



**MAYOR AND COUNCIL MEETING
MONDAY, FEBRUARY 19, 2024
6:00 PM
DALTON CITY HALL - COUNCIL CHAMBERS**

AGENDA

Call to Order

Pledge of Allegiance

Approval of Agenda

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

Presentations:

1. Dalton State College Update - Dr. John Fuchko
2. Department Head Reports

Minutes:

- [3.](#) Mayor & Council Minutes of February 5, 2024

New Business:

- [4.](#) (1) 2024 New Alcohol Beverage Application
- [5.](#) Resolution 24-08 to Transfer \$2.5 million from the Dalton-Whitfield Regional Solid Waste Management Authority's Unrestricted Net Assets into the City of Dalton's General Fund
- [6.](#) Final Change Order Approval for Ramp Rehab Phase 2 at Airport
- [7.](#) Change Order 001 Data and Sound Specialties, Inc. Camera, Access Control & Cabling Upgrades Project
- [8.](#) Ridge Street Stormwater Bypass Project Contract Change Order for Rock Removal
- [9.](#) Right of Way Encroachment - 505 N Glenwood Avenue
- [10.](#) Corrective Action Plan - 2251 Rocky Face Circle

Supplemental Business

Announcements

Adjournment

THE CITY OF DALTON
MAYOR AND COUNCIL MINUTES
FEBRUARY 5, 2024

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

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

Councilmember Mock led the audience in the Pledge of Allegiance.

APPROVAL OF AGENDA

On the motion of Councilmember Mock, second Council member Farrow, the agenda was amended and approved to add “Special Recognition” prior to the Public Commentary. The vote was unanimous in favor.

MOMENT OF SILENCE

The Mayor and Council held a moment of silence for Mooney Chitwood. The moment of silence was to honor Mr. Chitwood’s legacy and service to the community and his service as Councilman for the City of Dalton in the 1960’s.

PUBLIC COMMENTARY

Octavio Perez addressed the Mayor & Council with several items including: (1) inquiring if the downtown deck will be rebuilt and if so suggested it should be 2 or 3 stories to mitigate parking issues, (2) Asking Council to consider off-street parking requirement on the 900 S. Hamilton Street project and (3) questioned why Dalton Utilities lobby is closed to customers. Dalton Utilities CEO John Thomas addressed Mr. Perez’ comments. The entire discussion can be viewed at https://www.youtube.com/watch?v=gK9hf0ixJQM&ab_channel=CityofDaltonGeorgia

Mayor Sams stated City Staff is currently studying downtown parking needs and will make a recommendation to the Mayor and Council.

Special Recognitions

Recreation Director Caitlin Sharpe presented each participant and coach in the age group of 8 & under and 10 & under with certificates in recognition for being the 2023 Georgia Recreation and Parks Association Soccer State Champions.

MINUTES

The Mayor and Council reviewed the Regular meeting minutes of January 8, 2024. On the motion of Council member Mock, second Council member Goodlett, the minutes were approved. The vote was unanimous in favor.

The Mayor and Council reviewed the Special Called meeting minutes of January 17, 2024. On the motion of Council member Mock, second Council member Lama, the minutes were amended and adopted to include Council member Lama’s additional comments regarding Ordinance 24-03. The vote was unanimous in favor.

FIREWORKS DISPLAY AGREEMENT WITH PYROTECNICO

Recreation Director Caitlin Sharpe presented Fireworks Display Agreement with Pyrotecnico for the City of Dalton’s July 4th’s firework display show in the amount of \$30,000.00. On the motion of Council member Mock, second Council member Goodlett, the agreement was approved. The vote was unanimous in favor.

Council member Farrow asked if the display could be brought back to John Davis. Sharpe stated the code would not allow it but the department has looked at alternative locations such as the fairgrounds.

NEW 2024 ALCOHOL BEVERAGE APPLICATION

The Mayor and Council reviewed the following New 2024 Alcohol Beverage Application:

Business Owner:	Billares La Cueva, LLC
d/b/a:	Billares La Cueva
Applicant:	Angel Hernandez
Business Address:	1107 East Walnut Ave.
License Type:	Pouring Beer
Disposition:	New

On the motion of Council member Farrow, second Council member Lama, the Alcohol Beverage Application was approved. The vote was unanimous in favor.

BLUE LINE SOLUTIONS AUTOMATED PHOTO ENFORCEMENT SERVICES AGREEMENT

Chief Cason presented the Blue Line Solutions Automated Photo Enforcement Services Agreement to install APE systems in the Dalton High School and Roan Street school zones. Cason stated that the system will enhance current efforts to reduce speeding violations and accidents within these school zones.

Council member Farrow stated he has concerns regarding the operational hours, and why Attachment A of the contract was left blank. Chief Cason stated it will only be in use during school hours, not after school, weekends, holidays, snow days etc. Chief Cason additionally stated although the department is asking for approval today, the specific times of implementation will be added to the contract at a later date when the determinations are made by the School System. Chief Cason additionally stated at best, this project would not be operational until the upcoming school year. After discussion, on the motion of Council member Mock, second Council member Farrow, the Agreement was approved. The vote was unanimous in favor.

ORDINANCE 24-04 THE REQUEST OF THE JOINT DEVELOPMENT AUTHORITY TO REZONE FROM TRANSITIONAL COMMERCIAL (C-4) TO URBAN PLANNED UNIT DEVELOPMENT (U-PUD)

Ethan Calhoun, Assistant Planning Director presented Ordinance 24-04 a request of the Joint Development Authority to Rezone from Transitional Commercial (C-4) to Urban Planned Unit Development (U-PUD) Tracts of Land Totaling 3.19 Acres Located along South Hamilton Street, Nichols Street, and Cherokee Street. Parcels (12-257-07-055, 12-257-07-057, 12-257-07-065, 12-257-07-064). Calhoun stated the Planning Commission noted there will be a minimum of (2) off street parking spaces per unit for the proposed development. City Administrator Andrew Parker stated the Ordinance in the packet does not include the condition of (2) spaces per unit because Staff feels like the conditions can be met in the site plan development. On the motion of Council member Farrow, second Council member Mock, the Request was approved. The vote was unanimous in favor.

RESOLUTION 24-03 TO DISSOLVE THE ANIMAL CONTROL BOARD

City Administrator Andrew Parker presented Resolution 24-03 to dissolve the Animal Control Board. Parker stated this Board is no longer active and plans moving forward would be to adopt a Unified Animal Control Ordinance and Board with Whitfield County. On the motion of Council member Mock, second Council member Goodlett, the Resolution was adopted. The vote was unanimous in favor.

RESOLUTION 24-04 TO DISSOLVE THE BUILDING CODE APPEALS BOARD

City Administrator Andrew Parker presented Resolution 24-04 to dissolve the Building Code Appeals Board. Parker stated this Board is no longer active and the Resolution delegates authority to the Board of Zoning Appeals. On the motion of Council member Farrow, second Council member Mock, the Resolution was adopted. The vote was unanimous in favor.

RESOLUTION 24-05 TO DISSOLVE THE GRIEVANCE COMMITTEE

City Administrator Andrew Parker presented Resolution 24-05 to dissolve the Grievance Committee. Parker stated only a certain percentage of employees are eligible for a grievance hearing. After review, staff feels the Charter and the Employee Manual provide for certain types of grievances to be heard by other entities specially by PSC, M&C and or staff. On the motion of Council member Mock, second Council member Farrow, the Resolution was approved. The vote was unanimous in favor.

RESOLUTION 24-06 TRANSFERRING PROPERTY TO DALTON BOARD OF EDUCATION

The Mayor and Council reviewed Resolution 24-06 Transferring Property to Dalton Board of Education. City Administrator Andrew Parker stated the tennis courts were transferred to the City of Dalton in 2007 however thru research, Staff could not ascertain why. Parker further stated the School system is prepared to renovate the courts since Dalton Recreation Department does not utilize them. On the motion of Council member Mock, second Councilmember Farrow the Resolution was adopted.

RESOLUTION 24-07 TO ADOPT ADA TRANSITION PLAN

Assistant City Administrator Todd Pangle presented Resolution 24-07 to adopt an ADA Transition Plan. Pangle stated this Plan is to ensure all facilities and programs offered by the City are available to everyone. Pangle stated the plan also ensures the City's compliance with GDOT for funding purposes. On the motion of Council member Mock, second Council member Lama, the Plan was approved. The vote was unanimous in favor.

CONFLUENCE DESIGN PROPOSAL FOR CITY BRANDING PROJECT

Assistant City Administrator Todd Pangle presented a proposal for City Branding by Confluence Design. Pangle stated the design services is part of the upcoming Branding Project. Pangle further stated the outcome of this project is intended to provide the City with a refreshed logo, a brand style and communication document layouts. Pangle continued stating the brand style will provide the city with a common color palette, typefaces and usage rules for such. On the motion of Council member Mock, second Council member Farrow, the Proposal was approved. The vote was unanimous in favor.

RATIFY ENGAGEMENT WITH THE ARBITRAGE GROUP, INC.

CFO Cindy Jackson presented an Engagement Letter with The Arbitrage Group, Inc. to perform rebate calculation in regards to the Dalton Building Authority Revenue Bonds Issue 2021 and 2022 as a part of Post Issuance Compliance due diligence. On the motion of Council member Mock, second Council member Farrow, the request was approved. The vote was unanimous in favor.

SUPPLEMENTAL FUNDING AGREEMENT #1 WITH GDOT FOR RAMP REHAB AT AIRPORT

Airport Director Andrew Wiersma presented the Supplemental Funding Agreement #1 with GDOT for Ramp Rehab at Airport. Wiersma stated the original contract was executed on March 27, 2023. Wiersma stated that during construction, soils were found to be much poorer than originally anticipated by the geotechnical exploration and subsequent project design. Wiersma further stated significant undercutting of bad soils was required and additional federal grants were available to cover the cost of the added work items. On the motion of Council member Mock, second Council member Farrow, the agreement was approved. The vote was unanimous in favor. Note: no local share required

BION CYBERSECURITY PROFESSIONAL SERVICES AGREEMENT 2024

IT Director Jorge Paez presented a Bion Cybersecurity Professional Services Agreement 2024. Paez stated the professional service will help and guide the city's IT Department in deploying networking equipment to best practices in security. Paez further stated the agreement is NOT to exceed \$19,000 overall. On the motion of Council member Lama, second Council member Mock, the agreement was approved. The vote was unanimous in favor.

CYBERSECURITY STATE GRANT – MOU

IT Director Jorge Paez presented a Cybersecurity State Grant Memorandum of Understanding from the Department of Homeland Security to help address cybersecurity risks and threats to information systems owned/operated by state, local territorial governments. Paez stated the MOU is to initiate the process of receiving a grant for the cybersecurity program. On the motion of Council member Mock, second Council member Lama, the MOU was approved. The vote was unanimous in favor.

INTERDEV PROFESSIONAL SERVICES AGREEMENT 2024

IT Director Jorge Paez presented InterDev Professional Services Agreement 2024 for deployment of GIS services internally across the City of Dalton departments. On the motion of Council member Mock, second Council member Farrow, the Agreement was approved. The vote was unanimous in favor.

THREATLOCKER SOFTWARE AGREEMENT

IT Director Jorge Paez presented Threatlocker Software Agreement, a cybersecurity software developing firm that emphasizes on zero trust technology and framework. Paez stated the software will aide the IT department in auditing the data storage services. On the motion of Council member Mock, second Council member Lama, the Agreement was approved. The vote was unanimous in favor.

MAYORAL APPOINTMENTS

Mayor Sams read into the record the following Mayoral Appointments for 2024

Historic Preservation	Mayoral	Farrow, Steve	Farrow, Steve	1 Year	12/31/24
Land Bank	Mayoral	Sams, Annalee	Expired	1 Year	12/31/24
Land Bank	Mayoral	Mock, Dennis	Expired	1 Year	12/31/24

BOARD APPOINTMENTS

On the motion of Council member Farrow, second Council member Mock, the following Board Appointments were approved:

Development	Authority	<i>To Be Determined</i>	Edwards, Larry	6 Year	2/1/23
Library	Board	Compton, Ann	Compton, Ann	3 Year	3/2/26
Convention Visitors	Bureau	Rodriguez, Josafat	Bobo, Kim	2 Year	12/31/25
Housing	Authority-Resident Member	Barrett, Brenda	Lester, Anita	1 Year	12/31/24
Housing	Authority	Simmons, Antoine	Simmons, Antoine	5 Year	12/31/28
Public Safety	Commission	Jackson, Lane	Walker, Anthony	5 Year	12/31/28
Historic Preservation	Commission	Long, Zac	Lewis, Joanne	3 Year	2/1/27
Tree	Board	Blaylock, Ron	Purvis, Pete	Balance	12/31/24

The vote was unanimous in favor.

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was Adjourned at 7:06 p.m.

Bernadette Chattam
City Clerk

Annalee Sams, Mayor

Recorded
Approved: _____
Post: _____



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 02/19/2024
Agenda Item: 2024 Alcohol Beverage Application
Department: City Clerk
Requested By: Gesse Cabrera
Reviewed/Approved by City Attorney? N/A
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:

(1) New 2024 Alcohol Beverage Application up for review.

2024 ALCOHOL BEVERAGE APPLICATION APPROVAL
M&C MEETING – MONDAY FEBRUARY 19, 2024

(1) 2024 ALCOHOL APPLICATION(S)

1. Business Owner: The Waggle, LLC
d/b/a: The Waggle, LLC
Applicant: Jeffery Tatum
Business Address: 825 Chattanooga Ave. Suite 35
License Type: Pouring Liquor
Disposition: **License Addition**



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 2-19-24

Agenda Item: Resolution 24-08

Department: Finance

Requested By: Cindy Jackson

**Reviewed/Approved by
City Attorney?** Yes

Cost: Revenue Increase

**Funding Source if Not in
Budget** Revenue Increase

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

A resolution to transfer to the City of Dalton General Fund \$2.5 million from the Dalton-Whitfield Regional Solid Waste Management Authority's Unrestricted Net Assets.

Resolution 24-08

A Resolution of the City of Dalton Mayor and Council Authorizing a Transfer to the General Fund from the Dalton-Whitfield Regional Solid Waste Management Authority and For Other Purposes

WHEREAS, the City of Dalton and Whitfield County caused the creation of the Dalton-Whitfield Regional Solid Waste Management Authority (the Authority) in 1995 in accordance with State Law and by Intergovernmental Agreement; and

WHEREAS, the City of Dalton and Whitfield County continue to have fiscal responsibilities for the continued operation of the Authority; and

WHEREAS, the Authority has unrestricted net assets for the current year that are not essential for current operations of the Authority.

NOW, THEREFORE, BE IT RESOLVED by the City of Dalton Mayor and Council that it hereby Requests the immediate transfer by the Authority of \$2,500,000.00 to the City of Dalton General Fund.

BE IT FURTHER RESOLVED that the City Clerk is authorized and directed to record this approved Resolution in the minutes of the City of Dalton Mayor and Council.

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately upon its approval by the City of Dalton Mayor and Council.

Mayor/Mayor Pro Tem

Attest:

City Clerk

(SEAL)



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 2/19/2024

Agenda Item: Final Change Order Approval for Ramp Rehab Phase 2 at Airport

Department: Airport

Requested By: Andrew Wiersma

Reviewed/Approved by City Attorney? No

Cost: \$119,711.90

Funding Source if Not in Budget General Fund

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

Original contract amount was \$1,518,057.20. The M&C approved preliminary change order in the amount of \$731,149.86 for extensive remediation of poor soils encountered during construction. Additional grant funds were collected for the project in the amount of \$546,423 and approved on 2/5/24. Total difference between final project amount and grant funding amount is \$119,711.90. This amount is eligible for future reimbursement at 90%, leaving a local share of \$11,971.19.

**CITY OF DALTON
DALTON MUNICIPAL AIRPORT
CHANGE ORDER SUMMARY**

Project: Apron Pavement Rehabilitation, Phase II
Croy Project No. 2106.005
GDOT: AP023-9067-44(313) Whitfield, PID T007894

Change Order No. : 1
Date: 02/05/24

Contractor:
Northwest Georgia Paving, Inc.
501 W. May Street
Calhoun, GA 30701

Contract Date: 04/05/23
Contract For: Construction

Whereas, it is desirable to expand the scope of the original contract for the Apron Pavement Rehabilitation Phase II project at the Dalton Municipal Airprt, the following Change Order is submitted to wit:

Change Order No. 1 Scope:

Demo and haul off existing curb, gutter, and flume; increase soil cement % and additional soil cement depth to address unexpectedly poor soil conditions; undercut subgrade and backfill with stone and geogrid and extend Contract completion date by twenty-one (21) days, from December 16, 2023, to January 6, 2024.

It is agreed that as a result of the above modification, the contract amount is increased \$771,744.62 as detailed in the attached Change Order Schedule of Items and that the Contract completion date is extended by twenty-one (21) days and that this Change Order is hereby made a part of the original contract to be performed under the specifications thereof, and that the original contract is in full and effect, except in so far as it might be modified by this Change Order.

The original Contract Sum	\$ 1,518,057.20
The net change by previously authorized Change Orders	\$ -
The Contract Sum prior to this Change Order was	\$ 1,518,057.20
The Contract Sum will increase by this Change Order in the amount of	\$ 771,744.62
The revised Contract Sum including this Change Order will be	\$ 2,289,801.82
The Contract Time will be increased by (21) days	21 Days
The date of Substantial Completion as of the date of this Change Order therefore is	01/06/24

Date this: 2/15/24

Recommended for Approval:

PATRICK T. LESTON
Croy Engineering, LLC

Northwest Georgia Paving, Inc.

By: [Signature]
Title: President

City of Dalton

By: _____
Annalee Harlan Sams, Mayor
Title



(Seal)

**CITY OF DALTON
DALTON MUNICIPAL AIRPORT
CHANGE ORDER SCHEDULE OF ITEMS**

Contract: Apron Pavement Rehabilitation, Phase II
Change Order No.: 1
Date: 02/05/24

Contractor: Northwest Georgia Paving, Inc.

Item No.	Spec No.	Description	Current Contract			Revisions		Net Change		
			Current Qty	Unit	Unit Price	Current Amount	Revised Qty	Revised Amount	Qty	Amount
34CO1		Demo of existing Curb/Gutter & Flume includes haul off site	0.00	LS	\$ 3,906.55	\$ -	1.00	\$ 3,906.55	1.00	\$ 3,906.55
35CO2		Soil-Cement Stabilized Base 6"	0.00	SY	\$ 7.50	\$ -	600.00	\$ 4,500.00	600.00	\$ 4,500.00
36CO3		Undercut and Replace	0.00	CY	\$ 94.00	\$ -	430.69	\$ 40,484.48	430.69	\$ 40,484.48
37CO4		GPS Model/Grade Change/Layout	0.00	LS	\$ 1,850.00	\$ -	1.00	\$ 1,850.00	1.00	\$ 1,850.00
38CO5		Backfill - Asphalt Millings	0.00	LS	\$ 33,264.00	\$ -	1.00	\$ 33,264.00	1.00	\$ 33,264.00
39CO6		Geotextile Fabric	0.00	SY	\$ 5.50	\$ -	6,000.00	\$ 33,000.00	6,000.00	\$ 33,000.00
40CO6		#3 Stone	0.00	CY	\$ 88.28	\$ -	2,326.65	\$ 205,396.66	2,326.65	\$ 205,396.66
41CO6		GAB	0.00	TN	\$ 63.64	\$ -	1,331.19	\$ 84,716.93	1,331.19	\$ 84,716.93
42CO7		Unclassified Excavation - Excavation/haul off	0.00	CY	\$ 94.00	\$ -	3,879.00	\$ 364,626.00	3,879.00	\$ 364,626.00
Current Value						\$ -	Revised Value	\$ 771,744.62	Net Change	\$ 771,744.62



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 2-19-2024

Agenda Item: Change order 001 Data and Sound Specialties, Inc. Camera, Access control & Cabling upgrades Project

Department: Information Technology

Requested By: Jorge Paez

Reviewed/Approved by City Attorney? No

Cost: \$12,600

Funding Source if Not in Budget CIP FY2023

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

Data and Sound Specialties, inc has been working to finalize the project for security cameras and door access control system. D&SS and IT department have found out that we have a list of missing items that are out of scope from the proposed bid. Which include Door strike retro-fit kits, Wire management, Door position indicators & labor, two access control antennas to be mounted at the PD, and an additional camera for PD's Impound lot.

CONTRACT CHANGE ORDER

CHANGE ORDER NO: 001

CONTRACT: Camera, Access Control & Cabling Upgrades Project

CONTRACTOR: Data & Sound Specialties, INC

Contractor (Data & Sound Specialties, INC) and the City of Dalton mutually agree to add supplemental work (i.e. out of scope installation) to the above referenced project at the lump sum pricing as identified in Data & Sound Specialties, INC's. Proposal dated 02/14/2024.

#1 Correct Mortise Electric Strikes

Door strike retro-fit kits to make our current crash bars function with the new system, we anticipated to make the old ones work since they are original to the building.

#2 Wire Management

Dress up Cables at our data center

#3 Door Position Indicators

Door Position Indicators were not included with the city purchased equipment and need special DPIs to function with the new access control system

#4 Two Access Points installed Outside at PD

Two wireless access point need to be installed outside of the PD's parking lot and Data & Sound Specialties, INC found a way to pull the cable to the back side of the PD's parking lot.

#5 PD Impound Lot

Upon the initial design and scope of work, the impound lot of the PD was left out.

The contract increase for the addition of this work is \$12,600. For a grad total of \$79,100 USD.

By:

Jorge Paez
Information Technology Director



14 FEB 24

City of Dalton
300 W. Waugh Street
Dalton, GA 30720

RE: Cameras, Access Control, & Cabling Upgrades -- Change Order Request

- #1 **Correct Mortise Electric Strikes**
 - (5) HES 8500-605-LBM Fail Safe/Fail Secure Body Only 12/24VDC Electric Strike Latch bolt Monitor Bright Brass (lead time 4-6 weeks - they have been ordered).
 - **Cost \$3200.00**

- #2 **Wire Management**
 - (2) Double Sided Panduit Vertical Wire Managers Installed - Management of Patch Cords
 - **Cost \$900.00**

- #3 **Door Position Indicators - (8) City Hall & (5) PD**
 - **Cost \$3750.00**

- #4 **Two Access Points Installed Outside at PD**
 - **Cost \$1600.00**

- #5 **PD Impound Lot**
 - Conduit
 - Connections
 - Cable
 - Jacks
 - Install Camera
 - Install WAP
 - **Cost \$3150.00**

A handwritten signature in blue ink, appearing to read "Jim Sharkey", is written over a horizontal line.

Jim Sharkey, CTS-D, CTS-I, RCDD
Data & Sound Specialties, Inc.
P.O. Box 1807
Blue Ridge, GA 30513

Accepted by the City of Dalton

Date: _____



CITY COUNCIL AGENDA REQUEST

Meeting Type:	Mayor & Council Meeting
Meeting Date:	2/19/2024
Agenda Item:	Ridge Street Stormwater Bypass Project Contract Change Order for Rock Removal
Department:	Public Works
Requested By:	Chad Townsend
Reviewed/Approved by City Attorney?	No
Cost:	\$475.00 per hour
Funding Source if Not in Budget	*Funds are Allocated in Associated Bonded Capital Account*

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

This request is to approve the Contract Change Order for rock removal to address unforeseen conditions associated with bedrock residing within the vertical limits of the open trenching for the stormwater conveyance system being installed for the Ridge Street Stormwater Bypass Project. This bedrock must be removed when encountered prior to installation of the stormwater. Labor, machinery, and supervision for the rock removal services shall be billed at a rate of \$475.00 per hour.

Rock removal service is to be understood as a required service whenever bedrock is encountered through the life of the project.

See attached change order for additional information.

B & J Reed Construction, LLC
 1669 Will Evans Road
 Chatsworth, GA 30705 US
 706-463-2009
 rrcontractors@windstream.net

Estimate



ADDRESS

City of Dalton-Ridge Street
 Stormwater Bypass

SHIP TO

City of Dalton-Ridge Street Stormwater
 Bypass

ESTIMATE #	DATE
1090	02/16/2024

DATE	DESCRIPTION	QTY	RATE	AMOUNT
	Rock removal Provide labor, machinery and supervision for rock removal at Ridge St. stormwater bypass at a rate of \$475.00 per hour.	1	0.00	0.00

Included in price is use of machine and loss of production for rock removal.

TOTAL

\$0.00

Accepted By

Accepted Date



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 2/19/24

Agenda Item: 505 N Glenwood Ave – Right Of Way Encroachment

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:

This agenda item request is to approve the right of way encroachment for a project located at 505 N Glenwood Avenue. Work proposed within the right of way is to include the demolition of an existing retaining wall, installing storm drain as well as demo and replacement of multiple driveway aprons. This has been approved by the Public Works Committee.

Application and Permit for Conditional Encroachment on City of Dalton Right-of-Way
Permit No. _____

Applicant: AutoZone Development, LLC

Address: 123 S. Front St., 3rd Floor, Memphis TN 38103

Contact Person: Cassandra Peeler

Phone: 901-495-8753

Purpose of Encroachment: Remove existing retaining wall within N. Glenwood Avenue ROW per City request; Remove existing curb cut and drive approach, construct new full height curb and replace sidewalk at approach removal area; construct trench drain crossing through sidewalk for storm water discharge. Remove two existing drive approaches, construct one new approach within Maiden Lane ROW. Disturbed lawn area restoration within both ROW's.

A detailed drawing of the project encroachment shall be shown on a separate sheet and attached to this application and shall be made a part of this application/permit.

Permit Conditions

The issuance of a right-of-way encroachment permit does not constitute an easement. This right-of-way encroachment permit is for the use on the right-of-way only. Permittee assumes all legal liability and financial responsibility for the encroachment activity for the duration of the encroachment, and will indemnify, defend, and save harmless City of Dalton (the "City") and any of its officials, employees and agents from and against any and all claims, damages and expenses, including court costs, reasonable attorney's fees arising out of bodily injury or death of any person, or tangible or intangible property damage, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts, or omissions of the Permittee related to the project encroachment or this permit.

The encroachment covered hereby shall be installed in accordance with the attached plan and subject to all applicable ordinances and regulations for the construction and maintenance of streets and right-of-ways of the City. This permit is to be strictly followed and no work other than that specifically described herein is authorized. If the City or its designee undertakes to improve, change or relocate any portion of the right-of-way affected by this permit or encroachment, then the permittee or its successor, at its expense, shall be required to remove any curbing, paving or other alteration within the encroachment area and to stabilize the area for the City's intended use. The privilege of encroachment shall terminate upon notice from the City of its intended use. In the event the permittee fails to remove such curbing, paving or other alteration within the encroachment area after notice from the City, the City shall have the right to take all actions necessary to prepare the encroachment area for its intended use and the permittee shall be liable to the City for the cost thereof.

Permit requested this 15th day of December, 2023. The signing of this permit application commits the applicant to the Permit Conditions.

Applicant:

By: Cassandra Peeler
(title) Pre-Construction Specialist

Public Works Committee Recommendation: Approve Do not Approve

After consideration by the Mayor and Council of the City of Dalton, the foregoing conditional encroachment application is hereby ___ approved ___ denied, this _____ day of _____, 20__.

City of Dalton, Georgia

By: _____
Mayor

Attest:

City Clerk



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 2/19/24

Agenda Item: 2251 Rocky Face Circle Corrective Action Plan

Department: Public Works

Requested By: Chad Townsend

Reviewed/Approved by City Attorney? No

Cost: N/A

Funding Source if Not in Budget General Budget

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

This agenda item request is to approve the stormwater corrective action plan for 2251 Rocky Face Circle. There has been an ongoing issue with erosion at this location due to the discharge location of stormwater that is derived on City owned property. By approval of this corrective action plan, Public Works will install approximately 90' of pipe into the property and change the discharge location to a more desired location as to eliminate the erosion possibility. This has been reviewed and approved by the Public Works Committee.

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

M E M O R A N D U M

TO: Mayor and City Councilmembers

FROM: Chad Townsend, Public Works Director

RE: Corrective Action Plan & Permanent Easement –
2251 Rocky Face Circle

DATE: February 12th, 2024

The Public Works Department (the Department) has been working on stormwater issues throughout the City, and an area of concern is located on the property at 2251 Rocky Face Circle (the Property). In the past, the Department installed riprap to mitigate erosion from stormwater conveyed through Rocky Face Circle. The stormwater travels East down the City right of way toward two catch basins Southwest of the Property. A 30” reinforced concrete pipe (RCP) under the road conveys the runoff from the catch basin on the South side of the road towards the catch basin on the North, and the runoff from the two catch basins outfall at the Southwest corner of the Property through a 30” RCP. A drainage swale then conveys the runoff North for approximately 115’ before turning North-Northeast for approximately 190’, at which point the runoff exits the Property.

The Department has received a request to mitigate the erosion at the outfall of the 30” pipe on the Southwest of the Property. Therefore, the Department is proposing to install a 30” pipe for approximately 88’ to prevent further erosion issues to the West of the Property’s driveway. Therefore, a temporary construction easement and permanent maintenance easement will be required for 2251 Rocky Face Circle.

Sec. 96-1 of City Code provides for the acceptance of temporary or permanent easements for public dedication of certain drainage systems including those connected directly to the City’s existing system and conveys runoff from City right of way. The Public Works Department has developed the enclosed Corrective Action Plan drawings for the subject location and is recommending that City Council adopt this plan to allow city intervention. This plan would provide a long-term solution for a key drainage network for the watershed. The Corrective Action Plan requires a temporary construction and permanent drainage easement be provided by the property owner and accepted by the City Council. The property owner must provide written commitment to provide the easement areas described. The City Attorney will prepare the

temporary work easement, and approval of this Corrective Action Plan will authorize the city to accept a permanent drainage easement along the proposed storm drain system. The Corrective Action Plan is subject to minor revisions related to the exact alignment of the pipe to accommodate unforeseen field conditions.

Should you have any questions or need additional information regarding this matter, please do not hesitate to contact me.

Respectfully Submitted,



Chad Townsend
Public Works Director

Cc: City Administrator, Andrew Parker, P.E.
City Attorney, Jonathan Bledsoe

Enclosures:
Corrective Action Plan – 2251 Rocky Face Circle
Temporary Construction Easement

TEMPORARY CONSTRUCTION EASEMENT

Georgia, Whitfield County

This **Temporary Construction Easement** (sometimes the “Agreement”) is made this ___ day of _____, _____ (the “Effective Date”), by and between **Jimmy Wilbanks and Jane G. Wilbanks**, party of the first part (hereinafter “Grantor”), and the **City of Dalton, Georgia**, a municipal corporation of the State of Georgia, party of the second part (hereinafter “Grantee”), their respective heirs, administrators, successors and assigns:

WHEREAS, Grantor is the owner of certain real property and improvements in the City of Dalton, Whitfield County, Georgia, as described in **Exhibit “A”** attached hereto and incorporated herein by reference (the “Property”); and

WHEREAS, Grantee is a municipal corporation owning or controlling certain real property adjacent to the Property being used as a city street or right-of-way and more particularly described as **Rocky Face Circle** (the “City Property”); and

WHEREAS, Grantee desires non-exclusive temporary access and use of a portion of the Property 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; and

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) from each to the other in hand paid, the covenants contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. **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 “Construction Easement”). The rights, benefits, privileges, and easement granted herein are for the purpose of that construction identified in Exhibit B and as provided in Section 3 herein below (the “Construction Project”). Said Easement is temporary and shall expire upon completion of the construction therein.

2. **Term of Temporary Construction Easement.** The parties contemplate that the construction project can be completed in fourteen (14) days or less once on site. However, the parties acknowledge that said construction start date may be delayed and the time frame for completion may be delayed due to weather conditions. Except as may be amended by Grantee upon written notice to Grantor, said Temporary Construction Easement shall be for a period of fourteen (14) days beginning on the date of commencement. Grantee shall notify Grantor of any reasonable delay in commencement or delay in completion due to weather related delays as soon

as reasonably possible. The parties shall reasonably cooperate to complete the project in a timely manner.

3. **Construction and Additional Rights.** The Temporary Construction Easement granted herein shall include:

- (a) the right of entry into and upon the Property for the purpose of access and ingress to and egress from the Property in order to effect the rights, privileges and easements set forth herein;
- (b) the right to install a storm drain pipe to convey runoff from city owned property, necessary for stormwater and erosion control within the easement area;
- (c) the right, when required by law, governmental regulation or necessity to conduct scientific, geotechnical, archaeological or other studies, investigation or other testing on or below the ground surface of the Property.

4. **Reservation of Rights.** Except for the rights, privileges, benefits and easements granted herein, Grantor hereby reserves all its right, title and interest in and to the Property.

5. **Conditions and Obligations of Construction Easement Use.**

- (a) The use of the Property by the Grantee shall be in accordance with all laws, ordinances, codes, and regulations of all governmental authorities having jurisdiction over the Property. Any such use of this Temporary Construction Easement by the Grantee shall be undertaken in such a manner as to minimize the disturbance to and interruption of Grantor's use of the Property to the greatest extent practicable.
- (b) Any construction or activities performed under this Temporary Construction Easement by Grantee shall be done in a good workmanlike manner and the Property shall be left in a clean and orderly condition, with all debris removed therefrom, and any areas which may have been disturbed by such work shall be restored to their former condition as nearly as practicable.

6 **Covenants of Grantor.**

- (a) Grantor waives all right to any compensation for the use and enjoyment of the rights and privileges granted herein and further acknowledges that the use granted herein does not constitute an action of eminent domain or condemnation by the Grantee. Grantor does not waive any claim for damages that may result from the negligent acts or omissions of the Grantee or its contractors in its use of the Temporary Construction Easement.
- (b) Grantor does hereby covenant with the Grantee that Grantor is lawfully seized and possessed of the Property above described, that Grantor has a good and lawful right to convey said easement, rights and privileges granted herein.

- (c) Grantor acknowledges Grantee shall not be liable for any structure that Grantor may build on or above the storm drain pipe installed by Grantee. Grantor assumes full liability for any structure that Grantor may erect within the bounds of the easement and waive any claims, for bodily injury, for property damage to Grantor or to any third person.
7. **No Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift of dedication to the general public or for any general public use.
8. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and understanding between Grantor and Grantee relating to the subject matter hereof and may not be amended, waived or discharged except by instrument in writing executed by the party against which enforcement of such amendment, waiver or discharge is sought.
9. **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.
10. **Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and upon execution by the Grantor and Grantee.
11. **Time of Essence.** Time is of the essence with respect to this Agreement.
12. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

[Signatures on next page]

IN WITNESS WHEREOF, the Grantor has signed, sealed and delivered this Agreement as of the day and year first set forth above.

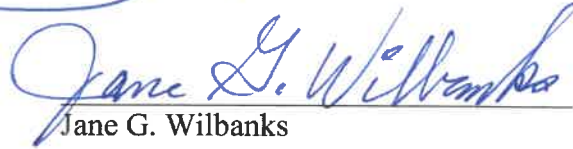
Signed, sealed and delivered
in the presence of:

Grantor:

Unofficial Witness


Jimmy Wilbanks

Notary Public
My Commission Expires:


Jane G. Wilbanks

Acceptance of Grantee:

CITY OF DALTON

Authorized Officer

EXHIBIT "A"

Book 2711 Page 105

8:30 1A24A
Cohutta Banking Co.
P.O. BOX 10
Chatsworth GA. 30055

STATE OF GEORGIA,
COUNTY OF WHITFIELD.

WARRANTY DEED

THIS INDENTURE, made the 1st day of April, 1996, between L. GLENN EUBANKS (hereinafter "Grantor"), of the County of Whitfield and State of Georgia, and JIMMY WILBANKS and JANE G. WILBANKS (hereinafter "Grantee"), of the County of Whitfield and State of Georgia.

WITNESSETH: That the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof being hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alien, convey and confirm unto the said Grantee the following described property, to-wit:

All that tract or parcel of land lying and being in Land Lot No. 185 in the 12th District and 3rd Section of Whitfield County, Georgia, and being Lot No. 26 of Rocky Face Estates Subdivision, as shown by plat of record in Plat Book 8, page 14 (Plat Cabinet A, Slide 245), in the Office of the Clerk of the Superior Court of Whitfield County, Georgia, and being that identical tract as shown on plat of survey prepared by Marcus E. Cook, Registered Land Surveyor No. 1935, dated September 6, 1985, and revised September 11, 1985, and described as follows: BEGINNING at a point on the northwesterly side of the right-of-way of Tibbs Road at the northeasterly end of the curvature formed by the rounding of the intersection of the northerly side of Rocky Face Circle with the northwesterly side of the right-of-way of said Tibbs Road; thence southwesterly and westerly following the curvature formed by the rounding of said intersection 50 feet, more or less, to a point on the northerly side of the right-of-way of Rocky Face Circle, which said point marks the southwesterly terminus of the curvature formed by the rounding of said intersection; thence westerly, following the curvature of the northerly side of Rocky Face Circle 128.45 feet to an iron pin; thence north 1 degree 0 minutes west 189.7 feet to an iron pin; thence north 89 degrees 0 minutes east 319.2 feet to an iron pin on the westerly side of the right-of-way of Tibbs Road; thence southwesterly along the curvature of the northwesterly side of Tibbs Road 104.3 feet; thence continuing along the westerly side of Tibbs Road, south 19 degrees 40 minutes west 109 feet to a right-of-way marker; thence continuing along the right-of-way of said Tibbs Road south 50 degrees 30 minutes east 25 feet; thence continuing along said right-of-way, south 19 degrees 40 minutes west 34.5 feet to the point of beginning.

TOGETHER WITH all and singular the hereinabove described premises together with all tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all estate, right, title, interest and rights of possession, claim and demand whatsoever, as well in law as in equity, of the said Grantor, of, in or to the said premises, and every part and parcel thereof, with the appurtenances thereto belonging.

Whitfield County, Georgia
Real Estate Transfer Tax
Paid \$ 123.00
Date 4-4-96
Betty Nelson
Clerk of Superior Court

TO HAVE AND TO HOLD, all and singular the above described premises, unto the said Grantee, and to the heirs, legal representatives, successors and assigns of the said Grantee forever, in **FREE SIMPLE** (except as may be limited herein).

AND THE SAID GRANTOR, and the heirs, legal representatives, successors and assigns of the Grantor will **WARRANT** and **DEFEND** all right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said Grantee, and to the heirs, legal representatives, successors and assigns of the Grantee, against all acts and deeds of the said Grantor, and all and every person or persons whosoever lawfully claiming or to claim the same.

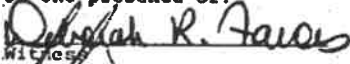
THIS CONVEYANCE IS MADE SUBJECT to all easements, conditions and restrictive covenants of record insofar as the same may lawfully affect the above-described property.

IN WITNESS WHEREOF, the Grantor has signed, sealed and delivered this Deed on the day and year first above written.



L. GLENN EUBANKS (L.S.)

Signed, sealed and delivered in the presence of:



Deborah R. Faus
Witness



Notary Public

My Commission Expires:
Notary Public, Murray County, Georgia
My Commission Expires Sept. 1, 1988

(NOTARIAL SEAL)

FILED & RECORDED
TIME: 8:30
DATE: 4-3-76
DEED BOOK: 2711
PAGE: 105-106
BETTY NELSON, C.S.C.
WHITFIELD COUNTY, GA

EXHIBIT "B"

2251 Rocky Face Circle Temporary Construction Easement



[Space above this line for recording data.]

Please Record and Return To:

Jonathan Bledsoe
The Minor Firm
745 College Drive, Suite B
Dalton, GA 30720

STORM DRAINAGE EASEMENT AGREEMENT

Georgia, Whitfield County

This Storm Drainage Easement Agreement (this "Agreement") is made this ____ day of _____, 2024 (the "Effective Date"), by and between **Jimmy Wilbanks and Jane G. Wilbanks**, of the first part (hereinafter called "Grantor"), and the City of Dalton, Georgia, a municipal corporation of the State of Georgia, party of the second part (hereinafter called "Grantee"), their respective heirs, administrators, successors and assigns:

WITNESSETH:

WHEREAS, Grantor is the owner of certain real property and improvements in the City of Dalton, Whitfield County, Georgia, as described in Exhibit "A" attached hereto and incorporated herein by reference (the "Wilbanks Property"); and

WHEREAS, Grantee is the owner of certain real property adjacent to the Wilbanks Property and more particularly described as **Rocky Face Circle** (the "City Property"); and

WHEREAS, Grantee has constructed, or will construct, a storm sewer pipe and storm water structures on the Wilbanks Property (collectively the "Wilbanks Municipal Storm Sewer"); and

WHEREAS, Grantor acknowledges that the work to be performed in this Agreement may not fully mitigate all flooding of the Wilbanks Property; and

WHEREAS, Grantee desires non-exclusive access to and use of a portion of the Wilbanks Property to collect storm water originating from the City Property into the Wilbanks Municipal

Storm Sewer; and Grantor is willing to grant the requested access and use on and subject to the terms hereof; and

WHEREAS, Grantee desires non-exclusive temporary access and use of a portion of the Wilbanks Property to construct and/or maintain the Wilbanks Municipal Storm Sewer and Grantor is willing to grant the requested access and use on and subject to the terms hereof; and

WHEREAS, upon completion of the installation and construction of the Wilbanks Municipal Storm Sewer, Grantee shall be not responsible for any and all costs associated with the use, maintenance, repair, replacement, inspection, and reconstruction of the Wilbanks Municipal Storm Sewer, as relates to maintaining reasonable drainage flow from the right of way to the discharge point, if Grantor erects a structure above Wilbanks Municipal Storm Sewer; and

WHEREAS, in order to evidence the understanding between Grantor and Grantee with respect to the Wilbanks Municipal Storm Sewer, Grantor intends to declare, establish, create, grant, and/or convey certain easement rights to Grantee for and with respect to the installation and utilization of the Storm Drainage Easement (as defined herein below), all as more particularly set forth herein.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid, the covenants contained herein, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. **Storm Drainage Easement.** Grantor, and for and on behalf of his heirs, administrators, successors and assigns, and for and on behalf of anyone claiming by, through or under Grantor, does hereby grant, bargain, sell and convey unto Grantee and its successors and assigns, a perpetual, non-exclusive easement in, on, over, under, across and through that certain portion of the Wilbanks Property shown as the "Perm. Drainage Esmt" on the aerial drawing attached hereto as Exhibit "B" and incorporated herein by this reference (also the "Storm Drainage Easement"). The rights, benefits, privileges, and easement granted herein is for the purpose of the non-exclusive use and enjoyment of the Storm Drainage Easement flowing to channel, distribute or transport storm water originating from or onto and across the City's Property through the Wilbanks Municipal Storm Sewer. Notwithstanding the foregoing, Grantor hereby agrees to accept such storm water discharge through the Wilbanks Municipal Storm Sewer in its current intensity, rate, volume and location.

2. **Additional Rights.** The Storm Drainage Easement granted herein shall include:

(a) all rights, benefits, privileges, and easements necessary or convenient for the full enjoyment and use of the Storm Drainage Easement for the purposes described herein;

(b) the right of entry into and upon the Wilbanks 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;

(c) 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 Storm Drainage Easement, which removal is necessary for Grantee's use and enjoyment of easements, rights and privileges granted herein; and

(d) the right, when required by law, governmental regulation or necessity to conduct scientific, geotechnical, archaeological or other studies, investigation or other testing on or below the ground surface of the Storm Drainage Easement.

3. **Reservation of Rights.** Except for the rights, privileges, benefits and easements granted herein, Grantor hereby reserves all its right, title and interest in and to the Storm Drainage Easement appurtenant to his fee simple estate and for any and all purposes not inconsistent with Grantee's easement as expressly permitted herein.

4. **Conditions and Obligations of Easement Use.**

(a) The use of the Storm Drainage Easement by the Grantee shall be in accordance with all laws, ordinances, codes, and regulations of all governmental authorities having jurisdiction over the Storm Drainage Easement. Any such use of the Storm Drainage Easement by the Grantee shall be undertaken in such a manner as to minimize the disturbance to and interruption of Grantor's use of the Wilbanks Property to the greatest extent practicable.

(b) Grantee shall only install the Wilbanks Municipal Storm Sewer on or within the Storm Drainage Easement.

(c) Grantor shall be solely responsible to maintain reasonable drainage flow from the right of way to the intake point. The Wilbanks Municipal Storm Sewer and Storm Drainage Easement shall remain free and clear of all liens and other encumbrances arising out of the exercise by the Grantee of its rights hereunder.

(d) Any construction, maintenance, repair or other work or activities performed on the Wilbanks Municipal Storm Sewer or within the Storm Drainage Easement by Grantee shall be done in a good, workmanlike manner and the Storm Drainage Easement shall be left in a clean and good condition, with all debris removed therefrom and with trenches and cuts properly filled so that all grades, paved areas, and permitted landscaped and grassed areas and other permitted improvements which may have been disturbed by such work are restored to their former condition as nearly as practicable; provided that if the affected area within the Storm Drainage Easement is natural and has not been improved, such areas shall be smoothed to commercial lawn grade and seeded with grass following such activity.

(e) Except in the event of an emergency, Grantor shall use commercially reasonable efforts to provide Grantee with at least ten (10) days prior written notice of any construction, maintenance, repair or other work or activities to be performed on or above the Wilbanks Municipal Storm Sewer or within the Storm Drainage Easement by Grantor.

(f) In the event that the Grantor, its employees, agents, or assigns, shall damage the Wilbanks Municipal Storm Sewer, the area within the Storm Drainage Easement or the Wilbanks Property, then, at its sole cost and expense and within thirty (30) days after receipt of written notice from Grantee that Grantor has caused such damage, Grantor shall repair, or cause such damage to be repaired, in a good, clean, and workmanlike manner, and to its former condition as nearly as practicable.

5. **Covenants of Grantor.**

(a) Grantor waives all right to any further compensation for the use and enjoyment of the rights and privileges granted herein.

(b) Grantor does hereby covenant with the Grantee that Grantor is lawfully seized and possessed of the Wilbanks Property above described, that it has a good and lawful right to convey said easement, rights and privileges granted herein.

(c) 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 Storm Drainage Easement.

6. **No Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift of dedication to the general public or for any general public use.

7. **Successors and Assigns.** The Storm Drainage Easement shall run with title to and burden the Wilbanks Property and shall be binding upon and inure to the benefit of and be enforceable by the legal representatives, successors and assigns of Grantor and Grantee. All obligations of Grantor and Grantee hereunder shall be binding upon their respective heirs, administrators, successors-in-title and assigns.

8. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and may not be amended, waived or discharged except by instrument in writing executed by the party against which enforcement of such amendment, waiver or discharge is sought.

9. **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.

10. **Signatures**. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and upon execution by the Grantor and Grantee, this Agreement shall be promptly recorded in the Deed Records of Whitfield County, Georgia.

11. **Time of Essence**. Time is of the essence with respect to this Agreement.

12. **Governing Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

[Signatures on next page]

IN WITNESS WHEREOF, the Grantor has signed, sealed and delivered this Agreement as of the day and year first set forth above.

Signed, sealed and delivered
In the presence of:

Grantor:

Unofficial Witness

By: *Jimmy Wilbanks* (Seal)
Jimmy Wilbanks

Notary Public

By: *Jane G. Wilbanks* (Seal)
Jane G. Wilbanks

My commission expires:

[Notarial Seal]

Grantee:

City of Dalton

By: _____

Its: _____

Attest: _____
City Clerk

Unofficial Witness

Notary Public
My Commission Expires:

EXHIBIT "A"

Book 2711 Page 105

8:30 1A24A
Columbia Banking Co.
P.O. BOX 10
Chatsworth GA 30045

STATE OF GEORGIA,
COUNTY OF WHITFIELD.

WARRANTY DEED

THIS INDENTURE, made the 1st day of April, 1996, between L. GLENN EUBANKS (hereinafter "Grantor"), of the County of Whitfield and State of Georgia, and JIMMY WILBANKS and JANE G. WILBANKS (hereinafter "Grantee"), of the County of Whitfield and State of Georgia.

WITNESSETH: That the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof being hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does hereby grant, bargain, sell, alien, convey and confirm unto the said Grantee the following described property, to-wit:

All that tract or parcel of land lying and being in Land Lot No. 185 in the 13th District and 3rd Section of Whitfield County, Georgia, and being Lot No. 26 of Rocky Face Estates Subdivision, as shown by plat of record in Plat Book 8, page 14 (Plat Cabinet A, Slide 245), in the Office of the Clerk of the Superior Court of Whitfield County, Georgia, and being that identical tract as shown on plat of survey prepared by Marcus E. Cook, Registered Land Surveyor No. 1935, dated September 6, 1985, and revised September 11, 1985, and described as follows: BEGINNING at a point on the northwesterly side of the right-of-way of Tibbs Road at the northeasterly end of the curvature formed by the rounding of the intersection of the northerly side of Rocky Face Circle with the northwesterly side of the right-of-way of said Tibbs Road; thence southwesterly and westerly following the curvature formed by the rounding of said intersection 50 feet, more or less, to a point on the northerly side of the right-of-way of Rocky Face Circle, which said point marks the southwesterly terminus of the curvature formed by the rounding of said intersection; thence westerly, following the curvature of the northerly side of Rocky Face Circle 128.45 feet to an iron pin; thence north 1 degree 0 minutes east 189.7 feet to an iron pin; thence north 89 degrees 0 minutes east 339.2 feet to an iron pin on the westerly side of the right-of-way of Tibbs Road; thence southwesterly along the curvature of the northwesterly side of Tibbs Road 104.3 feet; thence continuing along the westerly side of Tibbs Road, south 19 degrees 40 minutes west 109 feet to a right-of-way marker; thence continuing along the right-of-way of said Tibbs Road south 50 degrees 30 minutes east 25 feet; thence continuing along said right-of-way, south 19 degrees 40 minutes west 34.5 feet to the point of beginning.

TOGETHER WITH all and singular the hereinabove described premises together with all tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all estate, right, title, interest and rights of possession, claim and demand whatsoever, as well in law as in equity, of the said Grantor, of, in or to the said premises, and every part and parcel thereof, with the appurtenances thereto belonging.

Whitfield County, Georgia
Real Estate Transfer Tax
Paid \$ 123.00
Date 4-5-96
Betty Nelson
Clerk of Superior Court

TO HAVE AND TO HOLD, all and singular the above described premises, unto the said Grantee, and to the heirs, legal representatives, successors and assigns of the said Grantee forever, in **FREE SIMPLE** (except as may be limited herein).

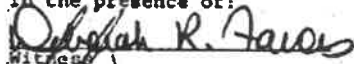
AND THE SAID GRANTOR, and the heirs, legal representatives, successors and assigns of the Grantor will **WARRANT** and **DEFEND** all right, title and interest in and to the said premises and the quiet and peaceable possession thereof, unto the said Grantee, and to the heirs, legal representatives, successors and assigns of the Grantee, against all acts and deeds of the said Grantor, and all and every person or persons whomsoever lawfully claiming or to claim the same.


THIS CONVEYANCE IS MADE SUBJECT TO all easements, conditions and restrictive covenants of record insofar as the same may lawfully affect the above-described property.

IN WITNESS WHEREOF, the Grantor has signed, sealed and delivered this Deed on the day and year first above written.


L. GLENN EUBANKS (L.S.)

Signed, sealed and delivered in the presence of:


Deborah R. Faus

Witness

Notary Public

My Commission Expires:
Notary Public, Murray County, Georgia
My Commission Expires Sept. 1, 1998

(NOTARIAL SEAL)

FILED & RECORDED 8130
TIME: _____
DATE: 4-3-96
DEED BOOK: 2711
PAGE: 105-106
BETTY NELSON, C.S.C.
WHITFIELD COUNTY, GA

EXHIBIT "B"

2251 Rocky Face Circle Permanent Drainage Easement

