge of Allegiance

Approval of Agenda

Presentations:

1. Department Head Reports

Public Commentary: *(Please Complete Public Commentary Contact Card Prior to Speaking - Limit of 3 Minutes/Person)*

Minutes:

- [2.](#) Mayor & Council Minutes of September 3, 2024
- [3.](#) Mayor & Council Special Called Minutes of September 10, 2024

Unfinished Business:

- [4.](#) Second Reading Ordinance 24-30 The request of Eloy Moreno Jr. to rezone from High-Density Residential (R-7) to General Commercial (C-2) a tract of land totaling .14 acres located at 709 McAfee Street, Dalton, Georgia. Parcel (12-218-16-015).
- [5.](#) Second Reading Ordinance 24-31 The request of Octavio Perez to rezone from Medium Density Single Family Residential (R-3) to High-Density Residential (R-7) a tract of land totaling .45 acres located at 509-511 N. Hamilton Street and 107 Waterworks Street, Dalton, Georgia. Parcels (12-200-07-005, 12-200-07-041, and 12-200-07-042).

New Business:

- [6.](#) (2) New 2024 Alcohol Beverage Applications
- [7.](#) Temporary Construction Easement for 620 McFarland Avenue
- [8.](#) Traffic Control Change - Brookwood Drive No Parking on East Side
- [9.](#) Tentative Allocation of Federal Funds for Airfield Electrical Rehabilitation at Airport

- [10.](#) Agreement for Sale and Purchase of Real Estate - N. Glenwood Avenue Drainage Improvement Project
- [11.](#) Certificate Approving the Issuance of Revenue Bonds and Notes by the Housing Authority of the City of Dalton for the Benefit of SP Mountain Woods LLC
- [12.](#) John Davis Low Voltage RFP – Busker Communications, Inc.

Supplemental Business

Announcements

Adjournment

THE CITY OF DALTON
MAYOR AND COUNCIL MINUTES
SEPTEMBER 3, 2024

The Mayor and Council held a meeting at 6:00 p.m. at City Hall. Present were Mayor Annalee Sams, Councilmembers Dennis Mock, Nicky Lama, Tyree Goodlett, Steve Farrow, City Attorney Jonathan Bledsoe and City Administrator Andrew Parker.

CALL TO ORDER

Mayor Sams called the meeting of the Mayor and Council to order.

PLEDGE OF ALLEGIANCE

Councilmember Lama led the audience in the Pledge of Allegiance.

APPROVAL OF AGENDA

On the motion of Councilmember Goodlett, second Councilmember Lama, the Mayor and Council approved the agenda. The vote was unanimous in favor.

PUBLIC COMMENTARY

Wayne Russell came before the Mayor and Council with concerns about new developments opening near North Oaks Subdivision and the impact on residents.

DEPARTMENT HEAD REPORTS

There were no Department Head Reports.

PROCLAMATIONS

Hunger Action Month - September 2024 - Jeannine Carpenter - Chattanooga Area Food Bank
Mayor Sams proclaimed September 2024 as “Hunger Action Month” in the City of Dalton.

World Duchenne Awareness Day - September 7, 2024 - Amanda and Arden Brown
Mayor Sams proclaimed September 7, 2024 as World Duchenne Awareness Day in the City of Dalton and encouraged residents to increase their understanding and awareness of Duchenne muscular dystrophy.

MINUTES

The Mayor and Council reviewed the Regular Session minutes of August 19, 2024. On the motion of Councilmember Goodlett, second Councilmember Farrow, the minutes were approved. The vote was unanimous in favor.

(2) NEW 2024 ALCOHOL BEVERAGE APPLICATIONS

Assistant City Clerk Gesse Cabrera presented the following New 2024 Alcohol Beverage Applications for approval:

1. Business Owner: De lo mio Dominican Restaurant, LLC
d/b/a: De lo mio Dominican Restaurant
Applicant: Francisca Melo
Business Address: 116 West King St.
License Type: Pouring Beer, Wine, Liquor (Restaurant)
Disposition: **New License**

On the motion of Councilmember Mock, second Councilmember Goodlett, the application was approved contingent upon inspection being approved. The vote was unanimous in favor.

2. Business Owner: All American Entertainment, LLC
d/b/a: BigTime Billards and Cafe
Applicant: Charles Chase III
Business Address: 1129 S. Thornton Ave
License Type: Pouring Beer, Wine, Liquor (Restaurant)
Disposition: **New License**

On the motion of Councilmember Mock, second Councilmember Farrow, the application was approved. The vote was unanimous in favor.

RENEWAL OF PUBLIC WORKS FACILITIES FLOOR CLEANING CONTRACT WITH SPECTRA

Public Works Director Chad Townsend presented the Renewal of the Public Works Facilities Floor Cleaning Contract with Spectra in the amount of \$5562.25 for annual carpet and tile cleaning services. On the motion of Councilmember Farrow, second Councilmember Lama, the Contract was approved. The vote was unanimous in favor.

TEMPORARY CONSTRUCTION EASEMENT FOR 622 MCFARLAND AVENUE

Public Works Director Chad Townsend presented the Temporary Construction Easement for 622 McFarland Avenue. Townsend stated the Easement is necessary for the completion of the work of Phase 3 of the Walnut North drainage Improvement project. On the motion of Councilmember Mock, second Councilmember Goodlett, the Council authorized the Mayor to execute the easement. Councilmembers Mock, Lama and Goodlett voted in favor of the motion. Councilmember Farrow recused himself from the vote.

GDOT CONTRACT 46 FOR FUNDING OF OBSTRUCTION REMOVAL CLEARING ON RUNWAY 32

Airport Director Andrew Wiersma presented the GDOT Contract 46 for funding of Obstruction Removal Clearing on Runway 32 Approach End at Dalton Municipal Airport in the amount of \$93,815.73 with a local match of \$4,690.70. On the motion of Councilmember Mock, second Councilmember Lama, the Contract was approved. The vote was unanimous in favor.

CONTRACT WITH LRS LAND SERVICES LLC TO REMOVE TREES FROM THE
APPROACH END OF RUNWAY 32

Airport Director Andrew Wiersma presented the Contract with LRS Land Services LLC to Remove Trees from the Approach End of Runway 32 at Dalton Municipal Airport in the amount of \$54,830. On the motion of Councilmember Mock, second Councilmember Lama, the Contract was approved. The vote was unanimous in favor.

INDIVIDUAL PROJECT ORDER #1 WITH KIMLEY-HORN FOR CONSTRUCTION

Airport Director Andrew Wiersma presented the Individual Project Order #1 with Kimley-Horn for Construction Admin/Inspection Services During Obstruction Removal at Dalton Airport in the amount of \$38,985.73 funded through GDOT contract. On the motion of Councilmember Mock, second Councilmember Farrow, the project order was approved. The vote was unanimous in favor.

FIRST READING ORDINANCE 24-29 – REZONING REQUEST OF EDGAR RINCON

Assistant Planning Director at Northwest Georgia Regional Commission Ethan Calhoun presented the First Reading of Ordinance 24-29. A request from Edgar Rincon to rezone from Transitional Commercial (C-4) to General Commercial (C-2) a tract of land totaling .92 acres located at 908 Elk Street, Dalton, Georgia. Parcel (12-257-02-028) Councilmembers raised questions about availability of sufficient parking to serve the proposed event center and the proximity to neighboring residential areas.

FIRST READING ORDINANCE 24-30 - REZONING REQUEST OF ELOY MORENO JR.

Assistant Planning Director at Northwest Georgia Regional Commission Ethan Calhoun presented the First Reading Ordinance 24-30. A request from Eloy Moreno Jr. to rezone from High-Density Residential (R-7) to General Commercial (C-2) a tract of land totaling .14 acres located at 709 McAfee Street, Dalton, Georgia. Parcel (12-218-16-015). Calhoun stated the Planning commission and Staff unanimously recommended denial of this request.

FIRST READING ORDINANCE 24-31 – REZONING REQUEST OF OCTAVIO PEREZ

Assistant Planning Director at Northwest Georgia Regional Commission Ethan Calhoun presented the First Reading Ordinance 24-31. A request from Octavio Perez to rezone from Medium Density Single Family Residential (R-3) to High-Density Residential (R-7) a tract of land totaling .45 acres located at 509-511 N. Hamilton Street and 107 Waterworks Street, Dalton, Georgia. Parcels (12-200-07-005, 12-200-07-041, and 12-200-07-042),

INTERGOVERNMENTAL AGREEMENT WITH THE DALTON-WHITFIELD JOINT
DEVELOPMENT AUTHORITY - SOUTH HAMILTON RESIDENTIAL INFILL
INFRASTRUCTURE PROJECT

City Administrator Andrew Parker presented the Intergovernmental Agreement with the Dalton-Whitfield Joint Development Authority for Construction of the S. Hamilton Residential Infill Infrastructure Project. Parker stated the agreement outlines the terms of disbursement of City funds toward the project and that funds should only be expended on public infrastructure and allows for the Mayor to execute a deed to transfer title of the property to the (JDA) Joint Development Authority. On the motion of Councilmember Mock, second Councilmember Lama, the Agreement was approved. The vote was unanimous in favor.

ANNOUNCEMENTS

Mayor Sams announced the City of Dalton will hold a second public information meeting to provide an overview of the proposed changes to the City's alcoholic beverage ordinance. The meeting will be held Wednesday, September 11, 2024 at 3:00 p.m. at Dalton City Hall Council Chambers.

ADJOURNMENT

There being no further business to come before the Mayor and Council, on the motion of Councilmember Mock, second Councilmember Goodlett the meeting was adjourned at 6:43 p.m.

Bernadette Chattam
City Clerk

Annalee Sams, Mayor

Recorded
Approved: _____
Post: _____

THE CITY OF DALTON
SPECIAL CALLED
MAYOR AND COUNCIL MINUTES
SEPTEMBER 10, 2023

The Mayor and Council held a Special Called meeting this morning at 8:00 a.m. at City Hall. Present were Mayor Annalee Sams, Council members Dennis Mock, Nicky Lama and Steve Farrow, and Assistant City Administrator Todd Pangle. Council member Tyree Goodlett and City Administrator Andrew Parker were absent.

CALL TO ORDER

Mayor Sams called the meeting of the Mayor and Council to order.

PLEDGE OF ALLEGIANCE

Councilmember Lama the audience in the Pledge of Allegiance.

APPROVAL OF AGENDA

On the motion of Council member Mock, second Council member Lama, the Mayor and Council approved the agenda. The vote was unanimous in favor.

EXECUTIVE SESSION

On the motion of Council member Farrow, second Council member Lama, the Mayor and adjourned into Executive Session at 8:01 a.m. to discuss potential litigation. The vote was unanimous in favor.

ADJOURNMENT – EXECUTIVE SESSION

On the motion of Council member Farrow, second Council member Lama, the Mayor and adjourned out of Executive Session at 8:31 a.m. The vote was unanimous in favor.

RESOLUTION 24-14 – PETITION FOR TEMPORARY TAX COLLECTION

The Mayor and Council reviewed Resolution 24-14 to authorize petition for temporary tax collection order. The Resolution states in part that the preliminary 2024 Tax Digest is potentially unenforceable or uncollectable by law and the City desires to ensure timely billing and collection of taxes. Further stating whereas O.C.G.A. Section 48-5-310 provides a procedure by which a municipality may request a temporary collection order to ensure timely collection of taxes. The Mayor and Council of the City of Dalton hereby authorize the filing of a petition pursuant to O.C.G.A. Section 48-5-310 for a temporary collection order and all other pleadings in connection therewith. On the motion of Council member Mock, second Council member Lama, the Mayor and Council adopted the Resolution. The vote was unanimous in favor.

ADJOURNMENT

There being no further business to come before the Mayor and Council, on the motion of Council member Mock, second Council member Lama, the Mayor and Council adjourned the meeting at 8:33 a.m.

Bernadette Chattam
City Clerk

Annalee Sams, Mayor

Recorded
Approved: _____
Post: _____



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 9/16/2024

Agenda Item: **Second Reading Ordinance 24-30 The request of Eloy Moreno Jr. to rezone from High-Density Residential (R-7) to General Commercial (C-2) a tract of land totaling .14 acres located at 709 McAfee Street, Dalton, Georgia. Parcel (12-218-16-015) (City)**

Department: Planning and Zoning

Requested By: Ethan Calhoun

Reviewed/Approved by City Attorney? Sent for Review

Cost: N/A

Funding Source if Not in Budget N/A

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

See attached staff analysis and recommendation

ORDINANCE NO. 24-30

To rezone property of Eloy Moreno, Jr. from a High-Density Residential (R-7) to a General Commercial (C-2) Classification; to provide for an effective date; to provide for the repeal of conflicting ordinances; to provide for severability; and for other purposes.

WHEREAS, Eloy Moreno, Jr. has petitioned for rezoning of certain real property he owns from R-7 classification to C-2 classification;

WHEREAS, the application for rezoning appears to be in proper form and made by all owners of the Property sought to be rezoned;

WHEREAS, the rezoning is in conformity with the City of Dalton Joint Comprehensive Plan; and

WHEREAS, all other procedures as required by Georgia law have been followed.

NOW, THEREFORE, BE IT HEREBY ORDAINED, by the Mayor and Council of the City of Dalton, Georgia, as follows:

Section 1.

The real property as described in Exhibit “A” (the “Property”), which is attached to and incorporated herein as a part of this Ordinance, is hereby rezoned from R-7 classification to C-2 classification.

Section 2.

This Ordinance shall be effective as of the date of approval of this Ordinance.

Section 3.

The City Clerk or designated City staff members shall ensure that the Dalton-Whitfield Zoning Administrator is provided a copy of this ordinance and that this rezoning is recorded on the Official Zoning Map of Whitfield County, Georgia.

Section 4.

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

Section 5.

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

SO ORDAINED this _____ day of _____, 2024.

The foregoing Ordinance received its first reading on _____ and a second reading on _____. Upon second reading a motion for passage of the ordinance was made by Councilmember _____, seconded by Councilmember _____, and upon the question the vote is _____ ayes, _____ nays, and the Ordinance is adopted.

ATTEST:

CITY CLERK

MAYOR/MAYOR PRO TEMPORE

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of _____.

CITY CLERK, CITY OF DALTON

EXHIBIT “A”

Tax Parcel No. 12-218-16-015

**DALTON-VARNELL-WHITFIELD COUNTY PLANNING COMMISSION
503 WEST WAUGH STREET
DALTON, GA 30720**

MEMORANDUM

TO: City of Dalton Mayor and Council
Andrew Parker
Jonathan Bledsoe
Jean Price-Garland

FROM: Jim Lidderdale
Chairman

DATE: August 27, 2024

SUBJECT: The request of Eloy Moreno Jr. to rezone from High-Density Residential (R-7) to General Commercial (C-2) a tract of land totaling .14 acres located at 709 McAfee Street, Dalton, Georgia. Parcel (12-218-16-015) (City)

The most recent meeting of the Dalton-Varnell-Whitfield County Planning Commission was held on August 26, 2024, at 6:00 p.m. in the Whitfield County Courthouse meeting room. A portion of the agenda included a public hearing concerning the above matter. A quorum of four members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met. The petition was represented by Eloy Moreno Jr.

Public Hearing Summary:

Ethan Calhoun summarized the staff analysis which recommended a denial of the rezoning.

Eloy Moreno Jr. stated that the subject property is used for storage and that he would like to construct a convenience store that would serve the surrounding community. Moreno stated that he believed the setback issues would remain even in the residential zone district.

There were no further comments, and this hearing closed at approximately 7:14.

Recommendation:

Chairman Lidderdale sought a motion for the rezoning. Chris Shiflett made a motion to deny the rezoning, and Eric Barr seconded the motion. There was a unanimous recommendation to deny the rezoning 3-0.

STAFF ANALYSIS
REZONING REQUEST
Unified Zoning Ordinance

ZONING CASE: Eloy Moreno Jr. is seeking to rezone from High-Density Residential (R-7) to General Commercial a tract of land (parcel 12-218-16-015) containing a total of 0.14 acres located at 709 McAfee Street. The subject property contains a small accessory structure previously used for storage: The petitioner's request to rezone was made in order to use the property for commercial storage.

The surrounding uses and zoning are as follows: To the north is a tract of land zoned R-7 that contains an apartment complex. To the east are two adjacent tracts of land zoned R-7 that each contain single-family detached dwellings. To the south is a tract of land zoned M-2 that contains a manufacturing structure. To the west is a tract of land zoned R-7 that contains a single-family detached dwelling.

The subject property is within the jurisdiction of the City of Dalton Mayor and Council.

CONSIDERING FACTORS FOR A REZONING/ANNEXATION ANALYSIS

(A) Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and whether the proposed change is consistent with the established land use pattern and zoning of adjacent and nearby properties.

This area is an area of community activity ranging from multi-family, commercial, manufacturing, and parks. The subject property has been essentially undeveloped for a number of years and has been used for the outdoor storage of vehicles. The proposed rezoning would allow the subject property to be used for commercial storage among many other potential commercial uses in the C-2 zone district. The adjacent properties surrounding the majority of the subject property are all residential in nature.

(B) Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties.

With the majority of adjacent development consisting of residential uses, the potential commercial use of the subject property may threaten the values of those adjacent properties. The lack of ability to provide for setbacks or adequate buffers on the subject property means that the potential for negative impact is much greater.

(C) Whether the subject property has a reasonable economic use as currently zoned, considering the suitability of the subject property for the proposed zoned uses.

The petitioner desires to have the ability to use the subject property for commercial storage. The limited size of the subject property coupled with the setback and buffer requirements of the C-2 zone district make the desired use of the subject property nearly impossible without variances for setbacks and buffers. The subject property could be used for personal storage or developed for single-family detached use as it is.

(D) Whether there is relative gain to the health, safety, morals, or general welfare of the public as compared to any hardship imposed upon the individual owner under the existing zoning.

N/A

(E) Whether the proposed (C-2) amendment, if adopted or approved, would result in a use which would or could cause excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities, as contrasted with the impact under the existing zoning.

The limited size of the subject property coupled with the intent of the petitioner, as stated in the rezoning application, would not increase the intensity of the subject property in a manner that would burden public infrastructure or utilities.

(F) Whether the property sought to be rezoned (or annexed) is in conformity with the policy and intent of the adopted joint comprehensive plan or equivalent. If not, has the plan already been amended, officially or unofficially, by the development of uses that are contrary to the plan recommendation, and if the plan has been amended, does this rezoning or annexation request allow uses that are compatible to the existing uses in the vicinity.

The comprehensive plan's future development map shows this property to be within the Town Neighborhood Revitalization character area. This character area is intended to promote investment, redevelopment, and infill development that would complement the existing development within this area. The proposed C-2 rezoning and proposed use of the subject property would conflict with the intent of the Town Neighborhood Revitalization character area at this location.

(G) Whether there are any other conditions or transitional patterns affecting the use and development of the property to be rezoned or annexed, which give grounds for approval or disapproval of the proposed zoning proposal. Whether the proposed zoning change constitutes an "entering wedge" and is a deterrent to the use, improvement, or development of adjacent property within the surrounding zone districts or would create an isolated, unrelated district (spot zone) as interpreted by current Georgia law.

The proposed rezoning would create an island of C-2 surrounded by the R-7 and M-2 zone districts. While the subject property is adjacent to the M-2 zone district, most of the immediately adjacent properties are zoned and developed for residential use, which would create both an island of commercial as well as an entering wedge.

(H) Whether the subject property, as currently zoned, is vacant and undeveloped for a long period of time, considered in the context of land development in the vicinity or whether there are environmental or cultural factors, like steep slopes, flood plain, storm water, or historical issues that influence the development of the subject property under any zoning designation.

N/A

CONCLUSION:

The staff can provide a recommendation to deny the requested C-2 rezoning of the subject property based on the following factors:

1. The requested C-2 zone district would allow for the use of the subject property in a manner that would be dissimilar to that of the majority of adjacent and surrounding development and zoning.
2. The proposed C-2 rezoning would likely have a negative impact on the adjacent residential property values.
3. The requested C-2 rezoning would be in conflict with the intent of the Town Neighborhood Revitalization character area.

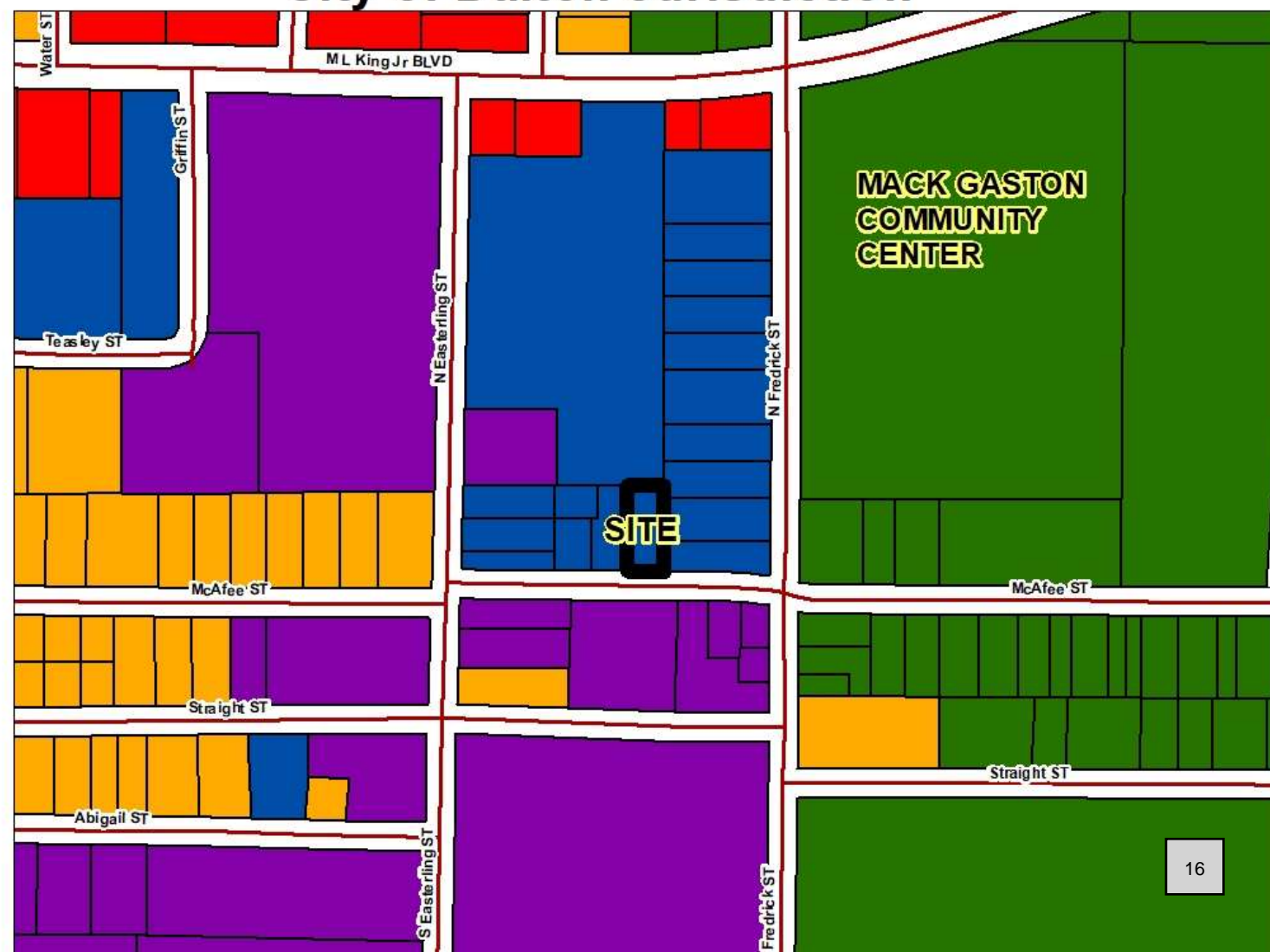
Moreno Rezoning Request
R-7, High Density Residential
to
C-2, General Commercial
City of Dalton Jurisdiction



ZONING

-  Medium Density Single Family Residential (R-3)
-  Rural Residential (R-5)
-  High Density Residential (R-7)
-  General Commercial (C-2)
-  Heavy Manufacturing (M-2)

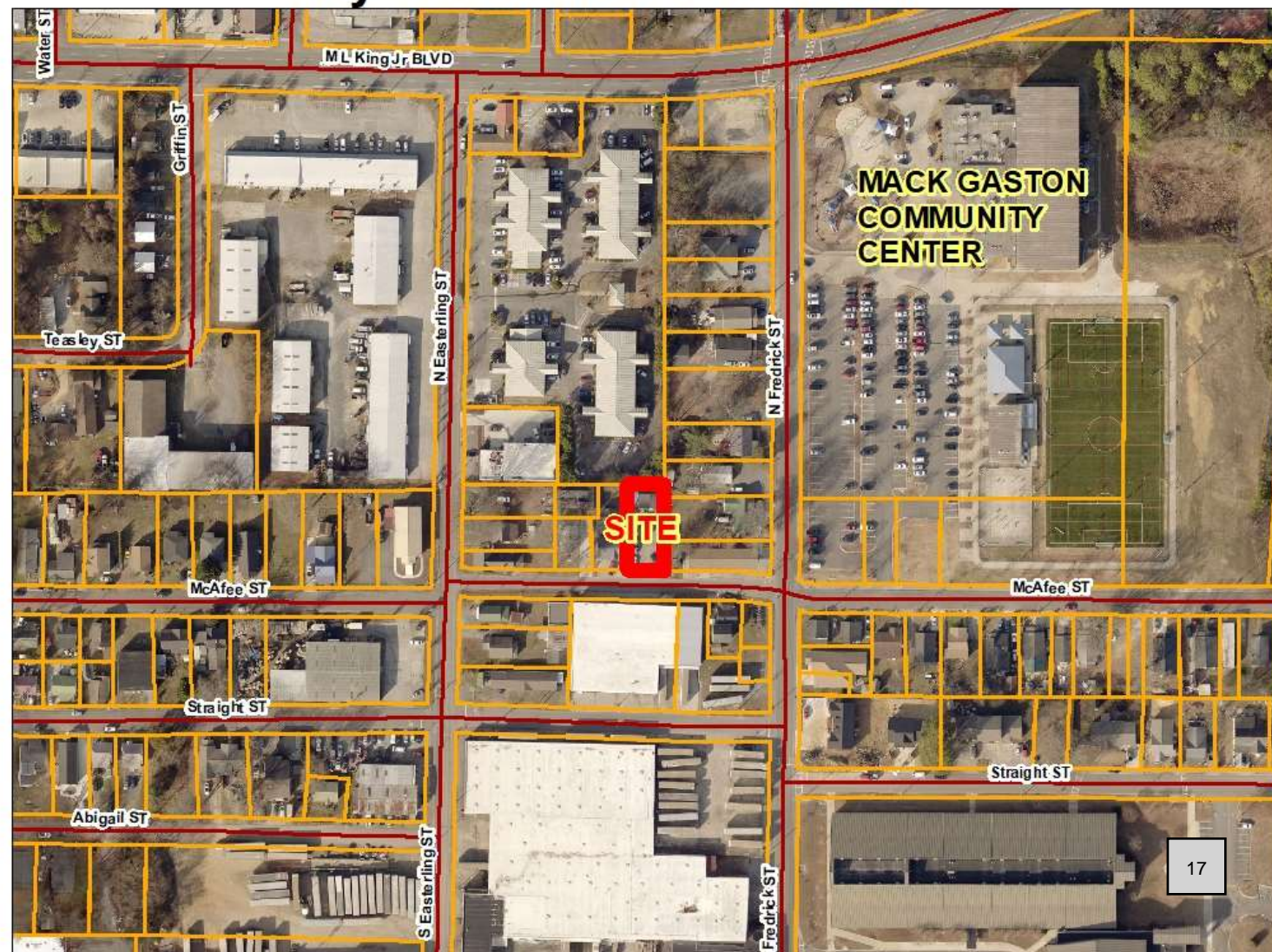
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**Moreno Rezoning Request
R-7, High Density Residential
to
C-2, General Commercial
City of Dalton Jurisdiction**



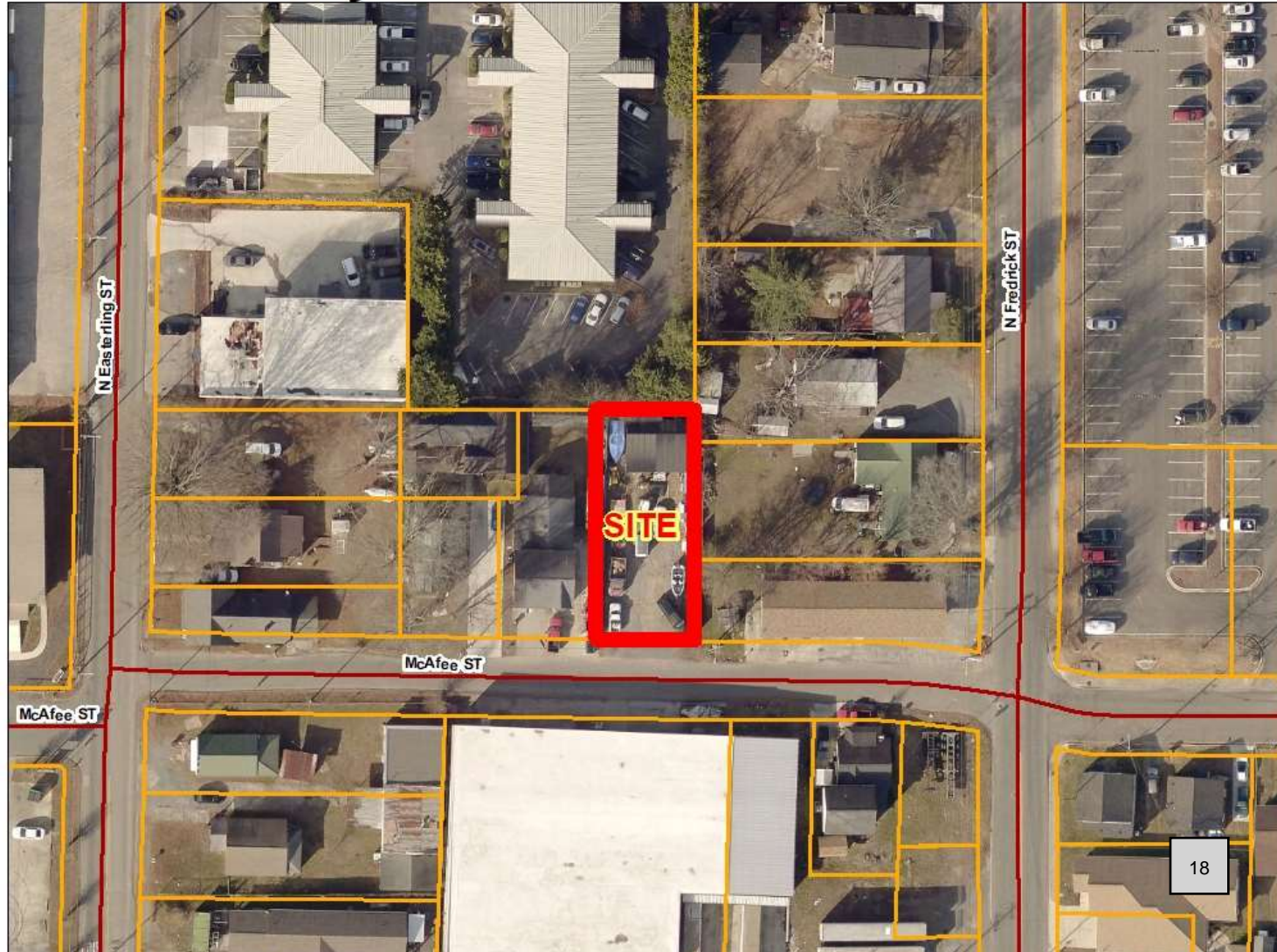
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**Moreno Rezoning Request
R-7, High Density Residential
to
C-2, General Commercial
City of Dalton Jurisdiction**



**FEET
75**



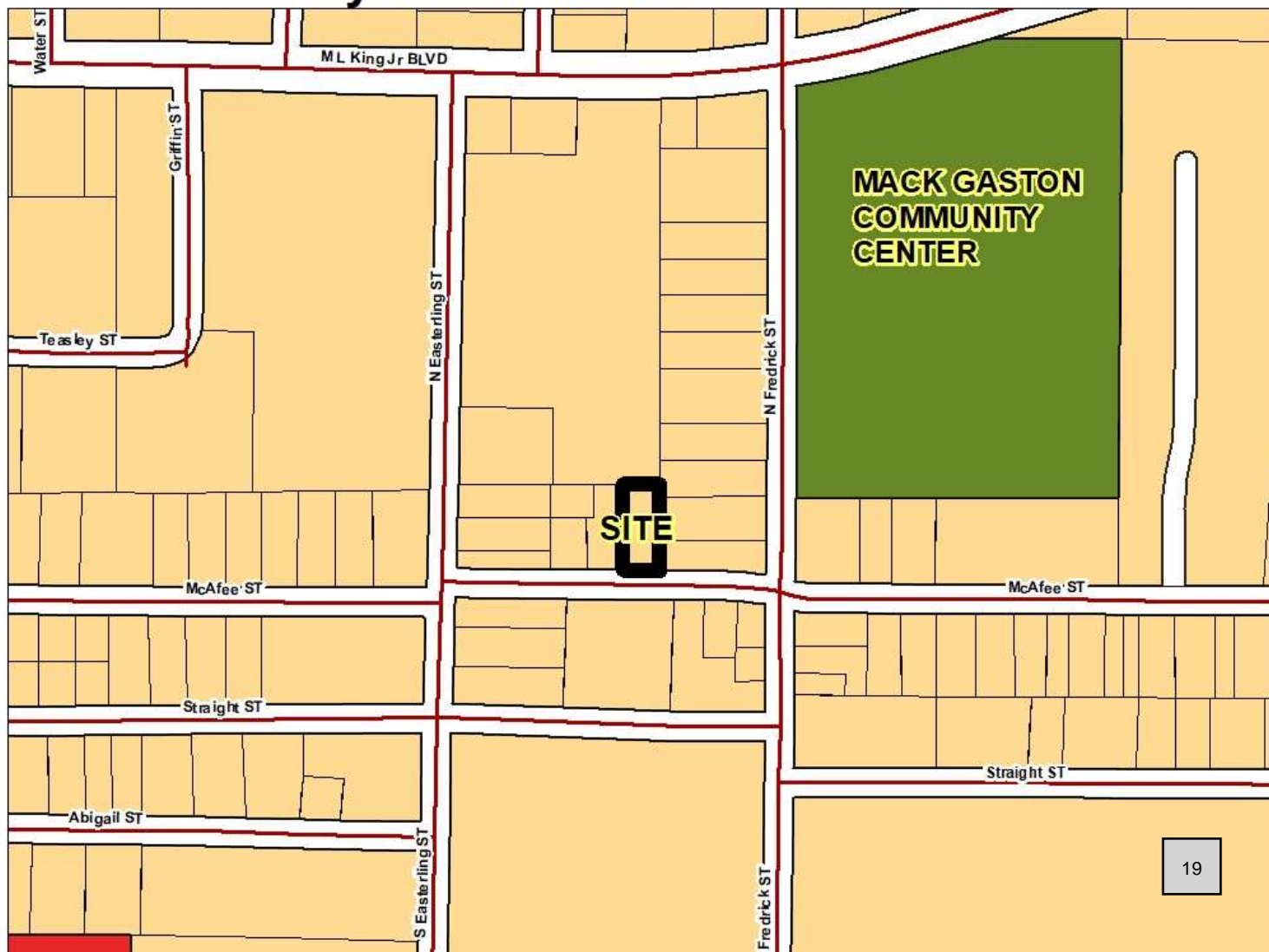
Moreno Rezoning Request
R-7, High Density Residential
to
C-2, General Commercial
City of Dalton Jurisdiction



FUTURE DEVELOPMENT MAP

-  Commercial Corridor
-  Preserve
-  Town Neighborhood Revitalization

FEET
200





CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 9/16/2024

Agenda Item: **Second Reading Ordinance 24-31 The request of Octavio Perez to rezone from Medium Density Single Family Residential (R-3) to High-Density Residential (R-7) a tract of land totaling .45 acres located at 509-511 N. Hamilton Street and 107 Waterworks Street, Dalton, Georgia. Parcels (12-200-07-005, 12-200-07-041, and 12-200-07-042)**

Department: Planning and Zoning

Requested By: Ethan Calhoun

Reviewed/Approved by City Attorney? Sent for Review

Cost: N/A

Funding Source if Not in Budget N/A

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

See attached staff analysis and recommendation

ORDINANCE NO. 24-31

To rezone property of Octavio Perez from a Medium-Density Single-Family Residential (R-3) to a High-Density Residential (R-7) Classification; to provide for an effective date; to provide for the repeal of conflicting ordinances; to provide for severability; and for other purposes.

WHEREAS, Octavio Perez has petitioned for rezoning of certain real property he owns from R-3 classification to R-7 classification;

WHEREAS, the application for rezoning appears to be in proper form and made by all owners of the Property sought to be rezoned;

WHEREAS, the rezoning is in conformity with the City of Dalton Joint Comprehensive Plan; and

WHEREAS, all other procedures as required by Georgia law have been followed.

NOW, THEREFORE, BE IT HEREBY ORDAINED, by the Mayor and Council of the City of Dalton, Georgia, as follows:

Section 1.

The real property as described in Exhibit “A” (the “Property”), which is attached to and incorporated herein as a part of this Ordinance, is hereby rezoned from R-3 classification to R-7 classification.

Section 2.

This Ordinance shall be effective as of the date of approval of this Ordinance.

Section 3.

The City Clerk or designated City staff members shall ensure that the Dalton-Whitfield Zoning Administrator is provided a copy of this ordinance and that this rezoning is recorded on the Official Zoning Map of Whitfield County, Georgia.

Section 4.

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

Section 5.

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

SO ORDAINED this _____ day of _____, 2024.

The foregoing Ordinance received its first reading on _____ and a second reading on _____. Upon second reading a motion for passage of the ordinance was made by Councilmember _____, seconded by Councilmember _____, and upon the question the vote is _____ ayes, _____ nays, and the Ordinance is adopted.

ATTEST:

CITY CLERK

MAYOR/MAYOR PRO TEMPORE

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of _____.

CITY CLERK, CITY OF DALTON

EXHIBIT “A”

Tax Parcel Nos. 12-200-07-005, 12-200-07-041, 12-200-07-042

DALTON-VARNELL-WHITFIELD COUNTY PLANNING COMMISSION
503 WEST WAUGH STREET
DALTON, GA 30720

MEMORANDUM

TO: City of Dalton Mayor and Council
Andrew Parker
Jonathan Bledsoe
Jean Price-Garland

FROM: Jim Lidderdale
Chairman

DATE: August 27, 2024

SUBJECT: The request of Octavio Perez to rezone from Medium Density Single Family Residential (R-3) to High-Density Residential (R-7) a tract of land totaling .45 acres located at 509-511 N. Hamilton Street and 107 Waterworks Street, Dalton, Georgia. Parcels (12-200-07-005, 12-200-07-041, and 12-200-07-042) (City)

The most recent meeting of the Dalton-Varnell-Whitfield County Planning Commission was held on August 26, 2024, at 6:00 p.m. in the Whitfield County Courthouse meeting room. A portion of the agenda included a public hearing concerning the above matter. A quorum of four members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met. The petition was represented by Ken Williams.

Public Hearing Summary:

Ethan Calhoun summarized the staff analysis which recommended approval of the rezoning.

Ken Williams represented the petition with power of attorney. Williams stated that the current state of the subject property would remain, but the petitioner would like to have the multi-family zoning for the duplex and rental houses.

There were no additional comments, and this hearing closed at approximately 7:18.

Recommendation:

Chairman Lidderdale sought a motion for the rezoning. Jody McClurg made a motion to approve the rezoning, and Chris Shiflett seconded the motion. There was a unanimous recommendation to approve the rezoning 3-0.

STAFF ANALYSIS
REZONING REQUEST
Unified Zoning Ordinance

ZONING CASE: Octavio Perez is seeking to rezone from Medium-Density Single-Family Residential (R-3) to High-Density Residential (R-7) a tract of land (parcel 12-200-07-005, 041, 042) containing a total of 0.45 acres located at 509-511 N Hamilton Street. The subject property contains two single-family detached dwellings and a duplex dwelling with accessory structures: The petitioner's request to rezone was made in order to achieve use conformity of the duplex and rental dwellings.

The surrounding uses and zoning are as follows: To the north are two tracts of land across W. Waterworks St. that are each zoned M-2. One of the northern tracts contains a single-family detached dwelling and the other contains a small commercial structure. To the east are three tracts of land that are each zoned M-1. Two of the eastern tracts are undeveloped and the third contains a portion of an industrial building. To the south is a tract of land zoned R-7 that contains an aging commercial structure. To the west is a tract of land zoned R-3 that contains two small single-family detached dwellings.

The subject property is within the jurisdiction of the City of Dalton Mayor and Council.

CONSIDERING FACTORS FOR A REZONING/ANNEXATION ANALYSIS

(A) Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and whether the proposed change is consistent with the established land use pattern and zoning of adjacent and nearby properties.

This area is part of the transition from the historic downtown, historic Crown Mill village, and the historic industrial mills that once served as the heart of Dalton's manufacturing engine. The subject property lies at the eastern terminus of the residential Crown Mill village. The character of the Crown Mill village is predominantly single-family development consisting of cottage dwellings on small lots. However, there are a number of historic duplex dwellings throughout the Crown Mill village as well as some triplexes and quadplexes. The subject property is adjacent to a tract of land to the south that was recently rezoned for multi-family redevelopment. Given the subject property's location adjacent to higher intensity uses such as commercial and manufacturing, there is reason to consider an increase in permitted residential density beyond that of single-family detached.

(B) Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties.

With the adjacent convergence of the commercial and manufacturing zone districts, the rezoning of the subject property to R-7 would likely have no effect on the values of the adjacent properties. The proposed R-7 rezoning would not impose any burden on the adjacent commercial or manufacturing properties due to the street separation and the adjacent R-7 zone district does not appear to have had any observed negative impact on the surrounding properties.

(C) Whether the subject property has a reasonable economic use as currently zoned, considering the suitability of the subject property for the proposed zoned uses.

The petitioner desires to create conformity of the subject property in a manner reflective of the established zoning and development of the area. The subject property, like many of the historic Crown Mill village properties, contains dwellings that do not conform to the required lot sizes or setbacks within the R-3 zone district. This is largely do to the fact that these properties were developed long before the City had adopted any type of zoning ordinance. While setback issues may continue to affect the subject property, the proposed rezoning would ensure conformity regarding the dwelling types on each of the subject property's three tracts.

(D) Whether there is relative gain to the health, safety, morals, or general welfare of the public as compared to any hardship imposed upon the individual owner under the existing zoning.

N/A

(E) Whether the proposed (R-7) amendment, if adopted or approved, would result in a use which would or could cause excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities, as contrasted with the impact under the existing zoning.

The limited size of the subject property coupled with the intent of the petitioner, as stated in the rezoning application, would not increase the intensity of the subject property in a manner that would burden public infrastructure or utilities.

(F) Whether the property sought to be rezoned (or annexed) is in conformity with the policy and intent of the adopted joint comprehensive plan or equivalent. If not, has the plan already been amended, officially or unofficially, by the development of uses that are contrary to the plan recommendation, and if the plan has been amended, does this rezoning or annexation request allow uses that are compatible to the existing uses in the vicinity.

The comprehensive plan's future development map shows this property to be within the Town Neighborhood Revitalization character area. This character area is intended to promote investment, redevelopment, and infill development that would complement the existing development within this area. The proposed R-7 rezoning and proposed use of the subject property would likely have a neutral effect on the surrounding neighborhood based on the existing zoning and development in the area.

(G) Whether there are any other conditions or transitional patterns affecting the use and development of the property to be rezoned or annexed, which give grounds for approval or disapproval of the proposed zoning proposal. Whether the proposed zoning change constitutes an "entering wedge" and is a deterrent to the use, improvement, or development of adjacent property within the surrounding zone districts or would create an isolated, unrelated district (spot zone) as interpreted by current Georgia law.

The proposed rezoning would shrink the R-3 zone district in this area and enlarge the existing R-7 zone district.

(H) Whether the subject property, as currently zoned, is vacant and undeveloped for a long period of time, considered in the context of land development in the vicinity or whether there are environmental or cultural factors, like steep slopes, flood plain, storm water, or historical issues that influence the development of the subject property under any zoning designation.

N/A

CONCLUSION:

The staff can provide a recommendation to approve the requested R-7 rezoning of the subject property based on the following factors:

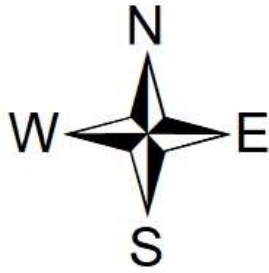
1. The requested R-7 zone district would allow for the use of the subject property in a manner that would be similar to that of the majority of adjacent and surrounding development and zoning.
2. The similar character of the proposed rezoning and development to the existing zoning and development of this area does not raise concerns regarding the impact on adjacent property values or public utilities and infrastructure.
3. The requested R-7 rezoning would likely have a neutral effect on the area in terms of the Town Neighborhood Revitalization character area in the Joint Comprehensive Plan when observing the established zoning and development in this transitional area.

**Perez Rezoning Request
R-3, Medium Density Single Family Residential
to
R-7, High Density Residential
City of Dalton Jurisdiction**



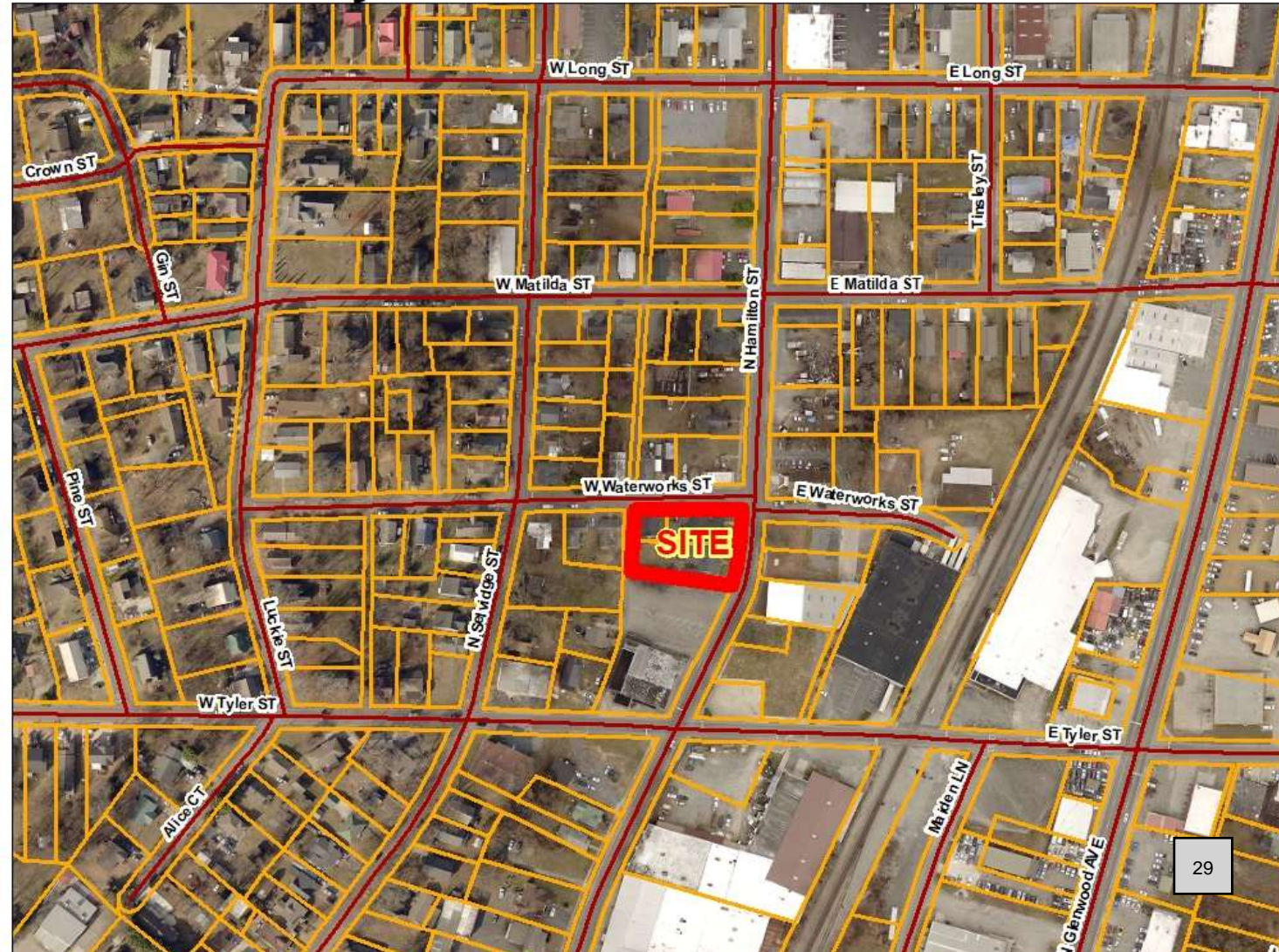
**FEET
200**





Perez Rezoning Request
R-3, Medium Density Single Family Residential
to
R-7, High Density Residential
City of Dalton Jurisdiction

FEET
200



**Perez Rezoning Request
R-3, Medium Density Single Family Residential
to
R-7, High Density Residential
City of Dalton Jurisdiction**



**FEET
100**



Perez Rezoning Request

R-3, Medium Density Single Family Residential

to

R-7, High Density Residential

City of Dalton Jurisdiction



FUTURE DEVELOPMENT MAP

-  Commercial Corridor
-  Industrial
-  Town Neighborhood Revitalization

FEET
200





CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 09/16/2024

Agenda Item: 2024 Alcohol Beverage Applications

Department: City Clerk

Requested By: Gesse Cabrera

Reviewed/Approved by City Attorney? Yes

Cost: N/A

Funding Source if Not in Budget N/A

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

Two (2) New 2024 Alcohol Beverage Applications for review.

2024 ALCOHOL BEVERAGE APPLICATION APPROVAL
M&C MEETING – TUESDAY SEPTEMBER 16, 2024

(2) 2024 ALCOHOL APPLICATION(S)

1. Business Owner: Kulture Cigar Lounge, LLC
d/b/a: Kulture Cigar Lounge, LLC
Applicant: Antoine Anderson
Business Address: 314 S. Pentz St.
License Type: Pouring Beer, Wine (Cigar Bar/Lounge)
Disposition: **New License**

2. Business Owner: Multani 2018, LLC
d/b/a: King Smoke Shop
Applicant: Kuldeep Singh
Business Address: 208 E. Walnut Ave.
License Type: Package Beer (Convenience Store)
Disposition: **New License**



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 9/16/2024

Agenda Item: 620 McFarland Avenue Temporary Construction Easement

Department: Public Works

Requested By: Chad Townsend

Reviewed/Approved by City Attorney? Yes

Cost: N/A

Funding Source if Not in Budget -----

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

This request is to authorize the Temporary Construction Easement for constructing elements of the Franklin and Valley Drive Stormwater Bypass Project located within the property of 620 McFarland Avenue.

The work is to be completed within 24 months from the date of easement authorization.

See attached temporary construction easement for additional information about the scope of work being performed.

[Space above this line for recording data.]

Please Record and Return To:

Jonathan Bledsoe
The Minor Firm
P.O. Box 2586
Dalton, GA 30722-2586

TEMPORARY CONSTRUCTION EASEMENT

Georgia, Whitfield County

This Temporary Construction Easement (this "Agreement") made this 5 day of September, 20 24, between **Billy Ray Mooney and Caroline D. Mooney**, Grantor, and the **City of Dalton, Georgia**, a municipal corporation of the State of Georgia, Grantee.

W I T N E S S E T H:

WHEREAS, Grantor is the owner of certain real property and improvements in the City of Dalton, Whitfield County, Georgia, as being more particularly described in Exhibit "A," attached hereto and made a part hereof by reference (the "Servient Property"); and

WHEREAS, Grantee is the owner of certain real property adjacent to the Servient Property and being more particularly described that certain public roadway known as **McFarland Avenue** (the "City Property"); and

WHEREAS, Grantee has constructed, or will construct, a storm sewer pipe and/or storm water structures located on the Servient Property (collectively the "Municipal Storm Sewer") and being located on that certain portion of the Servient Property more particularly described as the "Construction Easement" on the depiction attached hereto as Exhibit "B," attached hereto and made a part hereof by reference (the "Storm Drainage Easement"); and

WHEREAS, Grantee desires non-exclusive temporary access and use of a portion of the Servient Property for a period set forth herein to perform certain construction activities for the public good and welfare and Grantor is willing to grant the requested access and use and subject to the terms hereof; and

WHEREAS, upon completion of the construction identified therein said construction easement

shall cease;

NOW THEREFORE, for and in consideration of the sum of Ten Dollars and other good and valuable considerations, in hand paid at and before the sealing and delivering of these presents, the receipt of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. *Recitals.* The parties hereto acknowledge that the above recitals to this Agreement are true and correct, and agree that the same are incorporated by reference into the body of this Agreement.
2. *Temporary Construction Easement.* Grantor, for and on behalf of his heirs, administrators, executors, legal representatives, and assigns, does hereby grant unto Grantee, a temporary, non-exclusive easement in, on, over, under, across, and through that Property shown on Exhibit "A" (the "Temporary Construction Easement"). The rights, benefits, privileges, and easement granted herein are for the purpose of the construction of the Municipal Storm Sewer (the "Construction Project"). Said Easement is temporary and shall begin upon execution of this Agreement and expire upon the earlier of twenty-four (24) months from the date of this Agreement or completion of the Construction Project ("Term").
3. *Extension of Term of Construction Easement.* The parties contemplate that the Construction Project can be completed during the Term. However, the parties acknowledge that the time for completion may be delayed due to weather or other conditions. Grantee shall have the right upon written notice to Grantor to extend the Temporary Construction Easement up to one additional Term in the event of delays in the Construction Project. Grantee shall notify Grantor of any reasonable delay in commencement or delay in completion due to weather or other delays as soon as reasonably possible. The parties shall reasonably cooperate to complete the project in a timely manner.
4. *Rights to Maintain.* Grantee shall have all rights, benefits, privileges, and easements necessary or convenient for the full enjoyment and use of the Temporary Construction Easement for the purposes described herein, including the right of entry into and upon the Servient Property for the purpose of access and ingress to and egress from the Storm Drainage Easement in order to effect the rights, privileges and easements set forth herein. Grantee shall have the right to cut away and keep clear, remove and dispose of all trees, undergrowth or other obstructions now or as may exist on the Temporary Construction Easement or Storm Drainage Easement, which removal is necessary for Grantee's use and enjoyment of easements, rights and privileges granted herein, and Grantee shall also have the right to conduct scientific, geotechnical, archaeological or other studies, investigation or other testing on or below the ground surface of the Temporary Construction Easement or Storm Drainage Easement. However, nothing in this Agreement shall obligate Grantee to take any such action, and Grantor hereby releases, indemnifies, and holds harmless Grantee from any and all claims which in any way pertain to construction or maintenance of the Municipal Storm Sewer, Temporary Construction Easement, or Storm Drainage Easement.
5. *Covenants of Grantor.* Grantor waives all right to any further compensation for the use and enjoyment of the rights and privileges granted herein. Grantor does hereby covenant with the Grantee that Grantor is lawfully seized and possessed of the Servient Property, that it has a good and lawful right to convey said easement, rights and privileges granted herein. Grantor irrevocably binds itself to refrain from making any claim or demand, or to commence, cause, or permit to be prosecuted any action in law or equity against Grantee, or any other person, firm or entity claiming by or through Grantee on account of any damage that may occur or resulting from the installation or the operation of the Temporary Construction Easement.
6. *Running with the Land.* It is intended that each of the Easements, covenants, conditions, rights, and obligations set forth herein shall run with the land and create equitable servitudes in favor of the City Property benefited thereby, shall bind every person having any fee, leasehold, or other interest therein and

shall inure to the benefit of the respective Parties and their successors, assigns, heirs, and personal representatives.

7. *Jurisdiction and Venue* The laws of the State of Georgia shall govern the interpretation, validity, performance, and enforcement of this Agreement. The exclusive jurisdiction and venue for any action arising out of this Agreement shall be the Superior Court of Whitfield County, Georgia, and the parties hereby waive any and all objections or defenses to said jurisdiction and venue.

8. *Severability.* The invalidity of any one of the covenants, agreements, conditions or provisions of this Agreement, or any portion thereof, shall not affect the remaining portions thereof, or any part thereof, and this Agreement shall be modified to substitute in lieu of the invalid provision, a like and valid provision which reflects the agreement of the parties with respect to the covenant, agreement, condition or provision which has been deemed invalid.

9. *Time of Essence.* Except as otherwise specifically provided herein, time is of the essence of this Agreement.

10. *Entire Agreement.* This Agreement and any permanent Storm Drainage Easement executed in connection herewith contain the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby. In the event of any conflict between this Agreement and the permanent Storm Drainage Easement, the terms of the permanent Storm Drainage Easement shall control.

11. *Successors and Assigns.* This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns.

12. *Counterparts.* This Agreement may be executed in several counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed and sealed by Grantor the day and year first above written.

Signed, sealed and delivered

In the presence of:

L. Jackson Sheppard

Unofficial Witness

Tosha Haynes

Notary Public

My commission expires: 04-03-2026

[Not in Seal]



GRANTOR:

Billy Ray Mooney

(Seal)

Billy Ray Mooney

Caroline D. Mooney

(Seal)

Caroline D. Mooney

RECEIPT ACKNOWLEDGED BY:

Signed, sealed and delivered
In the presence of:

Unofficial Witness

Notary Public
My commission expires:
[Notarial Seal]

GRANTEE:

City of Dalton, Georgia

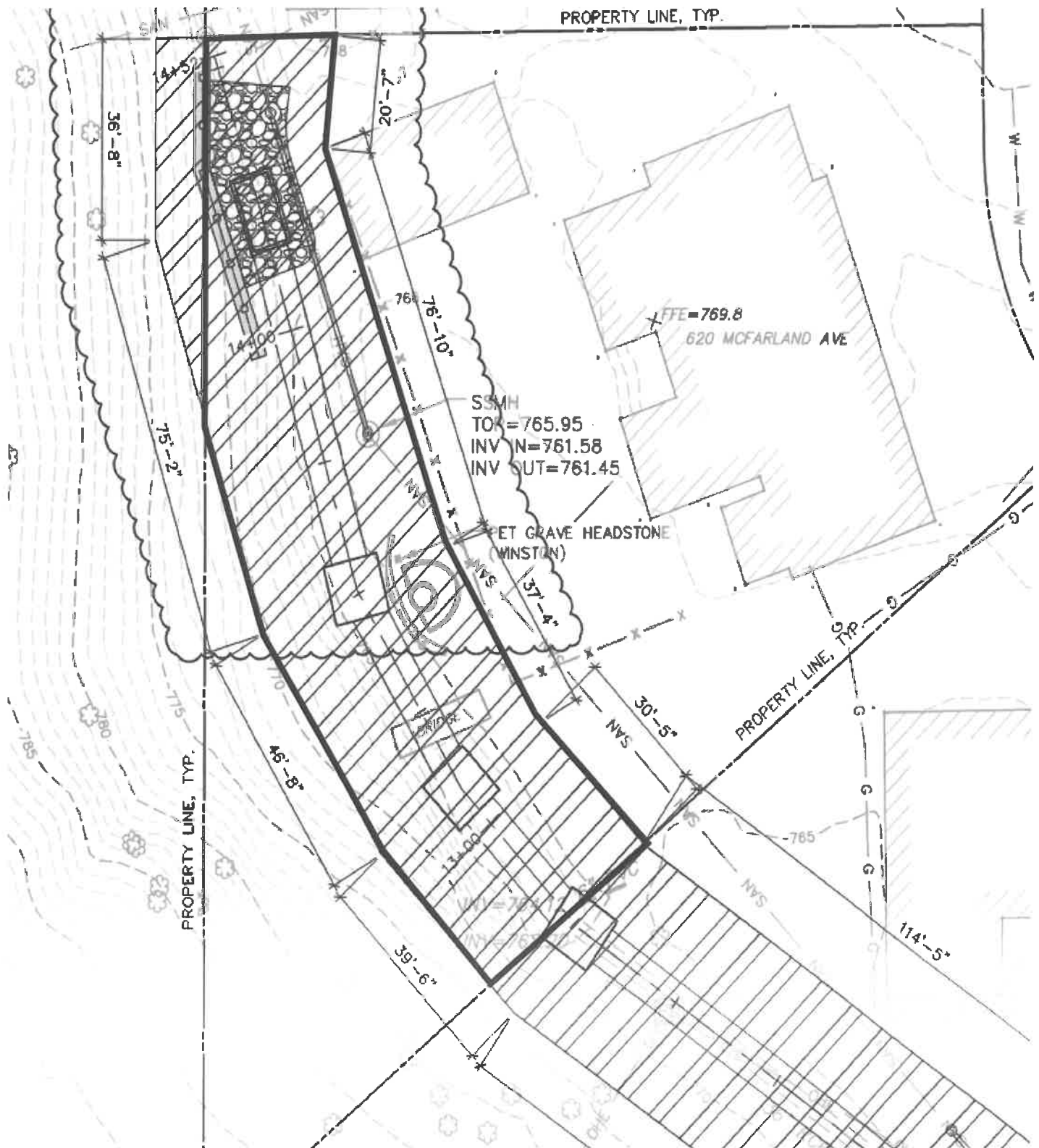
By _____
Title:

EXHIBIT "A"

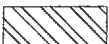

All that tract or parcel of land lying and being in Land Lot 237 of the 12th District and 3rd Section of Whitfield County, Georgia, being LOT NO. 47 OF HAMILTON HEIGHTS SUBDIVISION as shown on the plat of said subdivision of record in Plat Book 1, Page 171, in the Office of the Clerk of the Superior Court of Whitfield County, Georgia, reference to which plat is hereby made and incorporated herein by reference for a more particular description of said property. See deeds in chains of title recorded in Deed Book 79, Page 347 and Deed Book 5563, Page 148, Whitfield County, Georgia.

EXHIBIT "B"

620 McFarland Avenue Temporary Construction Easement



LEGEND

- PROPERTY BOUNDARY
-  TEMPORARY CONSTRUCTION AND PERMANENT DRAINAGE EASEMENT
-  620 MCFARLAND AVENUE TEMPORARY CONSTRUCTION EASEMENT



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 9/16/24

Agenda Item: Traffic Control Change - Brookwood Drive No Parking on East Side

Department: Public Works

Requested By: Chad Townsend

Reviewed/Approved by City Attorney? No

Cost: N/A

Funding Source if Not in Budget N/A

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

See attached Traffic Control Change for Brookwood Drive, which would prohibit parking along the east side of the street.

This Traffic Control Change was reviewed by the Public Works Committee at its August 22nd, 2024, meeting and received a positive recommendation.

PUBLIC WORKS DEPARTMENT

CHAD TOWNSEND, DIRECTOR

ctownsend@daltonga.gov

535 N. Elm Street
P.O. Box 1205
Dalton, GA 30722-1205
Office: (706) 278-7077
FAX: (706) 278-1847



ANNALEE HARLAN SAMS, MAYOR

CITY COUNCIL MEMBERS:

DENNIS MOCK
NICKY LAMA
TYREE GOODLETT
STEVE FARROW

TRAFFIC CONTROL CHANGE

Type: No Parking

Location: East Side of Brookwood Drive

Comments: The purpose of this Traffic Control Change is to establish a No Parking Zone along the east side of Brookwood Drive. The City of Dalton Police Department has identified a safety concern due to vehicles being parked on both sides of the street. This situation narrows the street to a single lane, and it could impede emergency responders' ingress and egress because Brookwood Drive is a dead-end street. If the Traffic Control Change is approved, the Public Works Department will install the required signage.

Date of Approval: _____

Mayor's Signature: _____

BROOKWOOD DRIVE TRAFFIC CONTROL CHANGE





CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 9/16/2024

Agenda Item: Tentative Allocation of Federal Funds for Airfield Electrical Rehabilitation at Airport

Department: Airport

Requested By: Andrew Wiersma

Reviewed/Approved by City Attorney? N/A

Cost: \$65,278

Funding Source if Not in Budget General Fund

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

An allocation of \$1,175,000 in Federal funds provided through the Bipartisan Infrastructure Investment and Jobs Act of 2021 will be tentatively allocated for the replacement of aging electrical infrastructure at the Dalton Airport. Project will include replacing all runway and taxiway lights with LED, replacing rotating beacon, replacing wind-cone, replacing Precision Approach Path Indicators (PAPIs) and all associated wiring. Local match funding is required in the amount of \$65,278. Letter of response is requested by GDOT by 9/23/24.



Russell R. McMurry, P.E., Commissioner
One Georgia Center
600 West Peachtree NW
Atlanta, GA 30308
(404) 631-1990 Main Office

August 14, 2024

Via Email

The Honorable Annalee Harlan Sams, Mayor
City of Dalton
P.O. Box 1205
Dalton, Georgia 30720

Dear Mayor Sams:

The Department is pleased to announce a tentative allocation of federal funding assistance and includes BIL in the amount of \$1,175,000 to **Replace Runway and Taxiway Electrical, PAPIs, Rotating Beacon and Windcone** at the Dalton Municipal Airport.

Please confirm, by letter, no later than **September 23, 2024**, your intent to proceed with and fund this project in the state's Fiscal Year 2025, which ends June 30, 2025. State and/or federal funding if unconfirmed by this date may be reassigned.

State funding assistance must be formally requested by letter to the Department's Commissioner. See attached sample letter. **These projects will require matching funds from City of Dalton estimated in the amount of \$65,278.** This is a tentative allocation of funds, the actual contract amount will be based on preapproved design, planning and engineering costs and/or competitive bids received to accomplish the project. Any work seeking reimbursement with federal funds must have been reviewed and approved by the Department prior to work commencing to be considered eligible.

As a reminder, projects containing professional services estimated to be over \$100,000 require an independent fee estimate (IFE) be conducted in accordance AC 150/5100-14E - Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects. These services are eligible for reimbursement at 90%.

Damon Carr has been assigned as your Project Manager to assist in this tentative allocation award, including but not limited to, overall project coordination, federal and state guidance, and project review and scheduling. Please communicate with your project manager each month regarding your project's status and schedule.

As acknowledgement to this tentative allocation award, please provide a confirmation letter. See attached example.

Please contact Damon Carr, Aviation Project Manager, at (470) 715-5494 if you have any questions. We look forward to the successful completion of this project.

Sincerely,

Leigh Ann Trainer

Digitally signed by Leigh Ann
Trainer
DN: C=US, E=ltrainer@dot.ga.gov,
O=GDOT, OU=Division of
Intermodal, CN=Leigh Ann Trainer
Date: 2024.08.14 16:36:01-04'00'

Leigh Ann Trainer, Assistant Director
Division of Intermodal

cc: Micah Gravley, State Transportation Board
Andrew Weirsma, Airport Manager

Attachment

AIRPORT MANAGER

ANDREW WIERSMA
P.O. BOX 1205
DALTON, GEORGIA 30722
AIRPORT (706) 259-2200
CELL (706) 618-4384
awiersma@daltonga.gov



AIRPORT AUTHORITY

DANNY MORGAN, CHAIRMAN
EARL BOYD
CHESTER CLARK
BENNY DUNN
LUIS PRIETO
www.daltonga.gov

September 16, 2024

Mr. Russell R. McMurry, P.E., Commissioner
Georgia Department of Transportation
600 W. Peachtree St., NW
Atlanta, GA 30308

Attn: Tracie D. Kleine, Assistant Aviation Program Manager

Dear Commissioner McMurry:

By copy of this letter, we confirm our intent to proceed with and fund **Replace Runway and Taxiway Electrical, PAPIs, Rotating Beacon and Windcone** at the Dalton Municipal Airport.

1. In accordance with Department policy, we respectfully request state funding assistance in the amount of 50% of the eligible nonfederal share of the federal project.
2. We acknowledge that time is of the essence and will work with our designated aviation project manager to develop an overall project schedule. This schedule shall be submitted to our project manager no later than October 25, 2024.

In addition, it is understood if the agreed upon scheduled contract date is not met the Department will consider moving the project to later in FY25 or consider deferring the project to the next fiscal year.

Sincerely,

Annalee Sams, Mayor
City of Dalton

cc: Damon Carr, Aviation Project Manager
Andrew Wiersma, Airport Manager



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 9-16-24

Agenda Item: Agreement for Sale and Purchase of Real Estate - N. Glenwood Avenue Drainage Improvement Project

Department: Administration

Requested By: Andrew Parker

Reviewed/Approved by City Attorney? Yes

Cost: \$45,000

Funding Source if Not in Budget

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

Agreement for Sale and Purchase of Real Estate - Maria Guadalupe Sandoval and Jose Nunez - N. Glenwood Avenue for Glenwood Avenue Drainage Improvement Project

AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

This Agreement for the Sale and Purchase of Real Property ("this Agreement) dated as of the Effective Date (as defined in Section 12k below) by and between, Maria Guadalupe Sandoval (the "Seller") and the City of Dalton, Georgia (the "Purchaser").

W I T N E S S E T H:

1. **Property.** Seller, in consideration of the mutual covenants herein contained, agrees to sell and Purchaser agrees to purchase certain real estate more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, together with all fixtures and systems as are attached thereto, all improvements thereon, and all appurtenances thereto (the "Property"). The Property has a mailing address as follows: 12-230-10-16/WHITEFIELD CO / GLENWOOD AVE

2. **Purchase Price.** The purchase price of the Property shall be \$ 45,000.00 payable as on the date of Closing of this transaction payable by cashier's check or by wired Federal Funds.

3. **Closing Costs.** The Purchaser shall all closing costs. The Seller shall pay the fees and to prepare and record title curative documents if any.

4. **Deed and Title.** Seller warrants that at the time of Closing Seller will convey good and marketable fee simple title to the Property. The parties agree that Seller may discharge any outstanding liens and encumbrances out of the purchase money at Closing. At Closing, Seller shall deliver to Purchaser an affidavit concerning the absence of boundary line disputes on the Property, the possession of the Property by Seller, improvements or repairs made on the Property within three (3) months of the Closing date, the absence of legal proceedings against Seller, and such other matters as Purchaser may reasonably require. Purchaser and Seller agree to comply with and to execute and deliver such certifications, affidavits and statements as are required at Closing in order to meet the requirements of the United States Code and the Official Code of Georgia Annotated, including without limitation Internal Revenue Code Section 1445 (Foreign/Non-Foreign Sellers). At Closing Seller will furnish Purchaser with a general warranty deed, properly executed by Seller and delivered to Purchaser, in proper form.

5. **Time to Examine Title.** Purchaser shall have a reasonable time after execution of this Agreement in which to examine title to the Property and deliver to Seller a written statement of objections affecting the marketability of said title. Seller, upon receipt of such written statement from Purchaser, shall have a reasonable time after such receipt in which to satisfy all valid objections. If Seller fails to satisfy such valid objections within said reasonable time, then, at the option of Purchaser, evidenced by written notice to Seller, this Agreement shall be null and void and neither party shall have any further obligation to the other, except the Seller's obligation to the Purchaser to return the earnest money paid. It is understood and agreed that the title herein required to be furnished by the Seller shall be good and marketable and that marketability shall be determined in accordance with Georgia law as supplemented by the Title Standards of the State Bar of Georgia ("Title Standards"). It is also agreed that any defect in the title which comes within the scope of any of said Title Standards shall not constitute a valid objection on the part of Purchaser provided Seller furnishes the affidavits or other title papers, if any, required in the applicable Title Standard to cure such defect.

6. **Proration.** Taxes and other assessments assessed against the Property for the calendar year during which the Closing occurs shall be prorated as of the date of Closing. If the taxes and other assessments of

said calendar year are not known on the Closing date, the proration shall be based upon the actual taxes and other assessments for the immediately preceding calendar year, and Purchaser and Seller shall adjust the proration at such time as the actual taxes or other assessments for the calendar year of the Closing are billed.

7. **Closing.** The closing date of this transaction (the "Closing") shall be on TBD at the offices of The Minor Firm, 745 College Drive, Suite B, Dalton, GA 30720, at 1:30 P.M., or at such earlier date and at such other place as the parties may agree. Purchaser agrees to allow Seller to retain possession of the Property until midnight of the day of Closing, rent free. Seller shall deliver the Property clean and free of debris at time of possession. At Closing the Seller shall provide the Purchaser with all keys, door openers, codes and other similar equipment pertaining to the Property.

8. **Risk of Loss.** Seller shall bear all risk of loss or damage from any casualty suffered by any and all improvements and personal property located on the Property until such time as legal title has passed to or possession given to Purchaser, but shall be entitled to recover from the Purchaser for any damage or loss caused by Purchaser's negligence. In the event that the improvements or personal property sustain substantial damage or total destruction, prior to the date of Closing, either party shall have the right to declare this Agreement null and void, and the earnest money shall then be returned to Purchaser and the parties shall have no further liability hereunder.

9. **Agreement to Cooperate.** All parties agree that such documentation as is reasonably necessary to carry out the obligations of this Agreement shall be produced, executed and delivered by such parties at the time such documentation is required to fulfill the terms and conditions of this Agreement.

10. **No Broker.** The parties represent to each other that they have dealt with no broker or finder in connection with this transaction, that no broker or finder has brought the Property to the attention of Purchaser, or Purchaser to the attention of Seller, and that no broker or finder is entitled to a commission or other compensation in connection with this transaction. Each party agrees to indemnify the other party for all costs and expenses incurred, including reasonable attorneys' fees, as a result of the claim of any broker or finder based on dealings with said party.

11. **Remedies.** In the event either party should wrongfully fail or refuse to carry out the terms of this Agreement, the other party shall have the right to elect to (a) declare this Agreement null and void, in which event the earnest money may be delivered to the non-defaulting party as liquidated damages, or (b) affirm this contract and enforce its specific performance or recover damages for its breach, in which case the earnest money shall be delivered to the non-defaulting party to apply on the purchase price or on the damages recovered.

12. **Miscellaneous Provisions.**

a. *Controlling Law.* This Agreement shall be controlled by the laws of the State of Georgia.

b. *Entire Agreement.* This Agreement constitutes the sole and entire agreement between the parties and no modification of this Agreement shall be binding unless attached to this Agreement and signed by all parties to this Agreement. No representation, promise, inducement, oral or otherwise, not included in this Agreement shall be binding upon any party to this Agreement.

c. *Severability and Time of Essence.* Time is of the essence of each and every decision of this Agreement. Every provision of this Agreement is intended to be severable, and, if any term or provision is determined to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

- d. *Captions, Gender and Number.* The use of titles and captions under this Agreement is for convenience only and shall not be deemed in any way to alter, amend, or modify the terms and conditions of this Agreement. Words of the masculine gender shall be deemed and construed to include words of the feminine and neuter gender where the case may require, and the singular shall include the plural as the case may require.
- e. *Time of the Essence.* Time is of the essence of each and every provision of this Agreement.
- f. *Integration.* This Agreement and any other agreement contemplated hereby supersede all prior negotiations, agreements, and understandings between the parties with respect to the subject matter hereof and thereof, constitute the entire agreement between the parties with respect to the subject matter hereof and thereof.
- g. *Deadline Dates; Business Day.* If any deadline date herein falls on a date that is not a Business Day, such date shall automatically be extended until the next Business Day. For all purposes under this Agreement, the term "Business Day" or "Business Days" shall mean any day other than a Saturday, Sunday, or national holiday on which National Banks in the county in which the Property is located are not open for business.
- h. *Notices.* All notices, demands, consents, approvals, and other requests which may be given or which are required to be given by either party to the other (each a "Notice") shall be in writing and may be: (A) hand delivered, (B) delivered by way of overnight delivery service (such as Federal Express Corporation or United Parcel Service, or other nationally recognized overnight courier service with confirmation of delivery), or (C) transmitted via electronic mail provided that the sender must obtain a written confirmation of receipt by way of electronic confirmation showing the date and time of the transmission. In the event Notice is provided by electronic mail a copy of the Notice must also be delivered the next day by method (A) or (B) above. Notices cannot be given through the United States Postal Service or by mail under any means. All Notices shall be deemed effective either: (A) upon delivery if hand delivered, as evidenced by written receipt therefor, whether or not actually received by the person to whom addressed; (B) on the day deposited into the custody of a nationally recognized overnight delivery service for overnight next day delivery, addressed to such party at the address indicated herein; or (C) the date of the receipt of a confirmation of electronic mail is received by the sender if a confirmation of receipt is received by the sender. Refusal to accept, or inability to deliver because of changed address of which no notice was given, shall be deemed receipt on the date of such refusal of delivery or inability to deliver. Either party may, from time to time, change the address to which Notices shall be sent by like Notice given to the other party hereto, except that no party may change its address to other than a street address. Any Notice given that does not conform to this paragraph shall be effective only upon receipt. The addresses for Notices given pursuant to this Agreement shall be at the address indicated below.
- i. *Electronic Signatures.* Handwritten signatures to this Agreement transmitted by telecopy or electronic transmission (for example, through the use of a Portable Document Format or "PDF" file) shall be valid and effective to bind the parties so signing. It is expressly agreed that each party to this Agreement shall be bound by its own telecopied or electronically transmitted handwritten signature and shall accept the telecopy or electronically transmitted handwritten signature of the other party to this Agreement. The parties hereto agree that the use of telecopied or electronic signatures for the execution of this Agreement shall be legal and binding and shall have the same full force and effect as if originally signed.

j. *Counterparts.* This Agreement may be executed in several counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

k. *Effective Date.* For purposes of this Agreement, the term "Effective Date" shall be the last date on which this Agreement has been fully executed on behalf of Seller and Purchaser as indicated by the dates adjacent to the signatures of the parties set forth below.

l. *Time Limit of Offer.* The offer made herein by City of Dalton shall expire at 12:00 o'clock p.m. on the date 7/30/2024.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the year above written.

SELLER:

PURCHASER:

The City of Dalton

X maria G Sandoval (Seal)

By: _____ (Seal)

(Seal)

Seller Contact Information:

Purchaser Contact Information:

Mailing Address:

Mailing Address:

Maria Guadalupe Sandoval

171 Santa Fe Trail Dalton GA

30720

Phone: 706.847.5405

Email: _____

Phone: _____

Email: _____

Date of Execution: 8/21, 2024

Date of Execution: _____, 20____.

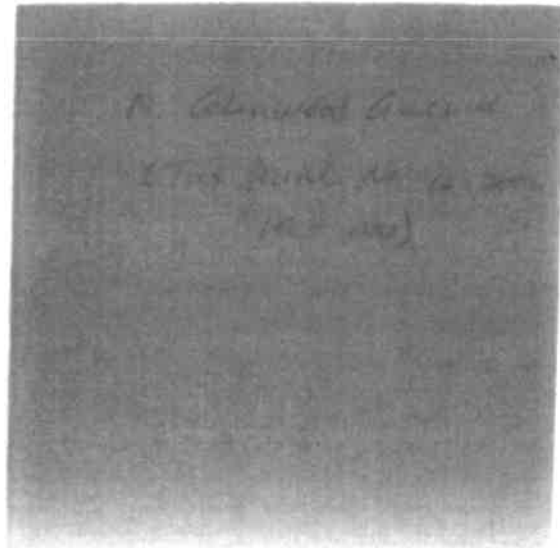


Dev S Brooks
8/21/2024

Exhibit "A"

All that tract or parcel of land lying and being in Land Lot No. 200 of the 12th District and 3rd Section of Whitfield County, Georgia, in the City of Dalton, and being more particularly known and described according to plat prepared by R. E. Smith, Registered Land Surveyor, dated March 2, 1971, a copy whereof being attached to deed recorded in Deed Book 269, Page 356, in the Office of the Clerk of the Superior Court, Whitfield County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the east side of North Glenwood Avenue which point is located 136.4 feet south of the intersection of Matilda Street and North Glenwood Avenue, as measured along the east side of North Glenwood Avenue; thence south 80 degrees 52 minutes east 142.6 feet; thence south 10 degrees 21 minutes west 8.9 feet; thence south 89 degrees 11 minutes west 144.8 feet to the east side of North Glenwood Avenue; thence north 09 degrees 30 minutes east 33.8 feet along the east side of North Glenwood Avenue to the point of beginning.



AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

This Agreement for the Sale and Purchase of Real Property ("this Agreement") dated as of the Effective Date (as defined in Section 12k below) by and between, Jose Nunez (the "Seller") and the City of Dalton, Georgia (the "Purchaser").

W I T N E S S E T H:

1. **Property.** Seller, in consideration of the mutual covenants herein contained, agrees to sell and Purchaser agrees to purchase certain real estate more particularly described in Exhibit "A" attached hereto and incorporated herein by reference, together with all fixtures and systems as are attached thereto, all improvements thereon, and all appurtenances thereto (the "Property"). The Property has a mailing address as follows: 12-200-10-16 / WATFIELD CO. GLENWOOD DR NE

2. **Purchase Price.** The purchase price of the Property shall be \$ 45,000.00 payable as on the date of Closing of this transaction payable by cashier's check or by wired Federal Funds.

3. **Closing Costs.** The Purchaser shall all closing costs. The Seller shall pay the fees and to prepare and record title curative documents if any.

4. **Deed and Title.** Seller warrants that at the time of Closing Seller will convey good and marketable fee simple title to the Property. The parties agree that Seller may discharge any outstanding liens and encumbrances out of the purchase money at Closing. At Closing, Seller shall deliver to Purchaser an affidavit concerning the absence of boundary line disputes on the Property, the possession of the Property by Seller, improvements or repairs made on the Property within three (3) months of the Closing date, the absence of legal proceedings against Seller, and such other matters as Purchaser may reasonably require. Purchaser and Seller agree to comply with and to execute and deliver such certifications, affidavits and statements as are required at Closing in order to meet the requirements of the United States Code and the Official Code of Georgia Annotated, including without limitation Internal Revenue Code Section 1445 (Foreign/Non-Foreign Sellers). At Closing Seller will furnish Purchaser with a general warranty deed, properly executed by Seller and delivered to Purchaser, in proper form.

5. **Time to Examine Title.** Purchaser shall have a reasonable time after execution of this Agreement in which to examine title to the Property and deliver to Seller a written statement of objections affecting the marketability of said title. Seller, upon receipt of such written statement from Purchaser, shall have a reasonable time after such receipt in which to satisfy all valid objections. If Seller fails to satisfy such valid objections within said reasonable time, then, at the option of Purchaser, evidenced by written notice to Seller, this Agreement shall be null and void and neither party shall have any further obligation to the other, except the Seller's obligation to the Purchaser to return the earnest money paid. It is understood and agreed that the title herein required to be furnished by the Seller shall be good and marketable and that marketability shall be determined in accordance with Georgia law as supplemented by the Title Standards of the State Bar of Georgia ("Title Standards"). It is also agreed that any defect in the title which comes within the scope of any of said Title Standards shall not constitute a valid objection on the part of Purchaser provided Seller furnishes the affidavits or other title papers, if any, required in the applicable Title Standard to cure such defect.

6. **Proration.** Taxes and other assessments assessed against the Property for the calendar year during which the Closing occurs shall be prorated as of the date of Closing. If the taxes and other assessments of

said calendar year are not known on the Closing date, the proration shall be based upon the actual taxes and other assessments for the immediately preceding calendar year, and Purchaser and Seller shall adjust the proration at such time as the actual taxes or other assessments for the calendar year of the Closing are billed.

7. **Closing.** The closing date of this transaction (the "Closing") shall be on TBD at the offices of The Minor Firm, 745 College Drive, Suite B, Dalton, GA 30720, at 1:30 P.M., or at such earlier date and at such other place as the parties may agree. Purchaser agrees to allow Seller to retain possession of the Property until midnight of the day of Closing, rent free. Seller shall deliver the Property clean and free of debris at time of possession. At Closing the Seller shall provide the Purchaser with all keys, door openers, codes and other similar equipment pertaining to the Property.

8. **Risk of Loss.** Seller shall bear all risk of loss or damage from any casualty suffered by any and all improvements and personal property located on the Property until such time as legal title has passed to or possession given to Purchaser, but shall be entitled to recover from the Purchaser for any damage or loss caused by Purchaser's negligence. In the event that the improvements or personal property sustain substantial damage or total destruction, prior to the date of Closing, either party shall have the right to declare this Agreement null and void, and the earnest money shall then be returned to Purchaser and the parties shall have no further liability hereunder.

9. **Agreement to Cooperate.** All parties agree that such documentation as is reasonably necessary to carry out the obligations of this Agreement shall be produced, executed and delivered by such parties at the time such documentation is required to fulfill the terms and conditions of this Agreement.

10. **No Broker.** The parties represent to each other that they have dealt with no broker or finder in connection with this transaction, that no broker or finder has brought the Property to the attention of Purchaser, or Purchaser to the attention of Seller, and that no broker or finder is entitled to a commission or other compensation in connection with this transaction. Each party agrees to indemnify the other party for all costs and expenses incurred, including reasonable attorneys' fees, as a result of the claim of any broker or finder based on dealings with said party.

11. **Remedies.** In the event either party should wrongfully fail or refuse to carry out the terms of this Agreement, the other party shall have the right to elect to (a) declare this Agreement null and void, in which event the earnest money may be delivered to the non-defaulting party as liquidated damages, or (b) affirm this contract and enforce its specific performance or recover damages for its breach, in which case the earnest money shall be delivered to the non-defaulting party to apply on the purchase price or on the damages recovered.

12. **Miscellaneous Provisions.**

a. *Controlling Law.* This Agreement shall be controlled by the laws of the State of Georgia.

b. *Entire Agreement.* This Agreement constitutes the sole and entire agreement between the parties and no modification of this Agreement shall be binding unless attached to this Agreement and signed by all parties to this Agreement. No representation, promise, inducement, oral or otherwise, not included in this Agreement shall be binding upon any party to this Agreement.

c. *Severability and Time of Essence.* Time is of the essence of each and every decision of this Agreement. Every provision of this Agreement is intended to be severable, and, if any term or provision is determined to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

d. *Captions, Gender and Number.* The use of titles and captions under this Agreement is for convenience only and shall not be deemed in any way to alter, amend, or modify the terms and conditions of this Agreement. Words of the masculine gender shall be deemed and construed to include words of the feminine and neuter gender where the case may require, and the singular shall include the plural as the case may require.

e. *Time of the Essence.* Time is of the essence of each and every provision of this Agreement.

f. *Integration.* This Agreement and any other agreement contemplated hereby supersede all prior negotiations, agreements, and understandings between the parties with respect to the subject matter hereof and thereof, constitute the entire agreement between the parties with respect to the subject matter hereof and thereof.

g. *Deadline Dates; Business Day.* If any deadline date herein falls on a date that is not a Business Day, such date shall automatically be extended until the next Business Day. For all purposes under this Agreement, the term "Business Day" or "Business Days" shall mean any day other than a Saturday, Sunday, or national holiday on which National Banks in the county in which the Property is located are not open for business.

h. *Notices.* All notices, demands, consents, approvals, and other requests which may be given or which are required to be given by either party to the other (each a "Notice") shall be in writing and may be: (A) hand delivered, (B) delivered by way of overnight delivery service (such as Federal Express Corporation or United Parcel Service, or other nationally recognized overnight courier service with confirmation of delivery), or (C) transmitted via electronic mail provided that the sender must obtain a written confirmation of receipt by way of electronic confirmation showing the date and time of the transmission. In the event Notice is provided by electronic mail a copy of the Notice must also be delivered the next day by method (A) or (B) above. Notices cannot be given through the United States Postal Service or by mail under any means. All Notices shall be deemed effective either: (A) upon delivery if hand delivered, as evidenced by written receipt therefor, whether or not actually received by the person to whom addressed; (B) on the day deposited into the custody of a nationally recognized overnight delivery service for overnight next day delivery, addressed to such party at the address indicated herein; or (C) the date of the receipt of a confirmation of electronic mail is received by the sender if a confirmation of receipt is received by the sender. Refusal to accept, or inability to deliver because of changed address of which no notice was given, shall be deemed receipt on the date of such refusal of delivery or inability to deliver. Either party may, from time to time, change the address to which Notices shall be sent by like Notice given to the other party hereto, except that no party may change its address to other than a street address. Any Notice given that does not conform to this paragraph shall be effective only upon receipt. The addresses for Notices given pursuant to this Agreement shall be at the address indicated below.

i. *Electronic Signatures.* Handwritten signatures to this Agreement transmitted by telecopy or electronic transmission (for example, through the use of a Portable Document Format or "PDF" file) shall be valid and effective to bind the parties so signing. It is expressly agreed that each party to this Agreement shall be bound by its own telecopied or electronically transmitted handwritten signature and shall accept the telecopy or electronically transmitted handwritten signature of the other party to this Agreement. The parties hereto agree that the use of telecopied or electronic signatures for the execution of this Agreement shall be legal and binding and shall have the same full force and effect as if originally signed.

j. *Counterparts.* This Agreement may be executed in several counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

k. *Effective Date.* For purposes of this Agreement, the term "Effective Date" shall be the last date on which this Agreement has been fully executed on behalf of Seller and Purchaser as indicated by the dates adjacent to the signatures of the parties set forth below.

l. *Time Limit of Offer.* The offer made herein by City of Dalton shall expire at 12:00 o'clock p.m. on the date 7/30/2024.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the year above written.

SELLER:

PURCHASER:

Jose Nunez (Séal)

(Seal)

The City of Dalton

By: _____ (Seal)

Seller Contact Information:
Mailing Address:

Purchaser Contact Information:
Mailing Address:

Jose Nunez
2249 Lakeshore Dr. Port Arthur, TX
77640
Phone: 409.540.0436
Email: _____

Phone: _____
Email: _____

Date of Execution:

7/15, 2024

Date of Execution: _____, 20____

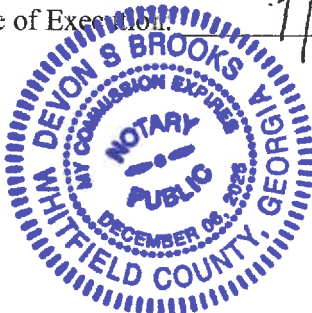
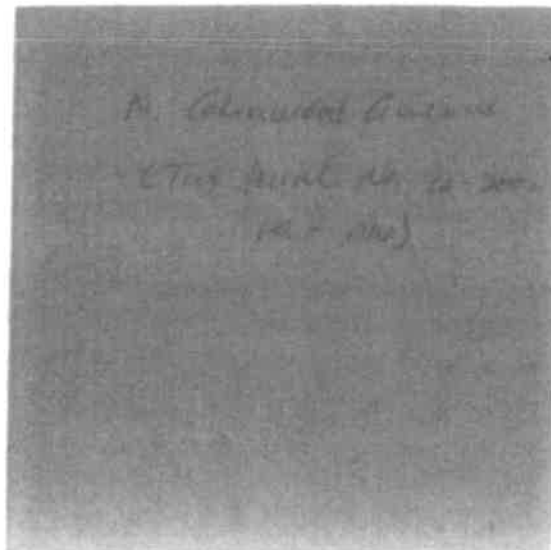


Exhibit "A"

All that tract or parcel of land lying and being in Land Lot No. 200 of the 12th District and 3rd Section of Whitfield County, Georgia, in the City of Dalton, and being more particularly known and described according to plat prepared by R. E. Smith, Registered Land Surveyor, dated March 2, 1971, a copy whereof being attached to deed recorded in Deed Book 269, Page 356, in the Office of the Clerk of the Superior Court, Whitfield County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the east side of North Glenwood Avenue which point is located 136.4 feet south of the intersection of Matilda Street and North Glenwood Avenue, as measured along the east side of North Glenwood Avenue; thence south 80 degrees 52 minutes east 142.6 feet; thence south 10 degrees 21 minutes west 8.9 feet; thence south 89 degrees 11 minutes west 144.8 feet to the east side of North Glenwood Avenue; thence north 09 degrees 30 minutes east 33.8 feet along the east side of North Glenwood Avenue to the point of beginning.





CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 9-16-24

Agenda Item: Housing Authority Revenue Bonds
Department: Administration

Requested By: Andrew Parker

Reviewed/Approved by City Attorney? Yes

Cost: Bonds Not to Exceed \$11,500,000

Funding Source if Not in Budget

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

Certificate Approving the Issuance of Revenue Bonds and Notes by the Housing Authority of the City of Dalton for the Benefit of SP Mountain Woods LLC

**CERTIFICATE OF THE MAYOR OF
THE CITY OF DALTON, GEORGIA APPROVING THE ISSUANCE
OF REVENUE BONDS AND NOTES BY THE
HOUSING AUTHORITY OF THE CITY OF DALTON
FOR THE BENEFIT OF SP MOUNTAIN WOODS LLC**

WHEREAS, the Housing Authority of the City of Dalton (the “Authority”) has considered the application of SP Mountain Woods LLC, a Florida limited liability company (the “Borrower”), requesting that the Authority assist the Borrower in the financing of a multifamily housing rental development by the issuance of tax exempt revenue bonds pursuant to a plan of finance in an aggregate principal amount not to exceed \$11,500,000 (the “Bonds”), the proceeds of which will be loaned to the Borrower to finance the acquisition, rehabilitation and equipping of the multifamily housing development consisting of approximately 100 apartment units located at 1000 Ponderosa Lane, Dalton, Whitfield County, Georgia 30720 (the “Project”);

WHEREAS, under Treasury Regulation Section 1.147(f), the City of Dalton, Georgia (the “City”) must approve the Bonds because it is the governmental unit on behalf of which the Bonds are to be issued by the Housing Authority of the City of Dalton and because it is the governmental unit having jurisdiction over the area in which the facilities are to be located with respect to which financing is to be provided from the proceeds of the Bonds;

WHEREAS, under Treasury Regulation Section 1.147(f)-1(d), the City will approve the Bonds only if its applicable elected representative approves the Bonds following a public hearing held in a location which, under the facts and circumstances, is convenient for residents of the City and for which there was reasonable public notice;

WHEREAS, the Mayor of the City of Dalton, Georgia is the applicable elected representative of the City, within the meaning of Treasury Regulation Section 1.147(f)-1(e), because he is the City’s chief elected executive officer popularly elected at-large by the voters of the City;

WHEREAS, on August 22, 2024, at 11:30 a.m. in the offices of the Authority at 405 Sequoyah Place, Dalton, Georgia 30721, the Authority, through its designated public hearing officer, conducted a public hearing on the Bonds and the location and nature of the facilities to be financed with the proceeds of the Bonds, notice of which was published in the *Daily Citizen* on August 9, 2024; and

WHEREAS, the Authority has delivered to the Mayor of the City of Dalton, Georgia the Certificate of the Hearing Officer regarding the conduct of the public hearing.

**NOW, THEREFORE, THE MAYOR OF THE CITY OF DALTON, GEORGIA
HEREBY CERTIFIES AS FOLLOWS:**

1. The Mayor of the City of Dalton, Georgia hereby approves the Bonds:
 - (a) the proceeds of which will finance a portion of the cost of the acquisition, rehabilitation and equipping of a multifamily housing rental development consisting of approximately 100 apartment units,

- (b) the maximum aggregate face amount of which will be \$11,500,000,
- (c) the initial owner of the facilities to be financed from the proceeds of which will be SP Mountain Woods LLC, a Florida limited liability company, and
- (d) the location of the facility to be financed from the proceeds of which will be 1000 Ponderosa Lane, Dalton, Whitfield County, Georgia 30720 (the "Project").

2. This approval by the Mayor is solely for the purpose of complying with, and is to be construed in accordance with, the provisions of Section 147(f) of the Internal Revenue Code of 1986, as amended, and shall not result in or impose any pecuniary liability upon or constitute a lien upon the property of or a claim against the City, Whitfield County, Georgia (the "County"), the State of Georgia or of any city, county or political subdivision thereof. The Bonds shall not constitute an indebtedness or obligation of the City, the County, the State or of any city, county or political subdivision thereof, but the Bonds shall be payable solely from the revenues derived from the Project and pledged to the payment thereof, and no owner of any of the Bonds shall ever have the right to compel any exercise of the taxing power of the City, the County, the State or of any city, county or political subdivision thereof, nor to enforce the payment thereof against any property of the City, the County, the State or of any such city, county or political subdivision. This approval by the Mayor does not constitute an endorsement of the Bonds or of the creditworthiness of the Borrower or the Project.

APPROVED this ____ day of August, 2024.

Annalee H. Sams
Mayor, City of Dalton, Georgia



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 9-16-2024

Agenda Item: John Davis Low Voltage RFP – Busker Communications, INC.

Department: Recreation Department

Requested By: Will Chappell

Reviewed/Approved by City Attorney? Yes

Cost: \$179,974.76

Funding Source if Not in Budget 2020 - SPLOST

Please Provide A Summary of Your Request, Including Background Information to Explain the Request:

The City of Dalton published a request for proposals in late April and held an on-site visit in May with all the eight (8) vendors interested in submitting a proposal. The city of Dalton received four (4) proposals which they were very impressive, but all had some misquoted items. The city then published a request for a best and final submittal with defined counts and finalized items to be quoted on. The city set a budget of \$180,000 which Buskar Communications, INC. came in slightly under budget. It is important to note that Buskar Communications, INC. was not the lowest bid; it was the third lowest bid, but Buskar Communications, INC. scored very well in our grading matrix. Buskar Communications, INC. will be doing the low voltage for the new John Davis recreation building and the Pool Access Building which will include: CAT6A network cable installation for WIFI, Cameras, and Network devices. They will also install the security cameras for the facility.

**THE CONTRACT FOR CONSTRUCTION
AND INCORPORATED GENERAL CONDITIONS**
Low Voltage – John Davis

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THE CONTRACT FOR CONSTRUCTION AND INCORPORATED GENERAL CONDITIONS

This Contract is made by and between the City of Dalton, GA (the "Owner") and Busker Communications INC (the "Contractor") under seal for construction of A New Building for Dalton Police Department (the "Project"). The Owner and the Contractor hereby agree as follows:

ARTICLE 1. THE CONTRACT AND THE CONTRACT DOCUMENTS

1.1 The Contract

1.1.1 The Contract between the Owner and the Contractor, of which this Contract is a part, consists of the Contract Documents. It shall be effective on the date this Contract is executed by the last party to execute it.

1.2 The Contract Documents

1.2.1 The Contract Documents consist of this Contract, the Specifications, the Drawings, Supplemental Conditions, all Change Orders and Field Orders issued hereafter, any other amendments hereto executed by the parties hereafter, together with the following (if any):

1.2.2 The Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents, the Shop Drawings and the Product Data, and shall give written notice to the Owner and the Architect of any inconsistency, ambiguity, error, or omission that the Contractor discovers regarding these documents before proceeding with the affected Work. The issuance or the express or implied approval by the Owner or the Architect of the Contract Documents, Shop Drawings, or Product Data shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. The Owner has requested the Architect to only prepare documents for the Project, including the Drawings and Specifications, which are accurate, adequate, consistent, coordinated and sufficient for construction. **HOWEVER, THE OWNER MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS.** By the execution hereof, the Contractor acknowledges and represents that it has received, reviewed, and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representation or warranties by the Owner concerning such documents as no such representation or warranties have been or are hereby made.

1.2.3 The Contractor herein acknowledges and represents that prior to the submission of its bid, and prior to its execution of this Contract, it visited and carefully examined the Project site and any and all structures located thereon, and it thoroughly correlated the results of such visit and examination with the requirements of the Contract Documents. The Contractor further acknowledges that it has become familiar with the local conditions

under which the Work is to be performed, and the cost of properly addressing such conditions during performance of the Work is included in the Contract Price.

1.2.4 Neither the organization of any of the Contract Documents into divisions, sections, paragraphs, articles, or other categories nor the organization or arrangement of the Design shall control the Contractor in dividing the Work or in establishing the extent or scope of the Work to be performed by Subcontractors. Unless otherwise provided herein, a reference to "Article" or "Section" shall include all sections, subsections, and other subdivisions of such Section or Article.

1.2.5

1.3 Ownership of Contract Documents

1.3.1 The Contract Documents, and each of them, shall remain the property of the Owner. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project. However, in no event shall Contractor use, or permit to be used, any or all of such Contract Documents on other projects without the Owner's prior written authorization.

1.4 Hierarchy of Contract Documents

1.4.1 In the event of any conflict, discrepancy, or inconsistency among any of the Contract Documents, the following hierarchy shall control: (a) as between figures given on Drawings and the scaled measurements, the figures shall govern; (b) as between large scale drawings and small scale drawings, the large scale shall govern; (c) as between Drawings and Specifications, the requirements of the Specifications shall govern; (d) as between the Contract for Construction and Incorporated General Conditions and the Specifications, the requirements of the Contract for Construction and Incorporated General Conditions shall govern; (e) as between any Supplemental Conditions and the Contract for Construction and Incorporated General Conditions, the requirements of the Supplemental Conditions shall govern. As set forth hereinabove, any and all conflicts, discrepancies, or inconsistencies shall be immediately reported to the Owner and the Architect in writing by the Contractor.

ARTICLE 2. THE WORK

2.1 The Contractor shall perform all of the Work required, implied or reasonably inferable from, this Contract.

2.2 The term "Work" shall mean whatever is done by or required of the Contractor to perform and complete its duties under this Contract, including the following: (i) construction of the whole or a designated part of the Project; (ii) furnishing of any required surety bonds and insurance; and (iii) the provision or furnishing of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools,

transportation, storage, power, permits and licenses required of the Contractor. Fuel, heat, light, cooling and all other utilities as required by this Contract shall also be deemed part of the Work. The Work to be performed by the Contractor is generally described as follows:

ARTICLE 3. CONTRACT TIME

3.1 Time and Damages for Delay

3.1.1 The Contractor shall commence the Work on September 26th, 2024 and shall achieve Substantial Completion of the Work no later than October 1st, 2025. The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion, shall constitute the "Contract Time."

3.1.2 The Contractor shall pay the Owner the sum of **\$200** per day for each and every calendar day of delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion of the Work. Any sums due and payable under this Section shall be payable not as a penalty but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at or before the time of executing this Contract. When the Owner reasonably believes that Substantial Completion will be delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to cover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. Notwithstanding any other provision of this Section, the Owner and the Contractor expressly agree that the liquidated damages set forth herein do not contemplate, nor do they cover, any Funding Delay Damages as identified in Section 5.6.1.2. Any such Funding Delay Damages shall be in addition to the liquidated damages allowed pursuant to this Section.

3.2 Substantial Completion

3.2.1 "Substantial Completion" shall mean that stage in the completion of the Work when the Work is sufficiently complete in accordance with this Contract such that the Owner can enjoy beneficial use and occupancy of the Work, can utilize the Work for its intended purpose, and a Certificate of Occupancy has been issued allowing full and complete occupancy of the entire Project. Additionally, the Work shall not be deemed to be Substantially Complete until all nonconforming Work specifically rejected by the Architect has been properly completed as required by the Contract and until all operational manuals, "marked-up" drawings, and similar required documents are delivered to the Architect for transmission to the Owner. However, the mere issuance of a Certificate of Occupancy will not, by itself, constitute Substantial Completion. Ordinary and customary punch list items shall be completed after Substantial Completion as provided by Section 5.5. Partial use or occupancy of the Project shall not result in the Project being deemed

Substantially Complete, and such partial use or occupancy shall not be evidence of Substantial Completion.

3.2.2 In addition to the requirements for Substantial Completion as set forth in Section 3.2.1, as an express condition for Substantial Completion, the Contractor shall furnish to the Owner and the Architect, in writing, a detailed list of all incomplete and deficient Work which must be completed and corrected prior to Final Completion of the Project. THIS LIST SHALL BE IN ADDITION TO ALL PUNCHLISTS REQUIRED ELSEWHERE BY THIS CONTRACT. Furthermore, notwithstanding any other provision of this Contract, an express condition for Substantial Completion is the submission by the Contractor to Owner and Architect of any warranties, manuals, drawings, forms, or other documents or things, of any kind or nature, as may be required for Substantial Completion by any of the Contract Documents. In the event the Contract Documents require the submission of any such documents or things in order for the Project to be considered Substantially Complete, receipt of same by Owner and Architect is an express condition precedent to any duty by Owner to make any payment otherwise due Contractor upon Substantial Completion.

3.3 Time is of the Essence

3.3.1 All limitations of time set forth in the Contract Documents are of the essence of this Contract.

ARTICLE 4. CONTRACT PRICE

4.1 The Contract Price

4.1.1 The Owner shall pay, and the Contractor shall accept, as full and complete payment for all of the Work, the fixed sum of \$179,974.76. One hundred seventy-nine thousand nine hundred seventy-four dollars and seventy-six cents. The sum set forth in this Section shall constitute the Contract Price and shall not be modified except by Change Order as provided in this Contract. The fixed sum includes the following:

ARTICLE 5. PAYMENT OF THE CONTRACT PRICE

5.1 Schedule of Values

5.1.1 Within ten (10) calendar days after the effective date hereof, the Contractor shall submit to the Owner and to the Architect a Schedule of Values allocating the Contract Price among the various portions of the Work. The Contractor's Schedule of Values shall

be prepared in such form, with such detail, and supported by such data as the Architect or the Owner may require to substantiate its accuracy. The Contractor shall not imbalance the Schedule of Values or artificially inflate any element thereof. The violation of this provision by the Contractor shall constitute a material breach of this Contract. The Schedule of Values shall be used only as a basis for the Contractor's Applications for Payment and shall only constitute such basis after it has been acknowledged in writing by the Architect and the Owner. Receipt of the Schedule of Values as required herein is a condition precedent to payment of any sums due the Contractor.

5.1.2 In the event any Work is to be performed under a unit-price agreement, the Contractor acknowledges and represents that it has not imbalanced or artificially inflated the unit prices, and if requested by the Owner or the Architect, the Contractor shall provide such data and supporting documentation as may be requested to support the reasonableness and accuracy of such unit prices. Unit prices establish the complete and total sum to be paid for the unit price work, and such unit prices include any and all applicable overhead, profit, and mark-up of every kind and nature.

5.2 Payment Procedure

5.2.1 The Owner shall pay the Contract Price to the Contractor as provided in Section 5.2.

5.2.2 **Progress Payments.** Based upon the Contractor's Applications for Payment submitted to the Architect and upon Certificates for Payment subsequently issued to the Owner by the Architect, the Owner shall make progress payments to the Contractor on account of the Contract Price.

5.2.2.1 On or before the 5th day of each month after commencement of the Work, the Contractor shall submit an Application for Payment for the period ending the 30th day of the preceding month to the Architect in such form and manner, and with such supporting data and content, as the Owner or the Architect may require.

5.2.2.2 Each Application for Payment may request payment for ninety-five percent (95%) of that portion of the Contract Price properly allocable in the Schedule of Values to Contract requirements properly performed and labor, materials, and equipment properly incorporated in the Work plus ninety-five percent (95%) of that portion of the Contract Price properly allocable in the Schedule of Values to materials or equipment properly stored on-site for subsequent incorporation in the Work, less the total amount of previous payments. Payment for stored materials and equipment shall be conditioned upon the Contractor's proof satisfactory to the Owner, that the Owner has title to such materials and equipment, and shall include proof of required insurance.

5.2.2.3 Each Application for Payment shall be signed by the Contractor, which shall constitute the Contractor's representation that the Work has progressed to the level for which payment is requested in accordance with the Schedule of Values, that the Work has been properly installed or performed in full accordance with this Contract, and that the Contractor knows of no reason why payment should not be made as requested.

5.2.2.4 The Architect will review the Application for Payment and may also review the Work at the Project site or elsewhere to determine whether the quantity and quality of the Work is as represented in the Application for Payment and is as required by this Contract. Based on the Architect's evaluations of the Contractor's Application for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment for such amounts.

5.2.2.5 The amount of each partial payment shall be the amount certified for payment by the Architect less such amounts, if any, otherwise owing by the Contractor to the Owner or which the Owner shall have the right to withhold as authorized by this Contract. The Architect's certification of an Application for Payment shall not preclude the Owner from the exercise of any of its rights as set forth in Section 5.3, and the Architect shall have the right to amend or withdraw any previously executed Certification of Payment if it determines that such amendment or withdrawal is necessary to protect the interest of the Owner under this Contract.

5.2.2.6 The Owner shall make partial payments on account of the Contract Price to the Contractor within thirty (30) days following the Architect's certification of the amount due thereunder.

5.2.2.7 When the Contractor reaches Substantial Completion, the Contractor may submit in writing to the Owner a request for release of retainage, and the Owner shall, within 30 days after submission of Contractor's pay application and other appropriate documentation as may be required by the Contract Documents are provided, pay the retainage to the Contractor. If at that time there are any remaining incomplete items of Work, an amount equal to 200 percent (200%) of the value of each item, as determined by the Architect, shall be withheld until such item or items are completed. The retainage shall be shared by the Contractor and Subcontractors as their interests may appear. At the discretion of the Owner, and with the approval of the Contractor, the retainage of any Subcontractor may be released separately as the Subcontractor completes its work. The rights of the Owner set forth herein to retainage are in addition to all the other rights and remedies of the Owner set forth in this Contract. Notwithstanding any other provisions herein, the Contractor shall not request, nor shall it be entitled to receive, any reduction in retainage, or any cessation in the withholding of retainage, so long as any Work has been rejected by the Architect and such Work has not been corrected or otherwise performed in accordance with all requirements of the Contract Documents.

5.2.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which payments have been received from the Owner shall be free and clear of liens, claims, security interest, or other encumbrances in favor of the Contractor or any other person or entity.

5.2.4 The Contractor shall promptly pay each Subcontractor, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which such Subcontractor is entitled and shall furnish proof of such payment to the Owner and Architect. The Contractor shall also procure and furnish to the Owner and Architect such

affidavits of payment, proofs of payment, and lien waivers from Subcontractors, suppliers, laborers and materialmen as the Owner or Architect may require.

5.2.5 The submission of any Application for Payment by the Contractor to the Architect shall constitute a representation by the Contractor to both the Architect and the Owner that such Application includes any and all sums due the Contractor as of the date of such Application. Payment by the Owner to the Contractor of any sums certified by the Architect pursuant to an Application for Payment shall constitute full and complete payment to the Contractor, save and except for any unpaid retainage, of all sums due the Contractor from the Owner as of the date of such Application.

5.2.6 No progress payment, nor any use or occupancy of the Project by the Owner, shall be interpreted to constitute an acceptance of any Work not in strict accordance with this Contract.

5.3 Withheld Payment

5.3.1 The Owner may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the Owner from loss because of:

- (a) Work rejected by the Architect or other defective Work not remedied by the Contractor or, in the opinion of the Owner, not likely to be remedied by the Contractor;
- (b) Work which requires further testing or inspection to verify that it has been installed in accordance with the requirements of the Contract Documents;
- (c) Claims of third parties against the Owner or the Owner's property;
- (d) Failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;
- (e) Evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price;
- (f) Evidence that the Work will not be completed within the time required for Substantial Completion or Final Completion;
- (g) Persistent failure to carry out the Work in accordance with the Contract;
- (h) Damage to the Owner or a third party to whom the Owner is, or may be, liable.

5.3.2 If the Owner makes written demand upon the Contractor for amounts previously paid by the Owner as contemplated in this Section 5.3, the Contractor shall promptly comply with such demand within 10 days.

5.4 Unexcused Failure to Pay

5.4.1 If the Owner, without cause or basis hereunder, fails to pay the Contractor any amount then due and payable to the Contractor within forty-five (45) days after the date established for payment, then the Contractor may after seven (7) additional days' written notice to the Owner and the Architect, and without prejudice to any other available rights or remedies it may have, stop the Work until payment of those amounts due from the Owner have been received. Any payment not made within forty-five (45) days after the date due shall bear interest at the rate of four percent (1.5%) per annum. No other interest shall be due Contractor.

5.5 Process For Substantial Completion

5.5.1 When the Contractor believes that the Work is Substantially Complete, the Contractor shall submit in writing to the Architect a list of items to be completed or corrected. When the Architect, on the basis of an inspection, determines that the Work is in fact Substantially Complete, the Architect will prepare a Certificate of Substantial Completion, which shall establish the date of Substantial Completion and shall state the responsibilities of the Owner and the Contractor for Project security, maintenance, heat, utilities, damage to the Work, and insurance. The Contractor shall have **30 Days** after the date of Substantial Completion to complete the items listed therein. The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of the responsibilities assigned to them in such certificate.

5.5.2 Upon Substantial Completion of the Work, and execution by both the Owner and the Contractor of the Certificate of Substantial Completion, and upon submission to the Owner of a complete set of record drawings illustrating the as-built condition of the Work (including the location of all utilities) along with all maintenance manuals and warranties required by the Contract Documents, the Owner shall pay the Contractor an amount sufficient to increase total payments to the Contractor to one hundred percent (100%) of the Contract Price less two hundred percent (200%) of the reasonable cost as determined by the Owner and the Architect for completing all incomplete Work, correcting and bringing into conformance all defective and nonconforming Work, and handling all unsettled claims. No further payments shall be made until Final Completion is achieved.

5.5.3 In the event the Contractor fails or refuses to complete the incomplete Work, or correct and bring into conformance the defective Work, or resolve any unsettled claims, the Owner, without limitation on any of its other rights or remedies, may complete the Work, remedy any defects in the Work, and resolve any unsettled claims relating to the Work, and the Contractor shall be liable to the Owner's damages including the cost of same. If the Work is completed or corrected by employees of the Owner, the Contractor shall be liable for the reasonable value of the completion or correction based upon the reasonable commercial cost of such Work as if performed by an independent contractor. To the extent the amount due the Owner hereunder exceeds the retainage held by the Owner, the balance due shall be paid by the Contractor within ten (10) days after receipt of an invoice or demand for payment from the Owner.

5.5.4 With respect to any and all Work performed by the Contractor after Substantial Completion of the Project or after any occupancy of the Project, in whole or in part, by the Owner, absent prior written consent of the Owner, such Work shall not be performed (a) during normal operating hours of the Owner's activities at the Project; (b) during the installation of any fixtures, furniture, or equipment by the Owner, or (c) during any cleaning, waxing, or other work by the Owner. Furthermore, any such Work shall only be performed in accordance with a detailed schedule indicating the proposed nature and area where the Work will be performed, the specific date and time of the Work, and, the identity of each Subcontractor who will be performing any of the Work. SUCH WORK SHALL NOT COMMENCE UNLESS THE OWNER FIRST APPROVES THE PROPOSED SCHEDULE. All such Work shall be under the supervision of the Contractor, and the Contractor shall be, and shall remain, on the Project site during the performance of the Work. If any such Work requires or necessitates the presence of the Owner or the Architect, the Contractor shall be responsible for the cost thus incurred by the Owner or Architect. Each day the area where such Work is located, and any adjacent area impacted by the Work, shall be carefully cleaned by the Contractor and any construction debris shall be properly removed. All such areas shall be left by the Contractor in full operating condition.

5.5.5 Notwithstanding any other provision of this Contract, a condition precedent for Substantial Completion of the Project is the successful performance of an operational test on each of the following Project systems: the electrical system; the mechanical system; the fire alarm system; the lighting control system; the sound system; and the energy management system. Each such test shall be conducted in strict accordance with all requirements of the Specifications, and each such system must operate in full conformity with all requirements of said Specifications for not less than fifteen (15) consecutive calendar days prior to the date of Substantial Completion. Before the initiation of the operational test for each such system, and before the commencement of such operational testing period, Contractor shall first give the Owner and the Architect not less than three (3) days' prior written notice.

5.6 Final Completion and Final Payment

5.6.1 When the Contractor believes that all of the Work has reached Finally Completion and the Contractor is ready for a final inspection, it shall notify the Owner and the Architect thereof in writing. Thereupon, the Architect will make final inspection of the Work and, if the Work is complete in full accordance with this Contract and this Contract has been fully performed, the Architect will promptly declare the Work to have reached "Final Completion" and will issue a final Certificate for Payment certifying to the Owner that the Project is complete and the Contractor is entitled to the remainder of the unpaid Contract Price, less any amount withheld pursuant to this Contract. All warranties and guarantees required by the Contract shall commence on the date of Final Completion of the Work. If the Architect is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of repeat final inspections, which cost may be deducted by the Owner from the Contractor's final payment.

5.6.1.1 If the Contractor fails to achieve Final Completion within the time fixed therefor by the Architect in its Certificate of Substantial Completion, the Contractor shall pay the Owner the sum of \$200.00 per day for each and every calendar day of unexcused delay in achieving Final Completion beyond the date set forth herein for Final Completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at or before the time of executing this Contract. When the Owner reasonably believes that Final Completion will be inexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to cover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Final Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. Notwithstanding any other provision of this Section, the Owner and the Contractor expressly agree that the liquidated damages set forth herein do not contemplate, nor do they cover, any Funding Delay Damages as identified in Section 5.6.1.2. Any such Funding Delay Damages shall be in addition to the liquidated damages allowed pursuant to this Section.

5.6.1.2 The Contractor recognizes and acknowledges that delay in achieving Substantial Completion, Final Completion, or final close-out of the Project could jeopardize the Owner's state or federal funding or other financial support for the Project. Among other things, any such delay could cause the forfeiture of unspent funds; the cost and expense of premature bond redemption; or other cost, expense, liability, loss, or damage arising out of or relating to the impairment of Project funding (any and all such potential losses and damages are referred to as "Funding Delay Damages"). The Contractor and the Owner furthermore expressly recognize, acknowledge, and agree that the liquidated damages established in Sections 3.1.2 and 5.6.1.1 do not contemplate or cover Funding Delay Damages, and that in the event any such Funding Delay Damages are suffered or sustained by the Owner as the result of any Project delays caused by the Contractor, or for which the Contractor is otherwise responsible under this Contract, the Owner shall be entitled to recover such Funding Delay Damages from the Contractor, and the Contractor shall be liable to the Owner for same. Nothing contained herein shall preclude the recovery by the Owner of the liquidated damages set forth elsewhere in this Contract.

5.6.2 The Contractor shall not be entitled to final payment unless and until it submits to the Architect and Owner all documents required by the Contract, including but not limited to its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the Owner, or the Owner's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors of the Contractor and of any and all other parties required by the Architect or the Owner; if Owner so elects in its sole discretion, consent of Surety, if any, to final payment; and all required warranties, maintenance and operation manuals, record and as-built drawings. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the Owner, the Contractor shall furnish a bond satisfactory

to the Owner to discharge any such lien or indemnify the Owner from liability. FULL AND COMPLETE COMPLIANCE WITH ALL TERMS AND CONDITIONS OF THIS SECTION IS A CONDITION PRECEDENT TO FINAL PAYMENT.

5.6.3 Subjection to the conditions precedent in Section 5.6.2, the Owner shall make final payment of all sums due the Contractor within thirty (30) days of the Architect's execution of a final Certificate for Payment.

5.6.4 Acceptance of final payment shall constitute a waiver of all claims against the Owner by the Contractor except for those claims previously made in writing against the Owner by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final payment.

5.6.5 The Owner and the Contractor expressly agree that the terms of payment, payment periods, and rates of interest herein shall control to the exclusion of any provisions set forth in the Georgia Prompt Pay Act, O.C.G.A. § 13-11-1 *et seq.*, and the provisions of said Act are herein waived.

ARTICLE 6. THE OWNER

6.1 Information, Services and Things Required from Owner

6.1.1 If the Contractor requests in writing, the Owner shall furnish to the Contractor, prior to the execution of this Contract, any and all written and tangible documentation in its possession concerning conditions below ground at the site of the Project. Such documentation is furnished to the Contractor only to make complete disclosure of such material and for no other purpose. By furnishing such material, the Owner does not represent, warrant, or guarantee its accuracy in whole or in part, implicitly or explicitly, or at all, and shall have no liability therefor. The Owner shall also furnish surveys, legal limitations, utility locations (if known), and a legal description of the Project site. To the extent the Owner furnishes any information concerning utility locations, the Owner makes no representations or warranties concerning same and shall have no liability to Contractor in the event such information contains discrepancies or is otherwise inaccurate. Nothing contained herein shall limit the Contractor's duties and representations as set forth in Section **Error! Reference source not found.** hereinabove.

6.1.2 Excluding permits and fees normally the responsibility of the Contractor and those set forth in Section 7.2.2, the Owner shall obtain all approvals, easements, and the like required for construction and shall pay for necessary assessments and charges required for construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

6.2 Right to Stop Work

6.2.1 In the event of an emergency threatening injury to person or property, the Owner may order the Contractor to stop the Work, or any described portion thereof, until the

cause for stoppage has been corrected, no longer exists, or the Owner orders that Work be resumed. In such event, the Contractor shall immediately comply with such order.

6.3 Owner's Right to Perform Work

6.3.1 If the Contractor has installed defective or deficient Work which is not in conformity with the requirements of the Contract Documents, or if the Contractor fails or refuses to perform any portion of the Work, then the Owner may, without prejudice to any other rights or remedies the Owner may have against the Contractor, proceed to carry out the subject Work. In such a situation, the Contract Price shall be reduced by the cost of performing the subject Work, plus compensation for the Architect's additional services and expenses necessitated thereby, if any. If such Work is performed by employees of the Owner, the Contract Price reduction shall reflect the reasonable value of such Work based upon the reasonable commercial cost of such Work as if performed by an independent contractor. If the unpaid portion of the Contract Price is insufficient to cover the amount due the Owner, the Contractor shall pay the difference to the Owner within ten (10) days of receipt of demand from the Owner.

ARTICLE 7. THE CONTRACTOR

7.1 Contractor's General Duties.

7.1.1 The Contractor shall comply with the requirements of Sections **Error! Reference source not found.** and **Error! Reference source not found.**. The Contractor shall perform no part of the Work at any time without adequate Contract Documents or, as appropriate, approved Shop Drawings, Product Data, or Samples for such portion of the Work. If the Contractor performs any of the Work for which it knows or should have known the Contract Documents contain an error, inconsistency, or omission without notice to the Architect, then the Contractor shall be responsible for such performance and shall pay the cost of correction.

7.1.2 The Contractor shall perform the Work strictly in accordance with this Contract.

7.1.3 The Contractor shall supervise and direct the Work using the Contractor's best skill, effort, and attention. The Contractor shall be responsible to the Owner for any and all acts or omissions of the Contractor, its employees, its Subcontractors, and others engaged in the Work on behalf of the Contractor.

7.2 Warranty

7.2.1 The Contractor warrants to the Owner that all labor furnished to progress the Work under this Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects, and in strict conformance with this Contract for a period of one (1) year after Final Completion of the Work. All Work not conforming to these requirements may be considered defective.

7.2.2 The Contractor shall obtain and pay for all permits, inspections, fees, and licenses necessary and ordinary for the Work. The Contractor shall comply with all lawful requirements applicable to the Work, and shall give and maintain any notices required by applicable law, ordinance, or regulation pertaining to the Work. The duties and obligations of the Contractor arising hereunder include but are not limited to the full and strict compliance of the Contractor with all rules, regulations and legal mandates of the United States Department of Labor; the United States Immigration and Naturalization Service; the Georgia Department of Labor; the United States Department of Environmental Protection; and the Georgia Environmental Protection Division of the Department of Natural Resources. The Contractor shall furthermore comply with any and all applicable federal, state and local tax laws, unemployment compensation acts, and workers' compensation acts, and upon request of the Owner to the Contractor shall furnish written proof of such compliance. The Contractor shall defend, indemnify and hold the Owner harmless from any and all fines or citations issued against Owner, or any other damages, arising out of, or relating to, any violations by the Contractor of any law, rule, regulation or ordinance of any governmental authority. This duty of indemnification specifically includes, but is not limited to, the duty to indemnify and hold the Owner harmless from any and all attorneys' fees, court costs, expert witness fees, and other expenses arising out of any such fine or citation or otherwise resulting from any such violation by the Contractor.

7.3 Supervision

7.3.1 The Contractor shall employ and maintain at the Project site only competent supervisory personnel. Any supervisory or other personnel reasonably objectionable to the Owner shall be removed from the Project. Absent written instruction from the Contractor to the contrary, the superintendent shall be deemed the Contractor's authorized representative at the site and shall be authorized to receive and accept any and all communications from the Owner or the Architect. The Contractor shall attend any job site or other Project meetings as may be requested by the Owner or the Architect and shall have available in person such management personnel at any such meetings as the Owner or the Architect may require.

7.3.2 Key supervisory personnel assigned by the Contractor to this Project are as follows:

<u>Name</u>	<u>Function</u>
Mark Shively	Account Executive

All supervisory personnel are subject to approval by the Owner. So long as the individuals named above remain actively employed or retained by the Contractor, they shall perform the functions indicated next to their names unless the Owner agrees to the contrary in writing. In the event one or more individuals not listed above subsequently assumes one or more of those functions listed above, the Contractor shall be bound by the provisions of this Section as though such individuals had been listed above. Within ten (10) days

after commencement of the Work, the Contractor shall furnish the Owner and the Architect with the ~~current home~~ and office address of each of the individuals listed above along with their ~~home~~, office, mobile, pager, and facsimile telephone numbers and with their respective email addresses. Any change in such information shall be immediately furnished in writing to the Owner and the Architect.

7.4 Schedules

7.4.1 The Contractor, within ten (10) days of commencing the Work, shall submit to the Owner and the Architect for their information the Contractor's schedule for completing the Work. Said schedule shall be based on the required dates for Substantial Completion and Final Completion and shall include any milestone dates set forth in the Contract Documents. Additionally, within ten (10) days of commencing the Work, the Contractor shall submit to the Owner and the Architect a separate shop drawing and submittal schedule detailing the schedule for the submission to the Architect of all shop drawings, submittals, product data and other similar documents. Each of the schedules required herein shall be revised no less frequently than monthly (unless the parties otherwise agree in writing) and shall be revised to reflect conditions encountered from time-to-time and shall be related to the entire Project. Each such revision shall be furnished to the Owner and the Architect. The schedules and all revisions shall be in such form, and shall contain such detail, as the Owner or the Architect may require. THE PARTIES SPECIFICALLY AGREE THAT ANY FLOAT CONTAINED IN THE SCHEDULES SHALL BELONG TO THE PROJECT AND IN NO EVENT SHALL THE CONTRACTOR MAKE CLAIM FOR ANY ALLEGED DELAY, ACCELERATION, OR EARLY COMPLETION SO LONG AS THE PROJECT IS COMPLETED WITHIN THE CONTRACT TIME. Strict compliance with the requirements of this Section is a condition precedent for payment to the Contractor, and failure by the Contractor to strictly comply with said requirements shall constitute a material breach of this Contract.

7.4.2 In addition to the schedules and revisions required in Section 7.4.1, with the submission of each Application for Payment, the Contractor shall submit a 30-day look-ahead schedule setting forth in detail the Work to be performed during the next 30 days and shall also submit a 30-day look-back schedule setting forth in detail the Work actually performed during the preceding 30 days, as compared to the Work scheduled during such period. The look-ahead and look-back schedules shall be in such form as the Owner may require, and the timely receipt of such schedules shall be a condition precedent to the Owner's duty to make payment to the Contractor.

7.4.3 Without limitation on any other rights or remedies of the Owner in the event Contractor fails or refuses to progress the Work, or any portion thereof, in accordance with the requirements of the Project schedule, the Owner or Architect may order or direct the Contractor to take one or more of the following actions:

- (a) Increase the labor force of Contractor and its Subcontractors;
- (b) Implement overtime operations;

- (c) Increase the number or duration of shifts;
- (d) Supplement its Project management;
- (e) Furnish additional equipment to its forces;
- (f) Accelerate delivery of material and supplies; or
- (g) Take such other action as the Owner reasonably believes necessary to increase the rate of progress.

7.4.4 The Contractor shall proceed with any action ordered or directed by Owner or Architect under Section 7.4.3 within forty-eight (48) hours of receipt of such order or direction. UNDER NO CIRCUMSTANCES SHALL CONTRACTOR MAKE CLAIM FOR, OR BE ENTITLED TO RECOVER, ANY COST, EXPENSE, LOSS OR DAMAGE ARISING OUT OF, OR RELATING TO, ANY SUCH ORDER OR DIRECTION OF OWNER OR ARCHITECT OR ANY ACTION TAKEN IN RESPONSE THERETO.

7.5 Shop Drawings, Product Data and Samples

7.5.1 Shop Drawings, Product Data, Samples, and other submittals from the Contractor do not constitute Contract Documents. Their purpose is merely to demonstrate the manner in which the Contractor intends to implement the Work in conformance with information received from the Contract Documents.

7.5.2 In no event shall the Contractor submit any Shop Drawings, Product Data, or Sample which is not in conformity with the requirements of the Contract Documents, and the Contractor shall not perform any portion of the Work requiring submittal and review of Shop Drawings, Product Data, or Samples unless and until same shall have been approved by the Architect. Approval by the Architect, however, shall not be evidence that the Shop Drawings, Product Data, or Sample, or Work installed pursuant thereto, conforms to the requirements of this Contract.

7.5.3 The Contractor shall continuously maintain at the site, for the benefit of the Owner and the Architect, one record copy of this Contract marked to record on a current basis changes, selections, and modifications made during construction. Additionally, the Contractor shall maintain at the site for the Owner and Architect the approved Shop Drawings, Product Data, Samples, and other similar required submittals. Upon Final Completion of the Work, all of these record documents shall be delivered to the Owner.

7.6 Cleaning the Site and the Project

7.6.1 The Contractor shall keep the site reasonably clean to the satisfaction of the Owner and Architect during performance of the Work. Upon Final Completion of the Work, the Contractor shall clean the site and the Project and remove all waste, together with all of the Contractor's property therefrom.

7.7 Access to Work

7.7.1 The Owner and the Architect shall have access to the Work at all times from commencement of the Work through Final Completion. The Contractor shall take whatever steps necessary to provide access when requested.

7.8 Indemnity

7.8.1 The Contractor shall be responsible from the time of signing the Contract, or from the time of commencement of the Work, whichever shall first occur, for all injury or damage of any kind resulting from the Work to persons or property, including employees and property of the Owner. The Contractor shall indemnify, defend and hold harmless the Owner from and against all claims or actions, whether actual or threatened, and all attorney fees and cost of defense thereof, arising out of or relating to damage or injury (including death) to persons or property caused by or sustained in connection with the performance of this Contract or by conditions created thereby, arising out of or any way connected with the Work performed under this Contract or any act or omission of the Contractor, any Subcontractor, or anyone directly or indirectly employed by or under the supervision of any of them. At the option of the Owner, the Contractor expressly agrees to defend against any claims or actions indemnified by this Section, whether such claims or actions are rightfully or wrongfully brought or filed. In such event, legal counsel provided by the Contractor shall be subject to the Owner's approval.

7.8.2 To the extent the Owner suffers or sustains any fines, penalties, or assessments as the result of any act or omission of the Contractor, the Contractor shall indemnify and hold harmless the Owner from same and the Contractor shall reimburse the Owner for any and all legal cost and expense, including attorneys' fees, incurred in connection with any such fines, penalties or assessments.

7.8.3 In claims against any person or entity indemnified under this Section 7.8 by an employee of the Contractor, a Subcontractor, any one directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 7.8 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

7.8.4 Nothing in this Section 7.8 shall require the Contractor to indemnify the Owner in the circumstances described in O.C.G.A. §§ 13-8-2(b) or (c).

7.9 Means, Methods, Techniques, Sequences, Procedures and Safety

7.9.1 The Contractor is fully responsible for, and shall have control over, all construction means, methods, techniques, sequences, procedures and safety, and shall coordinate all portions of the work required by the Contract Documents. Nothing contained herein, however, shall in any manner whatsoever relieve, release or discharge the Architect from any of its duties, responsibilities, obligations, or liabilities as set forth in its contract with the Owner, or as provided by law.

7.10 Separate Contracts

7.10.1 The Owner reserves the right to perform work on the premises with its own forces or by the use of other contractors. In such event, the Contractor shall fully cooperate with the Owner and such other contractors and shall coordinate, schedule and manage its work so as not to hinder, delay or otherwise interfere with the separate work of the Owner or other contractors.

7.11 Notice of Commencement

7.11.1 The Contractor shall file a NOTICE OF COMMENCEMENT with the Clerk of the Superior Court of Whitfield County, Georgia no later than fifteen (15) days after the Contractor physically commences work on the site. The Contractor shall furnish a copy of the NOTICE OF COMMENCEMENT to the Architect and to anyone else making a written request.

The NOTICE OF COMMENCEMENT shall contain the following information:

- (a) The name, address, and telephone number of the Contractor.
- (b) The name and location of the project being constructed and the legal description of the property upon which the improvements are being made.
- (c) The name and address of the true owner.
- (d) The name and address of the surety for the performance and payment bonds.
- (e) Any other requirements called for in the Official Code of Georgia Annotated - Sections 36-91-72 and 44-14-361.5.

7.12 Compliance with Federal and State Immigration Laws

7.12.1 The Contractor shall register and participate in the electronic verification ("E-Verify") of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security.

7.12.2 The Contractor shall verify that all new employees of the Contractor are in compliance with the Immigration Reform and Control Act of 1986, as required by state law, as codified at O.C.G.A. § 13-10-91, *et seq.* The Contractor shall provide the Owner with all required affidavits verifying compliance with such applicable state and federal laws, including affidavits from Subcontractors and other performing the Work.

7.12.3 The Contractor agrees that, should it employ or contract with any Subcontractor(s) in connection with the physical performance of services pursuant to this Contract with the Owner, the Contractor will secure from such Subcontractor(s) an executed affidavit verifying the Subcontractor(s)'s compliance with O.C.G.A. § 13-10-91. The Contractor further agrees to maintain records of compliance by said Subcontractor(s) and their Tiers and provide a copy of each such verification to the Owner at the time the Subcontractor(s) is retained to perform such service.

7.12.4 The Contractor agrees to provide records, in a Excel Format, to the Owner providing the following information:

(a) Contractor Legal Name

(b) Contractor Address

(c) Contractor Federal work authorization program user number (E-Verify Number)

(d) Date of Contract between contractor and public employer.

7.12.5 The contractor also agrees to provide records for Subcontractors and Tiers in the same format and requiring the same information. This information is to be provided which requested by Owner.

ARTICLE 8. CONTRACT ADMINISTRATION

8.1 The Architect

8.1.1 The Architect for this project is Gregg Sims Architect. In the event the Owner should find it necessary or convenient to replace the Architect, the Owner shall retain a replacement Architect and the status of the replacement Architect shall be that of the former Architect.

8.2 Architect's Administration

8.2.1 The Architect shall be authorized to act on behalf of the Owner only to the extent provided in this Contract.

8.2.2 The Owner and the Contractor shall communicate with each other in the first instance through the Architect.

8.2.3 The Architect shall be the initial interpreter of the requirements of the Drawings and Specifications and the judge of the performance thereunder by the Contractor. The Owner shall cause the Architect to render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.

8.2.4 The Owner shall cause the Architect to review the Contractor's Applications for Payment and certify to the Owner for payment to the Contractor, those amounts then due the Contractor as provided in this Contract.

8.2.5 The Architect shall have authority to reject Work which is defective or does not conform to the requirements of this Contract. If the Architect deems it necessary or advisable, the Architect shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.

8.2.6 The Owner shall cause the Architect to review and approve, or take other appropriate action as necessary, concerning the Contractor's submittals including Shop Drawings, Product Data and Samples. Such review, approval or other action shall be for the sole purpose of determining conformance with the design concept and information given through the Contract Documents. The Owner shall cause the Architect's action to be taken with such reasonable promptness as to cause no delay in the work or in the activities of the Owner, Contractor, or separate Contractor while allowing sufficient time in the Architect's professional judgment to permit adequate review.

8.2.7 The Owner shall cause the Architect to prepare Change Orders and may authorize minor changes in the Work by Field Order as provided elsewhere herein.

8.2.8 The Owner shall cause the Architect, upon written request from the Contractor, to conduct inspections to determine the date of Substantial Completion and the date of Final Completion, to receive and forward to the Owner for the Owner's review and records, written warranties and related documents required by this Contract and to issue a final Certificate for Payment upon compliance with the requirements of this Contract. Written requests for interpretation (RFIs) required of the Architect received after noon on the last working day of the Architect's work week shall be acknowledged as received on the Architect's following normal working day.

8.2.9 The Architect's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.

8.2.10 The Architect shall have the discretion and authority to specify the time within which the Contractor must correct or cure any defect or deficiency, or nonconformance with this Contract.

8.2.11 The Contractor shall make no claim for an extension of the Contract Time or for additional compensation arising out of or relating to any alleged failure by the Architect to timely take any action or render any decision unless and until the Contractor has first provided ten (10) days prior written notice to the Architect identifying therein the specific action or decision which the Contractor contends is necessary to avoid delay, or further delay, to the Project. In the event the Architect takes the requested action, or renders the requested decision, within ten (10) days of the receipt of such notice, no claim for an extension of the Contract Time or for additional compensation arising out of, or relating to, such action or decision shall be made by the Contractor and any such claim is expressly waived.

8.2.12 THE DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR UNDER THIS CONTRACT SHALL IN NO MANNER WHATSOEVER BE CHANGED, ALTERED, DISCHARGED, RELEASED, OR SATISFIED BY ANY DUTY, OBLIGATION, OR RESPONSIBILITY OF THE ARCHITECT. THE CONTRACTOR IS NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BY AND BETWEEN THE OWNER AND THE ARCHITECT. IT IS EXPRESSLY ACKNOWLEDGED AND AGREED THAT THE DUTIES OF THE CONTRACTOR TO THE OWNER ARE INDEPENDENT OF, AND ARE NOT DIMINISHED BY, ANY DUTIES OF THE ARCHITECT TO THE OWNER.

8.3 Claims by the Contractor

8.3.1 All claims by Contractor shall be initiated by written notice and claim to the Owner and the Architect. The notice and claim shall be in such form as required by the Owner and same shall be signed by an officer of the Contractor under oath and under penalty of perjury. At a minimum, such notice and claim shall identify and describe the nature, scope, and location of the circumstance or condition giving rise to the claim; all items of Work impacted by the claim and an explanation of how the claim impacts such items of Work; applicable provisions of the Contract Documents; an estimate of any costs incurred and to be incurred as a result of the claim; and an estimate of any delays to the critical path of the Work resulting from the claim. Such written notice and claim must be furnished within seven (7) days after occurrence of the event, or the first appearance of the condition, giving rise to the claim. THE FAILURE BY THE CONTRACTOR TO PROVIDE THE WRITTEN NOTICE AND CLAIM AS PROVIDED IN THIS SECTION SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY SUCH CLAIM AGAINST THE OWNER.

8.3.2 Pending final resolution of any claim of the Contractor, the Contractor shall diligently proceed with performance of this Contract and the Owner shall continue to make payments to the Contractor in accordance with this Contract. The resolution of any claim under this Section 8.3 shall be reflected by a Change Order executed by the Owner, the Architect, and the Contractor.

8.3.3 Claims for Concealed and Unknown Conditions. If Contractor encounters (i) concealed and unknown conditions in the performance of the Work below the surface of the ground or in an existing structure at variance with the conditions indicated by this Contract, or (ii) unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided for in this Contract, then the Contract Price shall be equitably adjusted by Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the Owner having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the Owner and the Architect written notice of, and an opportunity to observe, the condition prior to disturbing it. THE FAILURE BY THE CONTRACTOR TO PROVIDE THE WRITTEN NOTICE AND CLAIM AS PROVIDED IN THIS SECTION SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY CLAIM ARISING OUT OF OR RELATING TO SUCH CONCEALED OR UNKNOWN CONDITION.

8.3.4 Claims for Additional Costs. If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the Owner therefor, the Contractor shall give the Architect written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any additional or changed Work. THE FAILURE BY THE CONTRACTOR TO PROVIDE SUCH NOTICE AND TO GIVE SUCH NOTICE PRIOR TO EXECUTING THE WORK SHALL CONSTITUTE A WAIVER OF ANY CLAIM FOR ADDITIONAL COMPENSATION.

8.3.4.1 Limitations on Liability. In connection with any claim by the Contractor against the Owner, any liability of the Owner shall be strictly limited to direct costs incurred by the Contractor and shall in no event include indirect costs or consequential damages of the Contractor. Furthermore, in no event shall the Owner be liable to the Contractor for any claim for home-office overhead, loss of efficiency or productivity, loss of use of capital, loss of bonding capacity, or loss of business opportunity. Furthermore, the Owner shall have no liability for any claim for acceleration or compression of the schedule. The Owner shall not be liable to the Contractor for claims of third parties, including Subcontractors. The Contractor shall not serve as a conduit for the claims of Subcontractors against the Owner, and any provision in any contract between the Contractor and any Subcontractor pursuant to which the Contractor is obligated to present to the Owner any claim of any Subcontractor shall be invalid.

8.3.5 Claims for Additional Time. If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the Owner or someone acting in the Owner's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipatable, fire or any causes beyond the Contractor's control, then the date for achieving Substantial Completion of the Work shall be extended upon the written notice and claim of the Contractor to the Owner and the Architect for such reasonable time as the Architect may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven (7) days after the occurrence of the event or the first appearance of the condition giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Project. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary, provided such notice expressly states the Contractor expects the delay to be continuing and states the basis for such expectation. IF THE CONTRACTOR FAILS TO MAKE SUCH CLAIM AS REQUIRED IN THIS SECTION, ANY CLAIM FOR AN EXTENSION OF TIME SHALL BE WAIVED.

8.3.6 Extension of Contract Time for Unusually Adverse Weather Conditions Not Reasonably Anticipated

8.3.6.1 Pursuant to the provisions of Section 8.3.5, the Contract Time may be extended upon written notice and claim of the Contractor to the Owner and the Architect as set forth in such Section and as further set forth herein. It is, however, expressly agreed that the time for completion as stated in the Contract Documents includes due allowance for calendar days on which work cannot be performed out-of-doors. For purposes of this Contract, and for purposes of extensions of Contract Time, the Contractor agrees that it anticipates adverse weather sufficient to prevent work in accordance with the schedule set forth, and the Contractor further agrees that unless it encounters actual adverse weather in excess of those days set forth, it shall not make, nor shall it be entitled to, any extension of the Contract Time.

8.3.6.1 Furthermore, in addition to the notice requirements set forth in the aforesaid Section 8.3.5, the Contractor agrees that it shall provide written notice to the Owner and the Architect on the day of any adverse weather not anticipated and for which a request for a time extension has been, or will be, made. Said notice shall state with particularity a description of the adverse weather as well as a description of the nature and extent of any delay caused by such weather. Receipt of this notice by the Owner and the Architect is a condition precedent to the submission of any claim for an extension of time as provided by Section 8.3.5. Furthermore, as required by Section 8.3.5, the Contractor shall submit a written claim for extension of time within seven (7) days after the occurrence of the adverse weather and such claim shall be supported by such documentation including, but not limited to, official weather reports, as the Owner or the Architect may required. To the extent that any of the terms and conditions set forth in Section 8.3.6 are in conflict with any of the terms and conditions of Section 8.3.5, the terms and conditions of Section 8.3.6 shall govern and control. THE FAILURE BY THE CONTRACTOR TO COMPLY WITH ALL REQUIREMENTS OF SECTION 8.3.6 SHALL PRECLUDE ANY EXTENSION OF THE CONTRACT TIME FOR ADVERSE WEATHER.

8.3.6.2 NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, THE PARTIES SPECIFICALLY AGREE THAT ANY AND ALL WEATHER DELAYS SHALL BE NONCOMPENSABLE AND THE SOLE AND EXCLUSIVE REMEDY OF THE CONTRACTOR IN THE EVENT OF ANY SUCH DELAY IS AN EXTENSION OF THE CONTRACT TIME AS PROVIDED IN THIS SECTION 8.3.6.

8.3.7 Legal Action by the Contractor: As a condition precedent to the filing of any legal action by the Contractor against the Owner arising out of or relating to this Contract, the Contractor shall first provide the Owner thirty (30) days prior written notice of its intent to file such action. Such notice shall include an identification of the anticipated parties to said action and a description of all anticipated claims and causes of action to be asserted in said action. Any legal action under this Contract filed by either the Contractor or the Owner shall be filed in the Superior Court of Whitfield County, Georgia, and said Court shall be the exclusive venue for any such action. The Contractor expressly agrees that it shall be subject to the jurisdiction and venue of said Court for any such action.

ARTICLE 9. SUBCONTRACTORS

9.1 Definition

9.1.1 A Subcontractor is an entity which has a direct contract with the Contractor to perform a portion of the Work.

9.2 Award of Subcontracts

9.2.1 The Contractor shall employ and utilize the following designated Subcontractors for the elements of the work identified. In no event may the Contractor substitute Subcontractors identified herein after the execution hereof for convenience. Any

substitution of Subcontractors must be for cause reasonably demonstrated to the Owner's satisfaction:

<u>Subcontractor</u>	<u>Work</u>

9.2.2 Upon execution of the Contract, the Contractor shall furnish the Owner, in writing, the names of persons or entities proposed by the Contractor to act as Subcontractors on the Project. The Owner shall promptly reply to the Contractor, in writing, stating any objections the Owner may have to any of the proposed Subcontractors. The Contractor shall not enter into a Subcontract with a proposed Subcontractor with reference to whom the Owner has made timely objection. The Contractor shall not be required to Subcontract with any party to whom the Contractor has objection.

9.2.3 All subcontracts shall afford the Contractor rights against the Subcontractor which correspond to those rights afforded to the Owner against the Contractor herein, including those rights afforded to the Owner by Section 12.2.1 below.

9.3 Verification of Subcontractor Payments

9.3.1 The Owner may in its discretion verify with any Subcontractor the status of payments received or due from the Contractor. Nothing contained herein shall in any manner limit or restrict any other right of the Owner to communicate with a Subcontractor.

ARTICLE 10. CHANGES IN THE WORK

10.1 Changes Permitted

10.1.1 Changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered without invalidating this Contract, by Change Order or by Field Order.

10.1.2 Changes in the Work shall be performed under applicable provisions of this Contract and the Contractor shall proceed promptly with such changes.

10.2 Change Order Defined

10.2.1 Change Order shall mean a written order to the Contractor executed by the Owner and the Architect, issued after execution of this Contract, authorizing and directing a change in the Work or an adjustment in the Contract Price or the Contract Time, or any

combination thereof. The Contract Price and the Contract Time may be changed only by Change Order.

10.3 Changes in the Contract Price

10.3.1 Any change in the Contract Price resulting from a Change Order shall be determined as follows: (a) by mutual agreement between the Owner and the Contractor as evidenced by (1) the change in the Contract Price being set forth in the Change Order, (2) such change in the Contract Price, together with any conditions or requirements related thereto, being initialed by both parties, and (3) the Contractor's execution of the Change Order, or (b) if no mutual agreement occurs between the Owner and the Contractor, then, as provided in Section 10.3.2.

10.3.2 If no mutual agreement occurs between the Owner and the Contractor as contemplated in Section 10.3.1, the change in the Contract Price, if any, shall then be determined by the Architect on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Contract Price, a reasonable allowance for direct job site overhead and profit. In such case, the Contractor shall present, in such form and with such content as the Owner or the Architect requires an itemized accounting of such expenditures or savings, plus appropriate supporting data for inclusion in a Change Order. Reasonable expenditures or savings shall be limited to the following: reasonable costs of materials, supplies, or equipment including delivery costs, reasonable costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance, reasonable rental costs of machinery and equipment exclusive of hand tools whether rented from the Contractor or others, reasonable costs of premiums for all bonds and insurance, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and jobsite field office overhead directly attributable to the change. In the event the Contractor performs the Work required by Change Order with its own forces, and not the forces of a Subcontractor, the overhead and profit due the Contractor for such work shall be twenty (20) percent. In the event the Change Order Work is performed by one or more Subcontractors, the Contractor's overhead and profit shall be seven and one-half (7- ½) percent. In no event shall any expenditure or savings associated with the Contractor's home office or other non-jobsite overhead expense be included in any change in the Contract Price. Pending final determination of reasonable expenditures or savings to the Owner, payments on account shall be made to the Contractor on the Architect's Certificate for Payment.

10.3.3 If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that application of such unit prices to the quantities of Work proposed will cause substantial inequity to the Owner or to the Contractor, the applicable unit prices shall be equitably adjusted.

10.4 Effect of Executed Change Order

10.4.1 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

10.5 Notice to Surety; Consent

10.5.1 The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent or approval are required by the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to the Owner that the surety has been notified of and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

ARTICLE 11. UNCOVERING AND CORRECTING WORK

11.1 Uncovering Work

11.1.1 If any of the Work is covered contrary to the Architect's request or to any provisions of this Contract, it shall, if required by the Architect or the Owner, be uncovered for the Architect's inspection and shall be properly replaced at the Contractor's expense without change in the Contract Time.

11.1.2 If any of the Work is covered not in contradiction to the Architect's request or to any provisions of this Contract, nonetheless, it shall, if required by the Architect or Owner, be uncovered for the Architect's inspection. If such Work conforms strictly with this Contract, costs of uncovering and proper replacement shall by Change Order be charged to the Owner. If such Work does not strictly conform with this Contract, the Contractor shall pay the costs of uncovering and proper replacement.

11.2 Correcting Work

11.2.1 The Contractor shall immediately proceed to correct Work rejected by the Architect as defective or failing to conform to this Contract. All such rejected Work shall be corrected in sufficient time so as not to delay either Substantial Completion or Final Completion of the Project, and in any event such rejected Work shall be corrected within thirty (30) days after issuance of any written rejection notice by the Architect. In the event the Work is not fully corrected within three (3) days from the date of said rejection notice, the Contractor shall submit to the Owner and the Architect, within seven (7) days of said notice, a detailed written plan of remediation in such form, and in such detail, as the Owner may require. At a minimum, such plan of remediation shall include an identification and location of the Work to be remediated; a detailed description of the process and procedure proposed for the remediation; the name of each Subcontractor involved in performing any of the remediation Work; the proposed schedule for the remediation including start date, hours of operation, and finish date; and, the name of each individual

responsible for the management of such Work. The Contractor shall pay all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections, and reimbursement to the Owner for the Architect's services and expenses made necessary thereby.

11.2.2 If within one (1) year after Final Completion of the Work, any of the Work is found to be defective or not in accordance with this Contract, the Contractor shall correct it promptly upon receipt of written notice from the Owner. This obligation shall survive final payment by the Owner and termination of this Contract. With respect to Work first performed and completed after Substantial Completion, this one-year obligation to specifically correct defective and nonconforming Work shall be extended by the period of time which elapses between Substantial Completion and completion of the subject Work.

11.2.3 Nothing contained in this Section shall establish any period of limitation with respect to other obligations which the Contractor has under this Contract. Establishment of the one-year time period in Section 11.2.2 relates only to the duty of the Contractor to specifically correct the Work.

11.3 Owner May Accept Defective or Nonconforming Work

11.3.1 If the Owner chooses to accept defective or nonconforming Work, the Owner may do so, but only if such acceptance is in writing and executed by Owner. In such event, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Work, and (b) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the Owner for its acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the Owner, pay the Owner such remaining compensation for accepting defective or nonconforming Work.

ARTICLE 12. CONTRACT TERMINATION

12.1 Termination by the Contractor

12.1.1 If the Work is stopped for a period of ninety (90) days by an order of any court or other public authority, or as a result of an act of the Government (other than Owner), through no fault of the Contractor or any person or entity working directly or indirectly for the Contractor, the Contractor may, upon ten (10) days' written notice to the Owner and the Architect, terminate performance under this Contract and recover from the Owner payment for the actual reasonable expenditures of the Contractor (as limited in Section 10.3.2 above) for all Work executed and for materials, equipment, tools, construction equipment and machinery actually purchased or rented solely for the Work, less any salvage value of any such items.

12.1.2 If the Owner shall persistently or repeatedly fail to perform any material obligation to the Contractor for a period of thirty (30) days after receiving written notice from the

Contractor of its intent to terminate hereunder, the Contractor may terminate performance under this Contract by written notice to the Architect and the Owner. In such event, the Contractor shall be entitled to recover from the Owner as though the Owner had terminated the Contractor's performance under this Contract for convenience pursuant to Section 12.2.1 hereunder.

12.2 Termination by the Owner

12.2.1 For Convenience

12.2.1.1 The Owner may for any reason whatsoever, or for no reason, terminate performance under this Contract by the Contractor for convenience. The Owner shall give written notice of such termination to the Contractor specifying when termination becomes effective.

12.2.1.2 The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the Contractor to assign the Contractor's right, title and interest under terminated orders or subcontracts to the Owner or its designee.

12.2.1.3 The Contractor shall transfer title and deliver to the Owner such completed or partially completed Work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has.

12.2.1.4 Within sixty (60) days after its termination for convenience, the Contractor shall submit a termination claim to the Owner and the Architect specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Architect. The claim shall be signed by an officer of the Contractor under oath and under penalty of perjury. IF THE CONTRACTOR FAILS TO FILE A COMPLETE AND PROPER TERMINATION CLAIM WITHIN THE TIME REQUIRED HEREIN ANY CLAIM FOR TERMINATION SHALL BE DEEMED WAIVED AND NO FURTHER SUMS SHALL BE DUE THE CONTRACTOR.

12.2.1.5 The Owner and the Contractor may agree to the compensation, if any, due to the Contractor hereunder.

12.2.1.6 Absent agreement to the amount due to the Contractor, and provided Contractor has submitted its claim in accordance with the requirements set forth hereinabove, the Owner shall pay the Contractor the following amounts:

- (a) Contract prices for labor, materials, equipment and other services accepted under this Contract;
- (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for overhead and profit

thereon (such profit shall not include anticipated profit or consequential damages); provided, however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;

- (c) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Section 12.2.1.2. These costs shall not include amounts paid in accordance with other provisions hereof.

The total sum to be paid the Contractor under this Section 12.2.1 shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

12.2.2 For Cause

12.2.2.1 If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely manner, supply enough properly skilled workers, supervisory personnel or proper equipment or materials, or if it fails to make prompt payment to Subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a material provision of this Contract, then the Owner may by written notice to the Contractor, without prejudice to any other right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

12.2.2.2 If the unpaid balance of the Contract Price exceeds the cost of finishing the work, including compensation for the Architect's additional services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive the termination of the Contract.

12.2.2.3 In the event the employment of the Contractor is terminated by the Owner for cause pursuant to Section 12.2.2 and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Section 12.2.1 and the provisions of Section 12.2.1 shall apply.

ARTICLE 13. OWNER'S RIGHT TO SUSPEND CONTRACTOR'S PERFORMANCE

13.1 The Owner shall have the right at any time to direct the Contractor to suspend its performance, or any designated part thereof, for any reason whatsoever, or without reason, for a cumulative period of up to sixty (60) calendar days. If any such suspension is directed by the Owner, the Contractor shall immediately comply with

same.

13.2 In the event the Owner directs a suspension of performance under this ARTICLE 13, through no fault of the Contractor, the Owner shall pay the Contractor as full compensation for such suspension the Contractor's reasonable costs, actually incurred and paid, of:

- (a) demobilization and remobilization, including such costs paid to Subcontractors;
- (b) preserving and protecting work in place;
- (c) storage of materials or equipment purchased for the Project, including insurance thereon;
- (d) performing in a later, or during a longer, time frame than that contemplated by this Contract.

ARTICLE 14. INSURANCE

The Contractor shall not commence work until it has obtained all the insurance required in this Article, and such insurance has been approved by the Owner.

14.1 Policies and Coverage

14.1.1 The Contractor shall obtain and maintain for the term of the Contract the following policies and coverage:

- (a) Comprehensive or Commercial Form General Liability Insurance, on an occurrence basis, covering work done or to be done by or on behalf of the Contractor and providing insurance for bodily injury, personal injury, property damage, and contractual liability. The aggregate limit shall apply separately to the Project.
- (b) Business Automobile Liability Insurance on an occurrence basis, covering owned, hired, and non-owned automobiles used by or on behalf of the Contractor and providing insurance for bodily injury, property damage, and contractual liability. Such insurance shall include coverage for uninsured and underinsured motorists.
- (c) Worker's Compensation including Employers Liability Insurance
- (d) Except as otherwise provided in Section 14.1.2, Course of Construction Insurance covering all risk of loss, maintained at one hundred percent of the completed value based on the insurable portion of the work, including materials at the project site, stored off the project site, and in transit.

(e) Any other insurance as required by law.

14.1.2 Within ten (10) calendar days after the effective date hereof, the Contractor shall provide the Owner a quote for Course of Construction Insurance required hereunder. Thereafter, Owner shall have the right, but not the obligation, to procure its own insurance covering the same or similar risks. If Owner so elects, it will notify the Contractor in writing of its decision, the Contractor shall not be required to procure such insurance hereunder, and the parties will execute a deductive Change Order for the amount of Contractor's quote for such insurance.

14.1.3 The Contractor shall obtain the following policies and coverage should the work involve hazardous materials: Environmental Impairment Liability Insurance

14.2 Verification of Coverage

14.2.1 The Contractor shall submit certificates of insurance and separate letters of endorsements to the policies of insurance required by the Contract to the Owner as evidence of the insurance coverage, naming the Owner's officers, directors, employees, agents, volunteers and assigns as additional insured.

14.2.1.1 The scope of coverage and deductible shall be shown on the certificate of insurance. The certificates of insurance and endorsements shall provide for no cancellation or modification of coverage without thirty days written notice to the Owner. Renewal certifications and endorsements shall be timely filed by the Contractor for all coverage until the work is accepted as complete. The Owner's review of any certificate of insurance shall not relieve the Contractor of its obligation to procure the insurance required hereunder. The Owner reserves the right to require the Contractor to furnish complete, certified copies of all required insurance policies.

14.3 Waiver of Subrogation

14.3.1 The Owner and Contractor waive all rights against (1) each other and any of their Subcontractors, Sub-Subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors provided by the Owner, if any, and any of their Subcontractors, Sub-Subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Article, or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Contractor as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors provided herein, if any, and the Subcontractors, Sub-Subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policy shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or

indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

14.4 Insurance Provisions

14.4.1 The insurance policies shall contain, or be endorsed to contain, the following provisions:

- (a) For the general and automobile liability policies, the Owner, its officers, employees, representatives, volunteers, and agents are to be covered as additional insureds.
- (b) For any claims related to the Work, the Contractor's insurance coverage shall be primary insurance as respects to the Owner, its officers, employees, representatives, volunteers, and agents. Any insurance or self-insurance maintained by the Owner, its officers, employees, representatives, volunteers, and agents shall be in excess of the Contractor's insurance and shall not contribute with it.
- (c) Each insurance policy required by this Article shall state that coverage shall not be canceled by either the Contractor or the insurance carrier, except after thirty days prior written notice by certified mail, return receipt requested, has been given to the Owner.
- (d) The Owner, its officers, employees, representatives, volunteers, and agents shall not by reason of their inclusion as additional insureds incur liability to the insurance carriers for payment of premiums for such insurance.
- (e) Course of construction coverage shall contain the following provisions:
 - 1 The Owner shall be named as loss payee;
 - 2 The insurer shall waive all rights of subrogation against the Owner; and
 - 3 If required in writing by a party in interest, the Contractor as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Contractor's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Contractor shall deposit in a separate account proceeds so received, which the Contractor shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made, replacement of damaged property shall be covered by appropriate Change Order.

14.4.2 Partial occupancy or use shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance.

14.5 Amount of Insurance

14.5.1 For all projects, other than those involving hazardous materials, the insurance furnished by the Contractor under this Article shall provide coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions.

- (a) Comprehensive or Commercial form General Liability Insurance - Limits of Liability
 - (i) \$2,000,000.00 General Aggregate
 - (ii) \$1,000,000.00 Each Occurrence - combined single limit for bodily injury and property damage.
- (b) Business Automobile Liability Insurance - Limits of Liability
 - (i) \$1,000,000.00 Each Accident- combined single limit for bodily injury and property damage to include uninsured and underinsured motorist coverage.
- (c) Workers' Compensation limits as required by law with Employers Liability limits of \$1,000,000.00.
- (d) Course of Construction Insurance - 100% of the completed value of the work

14.5.2 For projects involving hazardous materials, only the Contractor and its hazardous materials Subcontractors shall provide coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions:

- (a) Comprehensive or Commercial form General Liability Insurance - Limits of Liability
 - (i) \$10,000,000.00 General Aggregate
 - (ii) \$5,000,000.00 Each Occurrence - combined single limit for bodily injury and property damage.
- (b) Business Automobile Liability Insurance - Limits of Liability

- (i) \$1,000,000.00 Each Accident- combined single limit for bodily injury and property damage to include uninsured and underinsured motorist coverage.
- (c) Hazardous material transporter services must also have:
 - (i) MCS-90 endorsement
 - (ii) Sudden & Accidental Pollution endorsement-Limits of Liability*
 - 1 \$2,000,000.00 Each Occurrence
 - 2 \$2,000,000.00 General Aggregate
- *A higher limit on the MCS-90 endorsement required by law must be matched by the Sudden & Accidental Pollution Insurance.
- (d) Workers' Compensation limits as required by law with employers Liability limits of \$1,000,000.00.
- (e) Course of Construction Insurance-100% of the completed value of the work
- (f) Environmental Impairment (pollution) Liability Insurance - Limits of Liability:
 - (i) \$10,000,000.00 General Aggregate
 - (ii) \$5,000,000.00 Each Occurrence-combined single limit for bodily injury and property damage, including clean-up costs.

14.6 Acceptability of Insurers

14.6.1 Insurers shall be licensed by the State of Georgia to transact insurance and shall hold a current A.M. Best's rating of A:VII; or shall be a carrier otherwise acceptable to the Owner.

14.7 Subcontractor's Insurance

14.7.1 The Contractor shall ensure that its Subcontractors are covered by insurance of the type and the amounts required by this Article. Contractor shall not allow any Subcontractor to commence work on its subcontract until the insurance has been obtained.

14.8 Miscellaneous

14.8.1 Any deductible under any policy of insurance required in this Article shall be Contractor's liability.

14.8.2 Acceptance of certificates of insurance by the Owner shall not limit the Contractor's liability under the Contract.

14.8.3 In the event the Contractor does not comply with these insurance requirements, the Owner may, at its option, provide insurance coverage to protect the Owner. The cost of the insurance shall be paid by the Contractor and, if prompt payment is not received, may be deducted from Contract sums otherwise due the Contractor.

14.8.4 If the Owner is damaged by the failure of the Contractor to provide or maintain the required insurance, the Contractor shall pay the Owner for all such damages.

14.8.5 The Contractor's obligations to obtain and maintain all required insurance are not delegable duties under this Contract.

ARTICLE 15. MISCELLANEOUS

15.1 Special Stipulations

15.1.1 Governing Law; Venue. The Contract shall be governed by the law of the State of Georgia. The exclusive jurisdiction and venue for any action arising out of this Agreement shall be the Superior Court of Whitfield County Georgia, and the parties hereby waive any and all objections or defenses thereto.

15.1.2 Independent Contractor. Each of the Contractor and Architect shall perform the services under this Contract as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Contract shall be interpreted or construed to constitute Contractor or Architect or any of their respective agents or employees to be the agent, employee, or representative of Owner.

15.2 Conflicts of Interest

15.2.1 The Contractor certifies that to the best of its knowledge no circumstances exist which will cause a conflict of interest in performing the services required by this Contract, that no employee of Owner, nor any member thereof, nor any public agency or official affected by this Contract, has any pecuniary interest in the business of the Contractor or its Subcontractors and that no person associated with the Contractor or its Subcontractors has any interest that would conflict in any manner or degree with the performance of this Contract.

15.2.2 Should Contractor become aware of any circumstances which may cause a conflict of interest during the term of this Contract, Contractor shall immediately notify Owner. If Owner determines that a conflict of interest exists, Owner may require that Contractor take action to remedy the conflict of interest or terminate the Contract without liability. Owner shall have the right to recover any fees paid for services rendered by Contractor which were performed while a conflict of interest existed if Contractor had knowledge of the conflict of interest and did not notify Owner within one week of becoming aware of the existence of the conflict of interest.

15.2.3 Contractor warrants that Contractor and Contractor's Subcontractors have not employed or retained any company or person other than a bona fide employee, working solely for Contractor or its Subcontractor(s) to solicit or secure this Contract and that Contractor and Contractor's Subcontractor(s) have not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for Contractor or its Subcontractor(s) any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award of this Contract. For any breach or violation of this provision, Owner shall have the right to terminate the Contract without liability and, at its discretion, to deduct from the price, or otherwise recover, the full amount of such fee, commission, percentage, gift, payment or consideration.

15.2.4 Contractor shall include the terms and conditions of Section 15.2 in all Subcontractor agreements for work to be performed under this Contract.

15.2.5 Equal Employment Opportunity. During the performance of this Contract, Contractor agrees as follows: (i) Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin; (ii) Contractor will, in all solicitations or advertisements for employees placed by qualified applicants, receive consideration for employment without regard to race, creed, color, sex or national origin; (iii) Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Contract so that such provision will be binding upon each Subcontractor, provided that the foregoing provision shall not apply to contracts or subcontracts for standard commercial supplies of raw materials.

15.3 Successors and Assigns

15.3.1 The Owner and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Contractor shall not assign this Contract without written consent of the Owner.

15.4 Surety Bonds

15.4.1 The Contractor shall furnish separate performance and payment bonds to the Owner. Each bond shall set forth a penal sum in an amount not less than the Contract Price. Each bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Price is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amount. The performance and payment bonds furnished by the Contractor shall be in form suitable to the Owner and shall be executed by a surety, or sureties, reasonably suitable to the Owner. At the delivery of such bonds to the Owner, the Contractor shall also furnish in writing to the Owner the name, address, telephone number, email address, and facsimile number of the person employed by the surety to whom any claims, notices, requests, or other communications from the Owner are to be submitted. If requested by the Owner or the Architect, the Contractor shall procure and furnish to the Owner and

Architect the written consent of surety to any proposed Change Order, contract payment or other contemplated action under this Contract. The Contractor shall provide a contact name, phone number and address at signing of this contract.

15.5 Entire Agreement

15.5.1 This Contract, together with the Contractor's performance and payment bonds for the Project, constitute the entire and exclusive agreement between the Owner and the Contractor with reference to the Project. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the Owner and the Contractor. No representations either oral or written not incorporated herein shall be binding on the parties. No amendment or modification of this Contract shall be enforceable unless same is in writing duly executed by the parties. In the event any term, condition, clause or provision of this Contract is held or determined to be invalid by any Court of competent jurisdiction, any and all remaining terms, conditions, clauses and provisions of the Contract shall remain in full force and effect.

15.6 No Privity with Others

15.6.1 Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the Owner and any person or entity other than the Contractor.

15.7 Intent and Interpretation

15.7.1 The intent of this Contract is to require complete, correct, and timely execution of the Work. Any Work that may be required, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result shall be provided by the Contractor for the Contract Price.

15.7.2 This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

15.7.3 When a word, term or phrase is used in this Contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.

15.7.4 The words "include", "includes", or "including", as used in this Contract, shall be deemed to be followed by the phrase, "without limitation".

15.7.5 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

15.7.6 Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

This Contract is executed under seal on the date set forth hereinbelow.

OWNER:
City of Dalton, GA

CONTRACTOR:

(Typed Name)

By:
(Signature)

By:
(Signature)

Annalee Sams – Mayor
300 W. Waugh Street
Dalton, GA 30720

(Printed Name, Title and Address)

(Printed Name, Title and Address)

(Date of Execution)
Approved as to Form:

(Date of Execution)

COMPANY		JOB LOCATION
Company: City of Dalton	Company: John Davis Recreation Center	Date: 2024-07-22
Address: 300 W Waugh Street Dalton, GA 30722	Address: 904 Civic Drive Dalton, GA 30721	Sales Rep: Mark Shively
		Phone: (404)867-8491
Contact: Caitlin Sharpe	Contact:	Email: mshively@buskercom.com
Phone:	Phone:	Exp Date: 2024-08-21

TITLE

Low Voltage - John Davis Recreation Center V2

SCOPE OF WORK

City of Dalton

PAB: Architectural Drawing

Pool Access Building

John Davis Recreation Center

Pages: E2.11, E1.21, E1.22, E1S.00

Structured Cabling - (219) Cat6A cables, which includes the following:

- **Network Connectivity**
 - Install (65) single Cat6A locations for network connectivity
 - Install (79) dual Cat6A locations for network connectivity
- **Camera Cabling**
 - Install (19) single Cat6A locations (cabling is included in above network connectivity install)
- **Wireless Access Point Cabling**
 - Install (16) Cat6A locations (cabling is included in above network connectivity install)

Network Closets

- - Room 211A is the MDF
 - Network riser cables in the New Building, (Non-Admin Wing), are to be pulled and terminated in this network closet.
 - BCI will provide lockable 42U Server Rack Cabinet with ventilated front and rear doors.
 - Panduit CAT6a Patch Panels for the above cabinet
 - (6) 2U Wire Managers for the above cabinet
 - (2) 1U Shelves for the above cabinet
 - Install 4 CAT6a Riser Cables, Indoor Rated, Non-Plenum between the MDF and IDF1, using provided conduit.
 - To be terminated in patch panel on each side
 - Room 225 is IDF1
 - Network riser cables in the Administration Wing are to be pulled and terminated in this network closet.
 - BCI will provide lockable 42U Server Rack Cabinet with ventilated front and rear doors.
 - Panduit CAT6a Patch Panels for the above cabinet
 - (6) 2U Wire Managers for the above cabinet
 - (2) 1U Shelves for the above cabinet
 - Install 4 CAT6a Riser Cable, Indoor Rated, Non-Plenum between the IDF1 and IDF2, using provided conduit.
 - Pool Building Room 113 is IDF2

- Network riser cables in the Pool Building are to be pulled and terminated in this closet.
- City of Dalton will provide a Kendal Howard 3U Enclosed V-Rack Cabinet for the vendor to install.
 - Vendor is to provide and install a 1U Panduit 24 port, CAT6a patch panel for the above cabinet.

Vendor to provide the following patch cables (Quantity determined by Scope of Work from City of Dalton)

- 30 Panduit Standard Patch Cable CAT6a Black for Patch Panel - 3ft
- 5 Panduit Standard Patch Cable CAT6a Black for Patch Panel - 1ft
- 20 Panduit Standard Patch Cable CAT6a Red for Patch Panel - 3ft
- 24 Panduit Standard Patch Cable CAT6a Red for Patch Panel - 1ft
- 20 Panduit Standard Patch Cable CAT6a Red for Endpoint, (L - TBD)
- 5 Panduit Standard Patch Cable CAT6a Blue - for Patch Panel - 3ft
- 20 Panduit Standard Patch Cable CAT6a Yellow - for Patch Panel - 3ft
- 10 Panduit Standard Patch Cable CAT6a Grey - for Patch Panel - 3ft
- 20 Panduit Standard Patch Cable CAT6a Orange - for Patch Panel - 3ft
- 20 Panduit Standard Patch Cable CAT6a Orange for Endpoint, (L - TBD)
- 10 Panduit Standard Patch Cable CAT6a White - for Patch Panel - 3ft
- 10 Panduit Standard Patch Cable CAT6a White for Endpoint, (L - TBD)

Fiber Components

- - Main Building
 - 1U Fiber Patch Panel for MDF, (Room 211A), and IDF1, (Room 225)
 - Install 24 Strand Multi-Mode Fiber Between MDF, (Room 211A), and IDF1, (Room 225), using provided conduit.
 - Install 12 Strand Multi-Mode Fiber Between IDF1, (Room 225), and IDF2, (Pool Building Room 113), using provided conduit.
 - Install a SPH-01P in the supplied network cabinet by others

Access Control

- - Provide (12) HID Signo Keypad Reader 40KNKS-00-000000
 - Install Composite Cable from controllers to the door hardware (provided by door vendor, using provided conduits)
 - Install cables and hardware at 12 doors requiring access control.

Wireless Access Points

- Install provided WAPS (16), 6 will require lift work.

Cameras

- Install and adjust provided 19 cameras provided.

Basket Tray

- Install 8x2x10 basket tray in designated path as shown on the drawings
 - will use threaded rod to attach to ceiling
 - drawings show BCI RECOMMENDED pathway
- [BCI Basket Tray Recommendation Drawings.pdf](#)

Assumptions:

- No specification on grounding, so no grounding provided for cabinets
- All configuration and programming for equipment done by others

- Direct mod plugs for all ac12 and APs
- AC12 will be installed above all doors that are accessed controlled
- That network will be live for installation of cameras to verify the angle at initial install

Recommendation:

- BCI recommends 8" Basket Tray for 30% future growth capacity

MFG	PART NO	DESCRIPTION	QTY
LOW VOLTAGE COMMUNICATIONS			
PANDUIT	PUR6AV04IG-G	TX6A™ VARI-MATRIX COPPER CABLE, CAT 6A, 23 AWG, U/UTP, CMR, INT'L GRAY	44.00
PANDUIT	PUO6X04BL-CEG	23/4PR SOL NS CAT6A OSP 1000' REEL IN A BOX - BLACK	3.00
PANDUIT	CJ6X88TGIG	MINI-COM MODULE, CATEGORY 6A, UTP, 8-POSITION 8-WIRE, UNIVERSAL WIRING, INTERNATIONAL GRAY, TG STYLE	407.00
PANDUIT	SP6X88-C	TX6 PLUS CAT6A UTP MODULAR PLUG	31.00
PANDUIT	CFPL2SY	2-PORT STAINLESS STEEL MINI COM FACEPLATE	92.00
PANDUIT	CBX1IG-A	SURFACE MOUNT BOX, 1 PORT, INTERNATIONAL GRAY	19.00
PANDUIT	CMBIG-X	BLANK MINI-COM MODULE-GRAY	15.00
PANDUIT	CPPL48WBLY	48 PORT PATCH PANEL FRAME W/LABEL FACEPLATES	5.00
PANDUIT	CPPL24WBLY	24 PORT PATCH PANEL FRAME W/ABEL FACEPLATES	1.00
PANDUIT	NK6APC3BL	NK CAT6A PC CM/LSZH BL 3ft	30.00
PANDUIT	NK6APC1BL	NK CAT6A PC CM/LSZH BL 1ft	5.00
PANDUIT	NK6APC3RD	NK CAT6A PC CM/LSZH RD 3ft	20.00
PANDUIT	NK6APC1RD	NK CAT6A PC CM/LSZH RD 1ft	24.00
BCI	BUDGET-ITEM	BUDGET - NK CAT6A PC CM/LSZH RD UP TO 5FT <i>AS A PART NUMBER WAS NOT SUPPLIED, WE HAVE PROVIDED A PRICE UP TO A 5FT CORD</i>	20.00
PANDUIT	NK6APC3BU	NETKEY CAT 6A 26 AWG UTP PATCH CORD 3 FT BLUE	5.00
PANDUIT	NK6APC3YL	NETKEY® CAT 6A 26 AWG UTP PATCH CORD, 3 FT, YELLOW	20.00
PANDUIT	NK6APC3GY	NETKEY® CAT 6A 26 AWG UTP PATCH CORD, 3 FT, GRAY	10.00
PANDUIT	UTP6AX3OR	PATCH CORD 24 AWG CAT. 6A RJ45 3 FT. ORANGE	20.00
BCI	BUDGET-ITEM	BUDGET - PATCH CORD 24 AWG CAT. 6A RJ45 5 FT. ORANGE <i>AS A PART NUMBER WAS NOT SUPPLIED, WE HAVE PROVIDED A PRICE UP TO A 5FT CORD</i>	20.00
PANDUIT	NK6APC3	NETKEY® CAT 6A 26 AWG UTP PATCH CORD, 3 FT, WHITE	10.00
BCI	BUDGET-ITEM	BUDGET - NK CAT6A PC CM/LSZH WHITE 5FT <i>AS A PART NUMBER WAS NOT SUPPLIED, WE HAVE PROVIDED A PRICE UP TO A 7FT CORD</i>	10.00
BCI	MISC-EXPENSE	CABLE SUPPORT	400.00
BCI	OPS-CABLING	ROUGH IN CAT6A	120.25
FIBER			
CORNING	012ZBA-14101A20	12 FIBER, OS2, SINGLE-MODE, OUTDOOR, SELF-SUPPORTING, GEL-FILLED, SINGLE TUBE, BLACK POLYETHYLENE JA	400.00
CORNING	024T81-33190-24	MIC TIGHT-BUFFERED CABLE, RISER, 24 FIBER, 50 ?M MULTIMODE (OM4)	400.00
CORNING	CCH-01U	CLOSET CONNECTOR HOUSING (CCH) ONE RACK UNIT, HOLDS TWO CCH CONNECTOR PANELS	2.00
CORNING	SPH-01P	SINGLE PANEL HOUSING FOR CCH SERIES PANELS	1.00
CORNING	CCH-CS24-E4-P00QE	CCH PIGTAILED SPLICE CASSETTE 24 F, LC DUPLEX, 50 UM MULTIMODE (OM4)	2.00



Busker Communications, Inc.
2567 Athens Hwy
Gainesville, GA 30507

QUOTE

19074

MFG	PART NO	DESCRIPTION	QTY
CORNING	CCH-CS12-E4-P00QE	CCH PIGTAILED SPLICE CASSETTE 12 F, LC DUPLEX, AQUA, 50 UM MULTIMODE (OM4)	2.00
BCI	OPS-CABLING	ROUGH IN FIBER	24.00

FIBER Total: \$8,547.50

BASKET TRAY

CABLOFIL	CF54/200IN304L	CABLOFIL CABLE TRAY-STAINLESS 304 (2D,,8W,,120L)	59.00
CABLOFIL	FASP200PG	FAS PROFILE 8 IN. L, FINISH: PRE-GALVANIZED	118.00
CABLOFIL	THRD3/8EZ	3/8-16 THREADED ROD 6'L ZINC	236.00
HILTI	423472	SCREW ANCHOR KH-EX-I 1/4"X 1-5/8" FOR 3/8" ROD, BOX OF 100	3.00
CABLOFIL	EDRNEZ	FAST SPLICE EDRN 50/PK. - SPECIAL ASSEMBLY TOOL (EDRNT00L) IS INCLUDED IN EVERY BAG	3.00
CABLOFIL	EZT90EZ	CABLE TRAY TEE BEND KIT, 8.86 LENGTH X 8.86 WIDTH X 0.75 HEIGHT, ELECTROZINC STEEL	12.00

BASKET TRAY INSTALL

BCI	OPS-CABLING	INSTALLING TRAY PER STICK (INCLUDING THREADED ROD, SPLICES)	177.00
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BASKET TRAY INSTALL Total: \$9,735.00

BASKET TRAY Total: \$24,019.56

NETWORK CLOSETS

PANDUIT	N8222B	NET-ACCESS N-TYPE CABINET 42 RU BLACK 800MM WIDE	2.00
PANDUIT	WMPF1E	3.5" X 19" HORIZONTAL F-DUCT WIRE MGMT EXEC PANEL	12.00
PANDUIT	SRM19X18A1	19 ADJUSTABLE MOUNT SHELF, STEEL, MOUNTS TO FRONT AND BACK OF EIA RACKS, DIMENSIONS: 1.8 H X 19.0 W	4.00
CHATSWORTH PRODUCTS	10506-716	CABLE RUNWAY ELEVATION KIT; BLACK; QUANTITY PER PACKAGE: 2 PAIR	2.00
CHATSWORTH PRODUCTS	10250-712	12"X1.5"X10' TUBULAR LADDER CABLE RUNWAY-BLACK	5.00
CHATSWORTH PRODUCTS	12100-712	12" RUNWAY DROP-OUT SHIELD-BLACK	2.00
CHATSWORTH PRODUCTS	10642-001	PROTECTIVE END CAPS; 0.38 W X 1.5 H; BLACK; SOLD IN PAIRS	8.00
CHATSWORTH PRODUCTS	11302-701	1.5"X3/8" JUNC SPLICE CORNER CLAMP KIT-BLK (1PR)	2.00
CHATSWORTH PRODUCTS	11421-712	12" RUNWAY WALL ANGLE SUPPORT KIT-BLACK	6.00
CHATSWORTH PRODUCTS	10608-701	VERTICAL WALL BRACKET, CABLE RUNWAY, 1.7 IN H X 2.2 IN D X 1.5 IN W, BLACK	6.00
CPI	40164-001	CABLE RUNWAY GROUNDING STRAP KIT	2.00
CPI	40162-905	2 HOLE COMPRESSION GROUNDING LUG FOR #2 WIRE	10.00
SOUTHWIRE	56986501	#6 GROUND WIRE - GREEN	150.00
BCI	OPS-CABLING	BUILD OUT OF NETWORK CLOSET	48.00

NETWORK CLOSETS Total: \$17,174.11

GENERAL CABLE	4EPL1S.41.05	18-4C+22-2C+22-4C+22-3P STR BC, FOIL SHD (22-3P ONLY) PVC, JKT YEL CMP	600.00
HID GLOBAL CORPORATION	40KNKS-00-000000	SIGNO40K, WALL MOUNT W/KEYPAD, 13.56MHZ OSDP/WIEGAND. PIGTAIL, MOBILE READY	12.00

LOW VOLTAGE COMMUNICATIONS Total: \$118,912.02

EQUIPMENT INSTALLATION

BCI	OPS-CABLING	INSTALLATION OF WAPS	20.48
BCI	OPS-SECURITY	INSTALLATION OF CAMERAS	57.00
BCI	OPS-SECURITY	INSTALLED DOOR EQUIPMENT	72.00

EQUIPMENT INSTALLATION Total: \$12,425.20

BCI	MISC-EXPENSE	MISC-EXPENSE	1.00
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Busker Communications, Inc.
2567 Athens Hwy
Gainesville, GA 30507

QUOTE
19074

MFG	PART NO	DESCRIPTION	QTY
BCI	BUDGET-ITEM	CEILING TILE BRIDGE FOR CAMERAS	4.00
BCI	CONS	CONSUMABLES	1.00
UNSPECIFIED	FREIGHT	LIFT DELEIVERY & PICKUP	1.00
LIFT-SCISSOR	LIFT-SCISSOR	34' ART LIFT	1.00
	PROJMGMT	PROJECT MANAGEMENT	93.00
	ENGINEERING	ENGINEERING	47.00
	DESIGN	CAD / Drawing	2.00
BCI	BOND	P&P BOND	1.00
TRAVEL			
BCI	TRAVEL	LABOR - TRAVEL	108.00
BCI	EXPENSE-MILEAGE	MILEAGE EXPENSE (GROUPED)	2,304.00
BCI	EXPENSE-LODGING	LODGING & PER DIEM EXPENSES	96.00
TRAVEL Total: \$26,522.40			

Total: \$179,974.76

All applicable taxes are not included.

Thank you for your business!

TERMS & CONDITIONS

1. Scope of Work - Contractor shall furnish and pay for all equipment and perform all work necessary and appropriate to furnish and install the systems integration equipment in the facility as described in this proposal.

2. Responsibility of Others - Unless otherwise noted in the proposal, the Owner shall be responsible for all electrical work such as but not limited to AC power, conduit systems, and outlet boxes. All finishes will be supplied as standard manufacturer's finish. All other work necessary to the completion of the project and not specifically defined in the proposal as being furnished by the Contractor shall be the responsibility of the Owner.

3. Work Area Access - Unless otherwise noted in this proposal, Contractor shall be given full and unrestricted access to all work areas and location required to complete the Scope of Work. Any training, access procedures or delays in related to the access of work area impacting productivity will be logged and invoiced in increments of 15 minutes.

4. Schedule - Contractors standard business operating hours are Monday through Friday from 07:00 AM to 04:00 PM. Any requirements outside of these hours must be noted and included in the scope of work.

5. Bill of Materials - The bill of materials shown is an estimated list of materials to provide a general list of items expected to be used in the completion of this proposal, not a guaranteed quantity to be used in completion of this project. Contractor shall furnish all materials as required to complete the scope of work detailed and quantities shown are only an estimated number. All unused materials at the end of the project will be removed from site and returned to Contractor inventory.

5. Existing Equipment - Unless otherwise noted in the proposal, all existing equipment shall remain the property of the Owner and will be incorporated into the new system as proposed. Contractor shall remove and may reuse such equipment as necessary for the purposes of this Agreement.

6. Time of Commencement and Substantial Completion - The work to be performed under the terms of this Agreement shall be coordinated upon receipt of the signed Agreement, or Time of Commencement. Schedules communicated in any form prior to the Time of Commencement are offered as best effort and cannot be confirmed until Time of Commencement. Substantial Completion shall be defined as on-site work being complete, except for punch list items, work that is delayed beyond the control of the Contractor and deliverables. Deliverables include, but are not limited to, as-build drawings, test results, O&M manuals and manufacturer warranties.

Substantial Completion as a milestone date shall be subject to extensions due to conditions beyond the control of the Contractor such as acts of nature, delays in material delivery where the Contractor's actions have no effect, accessibility to the facility, and delays of work by others where such work is necessary to the completion of the project.

7. Insurance - Contractor shall furnish to the Owner a Certificate of Insurance including general liability, auto, and workers' compensation limits prior to commencement of any work on site.

8. Agreement Sum - The Owner shall pay to the Contractor for the performance of the work, the amount noted in this proposal proposal, subject to additions and subtractions by written change order. No changes to the Agreement sum can be made by either the Contractor or the Owner without a written change order agreed to by both parties.

9. Title to Goods - Title to goods is retained by the Contractor until payment of the full Agreement sum subject to allocation of payments and release of security as required by law. The Owner agrees to keep the goods safe, free from other liens and at the address of the installation.

10. Warranty - Installation will comply with BCI, BICSI, TIA/EIA and Owner quality standard, as received prior to proposal. Contractor guarantees all workmanship provided under this Agreement to be free of defects for a period of one year from the date of final acceptance or first beneficial use whichever occurs first. Contractor will provide labor services to correct any defective workmanship during normal business hours while the warranty is in effect at no cost to the Owner. Material or equipment defects not a direct result of workmanship is not covered by warranty, all time and management related to replacement for materials or equipment will be charged at Time & Materials.

All equipment warranties provided by equipment manufacturers are warranties between the Owner and the equipment manufacturer and the Contractor has no liability.

Warranties do not apply in case of abuse, misuse, neglect, acts of nature, or readjustment of system settings when they have been changed by anyone other than the Contractor.



Busker Communications, Inc.
2567 Athens Hwy
Gainesville, GA 30507

QUOTE
19074

PAYMENT TERMS

Terms: COD

Billing Method:

Standard payment terms are Net 30 from date of invoice unless otherwise agreed upon by BCI via Non-Standard Payment Terms Agreement and are subject to credit approval. Past due balances are subject to interest at 1.5% monthly. Credit card transactions will be charged a 2.5% processing fee. Returned checks will be charged a \$100 processing fee.

BCI will issue an invoice for materials and engineering/mobilization labor upon approval of this quote, or within 30 days of the project start date, unless otherwise agreed upon in writing. Additional progress invoices will be issued at no less than monthly intervals. Sales tax is charged at the current rate set by the local tax authority and is not included in this quote.

Due to the volatility of the market, some material costs may be adjusted after initial invoice if price has increased or availability causes material substitution. Any price changes that should follow with any amendment or change order will be reflected on progress or final invoices unless otherwise agreed upon by BCI and the customer.

This quote shall become binding on the parties hereto when signed by Customer and accepted and approved by Busker Communications, Inc. By Customer's signature, Customer acknowledges that they have read, understood and agreed to the Terms and Conditions.

CUSTOMER: City of Dalton

SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

Busker Communications, Inc.

SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____