



**MAYOR AND COUNCIL MEETING
MONDAY, MARCH 07, 2022
6:00 PM
DALTON CITY HALL**

A G E N D A

Call to Order

Pledge of Allegiance

Approval of Agenda

Public Commentary: *(Please Complete Public Commentary Contact Card Prior to Speaking)*

Proclamation:

1. "American Red Cross Month" - March 2022 - Carla Maton, Executive Director, American Red Cross of NWGA

Minutes:

2. Mayor & Council Minutes of February 21, 2022

New Business:

3. (2) Two New 2022 Alcohol Beverage Applications
4. Fireworks Display Agreement with Pyrotecnico for July 4th Fireworks Display
5. Intergovernmental Agreement Among the City of Dalton, Whitfield County, and the City of Dalton Board of Education for Tax Allocation District #4 - North Bypass (Hammond Creek) Hammond Creek Township, LLC. Development
6. Tax Allocation District #4 - North Bypass (Hammond Creek) Development Agreement Between the City of Dalton and Hammond Creek Township, LLC.
7. Ordinance 22-02 - The request of Buckel Design Group (BDG), LLC to rezone from General Commercial (C-2) to High Density Residential (R-7) a tract of land totaling 12.99 acres located on NE intersection of North Bypass and Pleasant Grove Drive, Dalton, GA. Parcel (12-163-05-005)
8. First Reading of Ordinance 22-03 - The request of the City of Dalton Mayor and Council to create the Gateway Corridor Overlay District and accompanying map. The proposed overlay district is independent from the Unified Zoning Ordinance and is only currently proposed to affect the geographic area known as TAD#5 within the City of Dalton.

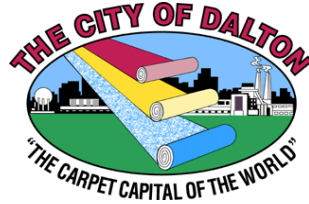
9. Ordinance 22-04 - The request of Thomas Durkan III to rezone from Heavy Manufacturing (M-2) and Medium Density Single Family Residential (R-3) to Transitional Residential (R-6) a tract of land totaling 0.33 acres located at 624 Charles Street and 0.11 acres located at 620 Charles Street, Dalton, Georgia. Parcels (12-199-19-008 and 12-199-19-016)
10. FY 22 General Fund Budget Amendment #1
11. User Agreement with Multibank Securities, Inc., for eConnectDirect Service
12. Memorandum of Understanding - City of Dalton and J & T Realty Partners, L.L.P., Ford of Dalton Stormwater Drainage Infrastructure Maintenance
13. Traffic Control Change - Revision of No Parking on Portion of Valley Drive
14. Professional Services Agreement with Geo-Hydro Engineers, Inc. for Geotechnical Services at Heritage Point Soccer Complex
15. Professional Services Agreement with Childers Associates - Real Estate Consultants and Appraisers for Market Street and Flood Mitigation Project Properties

Supplemental Business:

Announcements:

Adjournment

PROCLAMATION



AMERICAN RED CROSS MONTH MARCH 2022



WHEREAS, in times of crisis, people in Dalton, Georgia come together to care for one another. This humanitarian spirit is part of the foundation of our community and is exemplified by American Red Cross volunteers and donors; and

WHEREAS, in 1881, Clara Barton founded the American Red Cross, turning her steadfast dedication for helping others into a bold mission of preventing and alleviating people's suffering; and

WHEREAS, today, more that 140 years later, we honor the kindness and generosity of Red Cross volunteers here in Dalton, who continue to carry out Clara's lifesaving legacy. They join the millions of people across the United States who volunteer, give blood, provide emergency shelter, food and comfort for families, donate financially, or learn vital life-preserving skills through the Red Cross; and

WHEREAS, we dedicate this month of March to all those who continue to advance the noble legacy of American Red Cross founder Clara Barton, who lived by her words, "You must never think of anything except the need, and how to meet it." We ask others to join in this commitment to give back in our community.

NOW, THEREFORE BE IT RESOLVED, I, David Pennington, Mayor of the City of Dalton, Georgia hereby proclaim March 2022 as "**Red Cross Month**" and encourage all citizens to reach out and support its humanitarian mission.

*In witness whereof, I have hereunto set my hand
and caused the seal of this city to be affixed.*

Mayor _____

Date _____ March 7, 2022 _____

THE CITY OF DALTON
MAYOR AND COUNCIL MINUTES
FEBRUARY 21, 2022

The Mayor and Council held a meeting this evening at 5:30 p.m. in the Council Chambers of City Hall. Present were Mayor David Pennington, Council members Dennis Mock, Annalee Harlan, Tyree Goodlett and Steve Farrow, City Administrator Andrew Parker and City Attorney Terry Miller.

CALL TO ORDER

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

APPROVAL OF AGENDA

On the motion of Council member Harlan, second Council member Farrow, the Agenda dated February 21, 2022 was approved. The vote was unanimous in favor.

SPECIAL RECOGNITION

Keep Dalton Whitfield Beautiful - Amy Hartline, Executive Director

Mayor Pennington recognized Keep Dalton Whitfield stating the Foundation has been recognized for their work in 2020-2021 by the Keep Georgia Beautiful Foundation for some notable achievements including:

- Unveiling one of the largest sculptures in Dalton using recycled materials on Morris Street to celebrate Earth Day
- Cleaning up over 10,500 pounds of litter from local parks and roadways
- Creating bilingual doorhangers in collaboration with Dalton Public Works to increase recycling participation and decrease contaminations
- Distributing six beautification micro-grants to local businesses across Whitfield County and two business beautification grants to local schools
- Partnering with local girl scouts to reduce litter by over fifty percent in areas where unique artwork was placed around trash bins in public areas, including Burr Park, The Mill at Crown Gardens and Haig Mill

PUBLIC COMMENTARY

There were no public comments.

MINUTES

The Mayor and Council reviewed the Regular Meeting Minutes of February 7, 2022. On the motion of Council member Harlan, second Council member Mock, the minutes were approved. The vote was unanimous in favor.

CONTRACT FOR LANDSCAPING SERVICES - DALTON MUNICIPAL AIRPORT

Airport Director Andrew Wiersma presented the Contract for Landscaping Services with Thrive Outdoor, Inc., for Dalton Municipal Airport in the amount of \$120,810.00 over 3 years or \$40,270.00 per year. On the motion of Council member Mock, second Council member Harlan, the Contract was approved. The vote was unanimous in favor.

RATIFICATION OF TASK ORDER # 6 WITH CROY FOR ENGINEERING SERVICES AT DALTON MUNICIPAL AIRPORT

Airport Director Andrew Wiersma presented Task Order # 6 with Croy for professional services for Apron Pavement Rehabilitation Phase II from Croy Engineering. On the motion of Council member Mock, second Council member Farrow, Task Order #6 was approved. The scope of services is a part of these minutes. The vote was unanimous in favor.

ENGAGEMENT LETTER WITH MAULDIN & JENKINS FOR CYBERSECURITY CONTROL OBJECTIONS

CFO Cindy Jackson presented to the Mayor and Council an Engagement Letter with Mauldin & Jenkins to perform a review of the City's cybersecurity control objectives in the amount of \$35,000.00. On the motion of Council member Harlan, second Council member Goodlett, the Mauldin & Jenkins was approved to proceed. The vote was unanimous in favor.

MASK MANDATE

On the motion of Council member Harlan, second Council member Mock, the Mayor and Council rescinded the mask mandate from City buildings due to declining numbers of COVID 19 in the community. The vote was unanimous in favor.

MISCELLANEOUS

City Administrator Andrew Parker reminded everyone of the 2nd Public Hearing to be held regarding the Walnut North Drainage Basin Stormwater Improvements Plan on February 24, 2022 at 6pm.

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was Adjourned at 6:09 p.m.

Bernadette Chattam
City Clerk

David Pennington, Mayor

Recorded
Approved: _____
Post: _____



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 02/22/2022
Agenda Item: (2) New 2022 Alcohol 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:

(2) 2022 New Alcohol Applications recommendations by the Public Safety Commission at the February 22nd meeting.

2022 ALCOHOL BEVERAGE APPLICATION

PSC TUESDAY FEBRUARY 22, 2022

M&C MONDAY MARCH 7, 2022

(2) 2022 ALCOHOL APPLICATIONS

1. Business Owner: The Gallant Goat, LLC
d/b/a: The Gallant Goat
Applicant: John H. Wilson
Business Address: 307 South Hamilton St
License Type: Pouring Beer, Pouring Wine, Pouring Liquor (Lounge)
Disposition: **New**

2. Business Owner: Underwood Market 532, LLC
d/b/a: Supermercado Escondida
Applicant: Bibi Kanwal Rashdi
Business Address: 532 Underwood St. Ste B
License Type: Package Beer, Package Wine (Convenience Store)
Disposition: **New**



CITY COUNCIL AGENDA REQUEST

Meeting Type:	Mayor & Council Meeting
Meeting Date:	March 7, 2022
Agenda Item:	Fireworks Display Agreement with Pyrotecnico for July 4th Fireworks Display
Department:	Recreation
Requested By:	Caitlin Sharpe
Reviewed/Approved by City Attorney?	Yes
Cost:	\$30,000
Funding Source if Not in Budget	Recreation General Fund

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

Fireworks Display Agreement with Pyrotechnico is attached.

Request for proposals for the 2022 July 4th firework display show was publicized in December and January. The City received one response from Pyrotechnico. Pyrotechnico proposal includes all necessary insurance for event, trained technicians to provide the display, a variety of shell and special effects to provide a safe and quality display show.

Pre-show advance payment is \$15,000 with a due date of on March 15, 2022. The total cost of the show is \$30,000. Total includes pre-show advance payment and permit fee.



EOI FIREWORKS DISPLAY AGREEMENT

THIS FIREWORKS DISPLAY AGREEMENT (“Agreement”) is made effective as of the later of the dates set forth below the signatures below (“Effective Date”) by and between Pyrotecnico Fireworks Inc. (“Pyrotecnico”) and **City of Dalton, GA** (“Sponsor”), sometimes referred to individually as “Party” or collectively as “Parties.” In consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

GENERAL TERMS:

Scope of services to be provided by Pyrotecnico (“Services”):	Aerial Fireworks Display
Date(s) of Show:	July 4, 2022
Postponed Date(s) of Show (if negotiated):	
Compensation to be paid to Pyrotecnico for providing the Services (“Compensation”):	\$30,000.00 (*includes \$70.00 County permit fee)
Pre-Show Advance:	\$15,000.00
Pre-Show Advance Due Date:	March 15, 2022
Payment Terms:	Net 10
Postponement Fee:	\$7,500.00
Cancellation Fee:	\$22,500.00 (Breakout = \$15,000.00 Pre-Show Advance + an additional payment of \$7,500.00 for a total of \$22,500.00)
Proposal Expiration Date:	March 9, 2022

SERVICE TERMS:

Pyrotecnico will provide Sponsor with a fireworks display subject to the terms and conditions of this Agreement. The pricing provided in this Agreement is valid only for 60 days from the date this Agreement is sent to the Sponsor via any means. Pyrotecnico may, but is not required to, accept this Agreement if the Sponsor does not return the signed Agreement within this time.

PRE-SHOW ADVANCE, COMPENSATION AND PAYMENT TERMS

Sponsor shall pay Pyrotecnico the Compensation and the Pre-Show Advance on or before the dates set forth above. The Pre-Show Advance includes, among other things, the purchase of products necessary for the show, permit costs, the hiring of any necessary equipment, show programming, the assembly and packing of the show, and is necessary in order for Pyrotecnico to finally confirm availability for your event.

RAIN DATES

Rain Dates must be negotiated by the Parties and are NOT available July 1st through July 7th unless specifically negotiated.

DISPLAY RESPONSIBILITIES

Pyrotecnico and Sponsor shall collaborate in the performance of all tasks relating to the fireworks display. These tasks include, but are not limited to:

- A) procuring and furnishing a place suitable for the fireworks display (the “Display Site”),
- B) applying for, obtaining and securing all permits, licenses and approvals required by all applicable local, state and federal laws and regulations as well as those required by any local police and fire departments for the Fireworks Display (collectively, the “Required Approvals”). Unless otherwise stated in this Agreement, Sponsor is responsible for the payment of all governmental fees and expenses imposed or applied to this show including any fees or expenses incurred after the signing and execution of contract for the show,
- C) providing adequate private or public security, police and fire protection,
- D) securing an acceptable location with private or public security personnel to park the Pyrotecnico fireworks truck(s) overnight (or for such longer or shorter period as Pyrotecnico may reasonably require in order to effectively provide the fireworks display),
- E) securing adequate protection to prevent all individuals, other than those authorized by Pyrotecnico, from entering the security area designated by Pyrotecnico,

Sponsor Initials: _____



removing and keeping unauthorized persons and personal property, including motor vehicles, outside of the area designated by Pyrotecnico as the display site, fallout area or safe zone.

The Parties shall fulfill their responsibilities in accordance with all local, state and federal rules, laws, orders and regulations, including those of the National Fire Protection Association (NFPA).

SCRIPTED SHOW AND MUSIC SOUNDTRACKS

For displays designated as "scripted" exhibitions:

- A) Sponsor must complete, sign and return this Agreement, at least 40 days prior to the show date.
- B) Sponsor must either provide a pre-approved music soundtrack for the display OR to give final approval to a soundtrack created by Pyrotecnico, at least 30 days before the show date (at least 45 days prior for 4th of July shows). If Sponsor fails to do either, then Pyrotecnico will complete the soundtrack without Sponsor's prior approval and the scripting process will be completed based on the soundtrack created by Pyrotecnico.
- C) Proposal pricing is based upon Pyrotecnico creating one (1) soundtrack and the first set of revisions requested by Sponsor. Any additional revisions requested by the Sponsor will be billed at the rate of \$125 per set of revisions.

If Pyrotecnico provides a show which includes music or commercial video of any type that is protected under intellectual property law, Sponsor is solely responsible for payment of any applicable licensing fees, and/or BMI, ASCAP or other fees, and shall indemnify Pyrotecnico against any claims or liabilities which may arise from the use of the intellectual property.

POSTPONEMENT

If on the show date either the Authority Having Jurisdiction or Pyrotecnico (in its sole and absolute discretion) determines that the conditions make the show either impossible or would increase the risk of damage or danger to person or property, the Parties agree as follows:

- A) If the Parties agree to reschedule the display to a date within 6 months of the original date, then the Sponsor shall pay the Postponement Fee in addition to the original Compensation.
- B) If the Sponsor elects to cancel the display, the Sponsor shall pay the Cancellation Fee in full satisfaction of its obligations under this Agreement within 10 days of the show date.

CANCELLATION

If Sponsor cancels this Agreement for any reason other than Pyrotecnico's default, the Parties agree as follows:

- A) If the display is cancelled more than 30 days prior to the show date, Sponsor shall pay the Postponement Fee in full satisfaction of its obligations under this Agreement.
- B) If the display is cancelled 30 days or less prior to the show date, Sponsor shall pay the Cancellation Fee in full satisfaction of its obligations under this Agreement.

If Sponsor elects to cancel this Agreement, it must do so by sending a written notice by either overnight mail via nationally recognized courier or certified mail addressed to Pyrotecnico, PO Box 149, New Castle PA 16103. Notice is effective upon receipt by Pyrotecnico and will determine the fee owed by Sponsor under this paragraph.

In the event of any force majeure occurrences (e.g. floods, strikes, civil unrest, etc.) which prevent the display, Sponsor shall pay to Pyrotecnico the Postponement Fee in full satisfaction of its obligations under this Agreement.

INSURANCE

Pyrotecnico will provide a certificate evidencing general liability insurance coverage as required by Sponsor. Pyrotecnico agrees to name as additional insureds parties to whom Sponsor has written, contractual obligations to insure. Additional Insureds are limited to Sponsor, sponsors of Sponsor, property owners in and around the show site, municipal corporations (including authorities and public safety departments) and employees and volunteers of any of these. This coverage specifically does not include coverage for any independent acts of negligence of those additionally insured.

CREDITING

Sponsor will credit Pyrotecnico as "Fireworks by Pyrotecnico" in all advertising or marketing materials that are within the Sponsor's authority.

MISCELLANEOUS

- A) For all purposes under this Agreement, a "week" is defined as that period from Sunday at 0:00 through the immediately following Saturday at 23:59.



- B) Neither this Agreement nor any part of this Agreement may be transferred, conveyed or assigned by Sponsor without the prior written consent of Pyrotecnico.
- C) This Agreement contains the entire Agreement between the Parties for this show and any prior agreements are terminated. This Agreement may only be amended, revised or terminated by a written instrument executed by the Party against which enforcement of the amendment, revision or termination is asserted. Any terms conflicting with or in addition to the terms of this Agreement, regardless of how communicated and regardless of the timing, are not a part of this Agreement.
- D) Tender of either the pre-show advance or full payment by Sponsor, without a signed contract, will represent Sponsor's acceptance of this Agreement as written.
- E) Nothing contained in this Agreement will create or be construed as creating a partnership, employment, joint venture or agency relationship between the Parties and no Party shall have the authority to bind the other in any respect.
- F) All of the terms of this Agreement apply to and are binding upon the Parties, and shall inure to the benefit of their successors, assigns, heirs and legal representatives, and all other persons claiming by, through or under them.
- G) The term of this Agreement ("Term") shall begin on the Effective Date and end 3 days after the later of 1) the final Show Date or Rain Date under this Agreement, or 2) any delayed performance date agreed to either orally or in writing by the Parties. The provisions of this Agreement that by their nature extend beyond termination or expiration of this Agreement survive such termination or expiration.
- H) All parties have been advised to seek their own independent counsel concerning the interpretation and legal effect of this Agreement and have either obtained such counsel, or have intentionally refrained from doing so and have knowingly and voluntarily waived such right. Consequently, the normal rule of construction to the effect that any drafting ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or any amendments or exhibits.
- I) If either Party fails to enforce any of its rights under any provision of this Agreement or fails to exercise any election provided in this Agreement, it will not be considered to be a waiver of those provisions, rights or elections or in any way affect the validity of this Agreement. The failure of either Party to exercise any of these provisions, rights or elections will not prevent or prejudice such Party from later enforcing or exercising the same or any other provision, right or election which it may have under this Agreement.
- J) If any part of this Agreement is held by a court of competent jurisdiction to be unenforceable, the remainder of this Agreement will remain in full force and effect and will in no way be affected, impaired or invalidated. Pyrotecnico reserves the right to substitute products of equal or greater value.
- K) All notices must be in writing and will must be delivered personally with receipt acknowledged, or sent by certified mail, return receipt requested, or sent by nationally recognized overnight courier for next day delivery, to Pyrotecnico, 299 Wilson Road, New Castle PA 16101.
- L) The Parties agree that in the event of any difference of interpretation, or in the event of any controversy, claim or breach of this Agreement or any amendments, the Parties will immediately make good faith efforts to negotiate a written voluntary resolution of the matter prior to instigating legal proceedings.
- M) This Agreement may be executed by facsimile and PDF and in any number of counterparts, and each of the counterparts will be deemed an original. Sponsor represents by his/her signature that he/she has the authority to enter into this Agreement.

ACCEPTED AND AGREED as of the later of the dates set forth below the signatures below.

PYROTECNICO :

By (sign): _____
 Name: _____
 Title: _____
 Date: _____
 Address: PO Box 149
New Castle PA 16103
 Phone: (724) 652-9555
 Email: contracts@pyrotecnico.com

SPONSOR:

By (sign)_: _____
 Name: _____
 Title: _____
 Date: _____
 Address: _____
 Phone: _____
 Email: : _____

Sponsor Initials: _____



CONTACT/INSURANCE INFORMATION FORM

You must return this form with your signed Agreement for the Certificate of Insurance to be issued, and for the permit application to be completed and submitted. If information isn't applicable, please state such by indicating "N/A".

Sponsor Name (Entity Contracting Pyrotecnico): _____

Primary Point of Contact Name: _____

Phone: _____ Fax: _____

Email: _____

Billing Address: _____

City, State & Zip: _____

Accounts Payable Contact: _____

Accounts Payable Email: _____

Show Date(s): _____ Display Start Time(s): _____

Rain Date(s): _____

Day-of-Show Contact Name: _____

Day-of-Show Mobile Phone Number: _____

Day-of-Show Email: _____

Display Site Location and Address: _____

If Pyrotecnico has produced a show at this site, has the geography changed (i.e. new structures, new terrain, etc.)? If yes, please describe:

Additionally Insured – If Applicable:

****PLEASE RETURN THIS COMPLETED 4-PAGE AGREEMENT TO****

FAX: +1.724.652.1288 (Attn: Mary Killingsworth)

EMAIL: mkillingsworth@pyrotecnico.com

Sponsor Initials: _____



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: March 7, 2022

Agenda Item: Intergovernmental Agreement Among the City of Dalton, Whitfield County, and the City of Dalton Board of Education for Tax Allocation District #4 - North Bypass (Hammond Creek) Hammond Creek Township, LLC. Development

Department: City Administration

Requested By: Andrew Parker

Reviewed/Approved by City Attorney? Yes - Independent Counsel

Cost: N/A

Funding Source if Not in Budget

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

The above referenced IGA facilitates the Hammond Creek Township, LLC. Development with TAD #4 as further described below. The term of the Agreement shall remain in full force and effect until the first to occur of (1) Dec 31, 2044, (2) the expiration or earlier termination of the Developer Development Agreement, or (3) the termination of the TAD#4.

The subject project would facilitate construction of a high quality, garden style multifamily residential community featuring 209 one, two, and three bedroom apartments for rental. The project will include significant landscaping, a clubhouse, pool, and other amenities.

The agreement provides the terms of how the City will administer the positive tax allocation increment generated by all taxable property subject to ad valorem property taxes, and further how the Special Fund/Development payments will occur.

INTERGOVERNMENTAL AGREEMENT

This INTERGOVERNMENTAL AGREEMENT (this “Agreement”) is made and entered into as of _____, 2022 (the “Effective Date”) by and among the CITY OF DALTON, GEORGIA (the “City”), WHITFIELD COUNTY, GEORGIA (the “County”) and the CITY OF DALTON BOARD OF EDUCATION (the “Board of Education”).

WITNESSETH:

In consideration of the respective representations and agreements hereinafter contained and in furtherance of the mutual public purposes hereby sought to be achieved, the City, the County and the Board of Education do hereby agree, as follows:

ARTICLE I

Section 1.1. Definitions. In addition to the words and terms defined elsewhere herein, the following words and terms shall have the meanings specified below, unless the context or use indicates another or different meaning or intent:

“Board of Education” means the City of Dalton Board of Education.

“Board of Education Resolution” means that certain resolution adopted by the Board of Education on March 7, 2022, *inter alia*, consenting to the inclusion of certain Board of Education ad valorem taxes in the computation of the Tax Allocation Increments and authorizing the execution, delivery and performance of this Agreement, subject to the terms and conditions set forth therein, and other related matters.

“City” means the City of Dalton, Georgia.

“County” means Whitfield County, Georgia.

“County Resolution” means that certain resolution adopted by the Board of Commissioners of the County on March ___, 2022, *inter alia*, consenting to the inclusion of certain County ad valorem taxes in the computation of the Tax Allocation Increments and authorizing the execution, delivery and performance of this Agreement, subject to the terms and conditions set forth therein, and other related matters.

“Developer” means Hammond Creek Township, LLC, or its successors and assigns.

“Developer Development Agreement” means the development agreement to be entered into between the City and the Developer pursuant to which the Developer will confirm its agreement to assist the City in its redevelopment of the Project.

“Development Payments” shall mean the development payments to be made by the City to the Developer pursuant to the Development Agreement.

“Georgia Constitution” means the Constitution of the State of Georgia of 1983, as amended.

“Original Resolution” means that certain resolution adopted by the Mayor and Council of the City on December 30, 2015, *inter alia*, approving the [City of Dalton Redevelopment Plan] and other related matters.

“Project” means the improvements to be acquired, constructed and installed at the Project Site.

“Project Site” means the real property described in Exhibit A attached hereto on which the Project will be located.

“Real Property Tax Allocation Increment” means the amount of the tax allocation increment for each calendar year computed as provided in O.C.G.A. Section 36-44-3(14) of the Redevelopment Powers Law with respect to real property.

“Redevelopment Agency” means the redevelopment agency for the TAD #4 selected by the City in accordance with the Redevelopment Powers Law.

“Redevelopment Area” means that certain area located within the City and within the County created by and established as a redevelopment area (as defined in O.C.G.A. Section 36-44-3(7) of the Redevelopment Powers Law) by the City in the Original Resolution, as supplemented by the TAD #4 Resolution and designated as “City of Dalton - _____ Redevelopment Area”, as more fully described in the Original Resolution, the TAD #4 Resolution and the Redevelopment Plan.

“Redevelopment Cost” shall have the meaning set forth in Section 36-44-3(8) of the Redevelopment Powers Law.

“Redevelopment Plan” means that written plan of redevelopment for the Redevelopment Area adopted by the City in the Original Resolution and the TAD #4 Resolution and designated as the “City of Dalton Redevelopment Plan: _____”, as more fully identified in the TAD #4 Resolution.

“Redevelopment Powers Law” means Chapter 44 of Title 36 of the Official Code of Georgia Annotated, as amended.

“Special Fund” means the special fund with respect to the TAD # 4 created pursuant to O.C.G.A. Section 36-44-11 (c) of the Redevelopment Powers Law.

“State” means the State of Georgia.

“TAD #4 Resolution” means that certain resolution adopted by the Mayor and Council of the City on December 21, 2020, *inter alia*, approving the amendment to the [City of Dalton Redevelopment Plan] and creating the TAD #4, and other related matters, as supplemented by the resolution adopted on March 7, 2022, authorizing the execution, delivery and performance of this Agreement, subject to the terms and conditions set forth therein, and other related matters.

“TAD #4” means that certain area of the City within the Redevelopment Area defined and created as a tax allocation district (as defined in O.C.G.A. Section 36-44-3(13) of the Redevelopment Powers Law) by the City pursuant to the TAD #4 Resolution and designated as “Tax Allocation District #4 – North Bypass (Hammond Creek)”, as more fully described in the TAD #4 Resolution and in the Redevelopment Plan.

“Tax Allocation Increment” means the tax allocation increment within the meaning of O.C.G.A. Section 36-44-3(14) of the Redevelopment Powers Law with respect to the TAD #4, limited to the Real Property Tax Allocation Increment.

ARTICLE I

Section 1.2. Representations of the City. The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The TAD #4 was duly created by the City pursuant to its redevelopment powers as authorized by the Redevelopment Powers Law and the TAD #4 Resolution, and the TAD #4 became effective on the Effective Date of December 21, 2020. The Redevelopment Plan was duly adopted by the City pursuant to the Redevelopment Powers Law, the Original Resolution and the TAD #4 Resolution.

(b) The City has made certain findings with respect to the Redevelopment Plan in accordance with the Redevelopment Powers Law, including, without limitation, that (i) the Redevelopment Area has not been subject to growth and development through private enterprise and would not reasonably be anticipated to be developed without the approval of the Redevelopment Plan, and (ii) the improvement of the Redevelopment Area is likely to enhance the value of a substantial portion of the real property in the TAD # 4.

(c) The City is permitted by Article IX, Section III, Paragraph I of the Georgia Constitution to contract for any period not exceeding fifty (50) years with the County and the Board of Education for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided such contracts deal with activities, services or facilities the contracting parties are authorized by law to undertake or provide, and accordingly as a corollary, the Redevelopment Powers Law provides that the City may exercise its redevelopment powers and create redevelopment plans and tax allocation districts, and make payments for Redevelopment Costs from the positive tax allocation increments derived from the tax allocation district as provided in the Redevelopment Powers Law.

(d) The City has the power to enter into this Agreement and perform all obligations contained herein, and has, by proper action, duly authorized the execution, delivery and performance of this Agreement.

Section 1.2. Representations of the County. The County makes the following representations as the basis for the undertakings on its part herein contained:

(a) The County is permitted by Article IX, Section III, Paragraph I of the Georgia Constitution to contract for any period not exceeding fifty (50) years with the City and the Board of Education for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided such contracts deal with activities, services or facilities the contracting parties are authorized by law to undertake or provide, and accordingly as a corollary the Redevelopment Powers Law provides that ad valorem property taxes of the County derived from a municipal tax allocation district located within the geographic boundaries of the County may be included in the computation of tax allocation increments of the tax allocation district if the governing body of the County consents to such inclusion by resolution.

(b) The County has the power to enter into this Agreement and perform all obligations contained herein and has by proper action duly authorized the execution, delivery and performance of this Agreement including, without limitation, the inclusion of ad valorem property taxes derived by the County from ad valorem property taxes levied by the County on taxable real property within the TAD #4 in the computation of the Real Property Tax Allocation Increment for the purposes set forth in the Redevelopment Plan.

Section 1.3. Representations of the Board of Education. The Board of Education makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Board of Education is permitted by Article IX, Section III, Paragraph I of the Georgia Constitution to contract for any period not exceeding fifty (50) years with the City and the County for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided such contracts deal with activities, services or facilities the contracting parties are authorized by law to undertake or provide, and accordingly as a corollary, the Redevelopment Powers Law provides that ad valorem property taxes of the Board of Education derived from a municipal tax allocation district located within the geographic boundaries of the County may be included in the computation of tax allocation increments of the tax allocation district if the Board of Education consents to such inclusion by resolution.

(b) The Board of Education has the power to enter into this Agreement and perform all obligations contained herein, and has, by proper action, duly authorized the execution, delivery and performance of this Agreement including, without limitation, the inclusion of ad valorem property taxes derived by the Board of Education from ad valorem property taxes levied by the City on behalf of the Board of Education on taxable real property within the TAD #4 in the computation of the Real Property Tax Allocation Increment for the purposes set forth in the Redevelopment Plan.

ARTICLE II

Section 2.1. Term of the Agreement. The term of this Agreement (the “Term”) shall commence on the Effective Date hereof and this Agreement shall remain in full force and effect until the first to occur of (i) December 31, 2044, (ii) the expiration or earlier termination of the Developer Development Agreement, or (ii) the termination of the TAD #4.

Section 2.2. Inclusion of Ad Valorem Property Taxes in Computation of Tax Allocation Increment.

(a) Pursuant to the County Resolution, the County has consented and agreed to inclusion of County ad valorem taxes on real property within the TAD #4 in the computation of the Tax Allocation Increments in accordance with the Redevelopment Powers Law, subject to and in accordance with this Agreement.

(b) Pursuant to the Board of Education Resolution, the Board of Education has consented and agreed to inclusion of the Tax Allocation Increments derived from the educational ad valorem property tax millage for real property established by the Board of Education and levied by the City in the computation of the Tax Allocation Increments in accordance with the Redevelopment Powers Law, subject to and in accordance with this Agreement.

Section 2.3. Covenants of the City.

(a) The City will provide to the County and the Board of Education (i) commencing with calendar year 2022 and each calendar year thereafter, within ninety (90) days after the end of each such calendar year, a comprehensive annual report regarding the amount of positive Tax Allocation Increments and the use of such funds, and (ii) commencing with the City’s fiscal year 2022 and each fiscal year thereafter, within ten (10) business days of its issuance, a copy of the annual audit of, as applicable, the Redevelopment Agency for the TAD #4, if any, or the City.

(b) The Development Payments each year shall not exceed the positive Tax Allocation Increment generated by all taxable property subject to ad valorem property taxes located at the Project Site for such respective year.

(c) Any funds remaining in the Special Fund, after all redevelopment costs, including the Development Payments, have been paid or otherwise satisfied each year, shall remain in the Special Fund and shall be used to pay the Development Payments for any subsequent year.

ARTICLE III

Section 3.1. No Set-Off. No dispute or litigation between the City and the County and/or the Board of Education with respect to this Agreement shall affect any party's duties to perform its obligations or its rights or remedies while such dispute or litigation is pending.

Section 3.2. Governing Law. This Agreement and the rights and obligations of the parties hereto shall be governed, construed, and interpreted according to the laws of the State.

Section 3.3. Entire Agreement. This Agreement expresses the entire understanding and all agreements between the parties hereto with respect to the matters set forth herein.

Section 3.4. Severability. If any provision of this Agreement shall be held or deemed to be or shall in fact, be inoperative or unenforceable under any particular circumstances, because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of anyone or more phrases, sentences, clauses, or sections contained in this Agreement shall not affect the remaining portions of this Agreement or any part thereof.

Section 3.5. Survival or Warranties. All agreements, covenants, certifications, representations, and warranties of the parties hereunder, or made in writing by or on behalf of them in connection with the transactions contemplated hereby shall survive the execution and delivery hereof, regardless of any investigation or other action taken by any person relying thereon.

Section 3.6. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

Section 3.7. Amendments in Writing. This Agreement may be amended, supplemented or otherwise modified solely by a document in writing duly executed and delivered by the County, the Board of Education and the City. No waiver, release, or similar modification of this Agreement shall be established by conduct, custom, or course of dealing, but solely by a document in writing duly executed and delivered by a duly authorized official of the County and/or the Board of Education.

Section 3.8. Notices. Except as otherwise specifically provided herein, any notices, demands, approvals, consents, requests, and other communications hereunder shall be in writing and shall be deemed given when the writing is delivered in person, or one business day after being sent by reputable overnight registered delivery service, charges prepaid, or three business days after being mailed, if mailed, by certified mail, return receipt requested, postage prepaid, to the City, the County and the Board of Education, respectively, at the addresses shown below or at such

other addresses as may be furnished by the City, the County or the Board of Education in writing from time to time:

CITY: City of Dalton, Georgia
300 West Waugh Street
Dalton, Georgia 30722-1205
Attention: Mayor

COUNTY: Whitfield County, Georgia
301 W Crawford Street
Dalton, GA 30720
Attention: Chairman, Board of Commissioners

BOARD OF EDUCATION: City of Dalton Board of Education
300 West Waugh Street
Dalton, Georgia 30722-1205
Attention: Chairman, Board of Education

Section 3.9. Limitation of Rights. Nothing in this Agreement, express or implied, shall give to any person, other than the parties hereto and their successors and assigns hereunder, any benefit or any legal or equitable right. Remedy, or claim under this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City, the County and the Board of Education have caused this Intergovernmental Agreement to be executed in their respective official names and have caused their respective official seals to be hereunto affixed and attested by their duly authorized officers, all as of the Effective Date set forth hereinabove.

CITY OF DALTON, GEORGIA

Mayor

ATTEST:

City Clerk

WHITFIELD COUNTY, GEORGIA

Chairman, Board of Commissioners

**CITY OF DALTON BOARD OF
EDUCATION**

Chairman, Board of Education

EXHIBIT A

PROJECT SITE

[Attach Legal Description and Parcel Number]

APPENDIX C. SECOND AMENDMENT TO THE REDEVELOPMENT PLAN: TAX PARCEL ID NUMBERS AND PROPERTIES WITHIN TAD #4

Parcel ID	Owner	Parcel Location	Acres	Total FMV*	City Tax		County		Digest/Acre
					Digest	Digest	Digest	Digest	
12-166-06-000	Hammond Creek Capital, LLC	North Bypass	36.21	\$1,178,636	\$1,178,636	\$471,454	\$32,550	\$32,550	\$32,550
12-163-05-005	Hammond Creek Capital, LLC	North Bypass	56.81	\$1,183,466	\$1,183,466	\$473,386	\$20,832	\$20,832	\$20,832
12-166-07-000	Dalton Georgia Board of Education	330 NE Pleasant Grove Dr.	37.16	\$967,646	\$0	\$0	\$26,040	\$0	\$0
12-166-08-000	Dalton Georgia Board of Education	So. Brooker Dr.	25.46	\$828,723	\$0	\$0	\$32,550	\$0	\$0
12-167-17-006	Cochran Patricia A	Underwood Dr.	3.05	\$12,500	\$12,500	\$5,000	\$4,098	\$4,098	\$4,098
12-167-17-005	Godfrey H L & Harlan	Brooker Dr.	0.13	\$1,294	\$1,294	\$518	\$9,954	\$9,954	\$9,954
12-167-17-003	Cochran Cecil H	Brooker Dr.	1.94	\$16,683	\$16,683	\$6,673	\$8,599	\$8,599	\$8,599
12-167-17-004	Harlan H Godfrey Residual Trust	Brooker Dr.	7.98	\$45,246	\$45,246	\$18,098	\$5,670	\$5,670	\$5,670
12-166-04-000	CHM McDonald Family Limited Partnership	North Bypass	19.22	\$63,268	\$63,268	\$25,307	\$3,292	\$3,292	\$3,292
12-177-01-000	Shaheen Shaheen Et.Al.	NE Underwood Rd	7.00	\$99,750	\$99,750	\$39,900	\$14,250	\$14,250	\$14,250
12-141-05-000	G&D Construction, Inc.	Off Riverburch Pkwy	1.52	\$86,400	\$86,400	\$34,560	\$56,842	\$56,842	\$56,842
12-163-24-012	Chandler & Brown, LLC	North Bypass	3.87	\$378,312	\$378,312	\$151,325	\$97,755	\$97,755	\$97,755
12-163-24-013	Chandler & Brown, LLC	North Bypass	0.73	\$145,000	\$145,000	\$58,000	\$198,630	\$198,630	\$198,630
12-163-24-004	Bruce Johnson Properties, LLC	Riverburch Parkway	0.67	\$145,625	\$145,625	\$58,250	\$217,351	\$217,351	\$217,351
12-163-24-005	Zorn Joseph Chris Jr.	Riverburch Parkway	0.67	\$120,000	\$120,000	\$48,000	\$179,104	\$179,104	\$179,104
12-163-24-005	Chung Riverburch, LLC	Riverburch Parkway	0.78	\$189,000	\$189,000	\$75,600	\$242,308	\$242,308	\$242,308
Totals:			16	\$5,461,549	\$3,665,180	\$1,466,072	\$26,878	\$18,037	\$18,037

Note: Project redevelopment consists of 12.15 acres only as shown by site plan in Exhibit E.





CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: March 7, 2022

Agenda Item: Tax Allocation District #4 - North Bypass (Hammond Creek) Development Agreement Between the City of Dalton and Hammond Creek Township, LLC.

Department: City Administration

Requested By: Andrew Parker

Reviewed/Approved by City Attorney? Yes - Independent Counsel

Cost: N/A

Funding Source if Not in Budget

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

The subject development agreement would facilitate construction of a high quality, garden style multifamily residential community featuring 209 one, two, and three bedroom apartments for rental. The project will occur within Tax Allocation District #4 (North Bypass/Hammond Creek). The project will include significant landscaping, a clubhouse, pool, and other amenities.

The agreement has an investment goal of \$42,250,000 and a jobs goal of at least four (4) full-time jobs with an average annual salary of \$50,000. The agreement calls for a "pay-go" TAD structure in the amount of \$295,705 per year to be paid to the developer, should positive increment be created in accordance with the agreement, commencing in December 2024 for a 20-year period for a total maximum subsidy of \$5,914,100.00.

TAX ALLOCATION DISTRICT #4 – NORTH BYPASS (HAMMOND CREEK)

DEVELOPER DEVELOPMENT AGREEMENT

Between

CITY OF DALTON, GEORGIA

and

HAMMOND CREEK TOWNSHIP, LLC

dated as of _____, 2022

STATE OF GEORGIA

CITY OF DALTON

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “Agreement “), dated as of this ___ day of _____, 2022, is made among the CITY OF DALTON, GEORGIA, a municipal corporation of the State of Georgia (the “City” and a “Party”), and HAMMOND CREEK TOWNSHIP, LLC, a Georgia limited liability company (the “Developer” and a “Party”), and recites and provides as follows. Capitalized items used herein and not otherwise defined have the meanings given to them in Article II.

**ARTICLE I
RECITALS**

WHEREAS, the City is duly authorized to exercise the redevelopment powers granted to cities and counties in the State pursuant to the Redevelopment Powers Law; and

WHEREAS, pursuant to a resolution duly adopted on December 30, 2015 (the “Original TAD Resolution”), the Mayor and Council of the City approved a redevelopment plan (the “Redevelopment Plan”) for the City of Dalton Redevelopment Area (as defined in the Redevelopment Plan) pursuant to O.C.G.A. §36-44-3(9); and

WHEREAS, pursuant to a resolution duly adopted on December 21, 2020 (the “TAD #4 Resolution”), the Mayor and Council approved an amendment to the Redevelopment Plan to adjust the plan boundaries and to create a tax allocation district to serve the North Bypass (Hammond Creek) area known as Tax Allocation District #4 North Bypass (Hammond Creek) (the (“TAD #4”); and

WHEREAS, the City will act as the Redevelopment Agent for TAD #4 as contemplated by the Redevelopment Powers Law; and

WHEREAS, the TAD #4 Resolution expressed the intent of the City, as set forth in the Redevelopment Plan, as amended, to provide funds to induce and stimulate redevelopment in TAD #4; and

WHEREAS, pursuant to a resolution adopted by the Board of Commissioners of Whitfield County (the “County”) on _____, 2022, and a resolution adopted by the City of Dalton Board of Education (the “School Board”) on _____, 2022, and pursuant to an Intergovernmental Agreement, dated as of _____, 2022, among the City, the County, the School Board, the County and the School Board have consented to the inclusion of their respective shares of ad valorem property taxes in the computation of the positive tax allocation increment for TAD #4 within the meaning of the Redevelopment Powers Law (the “Tax Allocation Increment”); and

WHEREAS, the Redevelopment Powers Law provides that the City may enter into public-private partnerships to affect the redevelopment projects contemplated in the Redevelopment Plan; and

WHEREAS, the undertakings contemplated by the Redevelopment Plan include, among other development activity, undertakings such as the Project (as defined below); and

WHEREAS, to induce and further facilitate the successful accomplishment of a portion of the Redevelopment Plan, the City has indicated its intent to collect the Tax Allocation Increment, on an annual basis and to make certain annual development payments to the Developer, as described herein, to reimburse the Developer for a portion of the Redevelopment Costs advanced by the Developer for a development of a [new multifamily residential facility] located within the TAD #4 (the “Project”); and

WHEREAS, accordingly, in furtherance of the premises set forth in these Recitals, the City and the Developer now wish to describe more comprehensively the terms of the plan for the development of the Project; the plan for financing the Project; and the public/private partnering of the City and the Developer regarding such development, all as hereinafter set forth.

AGREEMENT

NOW THEREFORE, the City and the Developer, for and in consideration of the mutual promises, covenants, obligations and benefits of this Agreement, hereby agree as follows:

ARTICLE II GENERAL TERMS

Section 2.1 Definitions. Unless the context clearly requires a different meaning, the following terms are used herein with following meanings:

“Act of Bankruptcy” means the making of an assignment for the benefit of creditors, the filing of a petition in bankruptcy, the petitioning or application to any tribunal for any receiver or any trustee of the applicable Person or any substantial part of its property, the commencement of any proceeding relating to the applicable Person under any reorganization, arrangement, readjustments of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or if within sixty (60) days after the filing of a bankruptcy petition or the commencement of any proceeding against the applicable Person seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, the proceedings have not been dismissed, or, if, within sixty (60) days after the appointment, without the consent or acquiescence of the applicable Person, of any trustee, receiver or liquidator of the applicable Person or of the land owned by the applicable Person, the appointment has not been vacated.

“Advances” means advances by the Developer or any other Person to pay any costs that comprise Redevelopment Costs associated with the Project.

“Affiliate” means, with respect to any Person, (a) a parent, partner, member or owner of such Person or of any Person identified in clause (b) of this definition; and (b) any other Person that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such Person. As used in this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Applicable Law” means all applicable laws, statutes, resolutions, treaties, rules, codes, ordinances, regulations, certificates, orders, authorizations, determination, demand, approval, notice, direction, franchise, licenses and permits of any Governmental Body and judgments, decrees, injunctions, writs, orders or like action of any court, arbitrator or other administrative, judicial or quasi-judicial tribunal or agency of competent jurisdiction (including Environmental Laws and any other applicable laws pertaining to health, safety or the environment).

“City” means the City of Dalton, Georgia, a municipal corporation of the State, acting through its legislative body, the Mayor and Council, and any successors and assigns.

“County” means Whitfield County, Georgia, a political subdivision of the State, acting through its legislative body, the Board of Commissioners, and its successors and assigns under this Agreement.

“Developer” means Hammond Creek Township, LLC, a Georgia limited liability company and its successors and assigns.

“Development Payments” shall mean the development payments to be made by the City to the Developer hereunder as described in Section 6.3 hereof; provided however, that the total aggregate Development Payments made to the Developer shall not exceed \$5,914,100, except as adjusted pursuant to Section 5.19 hereof.

“Effective Date” means the dated date of this Agreement.

“Environmental Laws” means the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., as amended, the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986, and as further amended, the Clean Water Act, 33 U.S.C. § 1251 et seq., as amended, the Clean Air Act, 42 U.S.C. § 7401 et seq., as amended, the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., as amended, and any other applicable law relating to health, safety or the environment.

“Event of Default” is defined in Section 8.2 hereof.

“Force Majeure” means the actual period of any delay to the final completion date of the Project caused by fire, unavailability of manufactured materials, earthquake, flood, explosion, war, acts of terrorism, invasion, insurrection, mob violence, sabotage, lockouts, litigation, condemnation, riots or other civil disorder, national or local emergency, act of God, unusual delays

in transportation, unusual delay in obtaining lawful permits or consents to which the applicant is legally entitled, strike or labor dispute, severe unanticipated weather conditions, or delays caused by the City in excess of thirty (30) days in responding to proposals for Material Modifications pursuant to Section 4.3, in any such case entitling the Developer or the City commensurate extension of time to perform and complete the obligations delayed thereby under this Agreement. The party requesting an extension of time due to Force Majeure will give written notice in accordance with Section 9.2 as soon as reasonably practical after the start of the event (in occurrence giving rise to the delay, specifically identifying the occurrence or event and the anticipated resulting delays to the Project.

“General Contractor” means an experienced, bondable and reputable general contractor reasonably satisfactory to the City.

“Hazardous Substances” means any hazardous waste, as defined by 42 U.S.C. § 6903(5), any hazardous substances as defined by 42 U.S.C. § 9601(14), any pollutant or contaminant as defined by 42 U.S.C. § 9601(33), and any toxic substances, oil or hazardous materials or other chemicals or substances regulated by any Environmental Laws.

“Legal Requirements” means any legal requirements (including, without limitation, Environmental Laws), including any local, state or federal statute, law, ordinance, rule or regulation, now or hereafter in effect, or order, judgment, decree, injunction, permit, license, authorization, certificate, franchise, approval, notice, demand, direction or determination of any governmental authority.

“Loan Documents” means any agreement or instrument, other than this Agreement and the Transaction Documents, to which the Developer is a party or by which it is bound and that is executed in connection with any financing provided to or for the benefit of the Developer in order to finance all or any portion of the Project, and including any commitment or application for such financing.

“Material Modification” means any modification, change or alteration in the description of the Project that would result in (a) a use other than multi-family housing, (b) a reduction of the number of housing units by more than 10%, (c) a reduction in quality or change of the garden style design of the facility, (d) a material reduction of the Project Budget amount allocated to landscaping, or (e) a material reduction of the Project Budget amount allocated to each of the amenities, including, but not limited to, the pool and clubhouse.

“Original TAD Resolution” shall have the meaning as defined in the Recitals hereof.

“Permitted Exceptions” means all of the following: (a) any reasonable and customary exceptions that serve or enhance the use or utility of the Project arising in the course of and necessary in connection with the construction, or ultimate operation of the Project, including by way of example and not of limitation, easements granted to public utility companies or governmental bodies (for public rights-of-way or otherwise), (b) any other exceptions expressly approved in writing by the City; (c) real property taxes, bonds and assessments (including assessments for public improvements) not yet due and payable; (d) any exceptions approved by

any construction lender and (e) any covenants affecting the Site that are recorded in the records of the City as of the Effective Date.

“Person” includes a corporation, a trust, an association, a partnership (including a limited liability partnership), a joint venture, an unincorporated organization, a business, an individual or natural person, a joint stock company, a limited liability company, or any other entity.

“Positive Tax Allocation Increment” means the positive Tax Allocation Increment derived from the Project Parcel, as determined on an annual basis; provided, however, that if the Tax Allocation Increment for TAD #4 is less than the Positive Tax Allocation Increment, then the Positive Tax Allocation Increment shall be equal to the Tax Allocation Increment for the TAD #4.

“Project” means the improvements developed or proposed to be developed by the Developer on the Site (consistent with the purposes and intent of the Redevelopment Plan), including, but not limited to, the engineering, design, site preparation, permitting and construction of the certain improvements, all as more specifically described in the Project Description, attached hereto as EXHIBIT A, as such Exhibit may be amended or modified from time to time.

“Project Approvals” means all approvals, consents, waivers, orders; agreements, authorizations, permits and licenses required under applicable Legal Requirements or under the terms of any restriction, covenant or easement affecting the Project, or otherwise necessary or desirable for the ownership, acquisition, construction equipping use or operation of the Project, whether obtained from a governmental authority or any other person.

“Project Budget” means the projected cost for construction of the Project as set forth in EXHIBIT B, which costs include all architectural, engineering, design, legal and other consultant fees and expenses related to the Project, as such Exhibit may be amended or modified from time to time.

“Project Completion” means completion of construction of the Project; provided, however, the Project Completion date shall be on or before December 31, 2024.

“Project Description” means the description of the Project provided in EXHIBIT A attached hereto.

“Project Parcel” means the tax parcel identified in EXHIBIT C, which consists of the Site.

“Project Plans” means the site plan and the construction plans for the Project.

“Redevelopment Costs” has the meaning given that term in the Redevelopment Powers Law and, as used in this Agreement, means Redevelopment Costs of the Project and any other Redevelopment Costs (as defined in the Redevelopment Powers Law) contemplated by this Agreement, all of which shall be reimbursable through payment of the Tax Allocation Increment. Redevelopment Costs shall not include any interest or cost of funds incurred by the Developer for otherwise reimbursable expenses incurred in the Project.

“Redevelopment Plan” means the [City of Dalton Redevelopment Plan] creating the City of [Dalton Redevelopment Area] approved by the City pursuant to the Original TAD Resolution, as amended by the TAD #4 Resolution.

“Redevelopment Powers Law” means the Redevelopment Powers Law, O.C.G.A. § 36-44-1, et seq., as amended.

“Requisition” means a requisition in substantially the form attached as EXHIBIT D (or such other form approved by the City).

“Schedule of Values” means the itemized schedule of values of the total “hard costs” of construction of the Project and such other Redevelopment Costs as defined under the Redevelopment Powers Law broken out into detail reasonably acceptable to the City.

“Site” means the approximately 12 acres of real property on which the Project will be located as more specifically described in EXHIBIT E attached hereto.

“State” means the State of Georgia.

“TAD #4” means Tax Allocation District #4 – North Bypass (Hammond Creek) created by the TAD #4 Resolution and as further described in the Redevelopment Plan.

“TAD # 4 Resolution” shall have the meaning as defined in the Recital hereof.

“Tax Allocation Increment” means the positive tax allocation increment (within the meaning of the Redevelopment Powers Law) levied and collected within TAD #4 at the tax millage rates then in force in the City, the County and the City of Dalton School District, which shall be payable first toward the Development Payments.

“Title Policy” means the title insurance policy issued by a nationally recognized title company with respect to the Site.

“Transaction Documents” means any agreement or instrument other than this Agreement to which the Developer is a party or by which it is bound and that is executed in connection with the transactions contemplated by this Agreement, as the same may be amended or supplemented.

“Urban Redevelopment Law” means the Urban Redevelopment Law, O.C.G.A., § 36-61-1, et seq., as amended.

Section 2.2 Singular and Plural. Words used herein in the singular, where the context so permits, also include the plural and vice versa. The definitions of words in the singular herein also apply to such words when used in the plural where the context so permits and vice versa.

ARTICLE III REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations and Warranties of the Developer. The Developer hereby represents and warrants to the City that:

(a) Organization and Authority. The Developer is a Georgia limited liability company, in good standing and authorized to transact business in the State. The Developer has the requisite power and authority to execute and deliver this Agreement, to incur and perform its obligations hereunder, and to carry out the transactions contemplated by this Agreement.

(b) Due Authorization, Execution and Delivery. The execution, delivery, and performance of this Agreement has been duly authorized by all necessary action and proceedings by or on behalf of the Developer, and no further approvals or filings of any kind, including any approval of or filing with any governmental authority, are required by or on behalf of the Developer as a condition to the valid execution, delivery, and performance by it of this Agreement. This Agreement, when duly-executed and delivered by each party hereto, will be the valid, binding and enforceable obligation of the Developer in accordance with its terms, subject to matters and laws affecting creditors' right generally and to general principles of equity.

(c) Organizational Documents. The Developer's organizational documents are in full force and effect and have not been modified or supplemented from those submitted to the City, but as the same may be modified in the future to reflect changes in the organizational structure of Developer in the ordinary course of business, and no fact or circumstance has occurred that, by itself or with the giving of notice of the passage of time or both, would constitute a default thereunder.

(d) Financial Statements. All financial statements, furnished or to be furnished to the City with respect to the Developer fairly present or will fairly present the financial condition of the Developer as of the dates thereof, and all other written information furnished to the City by the Developer will be accurate, complete and correct in all material respects and will not contain any material misstatement of fact or omit to state any fact necessary to make the statements contained therein not misleading.

(e) Environmental. The Developer has no knowledge: (i) of the presence of any Hazardous Substances on the Site of the Project, or any portion thereof, or of any spills, releases, discharges, or disposal of Hazardous Substances that has occurred or are presently occurring on or at the Site of the Project, or any portion thereof, or (ii) of the presence of any PCB transformer serving, or stored in, the Site or the Project, or any portion thereof, and the Developer has no knowledge of any failure to comply with any applicable Environmental Laws relating to the generation, recycling, reuse, sale, storage, handling, transport and disposal of any Hazardous Substances.

(f) Bankruptcy. No Act of Bankruptcy has occurred with respect to the Developer.

(g) No Litigation. There is no action, suit or proceeding of any kind pending or, for the knowledge of the Developer, threatened against or affecting the Developer in any court before any arbitrator or before or by any governmental body which (i) in any manner raises any question affecting the validity or enforceability of this Agreement, (ii) could materially and adversely affect

the business, financial position or results of operations of the Developer, or (iii) could materially and adversely affect the ability of the Developer to perform its obligations hereunder, nor does the Developer know of any basis for any such action, suit, proceeding, or investigation.

(h) No Undisclosed Liabilities. Neither the Developer nor the Site is subject to any material liability or obligation, including contingent liabilities, other than loans to finance the Project. The Developer is not in default under or in breach of any material contract or agreement, and no event has occurred which, with the passage of time or giving of notice (or both) would constitute such a default which has a material adverse effect on the ability of the Developer to perform its obligations under this Agreement.

(i) Tax Matters. The Developer has prepared and filed in a substantially correct manner all federal, state, local, and foreign tax returns and reports heretofore required to be filed by them and has paid all taxes shown as due thereon. No governmental body has asserted any deficiency in the payment of any tax or informed the Developer that such governmental body intends to assert any such deficiency or to make any audit or other investigation of the Developer for the purpose of determining whether such a deficiency should be asserted against the Developer.

(j) Principal Office. The Developer's principal place of business is located at 106 East 8th Avenue, Rome, Georgia 30161.

(k) Licenses and Permits. The Developer possesses, or will possess as such times as the same may be legally required (and will cause its contractors, subcontractors, agents and other Persons performing any activities relating to the Project by contract with or under the direction of the Developer to possess), all franchises, patents, copyrights, trademarks, trade names, licenses and permits, and rights in respect of the foregoing, adequate for the conduct of its business substantially as now conducted or as it is intended to be conducted with respect to the Project, without known conflict with any rights of others.

(l) Project Location. The Project is located wholly within TAD #4.

(m) Utilities. Upon completion of the Project, all Utility services necessary and sufficient for the operation of the Project will be available through dedicated public rights of way or through perpetual private easement. All such utility easements will either enter the Site through adjoining public streets or if they pass through adjoining private land, do so in accordance with valid and recorded public or private easements which will be to the benefit of the Site.

(n) Rights of Way. The rights of way for all roads necessary for the full utilization of the Project for its intended purposes have been or will be acquired by the Developer during the course of the Development of the Project or the appropriate governmental body or have been or will be dedicated to public use and accepted by such governmental body. All curb cuts, driveways and traffic signals shown on the Plans are existing or have or will be fully approved by the appropriate governmental body prior to completion of the Project.

(o) Survey. To the best of the Developer's knowledge, any surveys for the Project

delivered to the City do not fail to reflect any material matter of survey affecting the Legal Requirements for the Project or the title thereto.

(p) Liens. Other than as disclosed in writing to the City, there are no material liens of laborers, subcontractors or materialmen on or respecting the Project on the Effective Date.

(q) Project Construction Schedules. The Developer will construct the Project pursuant to this Agreement and as described in the Project Description, attached as EXHIBIT A.

(r) Project Budget. The Project Budget accurately reflects the currently estimated costs of the Project, but may be subject to modification as provided in Section Article IV hereof.

(s) TAD Increment. The Project Parcel is projected to produce a Positive Tax Allocation Increment in each year sufficient to pay the Development Payments for such respective year for the Project.

(t) Ownership of Property. The Developer, or an affiliate controlled by the Developer, has good title to the portion of the Site on which the Project will be constructed, subject only to the Permitted Exceptions and the liens permitted by this Agreement.

Section 3.2 Representations and Warranties of the City. The City hereby represents and warrants to the Developer that:

(a) Organization and Authority. The City is a municipal corporation duly created and existing under the laws of the State of Georgia. The City has the requisition power and authority to execute and deliver this Agreement, to incur and perform its obligations hereunder, and to carry out the transactions contemplated by this Agreement.

(b) Due Authorization, Execution and Delivery. The execution, delivery, and performance of this Agreement has been duly authorized by all necessary action and proceedings by or on behalf of the City, and no further approvals or filings of any kind, including any approval of or filing with any governmental authority, are required by or on behalf of the City as a condition to the valid execution, delivery, and performance by the City of this Agreement. This Agreement, when duly executed and delivered by each party hereto, will be the valid, binding and enforceable obligation of the City in accordance with its terms, subject to matters and laws affecting creditors' right generally as to political bodies and to general principles of equity.

(c) No Litigation. There are no actions, suits, proceedings or investigations of any kind pending or threatened against the City before any court, tribunal or administrative agency or board or any mediator or arbitrator that questions the validity of this Agreement or any action taken or to be taken pursuant hereto.

(d) TAD Resolution. The Original TAD Resolution and the TAD #4 Resolution have been validly adopted, remain in full force and effect, and have not been further amended or supplemented. To the best of its knowledge, no further amendment of or supplement to the

Original TAD Resolution or the TAD #4 Resolution is contemplated by the City with respect to the TAD #4.

ARTICLE IV DEVELOPMENT AND CONSTRUCTION

Section 4.1 Construction of the Project.

(a) The Developer will develop and construct the Project in a good and workmanlike manner in substantial conformance with the Project Plans and the descriptions thereof set forth in the Redevelopment Plan, subject to Force Majeure. The City acknowledges that, during the term of this Agreement, modifications to the Project as contemplated on the Effective Date may occur. To the extent that any such modification is a Material Modification, the Developer will comply with the procedures set forth in Section 4.3. The City agrees to use commercially reasonable efforts to assist the Developer with the development of the Project on the terms set forth in this Agreement to further the public purposes of the Redevelopment Plan and the Redevelopment Powers Law.

(b) The Developer agrees to use commercially reasonable efforts to develop and construct the Project in all material respects in accordance with the Project Budget, as set forth in EXHIBIT B, subject to Force Majeure. The City acknowledges that, during the term of this Agreement, modifications to the Project Budget may occur. When such modifications occur which are not Material Modifications, the Developer will provide a revised version of EXHIBIT B to the City. The Project Budget, as revised, will be used as the basis for reimbursement of Advances under Section 6.3. Notwithstanding any representation within the Project Budget to the contrary, only Advances for Redevelopment Costs as defined in the Redevelopment Powers Law shall be reimbursable through payment of the Tax Allocation Increment. To the extent that any such modification is a Material Modification, the Developer will comply with the procedures set forth in Section 4.3.

(c) To the extent not included in a Requisition, the Developer shall deliver construction cost reports and interim progress reports in form and content reasonably satisfactory to the City, including an updated Project construction schedule and summary of all costs and expenses incurred in connection with the Project, not less frequently than annually, from and after the date hereof and until the earlier of (i) the payment of all Development Payments or (ii) the termination of TAD #4 by resolution of the City. The Developer shall keep the City fully informed as to the status and progress of all construction work with respect to the Project.

(d) Upon Project Completion, the Developer will provide the City with a final cost summary of all costs and expenses associated with the Project and evidence that all amounts owing to contractors and subcontractors have been paid in full evidenced by customary affidavits executed by such contractors, it being acknowledged that an affidavit from the General Contractor to such effect shall be sufficient to satisfy the requirements of this Section.

(e) The Developer will construct the Project in accordance with all applicable Legal Requirements.

Section 4.2 Approvals Required for the Project. The Developer will obtain or cause to be obtained all necessary Project Approvals for the Project and will comply with all Legal Requirements of any governmental body regarding the use or condition of the Project. The Developer may, however, contest any such Legal Requirement or denial of a Project Approval by an appropriate proceeding diligently prosecuted provided that (a) the Developer gives the City prior written notice of its intent to contest a Legal Requirement or denial of a Project Approval; (b) the Developer demonstrates to the City's reasonable satisfaction that its interest in the Project is not at risk of sale on account of such contest prior to the final determination of the legal proceedings of such contest; (c) such proceeding shall be permitted under Applicable Law and under any other agreement to which the Developer or the Project is subject, including but not limited to, the Transaction Documents and the applicable Loan Documents; and (d) such proceedings shall not result in any need for any Material Modification that has not been approved by the City. The City agrees to process zoning and permit applications for the Project in a prompt and timely manner in accordance with its normal roles and procedures.

Section 4.3 Material Modifications. If the Developer proposes to make a Material Modification to the Project, it will submit the proposed modifications to the City in writing for review and approval by it. Any such submission must clearly identify all, changes, omissions and additions as compared to the previously approved description of, budget or construction schedule for the Project. Such submission shall also include the projected impact, if any, on the Positive Tax Allocation Increment and such other information as reasonably requested by the City for the purpose of evaluating the request. The City will have fifteen (15) business days after submission of the proposed modifications to review the submission and deliver to the Developer written comments to or written approval of the modifications. If the City determines, in its reasonable judgment, that the proposed modifications are acceptable, the City will notify the Developer in writing, the proposed modifications will be deemed to be incorporated, and the Developer will perform its obligations under this Agreement as so modified. If the City determines, in its reasonable judgment, that the proposed modifications are not acceptable, the City will so notify the Developer in writing, specifying in reasonable detail in what respects they are not acceptable and, by written notice to the City, the Developer will either (a) withdraw the proposed modifications, in which case, construction will proceed on the basis of the description of, budget or construction schedule for the Project previously approved as provided herein; or (b) revise the, proposed modifications in response to such objections, and resubmit such revised modifications to the City for review and approval by it within thirty (30) business days after such notification as described above. If the City has not responded to the Developer within thirty (30) business days after any submission, the proposed modifications will be deemed approved. In addition, to the extent any Material Modification requires an amendment to any portion of the Redevelopment Plan, the City will have such amount of time as reasonably required to pursue any such amendment.

ARTICLE V DUTIES, RESPONSIBILITIES AND SPECIAL COVENANTS OF DEVELOPER

Section 5.1 Completion of the Project. The Developer will commence and complete construction of the Project, with diligence and in a good and workmanlike manner, free and

clear of all liens and claims for materials supplied or for labor or services performed in connection with the Project. The Project Completion shall occur on or before December 31, 2024.

Section 5.2 Compliance with Documents. The Developer agrees to comply with all material obligations and covenants of the Developer herein and in the Transaction Documents. To the best of its knowledge, the Developer is in compliance with its obligations and covenants in the applicable Loan Documents Pursuant to which amounts were loaned or otherwise made available to the Developer to finance construction of the Project.

Section 5.3 Litigation. During development and construction of the Project, the Developer notify the City in writing, within ten (10) days of its having knowledge thereof, of any actual, pending, or threatened litigation, claim, demand, or adversarial proceeding in which a claim is made against the Developer or the Project and which may materially and adversely affect the Project, and of any judgment rendered against the Developer. The Developer will notify the City in writing within ten (10) days of its having knowledge of any matter that the Developer considers may result or does result in a material adverse change in the financial condition or operation of the Developer or its interest in the Project.

Section 5.4 Maintenance of the Project. The Developer agrees that, to the extent it has an interest in the Project it will at its own expense, (a) keep such project or cause such project to be kept in as reasonably safe condition as its operations permit; (b) make or cause to be made from time to time all necessary repairs thereto and renewals and replacements thereof and otherwise keep such project in good repair and in good operating condition; and (c) not permit or suffer others to commit a nuisance or waste on or about the Project. the Developer at its own expense and from time to time, may make any additions, modifications or improvements to the applicable project that it may deem desirable for its business purposes and that do not impair the effective use, or decrease the value, of the Project.

Section 5.5 Records and Accounts. The Developer will keep true and accurate records and books of account with respect to itself and the Project, in which full, true and correct entries will be made on a consistent basis, in accordance with generally accepted accounting principles.

Section 5.6 Liens and Other Charges. The Developer will duly pay and discharge, or cause to be paid and discharged, before the same become overdue all undisputed claims for labor, materials, or supplies that if unpaid might by law become a lien or charge upon the Project unless the Developer is lawfully protesting the same, in which case Developer will provide a suitable “mechanics lien bond” to discharge such lien from the Project.

Section 5.7 Compliance with Laws, Contracts, Licenses, and Permits. The Developer will use commercially reasonable efforts to comply in all material respects with (a) all applicable laws, (b) all agreements and instruments by which it or any of its properties may be bound, and all restrictions, covenants and easements affecting the Project or the Site, (c) all applicable decrees, orders and judgments, and (d) all licenses and permits required by applicable laws and regulations for the conduct of its business or the ownership, use or operation of its properties.

Section 5.8 Laborers, Subcontractors and Materialmen. Without limiting the requirements of Article IV, the Developer will furnish to the City, upon request at any time, and from time to time, affidavits listing all laborers, subcontractors, materialmen, and any other Persons who might or could claim statutory or common law liens and are furnishing or have furnished labor or material to the Project or any part thereof, together with affidavits, or other evidence satisfactory to the City, showing that such parties have been paid all amounts then due for labor and materials furnished to the Project; provided, however, it is agreed an affidavit of the General Contractor for the Project to such effect shall satisfy the requirements of this Section. The Developer will also furnish to the City, at any time and from time to time upon demand by the City, lien waivers bearing a then current date and prepared on a form satisfactory to the City from the General Contractor for the Project, and such subcontractors or materialmen as the City may designate.

Section 5.9 Insurance. To the extent of its interest therein, the Developer will keep the Project continuously insured against such risks as are customarily insured against by businesses of like size and type engaged in the same or similar operations; provided, however, that such insurance provides coverage of at least \$2,000,000 for third party liability.

Section 5.10 Further Assurances and Corrective Instruments. The City and the Developer agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements and amendments hereto and such further instruments as may reasonably be required for carrying out the intention or facilitating the performance of this Agreement; provided that the rights of the City and the Developer hereunder and the ability of the Developer to construct the Project are not impaired thereby.

Section 5.11 Performance by the Developer. The Developer will perform all acts to be performed by it hereunder and will refrain from taking or omitting to take any action that would materially violate the Developer's representations and warranties hereunder or render the same materially inaccurate as of the Effective Date and subsequent Requisition dates or that in any material way would prevent the consummation of the transactions contemplated hereby in accordance with the terms and conditions hereof.

Section 5.12 Restrictions on Easements and Covenants. Except for Permitted Exceptions, the Developer will not create or suffer to be created or to exist any easement, right of way, restriction, covenant, condition, license or other right in favor of any Person which affects or might affect title to the Project or the use and occupancy thereof or any part thereof without obtaining the prior approval of the City, other than easements, and rights of ways customary for utilities or otherwise necessary for development or construction of the Project, lease restrictions and covenants common to the shopping center industry.

Section 5.13 Access to the Site. The Developer will permit persons designated by the City to access the Site and to discuss the progress and status-of the Project with representatives of the Developer, all in such detail and at such times as the City may reasonably request. All such access must be during normal business hours and in a manner that will not unreasonably interfere with construction activities of the Project or with the Developer business operations generally. The City's representative must be accompanied by a representative of the Developer during any access

contemplated by this Section.

Section 5.14 Title Policy. Promptly upon acquisition of any portion of the Site, the Developer will provide to the City any title policy or marked commitment obtained that evidences ownership of the property by the Developer.

Section 5.15 Payment of Project Costs. The Developer will pay when due its share of all costs of development and construction of the Project as set forth in the Project Budget.

Section 5.16 Event Notices. The Developer, will promptly notify the City in writing of (a) the occurrence of any default or event of default of which it has knowledge; (b) the occurrence of any Material Modification; (c) the occurrence of any levy or attachment against its assets or other event which may have an adverse effect on the Project or the business or financial condition of the Developer; and (d) the receipt by the Developer, as the case may be, of any written notice of default or notice of termination with respect to any contract or agreement relating to the ownership, construction, operation, or use of the Project which may adversely affect the Project.

Section 5.17 Jobs Goal. The Developer agrees that it shall employ, in connection with the operation of the Project, at least four (4) full-time job (“**Full-Time Job**”) positions with an average salary of \$50,000 by December 31, 2024 (the “**Jobs Goal**”). For purposes of this Agreement, the number of new “Full-Time Jobs” shall be defined and determined, from time to time, as provided on Schedule 5.17 attached hereto and incorporated herein by reference. On or before March 1 in each year, commencing March 1, 2025 and continuing each year until the expiration of this Agreement, the Company shall certify, in a manner acceptable to the City, the number of jobs during the preceding year.

Section 5.18 Investment Goal. The Developer agrees to invest an amount equal to \$42,250,000 for the Project by December 31, 2024 (the “**Investment Goal**”). Schedule 5.18 attached hereto and incorporated herein by reference provides rules that shall apply to satisfying the Investment Goal. On or before March 1 in each year, commencing March 1, 2025 and continuing each year until the investment goal is met, the Company shall certify in a manner acceptable to the City, the amount invested in the Project.

Section 5.19 Development Payment Claw Back. Beginning on March 1, 2025, the Company shall send a report to the City which provides the calculation of a percentage equal to the number of Full-Time Job positions created at the Project as of December 31 of the previous year divided by the Jobs Goal (the “**Jobs Goal Percentage**”) and a calculation of a percentage equal to the amount of actual cumulative capital investment made at the Project as of December 31 of the previous year divided by the Investment Goal (the “**Investment Goal Percentage**”). The average of the Jobs Goal Percentage and the Investment Goal Percentage shall be the “**Project Percentage**”. Notwithstanding the foregoing, the Jobs Percentage and the Investment Percentage may not exceed 100% for the purposes of calculating the Project Percentage. If the Project Percentage is 100% or more for any year beginning in 2024 through the expiration of the term of this Agreement (the “**Performance Period**”), the “**Project Shortfall Percentage**” shall be 0%. If the Project Percentage is less than 100% for any year during the Performance Period, then the Project Percentage shall be subtracted from 100% and the remainder shall be the Project Shortfall

Percentage. If the Project Shortfall Percentage is 20% or less for any year during the Performance Period, there shall be no adjustment to the amount of Development Payments. If the Project Shortfall Percentage is greater than 20% for any year during the Performance Period, the total aggregate amount of Development Payments owed shall be reduced by an amount equal to the Project Shortfall Percentage multiplied by \$295,700. The total aggregate reduction in Development Payments during the Performance Period shall not exceed the total aggregate amount of Development Payments owed.

ARTICLE VI DEVELOPMENT PAYMENTS

Section 6.1 Conditions to Delivery of this Agreement. The Developer hereby acknowledges and agrees that the execution and delivery of this Agreement are contingent upon satisfaction of the following conditions:

(a) The Mayor and Council have adopted a resolution or ordinances, as appropriate, authorizing the execution of this Agreement.

(b) The Developer certifies that all representations, warranties and covenants made by it in this Agreement and in the Transaction Documents are true and correct in all material respects, that neither is in default under this Agreement or the Transaction Documents, or if in default, outlines the nature of the default and describes what steps are being taken to cure the default.

(c) The Developer has provided an opinion of legal counsel in form and substance satisfactory to the City to the effect that (i) this Agreement and the Transaction Documents identified in such opinion (a) have been duly authorized by it and will be valid, binding and enforceable against the respective entities subject to standard enforceability exceptions and (b) will not violate or otherwise contravene its organizational documents or any agreement or instrument to which it is a party or to which its property or assets are bound; and (ii) there is no litigation pending or, to such counsel's knowledge, threatened before any court or administrative agency against it or its interests in the Site, which, if adversely determined, would have a material adverse effect on the Developer or its financial condition.

(d) The Developer and the City have each approved and executed this Agreement.

(e) The Developer shall have submitted (i) certified copies of its organizational documents, and (ii) certificates of good standing from the jurisdiction in which it was organized, together with evidence that it is qualified to transact business and is in good standing in Georgia.

(f) The Developer shall have delivered certified copies of corporate resolutions or other evidence of their approval of this Agreement and the Transaction Documents to which they are a party and authorizing the execution and delivery thereof by an authorized officer.

Section 6.2 Advances. The Developer shall make or cause to be made all Advances in

connection with the Project.

Section 6.3 Conditions to Payment of Development Payments. Subject to compliance by the Developer with the conditions set forth below and subject to the terms and limitations herein, the City shall make Development Payments to the Developer to reimburse the Developer for a portion of the Advances made in connection with the Project; provided, however, the total aggregate amount of Development Payments shall not exceed \$5,914,000. Development Payments will be disbursed annually on or after March 1 of each year (corresponding to the previous calendar year's Development Payment), pursuant to Requisitions in the form provided herein at consistent with the written evidence of compliance with the terms of this Agreement, particularly subparagraph (b)(1) below, submitted to the City as set forth below in accordance with the following procedures:

(a) Until completion of the Project and submission of the Final Requisition, not less than forth-five (45) business days prior to the date on which the Developer desires a Development Payment. The Developer will submit to the City a Requisition in substantially the same form as that attached hereto as EXHIBIT D. The Requisition will include: (1) the itemized schedule of values prepared by the General Contractor or the Developer of the total "hard costs" of reimbursable costs and such other Redevelopment Costs as allowed under the Redevelopment Powers Law for which Project Funds are requested, (the "Schedule of Values"), together with a copy of the construction contract or contracts to which such reimbursement relates; (2) all costs incurred for construction and non-construction expenses for the reimbursable costs to the date of the Requisition for which no Requisition has previously been presented and paid; and (3) such certificates and affidavits as the City may reasonably request. The accuracy of the cost breakdown and percentage completion in the Requisition must be certified by the Developer. Anything contained herein to the contrary, notwithstanding, Development Payments shall never exceed Positive Tax Allocation Increment. To the extent that any Requisition request exceeds the Positive Tax Allocation Increment for such year, such request shall be held until the Positive Tax Allocation Increment in successive years is collected and available to make such payments.

(b) In addition, the Requisition must be accompanied by evidence in form and content reasonably satisfactory to the City (including, but not limited to, certificates and affidavits of the Developer and such other Persons as the City may reasonably require):

- (1) Copies of all bills or statements or canceled checks for any indirect or soft-cost expense for which the Development Payment is requested;
- (2) If the Requisition includes amounts to be paid to any contractor, a contractor's application for payment showing the amount paid by the Developer with respect to each such line item and, upon request of the City, copies of all bills or statements or canceled checks for expenses incurred by the Developer for which the Development Payment is requested and a copy of a satisfactory "Interim Waiver and Release upon Payment" pursuant to O.C.G.A. § 44-14-366 from the General Contractor which received payment from the proceeds of the immediately preceding Requisition;

- (3) That all construction has been concluded substantially in accordance with the Project Plans (and all changes thereto approved by the City or otherwise permitted pursuant to the terms hereof); and
- (4) That there are no liens outstanding against the Project except for those set forth in any applicable title policy, other than (A) inchoate liens for property taxes not yet due and payable, (B) liens being contested in accordance with the terms and conditions set forth in applicable law and (C) loans for the construction of the Project.

(c) The construction for which Redevelopment Costs are included in any Requisition must be reviewed and approved by the City or its appointed consultant to verify the approval of the construction, the cost of completed construction, the percentage of completion and the compliance with the Project Plans.

(d) Within thirty (30) business days of receipt of a completed Requisition, the City will disburse to the Developer the approved Development Payment to the extent such payment together with all other cumulative payments does not exceed the Positive Tax Allocation Increment. The Developer will provide wiring instructions to the City to aid in such payment.

Section 6.4 Limited Liability.

(a) The City's obligations hereunder to reimburse Project Costs are limited solely to the Positive Tax Allocation Increment.

(b) To the extent permitted by State law, no director, officer, employee or agent of the City will be personally responsible for any liability arising under or growing out of the Agreement.

ARTICLE VII INDEMNIFICATION

Section 7.1 Indemnification. The Developer will defend, indemnify, and hold the City and its agents, employees, officers, and legal representatives (collectively, the "Indemnified Persons") harmless for all claims, causes of action, liabilities, fines, and expenses (including, without Limitation, reasonable attorneys' fees, court costs, and all other defense costs and interest) (collectively, the "Losses") for injury, death, damage, or loss to persons or property sustained in connection with, or incidental to the construction of the Project. Notwithstanding anything to the contrary in this Article: (1) the Developer's indemnification obligation under this Article is limited to the greater of \$5,000,000 or the policy limits available under the insurance policies required under Section 5.9; (2) the Developer will not be obligated to indemnify any Indemnified Person for the Indemnified Person's own negligence, recklessness or intentional act or omission; and (3) the Developer will not be obligated to indemnify any Indemnified Persons to the extent that any claims that might otherwise be subject to indemnification hereunder resulted, in whole or in part, from the gross negligence, recklessness or intentional act or omission of any other indemnified Person or Persons.

Section 7.2 Notice of Claim. If an Indemnified Person receives notice of any claim or circumstance which could give rise to indemnified Losses, the receiving party must give written notice to the Developer within fifteen (15) business days. The notice must include a description of the indemnification event in reasonable detail, the basis on which indemnification may be due, and the anticipated amount of the indemnified Losses. Such notice will not stop or prevent an Indemnified Person from later asserting a different basis for indemnification or a different amount of indemnified Losses than that indicated in the initial notice. If an Indemnified Person does not provide this notice within the fifteen (15) business-day period, it does not waive any right to indemnification except to the extent that the Developer is prejudiced, suffers loss, or incurs expense because of the delay.

Section 7.3 Defense. The Developer or its insurance carrier may assume and control the defense of the claim based on the indemnified Losses at its own expense with counsel chosen by the Developer or its insurance carrier with the concurrence of the Indemnified Person. The Developer will also control any negotiations to settle the claim. Within ten (10) business days after receiving written notice of the indemnification request, the Developer will advise the Indemnified Person as to whether or not it will defend the claim. If the Developer does not assume the defense, the Indemnified Person will assume and control the defense and all defense expenses actually incurred by it will constitute Losses.

Section 7.4 Separate Counsel. If the Developer elects to defend a claim, the Indemnified Person may retain separate counsel, at the sole cost and expense of such Indemnified Person, to participate in (but not control or impair) the defense and to participate in (but not control or impair) any settlement negotiations. The Developer may settle the claim without the consent or agreement of the Indemnified Person, unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the Indemnified Person to comply with restrictions or limitations that adversely affect the Indemnified Person, (ii) would require the Indemnified Person to pay amounts that the Developer does not fund in full, or (iii) would not result in the Indemnified Person's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

Section 7.5 Survival. The provisions of Article VII will survive any expiration or earlier termination of this Agreement and any closing, settlement or other similar event which occurs under this Agreement.

ARTICLE VIII DEFAULT

Section 8.1 Default by the Developer. The following will constitute a default by the Developer:

(a) Failure of the Developer to materially and timely comply with and perform each of its obligations set forth in this Agreement, after a minimum of thirty (30) days notice of Developer and Developer's failure to cure or dispute such matter within such thirty (30) day period.

(b) A default by the Developer under, or failure of the Developer to comply with, any material obligation of the Developer set forth in the Transaction Documents.

(c) Any representation or warranty made by the Developer in this Agreement or subsequently made by it in any written statement or document furnished to the City and related to the transactions contemplated by this Agreement is false, incomplete, inaccurate or misleading in any material respect, including, but not limited to the jobs goal provided in Section 5.17 hereof.

(d) Any report, certificate or other document or instrument furnished to the City by the Developer in relation to the transactions contemplated by this Agreement is false, inaccurate or misleading in any material respect; or if any report, certificate or other document furnished to the City on behalf of the Developer, to the extent that the Developer knows such document is false, inaccurate or misleading and fails to promptly report such discrepancy to the City.

(e) An Act of Bankruptcy of the Developer.

Section 8.2 Remedies. If a default by the Developer occurs and is continuing thirty (30) days after receipt of written notice to the Developer from the City specifying the existence of such default (or within a reasonable time thereafter if such default cannot reasonably be cured within such 30-day period and the Developer begins to diligently pursue the cure of such default within such 30-day period), unless disputed by the Developer, the default will become an “Event of Default,” and the City will be entitled to elect any or all of the following remedies: (i) termination of this Agreement and discontinuation of funding and payments of Development Payments hereunder; (ii) pursuit of specific performance of this Agreement or injunctive relief; or (iii) waiver of such Event of Default.

Section 8.3 Remedies Cumulative. Except as otherwise specifically provided, all remedies of the parties provided for herein or in the Transaction Documents are cumulative and will be in addition to any and all other rights and remedies provided for or available hereunder and under the Transaction Documents, at law or in equity.

Section 8.4 Agreement to Pay Attorneys’ Fees and Expenses. In the event of an Event of Default, if the City employs attorneys or incurs other expenses for the collection of amounts due hereunder or for the enforcement of the performance or observance of any covenants or agreements on the part of the Developer contained herein, the Developer agrees that it will demand therefor pay to the City the reasonable fees of such attorneys and such other reasonable expenses so incurred, the amount of such fees of attorneys to be without regard to any statutory presumption.

Section 8.5 Default by the City. The following will constitute a default by the City: Any material breach by it of any representation made in this Agreement or any material failure by it to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, for a period of thirty (30) days after written notice specifying such breach or failure and requesting that it be remedied, given to it by the Developer; provided that in the event

such breach or failure, can be corrected but cannot be corrected within said 30- day period, unless disputed by the City, the same will not constitute a default hereunder if corrective action is instituted by the defaulting party or on behalf of the defaulting party within said 30-day period and is being diligently pursued.

Section 8.6 Remedies against the City. Upon the occurrence and continuance of a default by the City hereunder, the Developer may seek specific performance of this Agreement or pursue any other remedies available at law or in equity.

ARTICLE IX MISCELLANEOUS

Section 9.1 Term of Agreement. This Agreement will commence on the Effective Date and will expire on the earlier of (a) the date all approved Dalton Developer Payments have been reimbursed/paid to the Developer subject to the availability of Positive Tax Allocation Increment (b) December 31, 2044, or (c) the date the city elects to terminate this Agreement pursuant to Section 8.2 hereof.

Section 9.2 Annual Fee. The Developer shall pay the City an annual fee equal to 1% of the Positive Tax Allocation Increment.

Section 9.3 Notices. Any notice sent under this Agreement (except as otherwise expressly required) must be written and mailed by prepaid certified or registered mail or sent by overnight courier or personally delivered to an officer of the receiving party at the following addresses:

If to the Developer:

Hammond Creek Township, LLC
106 East 8th Avenue
Rome, Georgia 30161
Attention: Robert H. Ledbetter, Jr.

With a copy to:

Brinson Askew Berry
615 W. 1st Street
Rome, Georgia 30161
Attention: Joseph M. Seigler, Jr.

If to City:

City of Dalton
300 W. Waugh Street
Dalton, Georgia 30720
Attention: City Mayor

With a copy to:

Mitchell & Mitchell, PC
108 S Thornton Ave.
Dalton, Georgia 30720
Attention: Terry Miller, Esq.

Each party may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this Section will be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission will be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person will be deemed to be given when received for by, or actually received by the party identified above.

Section 9.4 Amendments and Waivers. Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed by the parties hereto. No course of dealing on the part of any party to this Agreement, nor any failure or delay by any party to this Agreement with respect to exercising any right, power or privilege hereunder will operate as a waiver thereof.

Section 9.5 Invalidity. In the event that any provision of this Agreement is held unenforceable in any respect, such unenforceability will not affect any other provision of this Agreement.

Section 9.6 Successors and Assigns. The Developer may not assign this Agreement or any of its rights hereunder or any interest herein without the prior written consent of the City, which consent may not be unreasonably withheld, conditioned or delayed; provided that the Developer may, without the prior consent of the City, assign this Agreement and all or any portion of its rights hereunder and interests, herein, to any Affiliate of it or to any entity controlled by or under common control with it that has assets of a value at least equal to that of the Developer at the time of the assignment. The Developer will provide written notice to the City of any such assignment. Upon any such assignment of the obligations of the Developer hereunder, the Developer will be deemed released from such obligations. Notwithstanding the above, the Developer may collaterally assign this Agreement and its rights hereunder and interest herein, without the consent of the City, to a lender to secure any acquisition, development or construction loan for the Project.

Section 9.7 Exhibits, Titles of Articles and Sections. The exhibits attached to this Agreement are incorporated herein and will be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement will prevail. MI titles or headings are only for the convenience of the parties and may not be construed to have any effect or meaning as to the agreement between the parties hereto. Any reference herein to a Section or subsection will be considered a reference to such Section or subsection of this Agreement unless otherwise stated. Any reference herein to an exhibit will be considered a reference to the applicable exhibit attached hereto unless otherwise stated.

Section 9.8 Applicable Law. This Agreement is a contract made under and will be construed in accordance with and governed by the laws of the United States of America and the State.

Section 9.9 Entire Agreement; Construction with Redevelopment Plan. This written agreement represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties. Notwithstanding any other provision in this Agreement, in the event of a conflict between the terms of this Agreement and the Redevelopment Plan, the provisions of this Agreement shall control.

Section 9.10 Approval by the Parties. Whenever this Agreement requires or permits approval or consent to be hereafter given by any of the parties, the parties agree that such approval or consent may not be unreasonably withheld, conditioned or delayed, and will be deemed given if no written objection is delivered to the requesting party within ten (10) business days after delivery of the request to the approving party.

Section 9.11 Additional Actions. The parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

IN WITNESS HEREOF, the parties hereto have caused this instrument to be duly executed as of the ____ day of _____, 2022.

CITY OF DALTON, GEORGIA

By: _____
Mayor

ATTEST:

By: _____
Clerk

[SEAL]

HAMMOND CREEK TOWNSHIP, LLC,
a Georgia limited liability company

By: _____
Title:

SCHEDULE 5.17

RULES FOR SATISFYING THE JOBS GOAL

1. For purposes of this Agreement, the number of “full-time jobs” shall be defined and determined, from time to time, as provided follows:
 - a) Only direct employees of the Developer shall be counted.
 - b) In determining the number of full time jobs, “full-time job” means the following:

“Full-time employee job” and “full-time job” means employment of an individual which:

 - (1) Is located at the site of the Project;
 - (2) Involves a regular work week of 35 hours or more;
 - (3) Has no predetermined end date; and
 - (4) Is covered by employer provided health insurance coverage (which, for leased employees, may be provided by the leasing company), unless such employer does not pay for all or any part of health insurance coverage for other employees.

For purposes of this Agreement, leased employees will be considered employees of the Developer using their services and such persons may be counted in determining the number of full-time jobs if their employment otherwise meets the definition of full-time job contained herein. In addition, an individual’s employment shall not be deemed to have a predetermined end date solely by virtue of a mandatory retirement age set forth in a company policy of general application. The employment of any individual in a bona fide executive, administrative, or professional capacity, within the meaning of Section 13 of the federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. Section 213(a)(1), as such act existed on January 1, 2002, shall not be deemed to have a predetermined end date solely by virtue of the fact that such employment is pursuant to a fixed-term contract, provided that such contract is for a term of not less than one year.

The Parties acknowledge the nature of the Developer’s business and its desire to be able to count leased employees for purposes of this Agreement. At the same time, the Parties acknowledge the City’s interest in establishing permanent jobs in the community. To accommodate the interests of both Parties, the Parties agree as follows: The Developer represents that its target for utilization of leased employees is that such workers not exceed on average in any year 10% of its workforce at the site of the Project. The Parties agree, however, that if at any time the number of leased employees at the site of the Project amounts to more than 20% of the Developer’s workforce at the site of the Project, then any leased employees in excess of 20% of the Developer’s workforce at the site of the Project shall not be counted as occupying full-time jobs for purposes of this Agreement.

2. The number of full-time jobs shall be calculated as provided below.
 - a) The number of jobs shall be determined based on the monthly average number of full-time employees and leased employees that are employed at the Project and are subject to Georgia income tax withholding for the taxable year.
 - b) The monthly average number of full-time employees in a taxable year shall be determined by the following method:
 - (i) for each month of the taxable year, count the total number of full-time employees (including, to the extent eligible to be counted, leased employees) of the business enterprise that are subject to Georgia income tax withholding as of the last payroll period of the month or as of the payroll period during each month used for the purpose of reports to the Georgia Department of Labor;
 - (ii) add the monthly totals of full-time employees (and including, to the extent eligible to be counted, leased employees); and
 - (iii) divide the result by the number of full calendar months the business enterprise was in operation during the taxable year. Transferred jobs (within the meaning of the Georgia job tax credit program), except for jobs transferred to the Project from outside the State of Georgia, and replacement jobs (including, to the extent eligible to be counted, leased employees) may not be included in the monthly totals.

SCHEDULE 5.18

RULES FOR SATISFYING THE INVESTMENT GOAL

1. Only capital investments, including any soft costs described in Project Budget attached to the Agreement as Exhibit B, in the Project by the Developer shall be counted, except as provided in 4 below.
2. Original cost, without regard to depreciation, shall be used in calculating whether the Investment Goal is met, except as provided in 3, below.
3. Transferred equipment relocated by the Developer to the Project to be used as part of the Project may be counted at net book value, or, if requested and substantiated by the Developer to the City's satisfaction, and approved by the City, its fair market value.
4. Machinery and equipment leased to the Developer under an operating lease and other machinery and equipment owned or beneficially owned by the Developer shall be counted.

EXHIBIT A

PROJECT DESCRIPTION

The Developer intends to develop a high-quality, garden style multifamily residential community featuring 209 one, two, and three bedroom apartment units for rental. The Project will include significant landscaping, a clubhouse, pool, and other amenities. The Project will be developed generally in accordance with the Concept Site Plan attached hereto.

[ATTACH CONCEPT SITE PLAN]

APPENDIX C. SECOND AMENDMENT TO THE REDEVELOPMENT PLAN: TAX PARCEL ID NUMBERS AND PROPERTIES WITHIN TAD #4

Parcel ID	Owner	Parcel Location	Acres	Total FMV*	City Tax		County		Digest/Acre
					Digest	Digest	Digest	Digest	
12-166-06-000	Hammond Creek Capital, LLC	North Bypass	36.21	\$1,178,636	\$1,178,636	\$471,454	\$32,550	\$32,550	\$32,550
12-163-05-005	Hammond Creek Capital, LLC	North Bypass	56.81	\$1,183,466	\$1,183,466	\$473,386	\$20,832	\$20,832	\$20,832
12-166-07-000	Dalton Georgia Board of Education	330 NE Pleasant Grove Dr.	37.16	\$967,646	\$0	\$0	\$26,040	\$0	\$0
12-166-08-000	Dalton Georgia Board of Education	So. Brooker Dr.	25.46	\$828,723	\$0	\$0	\$32,550	\$0	\$0
12-167-17-006	Cochran Patricia A	Underwood Dr.	3.05	\$12,500	\$12,500	\$5,000	\$4,098	\$4,098	\$4,098
12-167-17-005	Godfrey H L & Harlan	Brooker Dr.	0.13	\$1,294	\$1,294	\$518	\$9,954	\$9,954	\$9,954
12-167-17-003	Cochran Cecil H	Brooker Dr.	1.94	\$16,683	\$16,683	\$6,673	\$8,599	\$8,599	\$8,599
12-167-17-004	Harlan H Godfrey Residual Trust	Brooker Dr.	7.98	\$45,246	\$45,246	\$18,098	\$5,670	\$5,670	\$5,670
12-166-04-000	CHM McDonald Family Limited Partnership	North Bypass	19.22	\$63,268	\$63,268	\$25,307	\$3,292	\$3,292	\$3,292
12-177-01-000	Shaheen Shaheen Et.Al.	NE Underwood Rd	7.00	\$99,750	\$99,750	\$39,900	\$14,250	\$14,250	\$14,250
12-141-05-000	G&D Construction, Inc.	Off Riverburch Pkwy	1.52	\$86,400	\$86,400	\$34,560	\$56,842	\$56,842	\$56,842
12-163-24-012	Chandler & Brown, LLC	North Bypass	3.87	\$378,312	\$378,312	\$151,325	\$97,755	\$97,755	\$97,755
12-163-24-013	Chandler & Brown, LLC	North Bypass	0.73	\$145,000	\$145,000	\$58,000	\$198,630	\$198,630	\$198,630
12-163-24-004	Bruce Johnson Properties, LLC	Riverburch Parkway	0.67	\$145,625	\$145,625	\$58,250	\$217,351	\$217,351	\$217,351
12-163-24-005	Zorn Joseph Chris Jr.	Riverburch Parkway	0.67	\$120,000	\$120,000	\$48,000	\$179,104	\$179,104	\$179,104
12-163-24-005	Chung Riverburch, LLC	Riverburch Parkway	0.78	\$189,000	\$189,000	\$75,600	\$242,308	\$242,308	\$242,308
Totals:			16	\$5,461,549	\$3,665,180	\$1,466,072	\$26,878	\$18,037	\$18,037

Note: Project Redevelopment consists of 12.15 acres only as shown by site plan in Exhibit E.



EXHIBIT B
PROJECT BUDGET

The Township at Hammond Creek: Total Costs

Construction Budget Summary		
The Township at Hammond Creek		
Dalton, Georgia		
December 1, 2021		
Total Projected Development Costs		
Land	\$ 1,050,000	*
Sitework (including new city road and infrastructure)	\$ 4,180,000	*
Architectural Design Expenses & Fees	\$ 459,800	*
Building Construction Costs	\$ 28,758,660	*
Other Construction Costs & Contingencies	\$ 3,426,112	
Financing Costs and Fees	\$ 824,119	*
Other Soft Costs & Contingencies	\$ 2,283,809	
Development Fees	<u>\$ 1,267,500</u>	
Total	\$ 42,250,000	
<i>*Denotes Eligible Costs for TAD Reimbursement</i>		

Project/Property Information

Project Name: The Township at Hammond Creek

Describe project/proposed land use. Include parcel number(s) and current land use: The Township at Hammond Creek will be one of the finest multifamily residential developments constructed to date in Dalton/Whitfield County, featuring 209 one-, two-, and three-bedroom units located within the larger Hammond Creek master development with frontage on the North Bypass at Pleasant Grove Drive. The Township at Hammond Creek will be maintained in a "Class A" manner and will be beautifully landscaped, featuring significant lawn and open space areas and amenities, bringing the highest quality apartment living to Dalton.

The current property is undeveloped and is located within parcel number 12-166-06-000

Project Address/Location: North Bypass at Pleasant Grove Drive

Project Summary: Building Area: 205,000 SF # Stories: 3 & 4 Basement Yes No

Land Area: 12.15 Acres # Units: 209 # Parking Spaces 387 (Deck or surface: surface)

Project amenities:

- Stainless appliances and granite countertops
- Nine-foot ceilings
- Walk-in closets
- Carpeting in bedrooms/vinyl plank in living areas
- Patios/balconies
- Elevator Access
- Clubhouse with meeting areas and Cyber Café
- Fitness Center with Yoga space
- Saltwater resort style swimming pool with large pool deck
- Bocce/Cornhole areas
- Outdoor arbors and grilling stations
- Playground, Dog Park, and Dog Washing Station
- Gated access and secured perimeter
- Wireless Internet throughout
- Secured garage parking and storage

Will project incorporate any "sustainable" concepts? The Township at Hammond Creek will also feature electric vehicle (EV) charging stations.

Current and prior land use(s):

The current property is undeveloped and zoned General Commercial (C-2)

Will a zoning change be requested? Yes, the Township will need to be rezoned to High Density Residential (R-7).

Identify other approvals, permits, variances, or licenses required:

N/A

Discuss neighborhood impact/support: The Township at Hammond Creek will be the foundation and catalyst for new commercial growth in the area by bringing hundreds of new residents with significant spending power within walking distance of potential future businesses and occupants of Hammond Creek. The Hammond Creek Master Plan allows for restaurant, office, and retail uses, all bringing major investment, jobs & tax revenues upon build out. We believe the Township will anchor this area and estimate that the 209-unit project would have the potential for 400 or more residents with annual purchasing power exceeding \$16 million.

Discuss impact on City Schools' demand and cost impacts, and those of other City services:

The impact on the City Schools' is estimated to be nominal. Based on the nearest comparable multifamily development in Rome, GA, (RiverPoint Luxury Apartments) we estimate the Township could add between 20-30 students to Dalton Public Schools

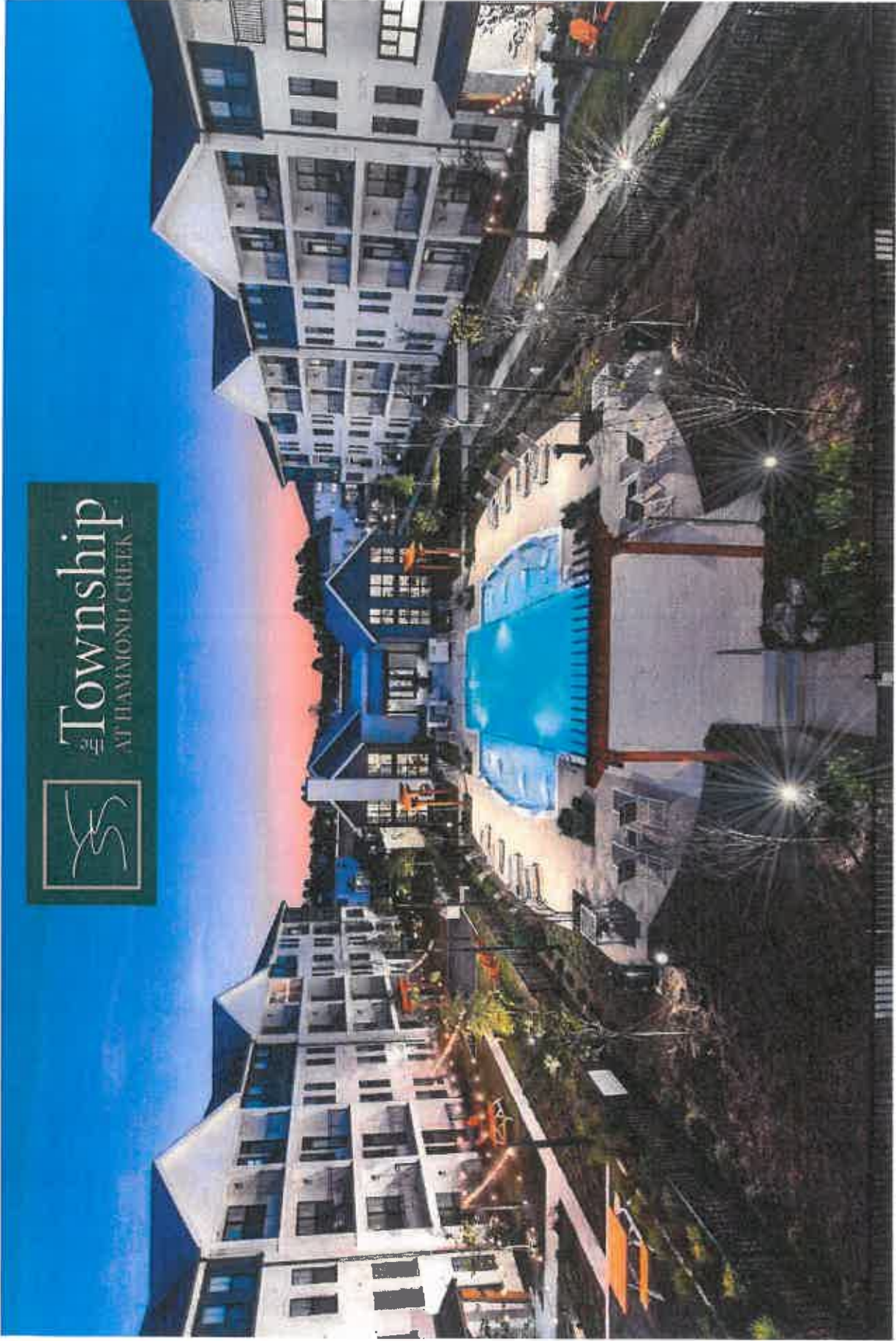
Number of existing jobs on site: 0

Temporary construction jobs (estimated): 100 +/-

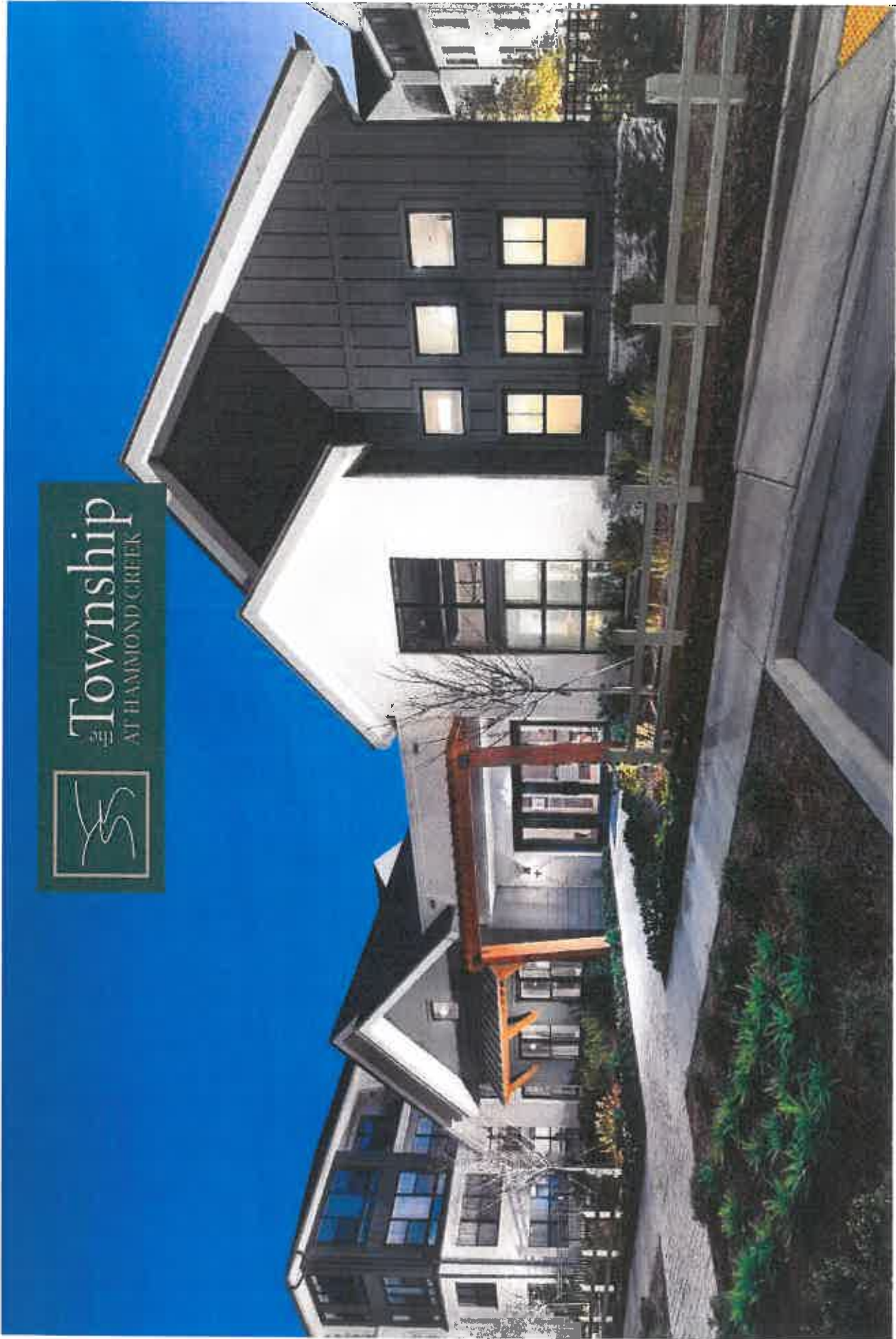
Estimated number of permanent jobs created after completion of the Project Plan:

6 Full time _____ Part-time _____ Seasonal

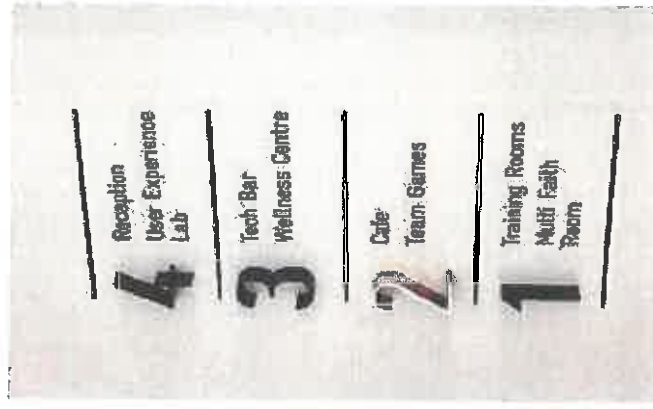
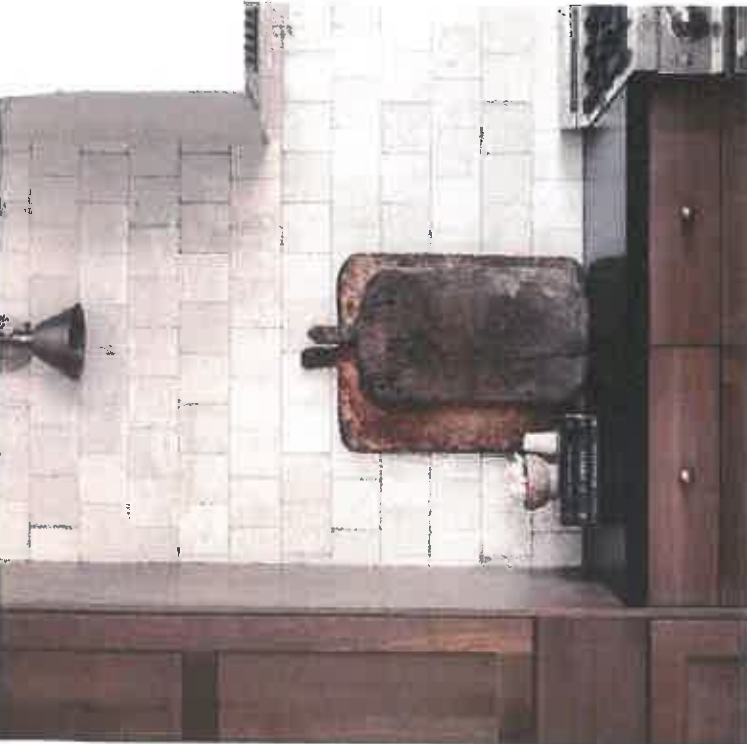
Estimated average salary of new jobs to be location within the Project: \$45,000



Architectural Detail



Architectural Detail- Clubhouse



RESIDENTIAL CONCEPTS



Interior Finishes



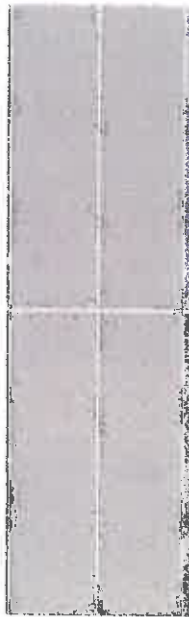
UNIT CEILING FAN



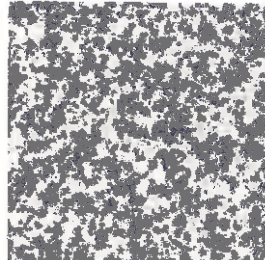
UNIT DOWNLIGHT



VANITY SCONCE



SHOWER TILE SURROUND



BATHROOM COUNTER



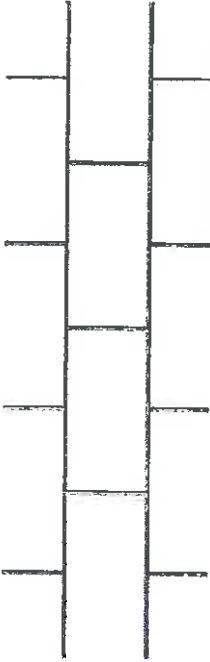
BATHROOM CABINETS



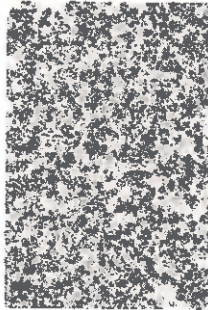
UNIT ENTRY SCONCE



KITCHEN PENDANT



KITCHEN BACKSPLASH



KITCHEN COUNTER



KITCHEN CABINETS



HARDWARE



HARDWARE

CEILING PAINT



WALL PAINT



TRIM PAINT



OVERALL VINYL PLANK

UNIT FINISHES - UPGRADE



Interior Finishes

EXHIBIT C
PROJECT PARCEL

Project Budget and Financial Strategy

Sources & Uses

SOURCES	NAME	AMOUNT
Bank Loan	(70% LTV)	\$ <u>29,575,000</u>
Equity	(30%)	\$ <u>12,675,000</u>
Fed Grant/Loan**		\$ _____
State Grant/Loan**		\$ _____
Other Loans		\$ _____
Tax Increment **		\$ _____
TOTAL BUDGET	(100%)	\$ <u>42,250,000</u>

**Public investment as a percentage of total budget: _____%

USES AMOUNT

Land Acquisition	\$ <u>1,050,000</u>
Demolition (if applicable)	\$ <u>N/A</u>
Site Development	\$ <u>4,180,000</u>
Construction/Hard costs	\$ <u>28,758,660</u>
Soft costs: A&E fees, permits	\$ <u>2,743,609</u>
Financing costs and fees	\$ <u>824,119</u>
Developer fee	\$ <u>1,267,500</u>
Other Const. Costs & Contingencies	\$ <u>3,426,112</u>
Debt Service and Reserves	\$ (included in Financing Costs)
Tax Increment **	\$ <u>N/A</u>
TOTAL BUDGET	\$ <u>42,250,000</u>

Source of Budget data: X Developer Architect X Contractor X Other Civil Engineer

***** Attach detailed summary or pro-forma income analysis as necessary ******

Financing: Land purchase will be X Financed Cash

Construction/rehabilitation will be X Financed Cash

Lender(s): The Applicant will present the Township project to several commercial lenders.

Loan Amount: \$ 29,575,000 Preapproved Yes No

Amount of Tax Increment Requested for:

Building Demolition \$ _____

Environmental Remediation \$ _____

Public Improvements* \$1,700,000.00

Site Improvements \$2,480,000

Land Acquisition \$1,050,000.00

(Land Acquisition shall not exceed 50% of total subsidy request)

Building Construction Costs \$684,100.00

* % of total request associated with public infrastructure improvements: 28.74%

Total Subsidy Requested**: The Applicant requests a “pay-go” TAD in the amount of \$295,705 per year commencing in December 2024 for a 20 year period for a total subsidy of \$5,914,100.00

EXHIBIT D

FORM REQUISITION

FORM OF REQUISITION

TAD Project _____

Requisition No. _____

Date of Requisition: _____, 20__

TO: Dalton, Georgia

PROJECT: _____

DEVELOPER: _____

Application is made for reimbursement of _____ to pay for Redevelopment Costs, for the purposes and on the terms set forth below, all in accordance with the provisions of that certain Development Agreement among the City of Dalton, Georgia, and _____, dated as of _____, 20__. All capitalized terms used herein not otherwise defined have the meaning given them in the Development Agreement.

AIA Form G-702 and its Continuation Sheet, AIA Document G-703, or similar form documents are attached and are made a part of this Requisition. Architect's and Contractor's Certificates or similar from documents for Payment are also part of the attached.

1. The Project Budget is \$ _____ and the Project Costs, Schedule of Values and Percentages of Completion are as set forth on forms attached.
2. Amount Requested: \$ _____.
3. Attached hereto are:
 - (a) Copies of all bills or statements or cancelled checks for any indirect or soft-cost expense for which this Requisition is requested;
 - (b) Copies of all bills or statements or cancelled checks for any such hard cost expenses incurred by _____ for which this Requisition is requested;
 - (c) A schedule(s), prepared in accordance with Section 6.3 of the Development Agreement, supporting the amount of the requested disbursement subject to this Requisition.

CERTIFICATION

In accordance with the Development Agreement, _____ certifies to the Redevelopment Agent that:

- (a) all of its representations and warranties made in and as of the date of the Development Agreement are true and correct as of the date hereof;
- (b) the quality of the construction of the TAD Project to date is in accordance with the TAD Project Plans; the Development Agreement, and the Transaction Documents;
- (c) the Project Cost breakdown and the percentage completion referenced in this Requisition are accurate;
- (d) all payments requested under this Requisition are for TAD Project items (i) which are of a quality and construction acceptable under the TAD Project Plans and the Transaction Documents, and (ii) which have not been previously paid;
- (e) there are no liens outstanding against the site of the TAD Project except (i) inchoate liens for property taxes not yet due and payable, (ii) liens being contested in accordance with the terms and conditions set forth in applicable law and (iii) liens consented to by the Redevelopment Agent;
- (f) _____ is not in default under the Development Agreement or any other Transaction Document to which _____ is a party;
- (g) no Governmental Body has issued the equivalent of a stop order with respect to any portion of the TAD Project; and

The AMOUNT CERTIFIED is payable only to _____ upon presentation of this Requisition to the City. Issuance, payment and acceptance of payment are without prejudice to any rights of the City or the Redevelopment Agent under the Development Agreement.

BY: _____

Name: _____

Title: _____

APPROVED:

CITY OF DALTON, GEORGIA

BY: _____

EXHIBIT E

SITE



The Township at Hammond Creek Site Plan

12.15 acres



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 3/7/2022

Agenda Item: **The request of Buckel Design Group (BDG), LLC to rezone from General Commercial (C-2) to High Density Residential (R-7) a tract of land totaling 12.99 acres located on NE intersection of North Bypass and Pleasant Grove Drive, Dalton, GA. Parcel (12-163-05-005)**

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 the attached staff analysis.

CITY OF DALTON
ORDINANCE
Ordinance No. 22-02

An Ordinance Of The City Of Dalton To Rezone Certain Property Within The City Of Dalton From General Commercial (C-2) To High-Density Residential (R-7) Being A Tract of Land Totaling 12.99 Acres Located At The Northeast Intersection Of The North Bypass And Pleasant Grove Drive (Parcel No. 12-163-05-005); To Provide An Effective Date; And For Other Purposes.

WHEREAS, Buckel Design Group, LLC for Owner has filed an application with the City to rezone property located at the northeast intersection of the North Bypass and Pleasant Grove Drive (Parcel No. 12-163-05-005);

WHEREAS, the Property is currently zoned General Commercial (C-2);

WHEREAS, the Owner is requesting the Property be rezoned to High-Density Residential (R-7);

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;

WHEREAS, the Dalton-Whitfield Planning Commission considered the proposed rezoning of the Property at a duly noticed public hearing held on February 28, 2022 and subsequently forwarded its favorable recommendation to the Mayor and Council for rezoning the property to R-7;

BE IT ORDAINED by the Mayor and Council of the City of Dalton in regular meeting assembled and by authority of the same it is hereby ordained as follows:

-1-

The recitals contained herein above are incorporated herein by reference and are adopted as findings and determinations of the Mayor and Council.

-2-

The Property located at the northeast intersection of the North Bypass and Pleasant

Grove Drive identified as Parcel No. 12-163-05-005 is hereby rezoned from General Commercial (C-2) to High-Density Residential (R-7).

-3-

The Unified Zoning Map of the City of Dalton shall be amended to conform to and reflect the rezoning of the Property as approved herein. City Staff is authorized and directed to take all actions necessary to effectuate the rezoning of the Property as approved herein.

-4-

Should any section or provision of this Ordinance be declared by a Court of competent jurisdiction to be unconstitutional, invalid or unlawful, such declaration shall not affect the validity of the remaining portions of the ordinance not so declared to be unconstitutional, invalid, or unlawful.

-5-

All resolutions and ordinances of the City of Dalton or parts thereof in conflict herewith are hereby repealed.

-6-

This Ordinance shall take effect and be in force from and after its adoption and publication in two public places within the City of Dalton for five (5) consecutive days, the public welfare of the City of Dalton requiring it.

ADOPTED AND APPROVED on the ____ day of _____, 20__, at the regular meeting of the Mayor and Council of the City of Dalton.

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 Alderman _____, second by Alderman _____ and upon the question the vote is

_____ ayes, _____ nays and the Ordinance is adopted.

CITY OF DALTON, GEORGIA

MAYOR

Attest:

CITY CLERK

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 the ____ day of _____, 20__.

CITY CLERK
CITY OF DALTON

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

MEMORANDUM

TO: City of Dalton Mayor and Council
Andrew Parker
Terry Miller
Jean Garland

FROM: Jim Lidderdale
Chairman

DATE: March 2, 2022

SUBJECT: The request of Buckel Design Group (BDG), LLC to rezone from General Commercial (C-2) to High Density Residential (R-7) a tract of land totaling 12.99 acres located on NE intersection of North Bypass and Pleasant Grove Drive, Dalton, GA. Parcel (12-163-05-005)

The most recent meeting of the Dalton-Varnell-Whitfield County Planning Commission was held on February 28, 2022 at 6:00 p.m. at the Edwards Park community center. A portion of the agenda included a public hearing concerning the above matter. A quorum of five members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met. The petition was represented by David Buckel.

Public Hearing Summary:

Mr. Calhoun summarized the staff analysis which was in favor of the proposed R-7 rezoning. There were no further questions for Calhoun.

David Buckel stated that their plan is to develop the 13-acre tract of land with the proposed 209-unit apartment complex. Buckel stated that their plan consists of 88 1-bedroom, 78 2-bedroom, and 43 3-bedroom apartment units with multiple multi-story apartment structures. Buckel displayed some conceptual site designs and renderings of the proposed multi-family development to the Planning Commission and staff.

With no other comments heard for or against, this hearing closed at approximately 6:47pm.

Recommendation:

Chairman Lidderdale sought a motion on the proposed R-7 rezoning. **Octavio Perez then made a motion to recommend the R-7 rezoning. Chris Shiflett then seconded the motion and a unanimous recommendation to approve the R-7 rezoning followed, 4-0.**

STAFF ANALYSIS
REZONING REQUEST
Unified Zoning Ordinance

ZONING CASE: The request of Buckel Design Group (BDG), LLC to rezone from General Commercial (C-2) to High Density Residential (R-7) a tract of land totaling 12.99 acres located on NE intersection of North Bypass and Pleasant Grove Drive, Dalton, GA. Parcel (12-163-05-005)

The tract is currently undeveloped. The petitioner's request was prompted by their desire to develop the subject property as a multi-structure campus totaling 209 multi-family dwelling units.

The surrounding uses and zoning are as follows: 1) To the north are the subject property's undeveloped parent tracts totaling over 40-acres in size and zoned C-2; 2) To the east is a 37-acre tract of land that contains the Hammond Creek Middle School campus; 3) To the south is a continuation of the eastern adjacent tract; and 4) To the west is a 117-acre tract of land containing the Cross Plains community center and park. Also to the west is a 6.8-acre tract of land zoned M-2 that contains a climate-controlled storage facility.

The subject property is in 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 property.

A look at the zoning map in this area indicates that the subject property is a point of convergence between residential, commercial, manufacturing, and agriculture districts. A close look at the built environment of this area, however, would suggest that the subject property is at the intersection of a community center with land uses ranging from commercial, significant public recreation, and public school. There is no existing multi-family zone district adjacent to the subject property, but a short distance north along the North Bypass is an established multi-family condominium development. The nature of this area, as stated previously, is like that of a community center where public facilities, career opportunities, and retail/services are within a short distance. This type of location is a prime opportunity for a quality multi-family development as well as commercial retail/service development.

(B) Whether the proposed (R-7) amendment would adversely affect the economic value of adjacent and nearby property.

Staff identify no adverse impact to adjacent property values based on the existing zoning and development. It is worth noting that the adjacent commercial tracts of land will be required to provide a buffer along the subject property's boundary should they be developed as commercial properties in the future.

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

There is no argument to suggest that the subject property is facing a hardship under its current zoning. It is worth noting here, however, that the introduction of a multi-family development at this location would create a viable use of land in an area where public and private amenities are abundant.

(D) Whether there is relative gain to the health, safety, morals, or general welfare to 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 an 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.

No impact is expected to affect public utilities due to the abundance of capacity in this area of the City. One will note on the attached preliminary site design that the subject property is planned to have a single point of ingress/egress in alignment with the southern access of Hammond Creek Middle School.

(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 which are contrary to the plan recommendation, and if the plan has been amended, does this reasoning or annexation request allow uses which are compatible to the existing uses in the vicinity.

The future development map designates this property as within the Regional Activity Center character area. This character area is intended to represent a concentration of regionally-marketed commercial and retail centers, office and employment areas, and mixed use development. These areas are characterized by a high degree of access by vehicular traffic, on-site parking, low degree of internal open space.

New development should include:

- A relatively high-density mix of retail, office, services, and employment to serve a regional market area.
- Include a diverse mix of high-density housing types, including multi-family town homes, apartments, lofts, and condominiums, including affordable and workforce housing
- Enhance the pedestrian-friendly environment by adding sidewalks and creating other pedestrian-friendly trail/bike routes linking to neighboring residential areas and major destinations, such as neighborhood centers, health facilities, commercial clusters, parks, schools, etc.

The subject property's proposed rezoning and planned development would be an ideal implementation of the Comprehensive Plan and Future Development Map based on existing zoning and development in this 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 zoning) as interpreted by current Georgia law.

The proposed rezoning would introduce an island of R-7 surrounded by C-2 and R-2 zoning. With the existing built environment in mind, the proposed rezoning and development would be an excellent fit for the subject property. It is often a good practice to place multi-family developments adjacent to commercial and recreation centers. The adjacent R-2 zone district is not that of a low-density single-family neighborhood but rather a public recreation and school campus, so there is no concern for any issues resulting of these zones being adjacent in this case.

(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, stormwater, or historical issues that influence the development of the subject property under any zoning designation.

The subject property has been burdened by the multiple utility easements that can make development more challenging, but the creation of Pleasant Grove Drive and the completion of Hammond Creek Middle School have created economic opportunities that did not previously exist at this location.

Conclusion:

The staff can recommend approval of the requested zoning change from C-2 to R-7.


Reasons for this recommendation:

1. There is no concern that the proposed rezoning and land use will introduce a character that would be in conflict with the existing built environment of this area;
2. The zoning request is an ideal implementation of the Comprehensive Plan and future development map based on the existing character of this area and the established zoning pattern;
3. There is no expectation that the proposed rezoning could have a long-term negative impact on adjacent property values.

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



Unified Zoning

-  General Agriculture (GA)
-  Low Density Single Family Residential (R-2)
-  General Commercial (C-2)
-  Heavy Manufacturing (M-2)

FEET
500



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



**FEET
500**



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

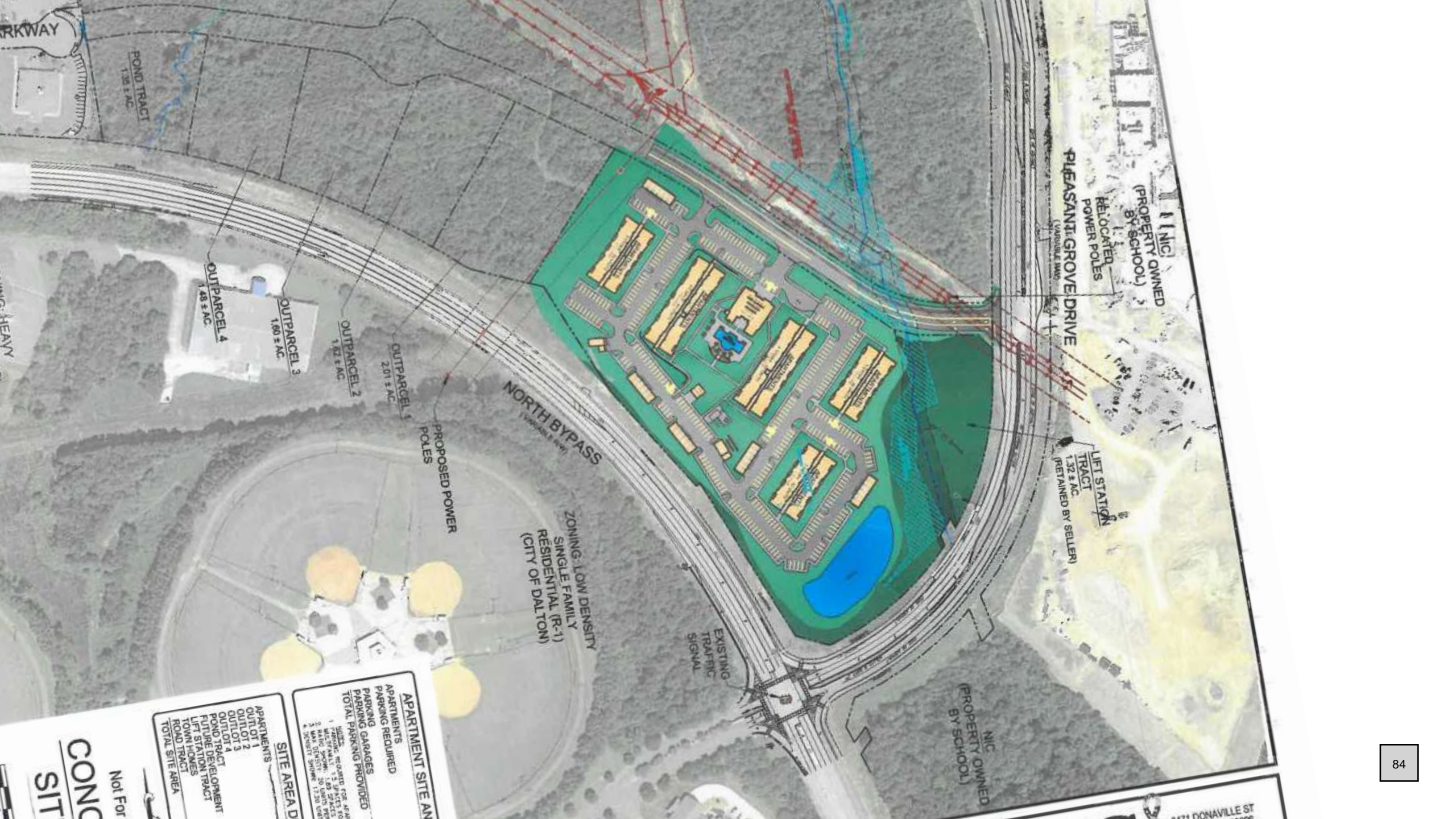


FUTURE DEVELOPMENT MAP

-  Industrial
-  Preserve
-  Regional Activity Center

FEET
500





NIC
 (PROPERTY OWNED
 BY SCHOOL)
 RELOCATED
 POWER POLES
 (VARIABLE BLVD)

LIFT STATION
 TRACT
 1.32 ± AC
 (RETAINED BY SELLER)

NORTH BYPASS
 (VARIABLE BLVD)

ZONING: LOW DENSITY
 SINGLE FAMILY
 RESIDENTIAL (R-1)
 (CITY OF DALTON)

PROPOSED POWER
 POLES

OUTPARCEL 1
 2.01 ± AC

OUTPARCEL 2
 1.62 ± AC

OUTPARCEL 3
 1.60 ± AC

OUTPARCEL 4
 1.48 ± AC

NIC
 (PROPERTY OWNED
 BY SCHOOL)

APARTMENT SITE AREA

APARTMENTS	1
OUTLOT 1	1
OUTLOT 2	1
OUTLOT 3	1
OUTLOT 4	1
OUTLOT 5	1
OUTLOT 6	1
OUTLOT 7	1
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OUTLOT 9	1
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OUTLOT 100	1

Not For
CONC
SIT



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 3/7/2022

Agenda Item: **The request of the City of Dalton Mayor and Council to create the Gateway Corridor Overlay District and accompanying map. The proposed overlay district is independent from the Unified Zoning Ordinance and is only currently proposed to affect the geographic area known as TAD#5 within the City of Dalton.**

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 the attached staff analysis.

**CITY OF DALTON
ORDINANCE NO. 22-03**

To Establish Architectural Design Standards For The Area Within Tax Allocation District No. 5 Otherwise Known As “The Gateway Corridor” As An Overlay To Existing Zoning And Land Use Regulations; To Incorporate Findings Of Fact; To Specify Standards Including Use Of Outdoor Signage; To Establish An Effective Date; To Repeal Laws And Ordinances In Conflict Therewith; To Provide For Severability; And For Other Purposes.

BE IT ORDAINED by the Mayor and Council of the City of Dalton and by authority of same IT IS HEREBY ORDAINED as follows:

PREAMBLE

The Mayor and Council finding a necessity therefor as stated within the body of Section 1 hereof and in order to promote the health, prosperity, safety, and general welfare of the citizenry of the City of Dalton, the “Gateway Corridor” Overlay District Regulations as set forth hereafter in Sections 1 through 12 are hereby enacted.

Sec. 1. - Declaration of purpose, scope and intent.

The Dalton City Council finds that as a matter of public policy that the aesthetic, economic and functional qualities of the City of Dalton are worthy of enhancement, preservation, and protection and are essential to the promotion of the health, prosperity, safety, and general welfare of the existing and future residents of the City of Dalton. Included within the scope are the site, buildings and other structures, parking, landscape and screening, signs, utilities and lighting. The following standards shall control building materials, site lighting, parking, landscaping and commercial signs in conjunction with other ordinances of the City of Dalton. These standards shall apply to all construction within the Gateway Corridor Overlay District in the City of Dalton and only to property within the city limits of the City of Dalton. The purpose and intent of the Gateway Corridor Overlay architectural design standards that encompasses Tax Allocation District 5, and includes portions of Walnut Avenue, Market Street, Tibbs Road, Dug Gap Road and Shields Road, shall be:

- A. To foster civic pride; to raise the level of community understanding and expectation for quality in the built environment; and, to promote attention to accepted design principles in areas of new development and redevelopment;
- B. To implement the Comprehensive Plan;
- C. To guide certain aspects of development such as the appearance of buildings and open spaces as they contribute to the attractiveness, function, economy and character of an area;
- D. To protect and enhance the visual qualities and character of an area;
- E. To provide guidance to design professionals, property and business owners undertaking construction in the district;
- F. To prevent functional and visual disunity in an area;
- G. To protect property against blight and depreciation;
- H. To encourage the most appropriate development of land; and
- I. To provide an attractive gateway to the community.

Sec. 2. - Definitions.

Words not defined herein shall be construed to have the meaning given in Article II of the zoning ordinance of the City of Dalton, or, by Webster's Ninth New Collegiate Dictionary. The words "shall" and "must" are mandatory, and the words "may" and "should" are permissive. As used in this article, the following terms shall be defined as follows:

Appearance. The outward aspect that is visible to the public.

Appropriate. Fitting to the context of a site, neighborhood or community.

Appurtenances. The visible, functional, or ornamental objects accessory to and part of buildings.

Architectural concept. The basic aesthetic idea of a structure, or group of structures, including the site, signs, building and landscape development that produces the architectural character.

Architectural feature. A significant element of a structure or site.

Attractive. Having qualities that give satisfaction to numerous, but not necessarily all, observers.

Building. A building is a structure created to shelter any form of human activity, including, but not limited to, a house, store, barn, church, and hotel.

Building massing. The visual and physical mass of a building.

Design Review Board. Board appointed by the Mayor and City Council for reviewing projects for conformity with the Gateway Corridor Overlay District Regulations. This Board would have authority over issuing variances to the Regulations.

Directory signs. A freestanding sign containing a directory for multiple commercial businesses.

External design feature. The general arrangement of any portion of structures or landscaping, including the type, and texture of the materials, the type of roof, windows, doors, lights, signs and fixtures of portions which are open to the public view.

Exterior architectural features. The architectural style, general design and general arrangement of the exterior of a structure and site, including, but not limited to, the kind or texture of the building material and the type and style of all windows, doors, signs, facade, landscaping and other architectural fixtures, features, details, or elements relative thereto.

Harmony. A quality that represent an attractive arrangement of parts, as in an arrangement of various architectural elements.

Landscape. Plant materials, topography and other physical elements combined in relation to one another and to structures including pavement.

Logic of design. Widely accepted principals and criteria in the solution of design problems.

Gateway Corridor overlay district. The boundaries of this overlay district include the areas outlined in Exhibit "A" in Article XXV.

Material change in appearance. A change in a structure or a parking lot within said districts that exceed ordinary maintenance or repair or requires either a sign permit, building permit or land disturbance permit such as, but not limited to: the erection, alteration, restoration, addition, or removal of any structure, sign or parking lot.

Monument sign. A freestanding sign supported by an internal structure framework or integrated into landscaping or other solid structural features other than support poles.

Ordinary maintenance or repair. Exempt from inclusion in "material change in appearance" defined above. Ordinary maintenance or repair of any exterior of any

structure, parking lot or sign in or on an overlay district property to correct deterioration, decay, damage, or to sustain the existing form, and that does not involve a material change in outer design, material or appearance thereof. Painting, reroofing, resurfacing, replacement or a broken sign face and other similar types of ordinary maintenance shall be deemed ordinary maintenance and repair.

Overlay district. A geographically definable area, possessing a significant concentration or linkage of sites, buildings, structures, object of landscapes, including the adjacent area necessary for the property treatment thereof, united by plan and/or physical development. An overlay district shall further mean an area designated as such by the Mayor and City Council of the City of Dalton.

Proportion. Balanced relationship of parts of a building, signs and other structures, and landscape to each other and to the whole.

Scale. Proportional relationships of the size of parts to one another and to humans.

Street hardware. Objects other than buildings that are part of the streetscape. Examples are: streetlight fixtures, utility poles, traffic lights and their fixtures, benches, litter containers, planting containers, fire hydrants, etc.

Underlying zoning. The zoning category established with respect to a parcel of property by the Mayor and City Council of the City of Dalton.

Where any existing zoning within the overlay district allows for mining use or any other specific use, such allowed use shall continue until such time as the owner of the real property applies to change the zoning and then the only portion of the real property that will change its existing zoning use will be the specific portion of any real property that is included within any approved application.

Sec. 3. - Maintenance of properties—Building code and zoning provisions.

A. Ordinary maintenance or repair. Ordinary maintenance or repair of any exterior feature visible from a public street in or on any overlay district property to correct deterioration, decay or damage, or to sustain the existing form, and that does not involve a material change in design, material or outer appearance thereof, does not require a building, sign, or land disturbance permit.

B. Affirmation of existing building codes and zoning. Nothing in this article shall be construed to exempt property and business owners from complying with other existing city regulations whenever this article does not apply. This article is an amendment to the zoning ordinance, the underlying zoning classification of property and all other provisions of the zoning ordinance shall remain in effect unless provisions in the overlay district conflict with the other provisions of the zoning ordinance, in which case, the stricter provisions of the overlay district shall apply.

Sec. 4. - Scope.

These Gateway Corridor Overlay architectural design standards shall control (1) architectural design including building scale, massing, type, siting and building materials; (2) site lighting; (3) landscaping, (4) utility design and placement; and (5) commercial signs in conjunction with other ordinances of the City of Dalton. Where any part of this article conflicts with other city ordinances, the more restrictive standard shall apply. All new construction and/or site construction or any alteration of currently existing buildings or developed sites having an estimated construction, installation and/or fabrication costs (as referenced in building and land disturbance permit applications) equal to or exceeding fifty (50) percent of said existing site development or building valuation shall conform to the standards set forth in this article. Every

application for a building permit for construction of a new building, modification or addition to an existing building within the district, shall be submitted together with plans, elevations and specifications. Alterations and repairs not affecting the exterior appearance of existing buildings are specifically exempted from the provision of this article. However, all fire safety and International Building Code (IBC) as amended, and other relevant interior codes and standards shall continue in full force and effect.

Sec. 5. - Design standards.

In addition to development standards required elsewhere by the City of Dalton zoning ordinance and other ordinances, the following standards shall apply to all development and redevelopment within the Gateway Corridor Overlay District.

A. Gable, hip, mansard, or pyramid roofs, when visible from adjoining streets (public or private) or any other adjoining property within the overlay district, shall have a minimum roof pitch of 6:12.

B. Gable, hip, mansard, or pyramid roofs, when visible from adjoining streets (public or private) or any other adjoining property within the overlay district, shall have a minimum overhanging eave on all sides that will extend a minimum of one (1) foot beyond the exterior building wall of the building.

C. Flat roofs shall not be allowed on buildings having exterior walls of twenty (20) feet or less in height, on average. The project Architect shall certify that the average height requirements are met. For purposes of this paragraph, parapet walls may be included in determining height of an exterior building wall. Additionally, parapet walls shall be equal to or exceed the height of roof-mounted mechanical equipment (typically four (4) feet). The project Architect shall prepare a screening plan that demonstrates the ability to screen proposed roof-top mechanical equipment. Shed roofs are prohibited as a primary roof design.

D. Permitted exterior building materials shall be brick, stucco, EIFS, stone, wood, glass, vinyl, concrete fiberboard, architectural metal (sheet metal panels are prohibited), or architectural block.

E. Exposed standard concrete block is not allowed, even if it is painted.

F. Where more than one (1) adjoining property is developed as part of an overall planned development, side and rear setbacks may be modified or waived to encourage creativity and efficiency in site design, in the discretion of and with approval of the Design Review Board.

G. In order to foster greater harmony and more appropriate community image, individual site developers are encouraged to coordinate site design elements such as pedestrian interconnections, exterior building materials/architecture, shared driveways and signage, with adjacent site developers. Shared parking is encouraged to reduce impervious surface areas. Shared parking counts must still meet the minimum standards established in the Unified Zoning Ordinance.

H. Placement of roof-top mechanical equipment (e.g. air-conditioning units, vents, satellite dishes, etc.) shall be accomplished without detracting from the architectural integrity of the building or site. Generally, such equipment must be installed to the rear of the building or on the side, provided the equipment is screened from view from the public right-of-way and adjoining properties. Accessory structures located on the roof shall be located to the rear, and shall be screened by a parapet or other architectural features.

I. Color: Primary or fluorescent colors shall not be employed except as accent colors.

J. Utilities: All utility lines within this overlay district are required to be placed underground, including city-owned utilities.

Sec. 6. - Additional design regulations.

A. The primary building entrance with public or private street frontage shall face and/or be visible from the public or private street and sidewalk when located adjacent to such street. The primary building entrance may face and/or be visible from portions of Walnut Avenue, Market Street, Tibbs Road, Dug Gap Road and Shields Road if the site is located adjacent to, but not on, this arterial corridor.

B. Building massing. Street fronting building facades greater than one hundred fifty (150) feet in length shall be modulated with breaks in wall surfaces and materials at intervals not to exceed one hundred fifty (150) feet, measured parallel to the street. For buildings that are three (3) stories or less in height, each floor shall be delineated through windows, belt courses, cornices lines, or similar architectural detailing.

C. Location of vehicle facilities and services. Drive-through service windows, drive-in facilities and associated vehicular services such as air pumps and car washes, (excluding gasoline fuel dispenser structures) shall not be located between the principal structure and portions of Walnut Avenue, Market Street, Tibbs Road, Dug Gap Road and Shields Road without an intervening building. Such shall be located to the side or rear of the principal structure.

D. Parking and driveways. Unless topography, public utilities, or storm drainage make it prohibitive, surface parking and related parking facilities between the principal structure and portions of Walnut Avenue, Market Street, Tibbs Road, Dug Gap Road and Shields Road right-of-way shall be limited to two (2) rows of parking in front of the principal structure. All other surface parking shall be located to the side or rear of the principal structure, except as stated hereinabove.

E. Demolition of existing structure – A demolition plan, including a landscaping plan, shall be required in order to secure a demolition permit within the overlay district. The demolition plan will require removal of the full slab and foundations of the building and all demolition debris from the site. A land disturbance permit may be required depending on the area to be disturbed.

Sec. 7. - Screening and fencing.

Shall be required as follows:

A. Refuse areas (dumpster) shall be placed in the least visible location from public streets (i.e. near the rear of the building), and shall be enclosed on three (3) sides with brick or stone opaque walls, with the fourth side being an opaque closing gate. Height of an opaque wall shall be at least twelve (12) inches higher than the receptacle.

B. Chain link fences are not allowed in the front yards. Where allowed, all chain link fences shall be vinyl coated, hunter green, brown or black.

C. Opaque fences are prohibited adjacent to a public street.

D. All loading areas shall be screened from view of any public street by either a minimum six-foot high opaque fence matching the material of the building, or a fifteen-foot-wide landscape strip planted with a continuous hedge of evergreen shrubs. Shrubs shall be moderately growing, be a minimum height of three and one-half (3½) feet to four (4) feet at time of planting, and reach a height of six (6) feet within two (2) years of planting. Other loading area screening concepts can be reviewed/considered by the Design Review Board.

E. All detention ponds shall have a minimum five-foot-wide landscape strip with plantings (shrubbery) based on a plan submitted to and approved by the City Arborist.

Sec. 8. - Landscaping.

Landscape standards must be in accordance with City of Dalton Code, Chapter 122, Vegetation, with the following modifications:

A. Impervious surface areas shall not be allowed to cover more than eighty-five (85) percent of the lot. The area to be landscaped shall be devoted to vegetative landscaping which includes, but is not limited to, grass, shrubs, vines, and trees.

B. All trees required to be planted by this section shall be increased to: (a) Shade trees shall be a minimum of two and one-half (2½) inch caliper; (b) Flowering trees shall be at least ten (10) feet minimum height. A minimum of fifty (50) percent of planted trees shall be large maturing shade trees.

C. *Building perimeter landscaping.* The perimeter of each building (excluding the rear elevation) shall at a minimum have a four (4) foot landscape area and a six (6) foot sidewalk. If the area is planted, it shall be landscaped with appropriate materials. In no case shall asphalt paving be contiguous to the base of a building.

Sec. 9. - Lighting.

Proposed developments shall submit for approval a lighting plan that meets the following specifications prior to the issuance of a land disturbance or building permit.

- A. The maximum to minimum foot-candle level shall not exceed a twelve to one (12:1) ratio.
- B. Light fixture poles cannot exceed forty (40) feet in height.
- C. All site lighting shall be directed onto the site and strive for "dark sky" objectives.
- D. All building entrances, walks and vehicular access shall be lit.

Sec. 10. - Sign Regulations.

The following standards shall control signs in conjunction with other ordinances of the City of Dalton within the overlay district. These standards shall apply to all construction within the Gateway Corridor Overlay District in the City of Dalton and only to property within the city limits of the City of Dalton. Additionally, the standards and requirements of this section shall take precedence over city-wide standards and requirements within the boundaries of said overlay district.

- (1) Individual buildings or business storefront signs (wall signs) shall be limited to one (1) sign per street frontage. One parcel with multiple business shall be limited to one (1) directory sign.
- (2) Maximum allowed sign area of all freestanding signs shall be fifty (50) square feet, with the exception that directory signs shall be allowed to be one hundred twenty (120) square feet.
- (3) Any corner lot adjacent to portions of Walnut Avenue, Market Street, Tibbs Road, Dug Gap Road and Shields Road shall be allowed one (1) additional freestanding sign to be for the purpose of a directory sign.
- (4) All freestanding signs shall be monument signs and shall not exceed fifteen (15) feet in height. No pylon signs will be allowed. Directory signs shall not exceed thirty (30) feet in height.
 - 4a. All monument signs shall be topped with a peaked pediment consisting of a beige/tan stucco façade.

4b. All monument signs shall consist of a brick or stone façade, with the exception of the pediment.

4c. All monument sign lighting shall be directed onto the sign face and strive to achieve the “dark sky” objectives. All lighted signs must be submitted as part of the lighting plan referenced in Section 9 of this ordinance.

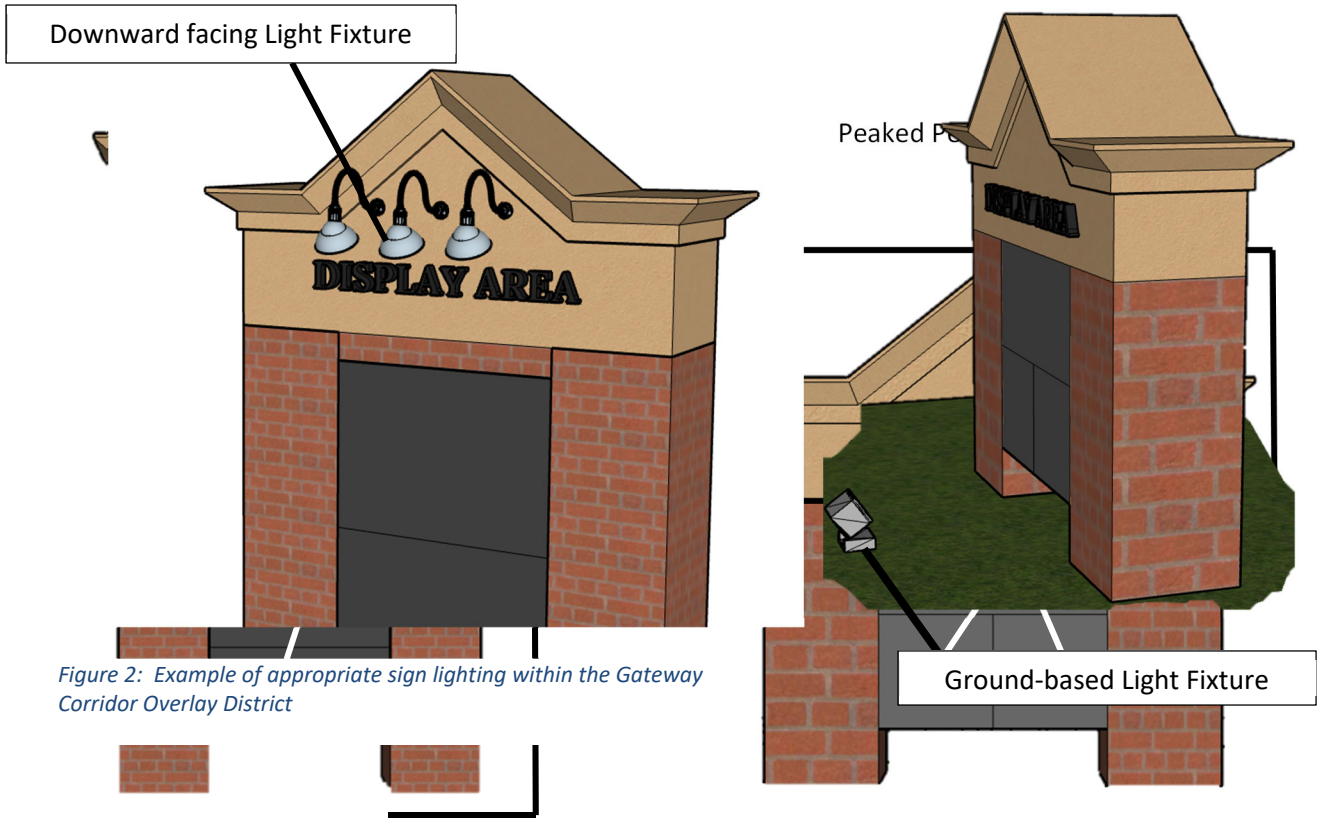


Figure 2: Example of appropriate sign lighting within the Gateway Corridor Overlay District

Figure 1: Examples of appropriate monument signs within the Gateway Corridor Overlay District

(5) Temporary signage is not allowed within the overlay district. Temporary real estate signs would be allowed no longer than a 30-day period.

Sec. 11. - District.

within be

- A.
- B.
- C.
- D.



Figure 3: Examples of prohibited signs within the Gateway Corridor Overlay District

Uses not allowed in the Gateway Corridor Overlay

Notwithstanding the uses allowed by the underlying zoning classifications of the properties this overlay district, the following uses shall not be allowed therein:

- Accessory apartments.
- Adolescent treatment facilities.
- Adult entertainment establishments.
- Adult video shops.
- E. Amateur radio transmission.

- F. Automotive garages, unless in conjunction with new automotive and truck sales or rental.
- G. Automotive storage yards and wrecker service.
- H. Car Washes
- I. Check cashing services.
- J. Drive-in theaters.
- K. Farm equipment and supplies stores.
- L. Fortunetellers.
- M. Group homes.
- N. Guest house.
- O. Halfway houses.
- P. Homeless shelters.
- P. Hospices.
- Q. Itinerant merchants.
- R. Kennels.
- S. Massage parlors.
- T. Manufactured home sales.
- U. Mini warehouse facilities.
- V. Heavy equipment sales and rental.
- W. Patio houses.
- X. Pawn shops.
- Y. Quarrying.
- Z. Radio, television broadcast stations.
- AA. Radio, television or other communication towers.
- BB. Recycling centers, collecting.
- CC. Recreational vehicles sales/service/rental/repair facility.
- DD. Repair garages, automotive, unless in conjunction with new automotive and truck sales or rental.
- EE. Repair garages, heavy equipment.
- FF. Repair services, heavy (large appliances and similar).
- GG. Salvage lots.
- HH. Scrap yards.
- II. Self-service storage facilities.
- JJ. Single-family detached dwellings.
- KK. Smoke Shops.
- LL. Tattoo/body piercing parlors.
- MM. Taxi stands.
- NN. Transmission shops.
- OO. Truck stops.
- PP. Truck terminals.
- QQ. Used automotive, heavy equipment and truck sales or rental unless in conjunction with new automotive and truck sales or rental.
- RR. Used tire sales/repair shops.
- SS. Vehicle body and paint shops, unless in conjunction with new automotive and truck sales or rental.

TT. Vehicle engine repair and rebuilding shops, unless in conjunction with new automotive and truck sales or rental.

Sec. 12. - Severability.

The sections, paragraphs, sentences, clauses, and phrases of this article are severable, and if any phase, and if any phase, clause, sentence, paragraph, or section of this chapter be declared unconstitutional or invalid, it shall not affect, any of the remaining phrases, clauses, sentence, paragraphs, and sections of this article.

Sec. 13.

All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

Sec. 14.

This Ordinance be effective five (5) days following passage thereof and its posting in two (2) public places in the City of Dalton.

SO ORDAINED this _____ day of _____, 2022.

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 Alderman _____ , second by Alderman _____ and upon the question the vote is _____ ayes, _____ nays and the Ordinance is adopted.

CITY OF DALTON, GEORGIA

MAYOR

Attest:

CITY CLERK

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 the ____ day of _____, 20__.

CITY CLERK
CITY OF DALTON

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

MEMORANDUM

TO: City of Dalton Mayor and Council
Andrew Parker
Terry Miller
Jean Garland

FROM: Jim Lidderdale
Chairman

DATE: March 2, 2022

SUBJECT: The request of the City of Dalton Mayor and Council to create the Gateway Corridor Overlay District and accompanying map. The proposed overlay district is independent from the Unified Zoning Ordinance and is only currently proposed to affect the geographic area known as TAD#5 within the City of Dalton.

The most recent meeting of the Dalton-Varnell-Whitfield County Planning Commission was held on February 28, 2022 at 6:00 p.m. at the Edwards Park community center. A portion of the agenda included a public hearing concerning the above matter. A quorum of five members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met. The petition was represented by Ethan Calhoun and Andrew Parker.

Public Hearing Summary:

Mr. Calhoun summarized the staff analysis which was in favor of the proposed Gateway Corridor Overlay District. Calhoun described the long-term benefit of the overlay district in terms of improving the aesthetic and functionality of the Walnut Avenue corridor, and that notable results will take time to achieve the goal of City’s strategic plan for this area also known as TAD 5. Chris Shiflett asked Calhoun how this ordinance would affect existing developed properties within the district to which Calhoun stated that any existing properties found to be out of conformance with the proposed district would be grandfathered in as non-conforming properties much like in the UZO. Octavio Perez asked Calhoun if the ordinance would dictate details as significant as building colors to which Calhoun stated the ordinance only limited primary colors and fluorescent colors for use as accents. Andrew Parker additionally noted the City’s effort to create the overlay district as a means to improve the corridor’s appearance, functionality, and economic development incentives. There were no further questions for Calhoun.

With no other comments heard for or against, this hearing closed at approximately 7:10pm.

Recommendation:

Chairman Lidderdale sought a motion on the proposed Gateway Corridor Overlay District. **Octavio Perez then made a motion to recommend the proposed overlay district. Chris Shiflett then seconded the motion and a unanimous recommendation to adopt the gateway Corridor Overlay District followed, 4-0.**

**STAFF ANALYSIS
OVERLAY DISTRICT PROPOSAL
GATETWAY CORRIDOR OVERLAY DISTRICT**

SUBJECT: The request of the City of Dalton Mayor and Council to create the Gateway Corridor Overlay District and accompanying map. The proposed overlay district is independent from the Unified Zoning Ordinance and is only currently proposed to affect the geographic area known as TAD#5 within the City of Dalton.

Introduction

What is an overlay district?

Overlay districts are an extension of zoning that focus on specific geographic areas rather than city/county-wide. Overlays come in a variety of types that range from historic districts, neighborhood protection districts, and corridor districts. The nature of the particular overlay district relies upon the community's objective for instituting a new regulation. Community objectives often associated with the desire for overlay districts are typically related to public safety, economic development, and community identity. As with all zoning matters, an overlay district may regulate the potential use of property as well as the potential physical appearance of said property. Often times the intent of an overlay district is to create a consistent character throughout an area. In the absence of design-focused regulation, development will often occur randomly with no continuity from property to property. Overlay districts have the potential to create the overall character for a specific area so that, over time, development appears to be planned rather than intermittent.

Where are overlay districts applied?

Overlay Districts are often applied to critical areas within the community such as downtowns, gateway corridors, or other specific areas where specific needs and opportunities are identified. Much like a zoning map, an overlay district is applied to a specific geographic area and only regulates within that specific boundary. Overlay districts, as the name implies, are overlaid on top of the existing zoning map. In other words, the underlying zoning of a property (commercial, residential, etc.) within an overlay district remains as the base land use regulation. Overlay districts are often written to say that the stricter ordinance applies. Dalton already has a historic downtown overlay district. The City of Cartersville Main St. Overlay district and Dawson County GA 400 overlay district are some other examples of commercial corridor overlay districts in North Georgia.

Why not just amend the zone districts rather than adopt a new ordinance?

The zoning ordinance, as stated previously, applies zone districts to the entire city/county. Overlay districts are intended to be applied to specific areas where a particular objective is sought. In the case of Dalton, the city is part of the Unified Zoning Ordinance which applies zoning to unincorporated Whitfield County as well as the City of Varnell. Overlay districts give each respective jurisdiction the ability to identify specific areas in need of special attention and to then apply and administer said overlay district locally rather than jointly. Euclidian-style zoning is intended to apply general land use regulation to an entire jurisdiction while overlay districts are intended to apply a greater level of detail for specific areas.

Analysis

The proposed Gateway Corridor Overlay District was drafted with one overarching goal, to create a more attractive and higher-functioning corridor. The West Walnut Avenue corridor has been dubbed the primary gateway corridor for many residents and visitors of Dalton. Gateway

corridors are often viewed as the formal entrance of a community. While the intent of this entrance is to appear safe and inviting with the goal of guiding visitors/residents to other community assets such as the historic downtown, the gateway corridor will often be the only impression of the overall community that travelers are exposed to. With the understanding that a community's gateway corridor may be its opportunity to make a lasting impression, one would prefer the impression be that of a positive nature.

The 2018 Joint Comprehensive Plan recommends overlay districts for both commercial corridors as well as interchange areas which would both apply to the proposed Gateway Corridor Overlay District. The focus of the overlay district was based on the needs listed within the 2018 Joint Comprehensive Plan as well as the more recent City of Dalton Redevelopment Plan: West Walnut Avenue Corridor. The underlying foundation of both of these plans is to improve traffic flow, traffic safety, long-term property values, and aesthetics in order to foster economic development as well as bolster community pride.

Conclusion:

The staff can recommend approval of the proposed Gateway Corridor Overlay District.

Reasons for approval:

1. This overlay district will guide development/redevelopment in such a way as to improve both the aesthetic and function of this critical area within the City of Dalton;
2. Staff believe the long-term effect of this overlay district will be greater resiliency and equity for this portion of the city.
3. The proposed overlay district would be a significant measure of implementing both the City's Comprehensive Plan as well as the West Walnut Avenue Corridor Redevelopment Plan.

Exhibit A: Proposed boundary of the Gateway Corridor Overlay District



GATEWAY CORRIDOR OVERLAY DISTRICT REGULATIONS (INITIAL DRAFT)

Sec. 1. - Declaration of purpose, scope and intent.

The Dalton City Council finds that as a matter of public policy that the aesthetic, economic and functional qualities of the City of Dalton are worthy of enhancement, preservation, and protection and are essential to the promotion of the health, prosperity, safety, and general welfare of the existing and future residents of the City of Dalton. Included within the scope are the site, buildings and other structures, parking, landscape and screening, signs, utilities and lighting. The following standards shall control building materials, site lighting, parking, landscaping and commercial signs in conjunction with other ordinances of the City of Dalton. These standards shall apply to all construction within the Gateway Corridor Overlay District in the City of Dalton and only to property within the city limits of the City of Dalton. The purpose and intent of the Gateway Corridor Overlay architectural design standards that encompasses Tax Allocation District 5, and includes portions of Walnut Avenue, Market Street, Tibbs Road, Dug Gap Road and Shields Road, shall be:

- A. To foster civic pride; to raise the level of community understanding and expectation for quality in the built environment; and, to promote attention to accepted design principals in areas of new development and redevelopment;
- B. To implement the comprehensive plan;
- C. To guide certain aspects of development such as the appearance of buildings and open spaces as they contribute to the attractiveness, function, economy and character of an area;
- D. To protect and enhance the visual qualities and character of an area;
- E. To provide guidance to design professionals, property and business owners undertaking construction in the district;
- F. To prevent functional and visual disunity in an area;
- G. To protect property against blight and depreciation;
- H. To encourage the most appropriate development of land; and
- I. To provide an attractive gateway to the community.

Sec. 2. - Definitions.

Words not defined herein shall be construed to have the meaning given in Article II of the zoning ordinance of the City of Dalton, or, by Webster's Ninth New Collegiate Dictionary. The words "shall" and "must" are mandatory, and the words "may" and "should" are permissive. As used in this article, the following terms shall be defined as follows:

Appearance. The outward aspect that is visible to the public.

Appropriate. Fitting to the context of a site, neighborhood or community.

Appurtenances. The visible, functional, or ornamental objects accessory to and part of buildings.

Architectural concept. The basic aesthetic idea of a structure, or group of structures, including the site, signs, building and landscape development that produces the architectural character.

Architectural feature. A significant element of a structure or site.

Attractive. Having qualities that give satisfaction to numerous, but not necessarily all, observers.

Building. A building is a structure created to shelter any form of human activity, including, but not limited to, a house, store, barn, church, and hotel.

Building massing. The visual and physical mass of a building.

Design Review Board. Board appointed by the Mayor and City Council for reviewing projects for conformity with the Gateway Corridor Overlay District Regulations. This Board would have authority over issuing variances to the Regulations.

Directory signs. A freestanding sign containing a directory for multiple commercial businesses.

External design feature. The general arrangement of any portion of structures or landscaping, including the type, and texture of the materials, the type of roof, windows, doors, lights, signs and fixtures of portions which are open to the public view.

Exterior architectural features. The architectural style, general design and general arrangement of the exterior of a structure and site, including, but not limited to, the kind or texture of the building material and the type and style of all windows, doors, signs, facade, landscaping and other architectural fixtures, features, details, or elements relative thereto.

Harmony. A quality that represent an attractive arrangement of parts, as in an arrangement of various architectural elements.

Landscape. Plant materials, topography and other physical elements combined in relation to one another and to structures including pavement.

Logic of design. Widely accepted principals and criteria in the solution of design problems.

Gateway Corridor overlay district. The boundaries of this overlay district include the areas outlined in Exhibit "A" in Article XXV.

Material change in appearance. A change in a structure or a parking lot within said districts that exceed ordinary maintenance or repair or requires either a sign permit, building permit or land disturbance permit such as, but not limited to: the erection, alteration, restoration, addition, or removal of any structure, sign or parking lot.

Monument sign. A freestanding sign supported by an internal structure framework or integrated into landscaping or other solid structural features other than support poles.

Ordinary maintenance or repair. Exempt from inclusion in "material change in appearance" defined above. Ordinary maintenance or repair of any exterior of any structure, parking lot or sign in or on an overlay district property to correct deterioration, decay, damage, or to sustain the existing form, and that does not involve a material change in outer design, material or appearance thereof. Painting, reroofing, resurfacing, replacement or a broken sign face and other similar types of ordinary maintenance shall be deemed ordinary maintenance and repair.

Overlay district. A geographically definable area, possessing a significant concentration or linkage of sites, buildings, structures, object of landscapes, including the adjacent area necessary for the property treatment thereof, united by plan and/or physical development. An overlay district shall further mean an area designated as such by the Mayor and City Council of the City of Dalton.

Proportion. Balanced relationship of parts of a building, signs and other structures, and landscape to each other and to the whole.

Scale. Proportional relationships of the size of parts to one another and to humans.

Street hardware. Objects other than buildings that are part of the streetscape. Examples are: streetlight fixtures, utility poles, traffic lights and their fixtures, benches, litter containers, planting containers, fire hydrants, etc.

Underlying zoning. The zoning category established with respect to a parcel of property by the Mayor and City Council of the City of Dalton.

Where any existing zoning within the overlay district allows for mining use or any other specific use, such allowed use shall continue until such time as the owner of the real property applies to change the zoning and then the only portion of the real property that will change its existing zoning use will be the specific portion of any real property that is included within any approved application.

Sec. 3. - Maintenance of properties—Building code and zoning provisions.

A. Ordinary maintenance or repair. Ordinary maintenance or repair of any exterior feature visible from a public street in or on any overlay district property to correct deterioration, decay or damage, or to sustain the existing form, and that does not involve a material change in design, material or outer appearance thereof, does not require a building, sign, or land disturbance permit.

B. Affirmation of existing building codes and zoning. Nothing in this article shall be construed to exempt property and business owners from complying with other existing city regulations whenever this article does not apply. This article is an amendment to the zoning ordinance, the underlying zoning classification of property and all other provisions of the zoning ordinance shall remain in effect unless provisions in the overlay district conflict with the other provisions of the zoning ordinance, in which case, the stricter provisions of the overlay district shall apply.

Sec. 4. - Scope.

These Gateway Corridor Overlay architectural design standards shall control (1) architectural design including building scale, massing, type, siting and building materials; (2) site lighting; (3) landscaping, (4) utility design and placement; and (5) commercial signs in conjunction with other ordinances of the City of Dalton. Where any part of this article conflicts with other city ordinances, the more restrictive standard shall apply. All new construction and/or site construction or any alteration of currently existing buildings or developed sites having an estimated construction, installation and/or fabrication costs (as referenced in building and land disturbance permit applications) equal to or exceeding fifty (50) percent of said existing site development or building valuation shall conform to the standards set forth in this article. Every application for a building permit for construction of a new building, modification or addition to an existing building within the district, shall be submitted together with plans, elevations and specifications. Alterations and repairs not affecting the exterior appearance of existing buildings are specifically exempted from the provision of this article. However, all fire safety and International Building Code (IBC) as amended, and other relevant interior codes and standards shall continue in full force and effect.

Sec. 5. - Design standards.

In addition to development standards required elsewhere by the City of Dalton zoning ordinance and other ordinances, the following standards shall apply to all development and redevelopment within the Gateway Corridor Overlay District.

A. Gable, hip, mansard, or pyramid roofs, when visible from adjoining streets (public or private) or any other adjoining property within the overlay district, shall have a minimum roof pitch of 6:12.

B. Gable, hip, mansard, or pyramid roofs, when visible from adjoining streets (public or private) or any other adjoining property within the overlay district, shall have a minimum overhanging eave on all sides that will extend a minimum of one (1) foot beyond the exterior building wall of the building.

C. Flat roofs shall not be allowed on buildings having exterior walls of twenty (20) feet or less in height, on average. The project Architect shall certify that the average height requirements are met. For purposes of this paragraph, parapet walls may be included in determining height of an exterior building wall. Additionally, parapet walls shall be equal to or exceed the height of roof-mounted mechanical equipment (typically four (4) feet). The project Architect shall prepare a screening plan that demonstrates the ability to screen proposed roof-top mechanical equipment. Shed roofs are prohibited as a primary roof design.

D. Permitted exterior building materials shall be brick, stucco, EIFS, stone, wood, glass, vinyl, concrete fiberboard, architectural metal (sheet metal panels are prohibited), or architectural block.

E. Exposed standard concrete block is not allowed, even if it is painted.

F. Where more than one (1) adjoining property is developed as part of an overall planned development, side and rear setbacks may be modified or waived to encourage creativity and efficiency in site design, in the discretion of and with approval of the Design Review Board.

G. In order to foster greater harmony and more appropriate community image, individual site developers are encouraged to coordinate site design elements such as pedestrian interconnections, exterior building materials/architecture, shared driveways and signage, with adjacent site developers. Shared parking is encouraged to reduce impervious surface areas. Shared parking counts must still meet the minimum standards established in the Unified Zoning Ordinance.

H. Placement of roof-top mechanical equipment (e.g. air-conditioning units, vents, satellite dishes, etc.) shall be accomplished without detracting from the architectural integrity of the building or site. Generally, such equipment must be installed to the rear of the building or on the side, provided the equipment is screened from view from the public right-of-way and adjoining properties. Accessory structures located on the roof shall be located to the rear, and shall be screened by a parapet or other architectural features.

I. Color: Primary or fluorescent colors shall not be employed except as accent colors.

J. Utilities: All utility lines within this overlay district are required to be placed underground, including city-owned utilities.

Sec. 6. - Additional design regulations.

A. The primary building entrance with public or private street frontage shall face and/or be visible from the public or private street and sidewalk when located adjacent to such street. The primary building entrance may face and/or be visible from portions of Walnut Avenue, Market Street, Tibbs Road, Dug Gap Road and Shields Road if the site is located adjacent to, but not on, this arterial corridor.

B. Building massing. Street fronting building facades greater than one hundred fifty (150) feet in length shall be modulated with breaks in wall surfaces and materials at intervals not to exceed one hundred fifty (150) feet, measured parallel to the street. For buildings that are three (3) stories or less in height, each floor shall be delineated through windows, belt courses, cornices lines, or similar architectural detailing.

C. Location of vehicle facilities and services. Drive-through service windows, drive-in facilities and associated vehicular services such as air pumps and car washes, (excluding gasoline fuel dispenser structures) shall not be located between the principal structure and portions of Walnut Avenue, Market Street, Tibbs Road, Dug Gap Road and Shields Road without an intervening building. Such shall be located to the side or rear of the principal structure.

D. Parking and driveways. Unless topography, public utilities, or storm drainage make it prohibitive, surface parking and related parking facilities between the principal structure and portions of Walnut Avenue, Market

Street, Tibbs Road, Dug Gap Road and Shields Road right-of-way shall be limited to two (2) rows of parking in front of the principal structure. All other surface parking shall be located to the side or rear of the principal structure, except as stated hereinabove.

E. Demolition of existing structure – A demolition plan, including a landscaping plan, shall be required in order to secure a demolition permit within the overlay district. The demolition plan will require removal of the full slab and foundations of the building and all demolition debris from the site. A land disturbance permit may be required depending on the area to be disturbed.

Sec. 7. - Screening and fencing.

Shall be required as follows:

A. Refuse areas (dumpster) shall be placed in the least visible location from public streets (i.e. near the rear of the building), and shall be enclosed on three (3) sides with brick or stone opaque walls, with the fourth side being an opaque closing gate. Height of an opaque wall shall be at least twelve (12) inches higher than the receptacle.

B. Chain link fences are not allowed in the front yards. Where allowed, all chain link fences shall be vinyl coated, hunter green, brown or black.

C. Opaque fences are prohibited adjacent to a public street.

D. All loading areas shall be screened from view of any public street by either a minimum six-foot high opaque fence matching the material of the building, or a fifteen-foot-wide landscape strip planted with a continuous hedge of evergreen shrubs. Shrubs shall be moderately growing, be a minimum height of three and one-half (3½) feet to four (4) feet at time of planting, and reach a height of six (6) feet within two (2) years of planting. Other loading area screening concepts can be reviewed/considered by the Design Review Board.

E. All detention ponds shall have a minimum five-foot-wide landscape strip with plantings (shrubbery) based on a plan submitted to and approved by the City Arborist.

Sec. 8. - Landscaping.

Landscape standards must be in accordance with City of Dalton Code, Chapter 122, Vegetation, with the following modifications:

A. Impervious surface areas shall not be allowed to cover more than eighty-five (85) percent of the lot. The area to be landscaped shall be devoted to vegetative landscaping which includes, but is not limited to, grass, shrubs, vines, and trees.

B. All trees required to be planted by this section shall be increased to: (a) Shade trees shall be a minimum of two and one-half (2½) inch caliper; (b) Flowering trees shall be at least ten (10) feet minimum height. A minimum of fifty (50) percent of planted trees shall be large maturing shade trees.

C. *Building perimeter landscaping.* The perimeter of each building (excluding the rear elevation) shall at a minimum have a four (4) foot landscape area and a six (6) foot sidewalk. If the area is planted, it shall be landscaped with appropriate materials. In no case shall asphalt paving be contiguous to the base of a building.

Sec. 9. - Lighting.

Proposed developments shall submit for approval a lighting plan that meets the following specifications prior to the issuance of a land disturbance or building permit.

A. The maximum to minimum foot-candle level shall not exceed a twelve to one (12:1) ratio.

B. Light fixture poles cannot exceed forty (40) feet in height.

C. All site lighting shall be directed onto the site and strive for "dark sky" objectives.

D. All building entrances, walks and vehicular access shall be lit.

Sec. 10. - Sign Regulations.

The following standards shall control signs in conjunction with other ordinances of the City of Dalton within the overlay district. These standards shall apply to all construction within the Gateway Corridor Overlay District in the City of Dalton and only to property within the city limits of the City of Dalton. Additionally, the standards and requirements of this section shall take precedence over city-wide standards and requirements within the boundaries of said overlay district.

(1) Individual buildings or business storefront signs (wall signs) shall be limited to one (1) sign per street frontage. One parcel with multiple business shall be limited to one (1) directory sign.

(2) Maximum allowed sign area of all freestanding signs shall be fifty (50) square feet, with the exception that directory signs shall be allowed to be one hundred twenty (120) square feet.

(3) Any corner lot adjacent to portions of Walnut Avenue, Market Street, Tibbs Road, Dug Gap Road and Shields Road shall be allowed one (1) additional freestanding sign to be for the purpose of a directory sign.

(4) All freestanding signs shall be monument signs and shall not exceed fifteen (15) feet in height. No pylon signs will be allowed. Directory signs shall not exceed thirty (30) feet in height.

4a. All monument signs shall be topped with a peaked pediment consisting of a beige/tan stucco façade.

4b. All monument signs shall consist of a brick or stone façade, with the exception of the pediment.

4c. All monument sign lighting shall be directed onto the sign face and strive to achieve the "dark sky" objectives. All lighted signs must be submitted as part of the lighting plan referenced in Section 9 of this ordinance.

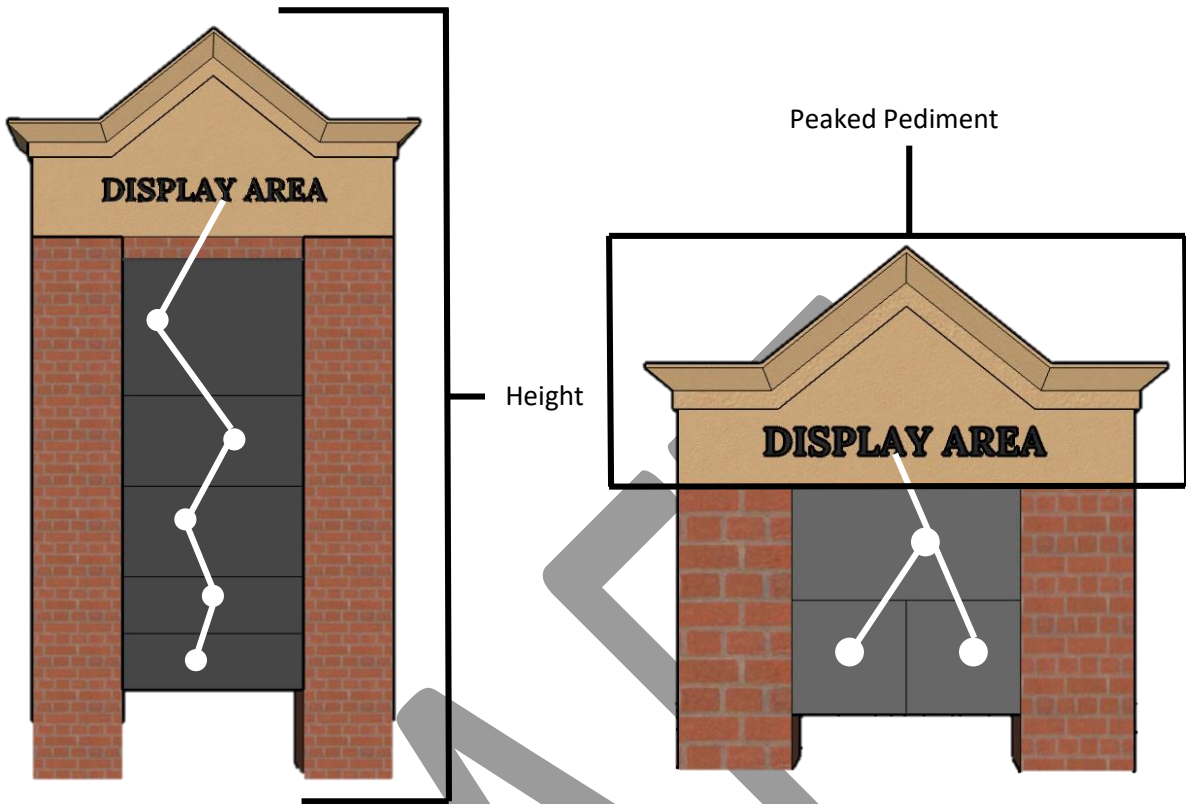
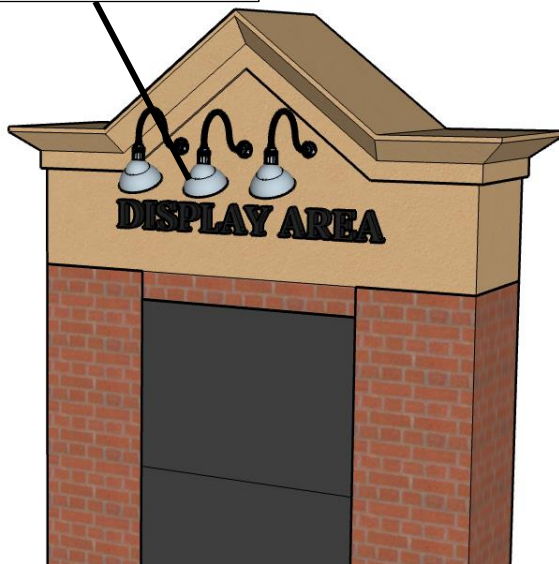


Figure 1: Examples of appropriate monument signs within the Gateway Corridor Overlay District

Downward facing Light Fixture



Ground-based Light Fixture

Figure 2: Example of appropriate sign lighting within the Gateway Corridor Overlay District

(5) Temporary signage is not allowed within the overlay district. Temporary real estate signs would be allowed no longer than a 30-day period.



Figure 3: Examples of prohibited signs within the Gateway Corridor Overlay District

Sec. 11. - Uses not allowed in the Gateway Corridor Overlay District.

Notwithstanding the uses allowed by the underlying zoning classifications of the properties within this overlay district, the following uses shall not be allowed therein:

- A. Accessory apartments.
- B. Adolescent treatment facilities.
- C. Adult entertainment establishments.
- D. Adult video shops.
- E. Amateur radio transmission.
- F. Automotive garages, unless in conjunction with new automotive and truck sales or rental.
- G. Automotive storage yards and wrecker service.
- H. Car Washes
- I. Check cashing services.
- J. Drive-in theaters.
- K. Farm equipment and supplies stores.
- L. Fortunetellers.
- M. Group homes.
- N. Guest house.
- O. Halfway houses.
- P. Homeless shelters.

- P. Hospices.
- Q. Itinerant merchants.
- R. Kennels.
- S. Massage parlors.
- T. Manufactured home sales.
- U. Mini warehouse facilities.
- V. Heavy equipment sales and rental.
- W. Patio houses.
- X. Pawn shops.
- Y. Quarrying.
- Z. Radio, television broadcast stations.
- AA. Radio, television or other communication towers.
- BB. Recycling centers, collecting.
- CC. Recreational vehicles sales/service/rental/repair facility.
- DD. Repair garages, automotive, unless in conjunction with new automotive and truck sales or rental.
- EE. Repair garages, heavy equipment.
- FF. Repair services, heavy (large appliances and similar).
- GG. Salvage lots.
- HH. Scrap yards.
- II. Self-service storage facilities.
- JJ. Single-family detached dwellings.
- KK. Smoke Shops.
- LL. Tattoo/body piercing parlors.
- MM. Taxi stands.
- NN. Transmission shops.
- OO. Truck stops.
- PP. Truck terminals.
- QQ. Used automotive, heavy equipment and truck sales or rental unless in conjunction with new automotive and truck sales or rental.
- RR. Used tire sales/repair shops.
- SS. Vehicle body and paint shops, unless in conjunction with new automotive and truck sales or rental.

TT. Vehicle engine repair and rebuilding shops, unless in conjunction with new automotive and truck sales or rental.

Sec. 12. - Severability.

The sections, paragraphs, sentences, clauses, and phrases of this article are severable, and if any phase, and if any phase, clause, sentence, paragraph, or section of this chapter be declared unconstitutional or invalid, it shall not affect, any of the remaining phrases, clauses, sentence, paragraphs, and sections of this article.

DRAFT



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 3/7/2022

Agenda Item: **The request of Thomas Durkan III to rezone from Heavy Manufacturing (M-2) and Medium Density Single Family Residential (R-3) to Transitional Residential (R-6) a tract of land totaling 0.33 acres located at 624 Charles Street and 0.11 acres located at 620 Charles Street, Dalton, Georgia. Parcels (12-199-19-008 and 12-199-19-016)**

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 the attached staff analysis.

CITY OF DALTON
ORDINANCE
Ordinance No. 22-04

An Ordinance Of The City Of Dalton To Rezone Certain Property Within The City Of Dalton From Heavy Manufacturing (M-2) and Medium Density Single Family Residential (R-3) To Transitional Residential (R-6) Being Tracts of Land Totaling .33 Acre Located at 624 Charles Street (Parcel No. 12-199-19-008) and .11 Acre located at 620 Charles Street (Parcel No. 12-199-19-016); To Provide An Effective Date; And For Other Purposes.

WHEREAS, Thomas Durkan, III (Owner) has filed an application with the City to rezone property located at 624 Charles Street and 620 Charles Street (Parcel Nos. 12-199-19-008 and 12-199-19-016);

WHEREAS, the Property is currently zoned in part Heavy Manufacturing (M-2) and in part Medium Density Single Family Residential (R-3);

WHEREAS, the Owner is requesting the Property be rezoned to Transitional Residential (R-6);

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;

WHEREAS, the Dalton-Varnell-Whitfield County Planning Commission considered the proposed rezoning of the Property at a duly noticed public hearing held on November 15, 2021 and subsequently forwarded its favorable recommendation to the Mayor and Council for rezoning the property to R-6;

BE IT ORDAINED by the Mayor and Council of the City of Dalton in regular meeting assembled and by authority of the same it is hereby ordained as follows:

-1-

The recitals contained herein above are incorporated herein by reference and are adopted as findings and determinations of the Mayor and Council.

-2-

The Property located 624 Charles Street and 620 Charles Street and being identified as

Parcel Nos. 12-199-19-008 and 12-199-19-016 is hereby rezoned from Heavy Manufacturing (M-2) and Medium-Density Single Family Residential (R-3) to Transitional Residential (R-6).

-3-

The Unified Zoning Map of the City of Dalton shall be amended to conform to and reflect the rezoning of the Property as approved herein. City Staff is authorized and directed to take all actions necessary to effectuate the rezoning of the Property as approved herein.

-4-

Should any section or provision of this Ordinance be declared by a Court of competent jurisdiction to be unconstitutional, invalid or unlawful, such declaration shall not affect the validity of the remaining portions of the ordinance not so declared to be unconstitutional, invalid, or unlawful.

-5-

All resolutions and ordinances of the City of Dalton or parts thereof in conflict herewith are hereby repealed.

-6-

This Ordinance shall take effect and be in force from and after its adoption and publication in two public places within the City of Dalton for five (5) consecutive days, the public welfare of the City of Dalton requiring it.

ADOPTED AND APPROVED on the ____ day of _____, 20__, at the regular meeting of the Mayor and Council of the City of Dalton.

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 _____, second by Councilmember _____ and upon the question the vote is _____ ayes, _____ nays and the Ordinance is adopted.

CITY OF DALTON, GEORGIA

MAYOR

Attest:

CITY CLERK

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 the ____ day of _____, 20__.

CITY CLERK
CITY OF DALTON

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

MEMORANDUM

TO: City of Dalton Mayor and Council
Andrew Parker
Terry Miller
Jean Garland

FROM: Jim Lidderdale
Chairman

DATE: November 16, 2021

SUBJECT: The request of Thomas Durkan III to rezone from Heavy Manufacturing (M-2) and Medium Density Single Family Residential (R-3) to Transitional Residential (R-6) a tract of land totaling 0.33 acres located at 624 Charles Street and 0.11 acres located at 620 Charles Street, Dalton, Georgia. Parcels (12-199-19-008 and 12-199-19-016)

The most recent meeting of the Dalton-Varnell-Whitfield County Planning Commission was held on November 15, 2021 at 6:00 p.m. at the Edwards Park community center. A portion of the agenda included a public hearing concerning the above matter. A quorum of six members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met. The petition was represented by Rodney Adams.

Public Hearing Summary:

Mr. Calhoun oriented the audience to the subject property and summarized the staff analysis which was in favor of the requested R-6 rezoning. There were no further questions for Calhoun. Rodney Adams, power of attorney, represented Thomas Durkan by stating their plan to remodel the existing structures into four condominium units.

Recommendation:

Chairman Lidderdale sought a motion on the requested R-6 rezoning. **Octavio Perez then made a motion to recommend the R-7 rezoning based on his agreement with the content of the staff analysis. Eric Barr then seconded the motion and a unanimous recommendation to approve the R-6 rezoning followed, 5-0.**

**STAFF ANALYSIS
REZONING REQUEST
Unified Zoning Ordinance**

ZONING CASE: Thomas Durkan III is seeking to rezone from Heavy Manufacturing (M-2) and Medium Density Single Family Residential (R-3) to Transitional Residential (R-6) a tract of land totaling 0.33 acres located at 624 Charles Street and 0.11 acres located at 620 Charles Street, Dalton, Georgia. Parcels (12-199-19-008 and 12-199-19-016)

The tract currently contains two vacant commercial buildings; the rezoning request of R-6 is sought to allow for the petitioner to redevelop the existing structures into condominiums.

The surrounding uses and zoning are as follows: 1) to the north, across Charles St, is a 0.24-acre tract of land containing a single-family detached dwelling zoned R-3. 2) to the east are three adjacent tracts of land zoned R-3 that each contain a single-family detached dwelling, and each of the eastern tracts is under 0.2-acres in size. 3) To the south is a 0.2-acre tract of land zoned R-3 that contains a single-family detached dwelling. 4) to the west, across Charles St, are two adjacent tracts of land zoned R-3 that each contain single-family detached dwellings.

The subject property is within the jurisdiction of the City of Dalton Mayor and Council. Medium and high-density residential are common land uses in this area of the City.

<u>Administrative Matters</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>
A. Is an administrative procedure, like a variance, available and preferable to annexation?	—	<u>X</u>	—
B. Have all procedural requirements been met? 1. Legal ad October 29, 2021 (16 days-notice) 2. Property posted October 25, 2021 (Yes -- one sign on the lot frontage; 21 days-notice.)	<u>X</u>	—	—
C. Has a plat been submitted showing a subdivision of land?	—	<u>X</u>	—
D. The following special requirements have an impact on this request: 100-year flood plain Site Plan (none required) Buffer Zones (none required) Soil Erosion/Sedimentation Plan Storm Water Requirements	— — <u>X</u> — —	<u>X</u> <u>X</u> — <u>X</u> <u>X</u>	— — — — —

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 property.

The area surrounding the subject property is a point of convergence between the medium-density, high-density, and transitional residential zone districts. This area also contains an island of manufacturing zoning and land use. The character of this area may be described as an in-town neighborhood where residents may be near the city's downtown. The subject property's current M-2 zoning is a byproduct of the former pyramid zoning ordinance as the previous use of the property was a preschool/daycare facility. The proposed use of the subject property is to redevelop the existing structures into multi-family condominiums. One of the structures is approximately 2,000SF and the other structure is approximately 3,000SF, which would limit the smaller structure to a maximum of 2-units and the larger structure would be limited to 3 units based on the UZO requirement for dwelling units to be a minimum of 900SF within the City of Dalton. While all the adjacent properties are zoned and developed as single-family dwellings, the proposed zoning and density would not be unlike that which has already been established in this area.

(B) Whether the proposed R-6 amendment would adversely affect the economic value of adjacent and nearby property.

Based on the existing zoning and land use, as compared to the proposed redevelopment, the overall intensity of land use would be less than currently exists. While no buffer exists along the southern boundary of the subject property, a buffer would be required to be established there in order to obtain a building permit for the proposed redevelopment. The eastern boundary of the subject property, however, does not have sufficient area to establish the required 15' buffer due to the existing site conditions. The existing structures do not have appeared to have a negative impact on the surrounding properties as there have been several new dwellings constructed within the last three years. While it would be ideal for the subject property to have a buffer along the eastern boundary, the proposed zoning and land use would have a lesser impact on the adjacent property than currently exists.

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

Neither the M-2 nor the R-3 zone districts permit the subject property for a use that would accommodate the types of structures that have existed on the subject property for several decades. Even the former use of the subject property would not be permitted within either of the current zone districts. The proposed rezoning and adaptive reuse of the subject property would create a more appropriate zoning and land use than currently exists on the subject property.

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

N/A

(E) Whether the proposed (R-6) amendment, if adopted or approved, would result in a use which would or could cause an 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.

No impact is expected. The lack of sidewalks on Charles St. is not ideal for the amount of residential density of this area, so all of the residents of this area solely rely on automobile trips. Due to the large amount of undeveloped area on the subject property, there is no concern that the subject property can provide for sufficient off-street parking area. On street parking is an issue along Char

St. due to the narrow R/W of the street which makes it difficult to access with large emergency vehicles when cars park on the street.

(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 which are contrary to the plan recommendation, and if the plan has been amended, does this reasoning or annexation request allow uses which are compatible to the existing uses in the vicinity.

The Whitfield County Comprehensive Plan's 2019-2023 Future Development Map demonstrates that the surrounding area's future development is within the Town Neighborhood character area. This character area includes residential areas in older parts of the community typically developed prior to World War II. Characteristics include pedestrian-friendly streets with sidewalks, street trees, on-street parking, small, regular lots, shallow yards (relative to newer suburban counterparts), less space between buildings, and some mixed-use elements such as small neighborhood businesses. While this character area specifically lists single-family residential as the primary land use and recommends that infill development be reflective of the established residential character and architecture, the subject property has existed in its current state for several decades. The proposed redevelopment of the subject property would be a compromise to the existing zoning and commercial use of the subject property and the Comprehensive Plan's Town Neighborhood character area's recommended development pattern.

(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 zoning) as interpreted by current Georgia law.

The proposed rezoning would eliminate an island of M-2 surrounded by the R-3 zone district and create an island of R-6 surrounded by the R-3 zone district. The residential nature of the R-3 and R-6 zone districts does not create the situation of a spot zone. The established pattern of multi-family housing throughout this area does not give this planner cause for concern regarding the proposed rezoning creating an entering wedge of multi-family.

(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, stormwater, or historical issues that influence the development of the subject property under any zoning designation. No issues identified.

Conclusion:

The staff can recommend approval of the requested zoning change from M-2 and R-3 to R-6. Reasons for approval:

1. The R-6 and multi-family residential character have existed in this area now for some time without impacting infill development/investment of the adjacent single-family properties.
2. This zoning request and proposed land use falls within the grey area of the Comprehensive Plan and future development map. This planner believes that the proposed rezoning and land use would be an improvement from the existing zoning and use of the subject property without any significant conflict with the Town Neighborhood character area.

3. There is no adverse impact expected public utilities or property values in this area based on existing development along with the limited size of the subject property.

Durkan Rezoning Request

R-3, Medium Density Residential/M-2, Heavy Manufacturing

to

R-6, Transitional Residential

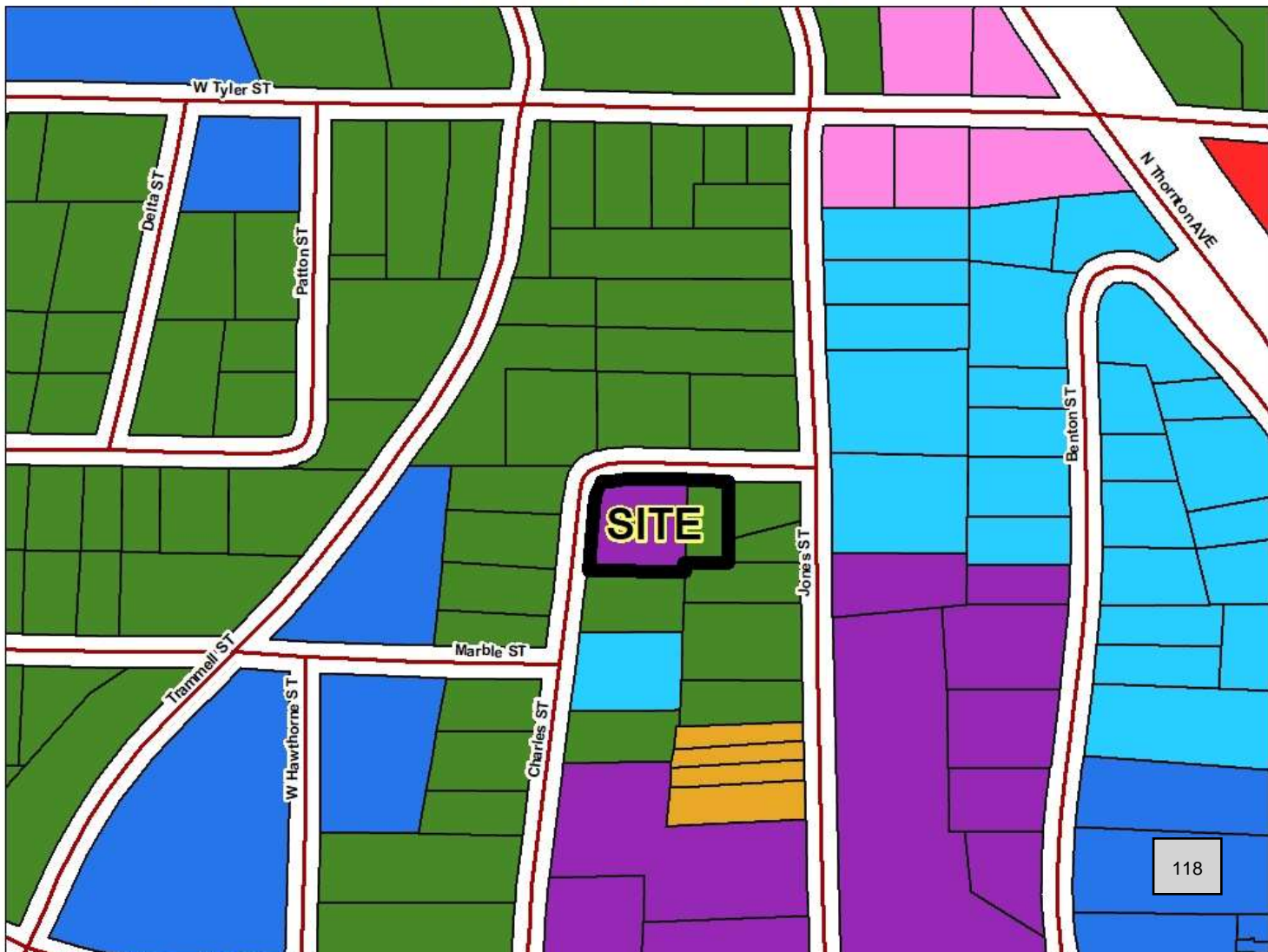
CITY OF DALTON JURISDICTION



Unified Zoning

-  Medium Density Single Family Residential (R-3)
-  Rural Residential (R-5)
-  Transitional Residential (R-6)
-  High Density Residential (R-7)
-  Neighborhood Commercial (C-1)
-  General Commercial (C-2)
-  Heavy Manufacturing (M-2)

FEET
200



View of subject property from Charles St.



View of the subject property from Charles St. near Marble St.



Durkan Rezoning Request

R-3, Medium Density Residential/M-2, Heavy Manufacturing

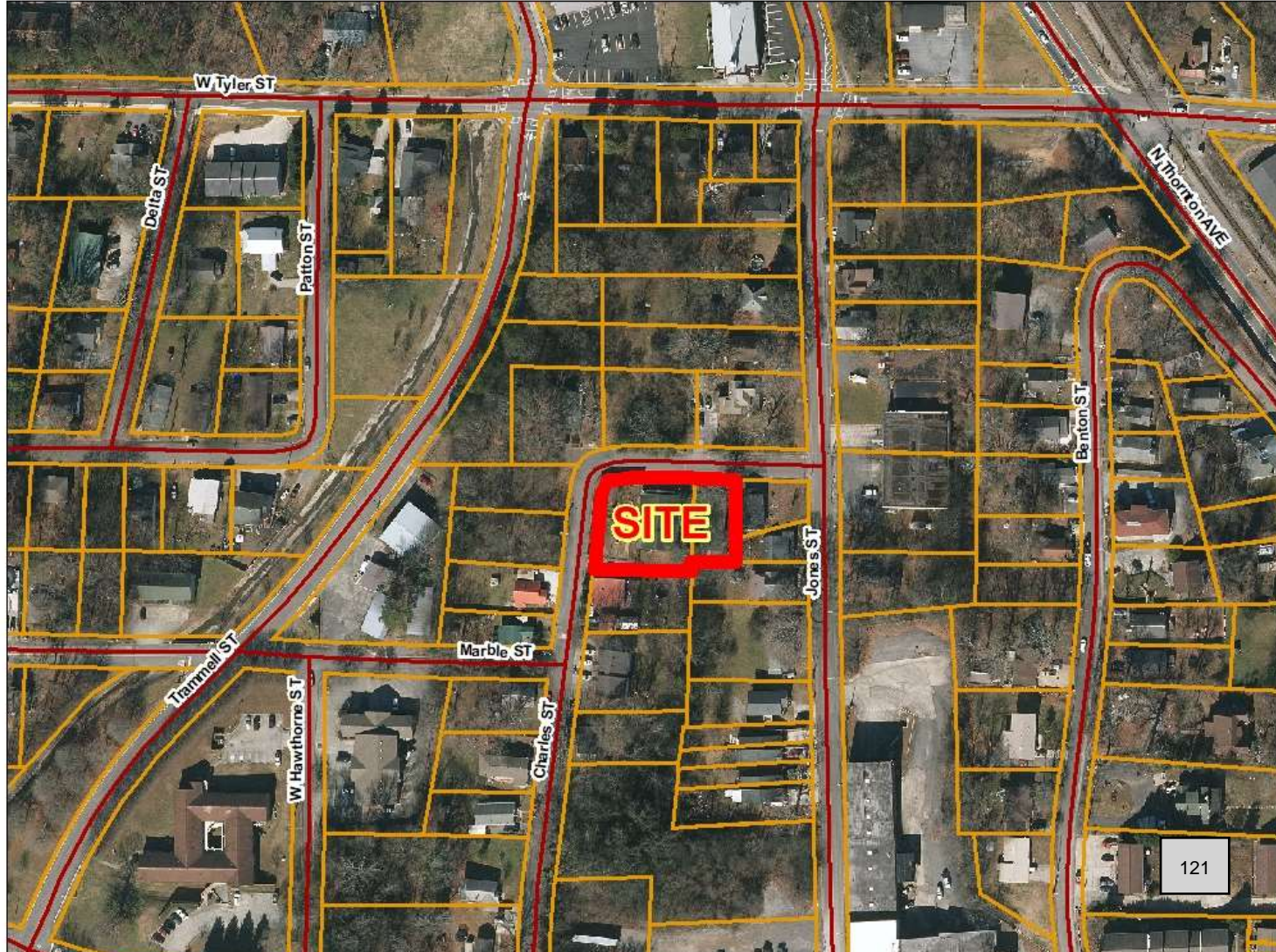
to

R-6, Transitional Residential

CITY OF DALTON JURISDICTION



FEET
200



Durkan Rezoning Request
R-3, Medium Density Residential/M-2, Heavy Manufacturing
to
R-6, Transitional Residential
CITY OF DALTON JURISDICTION



FEET
100



Durkan Rezoning Request

R-3, Medium Density Residential/M-2, Heavy Manufacturing

to

R-6, Transitional Residential

CITY OF DALTON JURISDICTION



FUTURE DEVELOPMENT MAP

-  Suburban Neighborhood
-  Town Neighborhood
-  Town Neighborhood Revitalization

FEET
200





CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 3-7-22
Agenda Item: 2022 Budget Amendment #1
Department: Finance
Requested By: Cindy Jackson
Reviewed/Approved by City Attorney? N/A
Cost: \$0

Funding Source if Not in Budget

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

General fund 2022 budget amendment #1 to record donations, Burr Park change order, other agency funding commitments, and workers compensation legacy settlement.

2022 Budget Amendment

Budget Amendment #1

GENERAL FUND

	Increase (Decrease)	
Revenues & Other Financing Sources		
Donations	\$ 11,500	(1)
	<u>\$ 11,500</u>	
Expenditures & Transfers-out		
Infrastructure - Burr Park Building	\$ 13,530	(1)
Other agency funding - Communicable Diseases	30,000	(2)
Transfer to Risk Financing Fund	100,000	(3)
Budget contingency	(132,030)	
	<u>\$ 11,500</u>	
Net Increase (Decrease) Budgeted Fund Balance	<u>\$ -</u>	

- (1) To record donations from DDDA & Community Foundation for Burr Park and change order for the Burr Park project upgrades
- (2) To record funding for CLILA to educate and combat COVID within Latino community (\$25,000) and Clinical Support Services (Dr. Nicely's Estate \$5,000)
- (3) To record workers compensation settlement for WC legacy claims

Cindy Jackson

From: Andrew Parker
Sent: Wednesday, February 9, 2022 10:19 AM
To: 'David Aft'
Cc: Cindy Jackson; Caitlin Sharpe; Megan Elliott
Subject: Restricted Donation for Burr Park Structure Change Orders

Mr. Aft,

On behalf of the City, thank you to the Community Foundation of Northwest Georgia for the planned, generous donation of \$10,000 to support some of the desired change orders to the Burr Park Structure. The donation will help deliver the decorative broadcast epoxy flooring, dedicated electrical circuits for additional coolers, and technology/security equipment to support the successful operations of this City asset. The City will work directly with Felker Construction Co., Inc. to deliver the change order items.

Sincerest regards,

P. Andrew Parker, P.E.
City Administrator
City of Dalton
PO Box 1205 | 300 W. Waugh St
Dalton, GA 30722
Email: aparker@daltonga.gov
Office: (706) 529-2404

Total Upgrades = \$13,530

Cindy Jackson

From: Andrew Parker
Sent: Wednesday, February 9, 2022 10:21 AM
To: Candace Eaton
Cc: Cindy Jackson; Caitlin Sharpe; Megan Elliott; Annalee Harlan
Subject: Restricted Donation for Burr Park Structure Change Orders

Candace,

On behalf of the City, thank you to the DDDA for the planned, generous donation of \$1,500 to support some of the desired change orders to the Burr Park Structure. The donation will help deliver the decorative broadcast epoxy flooring, dedicated electrical circuits for additional coolers, and technology/security equipment to support the successful operations of this City asset. The City will work directly with Felker Construction Co., Inc. to deliver the change order items.

**DOWNTOWN DALTON
DEVELOPMENT AUTHORITY**

6095

Downtown Outreach

1,500.00

① Charge Code # 100000
② Then Enter:
03. 1000001
06i. 371000
11j. 30005

2/17/22

6095

City of Dalton

\$1,500.00

**DOWNTOWN DALTON
DEVELOPMENT AUTHORITY**
P.O. BOX 707
DALTON, GA 30722-0707



First Bank of Dalton

DALTON, GEORGIA 30722-0469
64-487-611

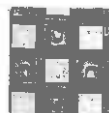


6095

Memo:

	DATE	AMOUNT
PAY One Thousand Five Hundred and 00/100 Dollars	Feb 17, 2022	1,500.00

TO THE ORDER OF: City of Dalton
PO Box 1205
Dalton, GA 30722-1205



[Handwritten Signature]
AUTHORIZED SIGNATURE

Security features. Details on back.

⑈006095⑈ ⑆06 1 104877⑆ 150 002 103⑈



Coalicion de Lideres Latinos, Inc.- PO BOX 2591., Dalton GA 30722
 706-529-9216 404-803-4546 clila@clila.org

COALICION DE LIDERES LATINOS, INC
 CLILA EIN. 26-0210273

INVOICE

#002 - 2022

January 24, 2022

To: City of Dalton
P. Andrew Parker, P.E.
City Administrator

*Please pay the amount of \$25,000 for the campaign **VACCINES FOR ALL 2022**
to educate and combat COVID, increasing vaccination rate
within the Latino community, using culturally relevant materials and tactics*

DESCRIPTION	AMOUNT
Provide culturally relevant education for the Latino community and a strategic action plan to combat COVID among us --Having at least 2 CLILA's community health workers devoted to efforts against COVID-19, besides the work our volunteers are doing --CWHs and volunteers to provide education to the community through canvassing houses and businesses --Develop, print and distribute materials to dispel most common myths with CDC information about the virus, its variants and vaccines. As well as inviting people to get vaccinated --Promote this information also on social media, and our radio program --Holding weekly COVID vaccine events in our facilities -Publish a calendar of vaccines events in coordination with the City of Dalton, Whitfield County and Core -Provide transportation options for people to attend COVID vaccine events -Offer perks to motivate people to get vaccinated (gift cards, incentives according to age, season or Holidays, and other culturally attractive activities to get people vaccinated	\$25,000

Thanks for the opportunity, looking forward to continue serving the community,

Sincerely
América Gruner
 Founder and President-- CLILA

Please make check payable to
COALICION DE LIDERES LATINOS, INC
PO BOX 2591 Dalton, GA 30722-2591

Cindy Jackson

From: Andrew Parker
Sent: Friday, March 4, 2022 3:18 PM
To: Cindy Jackson
Subject: Budget Amendment
Attachments: Budget Amendment 1.pdf

Cindy,

Can you add the ~~\$5,000 for~~ "Clinical Support Services" to the attached budget amendment as per the prior emails related to Dr. Nicely's support as Medical Director for our COVID programs?

Can you increase the Burr Park Expenditure to \$13,530 since the donations were not quite enough to cover the approved change orders?

I'll get Megan to move it back into the queue.

Thanks,

P. Andrew Parker, P.E.
City Administrator
City of Dalton
PO Box 1205 | 300 W. Waugh St
Dalton, GA 30722
Email: aparker@daltonga.gov
Office: (706) 529-2404



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting
Meeting Date: 3-7-22
Agenda Item: eConnectDirect User Agreement
Department: Finance
Requested By: Cindy Jackson
Reviewed/Approved by City Attorney? Yes
Cost: \$0

Funding Source if Not in Budget

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

Service that is offered through Multibank Securities, Inc. to provide a platform for accessing market information, selecting CD's and bond offerings, and managing investment decisions.

Authorized Signers (Exhibit 1)

I HEREBY CERTIFY that a meeting of the Board of Directors (or other authorizing body) of City of Dalton a City _____ organized under the laws of the State of GA _____ (Investor), which at said meeting a quorum was present and acting throughout, the following preamble and resolutions were adopted and have been and now are in full force and effect. **WHEREAS** City of Dalton _____ is duly authorized and permitted by its Charter, Bylaws and/or investment policies to:

1. Engage in cash settlement transactions for the purchase of physical certificates of deposit(s) (CDs) purchased through eConnectDirect or through any introducing agent.
2. Engage in cash settlement transactions in the form of CDs held in safekeeping at federally insured financial institutions.
3. Engage in cash or DVP (delivery versus payment) settlement transactions in securities including, but not limited to debt instruments, bond debentures, notes and CDs; and other fixed-income securities, including but not limited to U.S. government agency bonds, corporate bonds, municipal bonds, mortgage-backed securities, collateralized mortgage obligations and Treasury bonds, notes and bills.
4. Receive on behalf of the Investor, or deliver to the Investor or a designated third party, monies, bonds or other securities.
5. Sell, assign or endorse for transfer bonds or other securities registered in the name of the Investor.
6. Establish and maintain safekeeping accounts with Fedwire and ACH privileges from which account funds are directly spent, and the responsibility for which is entirely that of the Investor. Said privileges will be limited to the persons designated by the Investor. Each designated person can independently perform the prescribed privileges.

NAME	TITLE	SIGNATURE
Cindy Jackson _____	CFO _____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

THEREFORE BE IT RESOLVED that City of Dalton _____ can open an account or accounts in its name with a safekeeping agent, introducing broker, or federally insured financial institution offering CD rates through eConnectDirect or through any introducing agent and that the persons named above, or their successors in office, may, on behalf of the Investor or any one of them acting individually, be and they are hereby authorized to (1) give or submit orders in said account(s) for the purchase, sale or other disposition of CDs, bonds and other securities listed on eConnectDirect or offered by any introducing broker; (2) make, execute, deliver or submit directly or through the services of eConnectDirect any and all written endorsements and documents necessary to effectuate closure or the disbursements of funds of or from the Investor account; (3) may at any time while the account is open modify, amend, submit or enter into any other arrangement with the safekeeping agent of its CD or securities. This authorization to each of said officers is to remain in full force and effect until other written notice of revocation is submitted to the safekeeping agent(s) and MBS.

I FURTHER CERTIFY that the signatures of the officers (or others) identified above are authorized by the foregoing resolution to act for City of Dalton _____.

David Pennington _____	Mayor _____	_____
Name	Title	Signature

IN WITNESS this _____ day of _____, 20_____.

Bernadette Chattam _____	_____
Name	Signature



eConnectDirect®

User Agreement

Contact Information

Primary Point of Contact	Joe Michalak	jmichalak@mbssecurities.com	(800) 967-9084
Product Specialist	Alexis Zehnder	azehnder@mbssecurities.com	(888) 354-7534
Senior Vice President	Tim Peacock	tpeacock@mbssecurities.com	(800) 967-9041

Powered by



MULTI-BANK SECURITIES, INC.®

(800) 967-9052 • support@eConnectDirect.com • www.eConnectDirect.com

Please send all correspondence to Corporate Headquarters:

Multi-Bank Securities, Inc. • 1000 Town Center, Suite 2300 • Southfield, MI 48075 • www.mbssecurities.com



LICENSING AGREEMENT

This Agreement is between:

Multi-Bank Securities, Inc. (MBS)
1000 Town Center, Suite 2300
Southfield, Michigan 48075

and

City of Dalton
Account Holder
300 West Waugh Street
Street Address
Dalton, GA 30720
City, State, Zip

This contract governs your use of services, ability to post deposit rates, and access to inventory offered by eConnectDirect®, a registered trademark of Multi-Bank Securities, Inc. ("MBS") and related commerce, products and services corresponding to your access to eConnectDirect.com. You may need to execute additional agreements or provide MBS account numbers if you request additional Opt-In Services in conjunction with your unique eConnectDirect Username and Password. "Opt-In Services" refers to additional trading functionality and supportive services provided through eConnectDirect or MBS.

The terms "MBS," "we," "us" and "our" refer to Multi-Bank Securities, Inc. The terms "Subscriber," "you" and "your" refer to the undersigned Account Holder and additional users identified in Schedule A. The term "eConnectDirect CD" (also known as "Physical CD" or "Listing Service" Deposits) refers to CDs which are transacted directly between the issuing institution and investing entity through eConnectDirect. The term "Securities" generally refers to all other assets purchased or viewed on eConnectDirect that are NOT eConnectDirect CDs. All Securities (e.g., Bonds, DTC-Eligible CDs) will have a corresponding CUSIP number and funds will be settled into a user-selected Securities account (Cash or Delivery Versus Payment "DVP"). If your preferred safekeeping agent is something other than a Pershing LLC account, originated through MBS, delivery and settlement instructions ("DVP Instructions") must be provided prior to gaining access to security's inventory monitors.

User Access Start Date

Start Date: ____ / ____ / 2022

Your user access and all other rights under this eConnectDirect Licensing Agreement will commence on the "Start Date" listed above if we have received from you a signed copy of this agreement and a complete set of all duly executed settlement documents required to purchase or issue a CD or security.

Modification/Cancellation

MBS reserves the right to:

- Modify or cancel any feature of eConnectDirect at any time.
• Discontinue user access at any time for any reason, without penalty, with 30 days written notice, or
• Immediately suspend user access at any time as provided below.

Subscriber reserves the right to:

- Discontinue any or all eConnectDirect services at any time for any reason, without penalty, by providing written notice to MBS.

All changes to the terms, conditions, fees, representations and warranties related to this agreement will be distributed in writing for signature, email consent or online confirmation. If at any time you find these terms unacceptable and do not agree with them, you can let us know that you would like to discontinue your user access without penalty.



ACCOUNT ADMINISTRATION:

The Account Administrator is responsible for maintaining the account profile and approving/assigning additional users and account access. The additional users need to be identified on Schedule A – Authorized User List. All users will be assigned a unique Username and Password and will be required to acknowledge and accept the terms, conditions and licensing agreement pertaining to the use of eConnectDirect upon initial login.

Account Administrator Name: Cindy Jackson
Title: CFO
Phone: 706-529-2460
Email: cjackson@daltonga.gov

Secondary Contact Name: Stephanie Mann
Title: Senior Accountant
Phone: 706-529-2470
Email: smann@daltonga.gov

Licensing/User Fees:

Any applicable licensing fees will be disclosed per Schedule B – Licensing Fee Schedule of this agreement and will be billed annually, payable on the anniversary of the user access start date and are NON-REFUNDABLE. You will not be liable for any increase in licensing fees or new fees related to your access to eConnectDirect unless you agree to such change in writing or other authenticated means.

MBS is not responsible for any fees incurred or charged in relationship to an eConnectDirect CD transaction by the issuing bank, settlement/wire fees, safekeeping charges by your securities’ custodian or any other fees related to the purchase, issuance, settlement, or safekeeping of products offered through eConnectDirect. You are responsible for all such fees. Any applicable fees or selling concessions related to the issuance of DTC-eligible CDs are disclosed at the time of trade and per the terms of an executed terms agreement and related Brokerage Agreement.

Account Classification and User Access: Additional documentation may need to be submitted depending on your user access request(s).

Institution Classification City

User Access

- Investor
Securities
Listing Service Deposits (eConnectDirect CDs) (Exhibit C Required)
Issuer
DTC-Eligible CDs (Brokerage Agreement Required)
Listing Service Offerings (eConnectDirect CDs) (Exhibit C Required)
Securities Safekeeping Agent
Pershing LLC (Only to be Used if Originated by Multi-Bank Securities, Inc.)
DVP (Delivery Versus Payment) (Delivery Instructions Required)



Proprietary Rights in the eConnectDirect Software and Database:

Restrictions on Use: SUBSCRIBER AGREES THAT IT WILL NOT PERMIT ANY OTHER PERSON INCLUDING, BUT NOT LIMITED TO, ANY INSTITUTION, BROKER OR BUSINESS OF ANY TYPE, ACCESS TO THE SOFTWARE AND DATABASE.

License Limitations:

This eConnectDirect Licensing Agreement allows access to eConnectDirect using a computer and/or web access by a user from any approved browser. Subscriber agrees not to modify, adapt or translate, disassemble, decompile, reverse engineer or otherwise attempt to discover the source code of the software. Subscriber further agrees not to sublicense, assign, transfer, distribute, pledge, lease, rent or share any rights under this license except with prior written permission from MBS.

Transaction Settlements:

Subscriber agrees to pay for, settle on, deliver or make whole on any approved transaction(s) processed through eConnectDirect or MBS. Failure to pay for a purchase, delivery on a sell or settle on an approved and accepted CD issuance, may result in an IMMEDIATE suspension or cancellation of this user agreement.

Immediate Suspension:

MBS may immediately suspend user access and all rights under this agreement if MBS has not received payment of the applicable License Fee within 30 days of invoice or MBS believes the Subscriber has or may violate MBS's proprietary rights or has or may breach any other provision of this agreement.

Warranty Disclaimer/Liability:

MBS makes no warranty of any kind, express or implied, regarding the timeliness, sequence, accuracy or completeness of data provided on eConnectDirect. MBS will not be liable for any damages whatsoever, whether direct, indirect, general, special, compensatory, consequential and/or incidental, arising out of or relating to your use of eConnectDirect.

City of Dalton
Account Holder

Signature

Cindy Jackson
Name

CFO
Title

Multi-Bank Securities, Inc.
Company

Signature

Tim Peacock
Name

Senior Vice President
Title



SCHEDULES, EXHIBITS & SUPPORTING DOCUMENTS

SCHEDULE A: AUTHORIZED USERS** (NOTE: The Administrator must be listed.)

NAME	TITLE	PHONE	EMAIL
Cindy Jackson	CFO	706-529-2460	cjackson@daltonga.gov
Stephanie Mann	Senior Accountant	706-529-2470	smann@daltonga.gov

**Permissions, notifications and account access are set and maintained by the administrator upon login. Securities trading authorization is only permitted to those approved by the account administrator and in confirmation with a submitted resolution of authorized signers.

SCHEDULE B: LICENSING FEE(S)

Applicable licensing fees will apply.

ALL FEES ARE PAYABLE WITHIN 30 DAYS OF INVOICE AND ARE NON-REFUNDABLE:

eConnectDirect Account Access (Including Securities): \$ 0 per year

eConnectDirect CD Listing Services: \$ Waived per year

Special Notes/Instructions:

Empty rectangular box for special notes/instructions.



INSTITUTIONAL SUITABILITY CERTIFICATE
FINRA RULE 2111

AFFIRMATIVE INDICATION BY INSTITUTION – EXERCISING INDEPENDENT JUDGMENT

In connection with any recommended transaction or investment strategy by a registered broker-dealer, the undersigned acknowledges on behalf of the Institution named below that:

- 1. It is an "Institutional Account" as defined in FINRA Rule 4512(c); PLEASE CHECK THE APPROPRIATE BOX BELOW
[] (1) A credit union with total assets of \$50 million or more...
[] (2) A bank, savings and loan association, insurance company or registered investment company;
[] (3) An investment adviser registered either with the SEC under Section 203 of the Investment Advisers Act...
[X] (4) MBS will determine suitability (Please provide your most recent Investment Policy).
2. It (1) is capable of evaluating investment risks independently...
3. MBS will be notified by the Institutional Account if anything in this Certificate ceases to be true;
4. He or she is authorized to sign on behalf of the Institutional Account named below.

By signing this Certificate, the undersigned affirms that the above statements are accurate but does not waive any rights afforded under U.S. federal or state securities laws, including without limitation, any rights under Section 10(b) of the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated there under.

This Certificate shall apply with respect to all recommended transactions and investment strategies involving securities that are entered into by the Institutional Account named in this Certificate, whether for the account(s) of such Institutional Account or for the account of any beneficial owner that has delegated decision making authority to such Institutional Account.

City of Dalton
Institutional Account Name
300 West Waugh Street
Address
Dalton, GA 30720
City, State, ZIP
58-6000557
U.S. Tax ID/EIN (if applicable)
cjackson@daltonga.gov
Email Address
Signature of Authorized Signatory
Name of Authorized Signatory
Title of Authorized Signatory
Date
706-529-2460
Phone

Address 1000 Town Center, Suite 2300 Southfield, Michigan 48075
2400 East Commercial Boulevard, Suite 812 Ft. Lauderdale, Florida 33308
Member of FINRA & SIPC; MSRB Registered. Proudly Veteran-Owned!
Phone (800) 967-9045 (248) 291-1100
(800) 967-9045 (954) 351-3930
Fax (248) 291-1101 (954) 351-9197
www.mbssecurities.com



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: March 7th, 2022

Agenda Item: Memorandum of Understanding - J & T Realty Partners, L.L.L.P., Ford of Dalton Stormwater Drainage Infrastructure Maintenance

Department: Public Works Department

Requested By: Jackson Sheppard

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:

See attached Memorandum of Understanding (MOU) and visual overview of the scope of work. The enclosed proposal prepared by the City Attorney is an MOU between J & T Realty Partners, L.L.L.P. and the City of Dalton to perform maintenance on the stormwater drainage infrastructure located within Ford of Dalton's property limits as shown within the enclosed visual. The scope of work is deemed necessary to restore the drainage network's functional level of service, of which upstream stormwater infrastructure conveys runoff from City right-of-way. The Public Works Department will perform the required maintenance.

The proposal was approved by the Public Works Committee on Wednesday, February 23rd, 2022.

GEORGIA, WHITFIELD COUNTY

MEMORANDUM OF UNDERSTANDING

THIS AGREEMENT is made and entered by and between the City of Dalton, a municipality chartered under the law of the State of Georgia, hereafter “the City,” of the first part and J & T Realty Partners, L.L.L.P., a Georgia limited liability limited partnership active and in good standing with its principal place of business at 745 College Drive, Dalton, Whitfield County, Georgia, 30720, hereafter “Ford of Dalton,” of the second part.

WITNESSETH:

WHEREAS, Ford of Dalton owns a storm water trunk line as shown on Exhibit “A” attached hereto and made a part hereof by reference which connects to the City’s Shugart Road right of way system as shown; and

WHEREAS, Ford of Dalton’s real estate is shown as Whitfield County Tax Parcel No. 12-159-01-010 on the aerial photograph enhanced by blue lines demonstrating the storm water infrastructure appurtenant to its tract shown as Exhibit “A” hereto; and

WHEREAS, sedimentation and storm water debris have infiltrated the trunk line and storm water infrastructure within the boundary of the real estate of Ford of Dalton both from several sources including erosion of higher elevations on the easterly side of Shugart Road which the City has previously sought to remediate with a public works project down grade of the westerly terminus of Moice Drive; and

WHEREAS, the parties concur in the need to clean out the storm water trunk lines under the property of Ford of Dalton that are connected to the City’s Shugart Road right of way in order to improve storm water flows affecting the property of Ford of Dalton and down grade areas; and

WHEREAS, there exist differing legal positions of the parties and their respective attorneys over responsibility for maintenance of the storm water infrastructure lines within the property boundary of Ford of Dalton and a duty to clean and maintain the trunk line and outlet control structure on the property of Ford of Dalton as shown on Exhibit “A;” and

WHEREAS, without prejudice to either party’s legal or factual positions in the premises nor waiver of future rights, claims, or privileges as to the other, the parties agree to clean out of the storm water trunk line connected to the Shugart Road right of way system as shown on the Exhibit “A” drawing attached hereto and as hereafter described;

NOW, THEREFORE, the parties hereto agree as follows:

-1-

With reservation of its position that the storm water trunk line on or under the property of Ford of Dalton is not part of the City’s storm water control or right of way system so as to require additional maintenance, the City and Ford of Dalton agree that the City will within ten (10) days hereof clean out the storm trunk line connected to the Shugart Road Right Of Way System and clean out the outlet control structure, all as shown on Exhibit “A” attached hereto and made a part hereof by reference, and Ford of Dalton consents to the City’s entry upon its property as shown on Exhibit “A” for such purpose without prejudice to any of its claims or rights in the premises.

-2-

The City will notify Ford of Dalton at least twenty-four (24) hours in advance of commencing the work.

-3-

This Memorandum of Understanding constitutes the entire agreement of the parties as to the subject matter hereof.

-4-

This Memorandum of Understanding is executed by an authorized officer of the respective parties.

This _____ day of March, 2022.

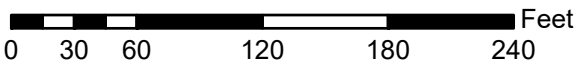
City of Dalton

By: _____
Authorized Officer

J & T Realty Partners, L.L.L.P.

By: _____
Worth L. Thompson, Jr., General Partner

Memorandum of Understanding Location Overview





CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: March 7th, 2022

Agenda Item: Traffic Control Change - Revision of No Parking on Valley Drive

Department: Public Works Department

Requested By: Jackson Sheppard

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 form for further information.

The following proposal, which is recommended by the Department's Traffic Division, was approved by the Public Works Committee on Wednesday, February 23rd, 2022.

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



DAVID PENNINGTON, MAYOR

CITY COUNCIL MEMBERS:

DENNIS MOCK
ANNALEE HARLAN
TYREE GOODLETT
STEVE FARROW

TRAFFIC CONTROL CHANGE

Type: Revision of No Parking

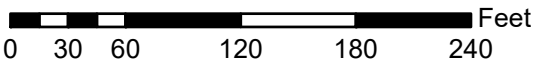
Location: Valley Drive from Walnut Avenue to Franklin Street

Comments: The purpose of this Traffic Control Change is to remove the No Parking on Valley Drive from Walnut Ave to Franklin Street. The Traffic Division recommends the removal due to the low volume of traffic and having a portion of this section being South Bound One Way only. If the Traffic Control Change is approved, the Public Works department will remove the existing signage.

Date of Approval: _____

Mayor's Signature: _____

Valley Drive No Parking Revision Overview





CITY COUNCIL AGENDA REQUEST

Meeting Type:	Mayor & Council Meeting
Meeting Date:	March 7 th , 2022
Agenda Item:	Professional Services Agreement with Geo-Hydro Engineers, Inc. for Geotechnical Services at Heritage Point Soccer Complex
Department:	Public Works Department
Requested By:	Chad Townsend
Reviewed/Approved by City Attorney?	Yes
Cost:	\$12,090.80
Funding Source if Not in Budget	2020 SPLOST - SP 210 Heritage Point Park

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

This request is to approve the Professional Services Agreement with Geo-Hydro Engineers, Inc. to complete the geotechnical engineering services required for conducting compaction testing for site subgrades, stormwater detention pond, and cast in place concrete core sampling located within the Heritage Point Soccer Complex Project. The scope of work is critical to ensure critical aspects of the project are constructed to the required specifications.

**CITY OF DALTON
PUBLIC WORKS DEPARTMENT**

GENERAL PROFESSIONAL SERVICES AGREEMENT

THIS GENERAL PROFESSIONAL SERVICES AGREEMENT is made and entered into on this 7th day of March, 2021 by and between the City of Dalton, a Georgia Municipal Corporation, hereinafter referred to as "CITY", and Geo-Hydro Engineers, Inc., hereinafter referred to as "CONSULTANT".

WHEREAS, the CITY desires to engage the CONSULTANT to provide professional services; and,

WHEREAS, the CITY finds that the proposed Scope of Services and terms of this Contract are acceptable; and,

WHEREAS, the CONSULTANT desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth,

WITNESSETH: That the parties hereto for the considerations hereinafter provided covenant and agree as follows:

1. EMPLOYMENT OF CONSULTANT: The CITY hereby engages the CONSULTANT and the CONSULTANT hereby agrees to perform the professional services hereinafter set forth.

2. PROJECT/SCOPE OF SERVICES: The CONSULTANT shall complete the project and perform the scope of services specified in the CITY's Request for Proposal which is included herein by reference and the specifications provided in the CONSULTANT's proposal attached hereto as Exhibit "A".

3. ADDITIONAL SERVICES: The CONSULTANT shall provide additional services, not specifically provided for in Exhibit "A", upon written request and authorization by the CITY.

4. DATE OF COMMENCEMENT: The CONSULTANT shall commence work on the project on March 9th, 2022. If no date is provided, then the date of commencement shall be five days from execution of this Agreement.

5. DATE OF COMPLETION: The CONSULTANT shall complete the project on or before August 2nd, 2022.

6. CONTRACT SUM: The CITY shall pay to CONSULTANT the total sum of \$12,090.80 Dollars for the complete performance of the project and terms of this Agreement. In addition, CITY shall pay to CONSULTANT for any authorized additional services performed at the rate or amount provided in the Compensation Schedule attached hereto as Exhibit "B".

7. CONTRACT PENALTY: The CONSULTANT shall pay to the CITY the amount of \$ 100.00 Dollars per calendar day for unexcused delay in completion of the project past the date of completion.

8. PAYMENT: The CITY shall pay the contract sum to CONSULTANT upon complete performance of the project and terms of this Agreement. CONSULTANT shall provide to CITY an Affidavit from the CONSULTANT stating the CONSULTANT has fully performed all terms of the Agreement. Final payment shall be made no later than 30 days after receipt of said Affidavit. Upon completion of any additional services, said additional services shall be paid within 30 days of receipt of invoice from CONSULTANT. Payment(s) shall be made via electronic funds transfer (EFT).

9. CITY COVENANTS: CITY covenants and agrees:

(a) to provide all available information, data, reports, records and maps to which CITY has possession or control which are necessary for CONSULTANT to perform the scope of services provided for herein;

(b) to provide reasonable assistance and cooperation to CONSULTANT in obtaining any information or documentation which are necessary for CONSULTANT to perform the scope of services provided for herein;

(c) to designate a representative authorized to act on the CITY's behalf with respect to the project. Unless otherwise provided, said CITY representative shall be the Director of Public Works;

(d) to permit access to the subject public property and obtain permission to access necessary private property for CONSULTANT to complete the scope of services;

(e) to provide reasonable assistance to CONSULTANT in applying for and obtaining any necessary Federal, State or local government permits for the scope of services;

10. CONSULTANT COVENANTS: CONSULTANT covenants and agrees:

(a) to perform the scope of services in a professional manner, using that degree of care and skill ordinarily exercised by consultants practicing in the same or similar field;

- (b) to use only employees and subcontractors qualified to complete the work with sufficient experience in same or substantially similar projects;
- (c) to use only properly licensed employees or subcontractors for any work requiring a specialty or professional license issued by the State of Georgia;
- (d) to designate a representative authorized to act on the CONSULTANT's behalf with respect to the project.
- (e) to use the subject property in a safe, careful and lawful manner;
- (f) to promptly report in writing to CITY any unsafe or defective condition of the subject property and any adverse site condition, which shall include but not be limited to limited access, extremely dense vegetation, subsurface conditions, damaged property, or existing utilities, that may adversely affect CONSULTANT's ability to complete the scope of services or other terms of this Agreement;
- (g) to promptly report in writing to CITY any damage to or injuries sustained on the subject property and to promptly repair any damage to the subject property which is made necessary by any act of CONSULTANT, its employees, agents, subcontractors, or invitees;
- (h) to keep the subject property in a clean and orderly condition and to remove any personal property of CONSULTANT upon completion of the project;
- (i) to perform all work on the project in a good and workmanlike manner, free from faults and defects, and in conformance with the terms of this Agreement;
- (j) to determine the appropriate method, details and means of performing the scope of services provided by this Agreement;
- (k) to exercise the ordinary standard of care in complying with the laws, codes, and regulations applicable to the CONSULTANT's services;
- (l) to exercise diligence and to complete delivery of the scope of services in a timely manner consistent with the exercise of due care;
- (m) to attend meetings to make presentations or to otherwise review the progress of the work as set out in the scope of services at the reasonable request of the CITY;
- (n) to prepare and submit to the CITY reports required by the scope of services or upon the written request of the CITY.

11. INDEMNITY: CONSULTANT shall indemnify CITY from and hold CITY harmless against all claims, demands and judgments for loss, damage or injury to person or property, resulting from or incurring by reason of CONSULTANT'S use and occupancy of the subject property or by the negligence, acts, errors or omissions with respect to the performance of the professional services of CONSULTANT, its employees, agents, subcontractors, or invitees and from all expenses incurred by CITY as a result thereof including, without limitation, reasonable attorneys' fees and expenses and court costs, except if arising from or caused by the sole fault or negligence of CITY or any of CITY's employees, agents or representatives acting on behalf of the CITY.

Additionally, pursuant to State law, CITY shall not indemnify or hold harmless CONSULTANT for any claims arising from the actions or omissions of CONSULTANT or any third party.

Additionally, CONSULTANT agrees that all personal property that may be at any time at the subject property shall be at CONSULTANT's sole risk or at the risk of those claiming through CONSULTANT and that CITY shall not be liable for any damage to or loss of such personal property except if arising from or caused by the sole fault or negligence of CITY.

12. INSURANCE: CONSULTANT agrees to carry at its own expense through the term of this Agreement the types and amounts of insurance required to maintain status as a Vendor of the City of Dalton or as provided herein below, whichever is greater. CONSULTANT shall provide CITY with copies or evidence of such insurance coverage prior to the commencement date of the Agreement. Such insurance policies shall name CITY as an additional insured and shall be issued by such insurance companies and on such forms as may be approved by CITY. Said insurance shall include the following:

- (a) General Liability Coverage - General Liability policy with a minimum limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- (b) Workers' Compensation Coverage – Workers' Compensation policy with the following minimum limits:
 - (1) Workers' Compensation statutory limits;
 - (2) Employer's Liability:
 - a. Bodily Injury by Accident - \$100,000.00
 - b. Bodily Injury by Disease - \$500,000.00 policy limit
 - c. Bodily Injury by Disease - \$100,000.00 each employee.

CONSULTANT shall complete the Workers' Compensation Insurance Affidavit of the City of Dalton to determine if any exemption to Workers' Compensation Insurance is applicable.

- (c) Auto Liability Coverage – Auto Liability policy with a minimum of \$1,000,000.00 limit per occurrence for bodily injury and property damage, if motor vehicle is used in performance of scope of services. Comprehensive form covering all owned, non-owned, and hired vehicles.

(d) Professional Services Errors & Omissions Coverage – Professional Services E&O policy with a minimum of \$1,000,000.00 per claim.

14. ASSIGNMENT: CONSULTANT may not assign all or any portion of the Agreement without the prior written permission of CITY.

15. SUBCONTRACTOR: The CONSULTANT shall provide written notice to CITY of CONSULTANT’S intent to use a subcontractor for any portion of the project. CITY shall be entitled to reject any subcontractor it deems not qualified to complete the project. Any subcontractor approved for work on the project shall abide by any and all terms of this Agreement.

16. NON-WAIVER OF DEFAULT: The failure or delay by either party hereto to enforce or exercise at any time any of the rights or remedies or other provisions of this Agreement shall not be construed to be a waiver thereof, nor affect the validity of any part of this Agreement or the right of either party thereafter to enforce each and every such right or remedy or other provision. No waiver of any default or breach of the Agreement shall be held to be a waiver of any other default and breach.

17. NOTICES: Any notice required or permitted to be given under this Agreement or by law shall be deemed to have been given if reduced in writing and delivered in person or mailed by certified mail, return receipt requested, postage prepaid to the party who is to receive such notice.

Such notice to CITY shall be mailed to: City of Dalton
ATTN: City Administrator
P.O. Box 1205
Dalton, GA 30722-1205

Such notice to CONSULTANT shall be mailed to: Geo-Hydro Engineering Inc.
1000 Cobb Place Blvd, Suite 290
Kennesaw, Georgia 30144

When so mailed, the notice shall be deemed to have been given as of third (3rd) day after the date it was mailed. The addresses may be changed by giving written notice thereof to the other party.

18. CONTRACT DOCUMENTS: The Agreement shall include the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Addenda relating to bidding and proposal requirements, and any other written information provided by the CITY in anticipation of receiving bids or proposals, if any, except as specifically excluded herein, and the CONSULTANT’S bid or proposal. The terms of this Agreement shall supersede any terms in the above-referenced documents in direct conflict with the terms of this Agreement.

Additionally, the Contract Documents and all drawings, plans, specifications and other related construction or service related documents shall be the sole property of the CITY. The CONSULTANT shall be permitted to retain copies thereof for its records and for its future professional services.

Additionally, CITY shall be authorized to rely upon all documents, whether in hard copy or electronic format, provided by CONSULTANT. Any changes to the material terms of any document shall be clearly identified and noted to CITY.

19. VENDOR: CONSULTANT shall register and remain active as a Vendor of the CITY by completing the City of Dalton Vendor Packet and fully comply with any and all requirements of said Vendor during the term of this Agreement.

20. TERMINATION OF CONTRACT: In the event that CONSULTANT defaults or neglects to perform work on the project in accordance with the terms of this Agreement, CITY may terminate this Agreement by providing written notice of termination. Prior to termination of this Agreement for default, CITY shall provide written notice to CONSULTANT of any default and provide CONSULTANT ten (10) days to correct said default or deficiency,

21. MISCELLANEOUS PROVISIONS:

(a) Governing Law; Venue. This Agreement is being executed and delivered in the State of Georgia and shall be construed and enforced in accordance with the laws of that state. 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.

(b) Successors and Assigns. This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties. CONSULTANT shall not assign its rights or obligations under this Agreement without the prior written consent of the CITY.

(c) Severability of Invalid Provisions. If any provision of this Agreement shall be deemed invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

(d) Complete Agreement; Amendments. This Agreement constitutes the entire agreement between the parties hereto; it supersedes all previous understandings and agreements between the parties, if any, and no oral or implied representation or understanding shall vary its terms, and it may not be amended except by written instrument executed by both parties hereto.

(e) Remedies Cumulative. All rights, powers, and privileges conferred hereunder upon the parties hereto shall be cumulative, but not restrictive to those given by law.

(f) Time is of the Essence. Time is of the essence of this Agreement in each and all of its provisions.

(g) Confidentiality. All information and documentation regarding the project and the CONSULTANT's services shall be maintained in confidence and shall not be disclosed to any third party by CONSULTANT, without CITY's written authorization, except as may be required by the Georgia Open Records Act. CONSULTANT shall promptly notify CITY of any third party request for said information or documentation prior to any disclosure. CITY agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by CONSULTANT pertaining to this Agreement shall be considered confidential and proprietary, and shall not be disclosed to any third party, except as may be required by the Georgia Open Records Act.

(h) The terms and conditions of services, as modified, accompanying the written Proposal of Consultant dated March 2, 2022 shall be applicable to this Professional Services Agreement to the extent that any provision such of terms and conditions of service do not conflict with any provision of this General Professional Services Agreement. In the Event of such conflict, the terms of this General Professional Services Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

CONSULTANT:

CONSULTANT:
Geo-Hydro Engineering Inc.

By: _____

Title: _____

CITY:

CITY OF DALTON, GEORGIA

By: _____
MAYOR

Attest: _____
CITY CLERK

Mr. Chad Townsend
Director of Public Works
City of Dalton
300 Waugh Street
Dalton, Georgia 30720

March 2, 2022

**Proposal to Provide
Construction Materials Testing Services
Northeast Community Complex Soccer Fields
Dalton, Georgia
Geo-Hydro Proposal Number 221365.P0**

Dear Mr. Townsend:

Geo-Hydro Engineers appreciates the opportunity to provide this proposal to perform Construction Materials Testing Services for the above referenced project. The project site is located off Hale Bowen Drive in Dalton, Georgia. We have received the civil plans dated August 2, 2021, by GMC, for review. Building construction plans were not available at the time of this proposal. We have based this proposal on the information provided to date and our experience with similar projects.

The project involves construction of two new soccer fields, one restroom/concession building, and associated utilities and parking.

SCOPE OF WORK

Construction Materials Testing Services

Subgrade Evaluations and Field Density Testing

At-grade areas and areas to receive structural fill will be evaluated by proofrolling with a loaded dump truck, scraper, or other similar rubber-tired equipment and recommendations for dealing with unstable soils if encountered.

We will obtain bulk samples of proposed fill or backfill soils and conduct laboratory testing to determine the standard or modified Proctor maximum dry density. We will perform requested field density testing of fill or backfill soils.

Foundation Bearing Surface Evaluations

Our representative will be on site to perform foundation bearing surface testing. The foundation system will consist of shallow foundations. Geo-Hydro's recommended approach to the testing of shallow foundation excavations bearing in soil is to perform hand auger and dynamic cone penetrometer testing at select locations. We will perform these tests in accordance with the general guidelines established in ASTM STP-399. If the required bearing capacity is not available based on our evaluations, remedial recommendations will be provided in a timely manner so as not to unnecessarily delay the construction process.

Observation of Reinforcing Steel

Our representatives will be present to observe that concrete reinforcing steel is in compliance with the project documents for quantity, size, and location. Typically, our site representative will compare the as-built condition of the reinforcing steel to the approved structural and shop drawings. If any discrepancies are observed, they will be immediately brought to the attention of the field personnel so that appropriate corrections can be implemented.

Concrete Testing

Geo-Hydro's technicians will be present to sample and test structurally significant concrete. Typically, for each sampling event we will perform physical tests to determine the slump, air content, and temperature, and we will cast test cylinders for subsequent compressive strength testing. We will transport cylinders to our laboratory for moist-curing and compressive strength testing which will be performed at the required test interval.

Project Administration and Miscellaneous Consultation

We will provide our professional staff as necessary for project administration, data review and transmittal, preparation of letters, attending meetings, etc.

Limitations of Services

- Our presence at the job site and our performance of construction materials testing must not be construed as relieving the contractor of its responsibility to comply with the plans and specifications.
- Construction materials testing consists of a representative sampling of the construction materials. One must not interpret the test results as a guarantee that the entire work product is represented by the results.
- Our services and any observations or recommendations we make must not be construed in any way as relieving the contractor from his responsibilities relating to job site safety.
- Our representatives do not have the authority to supervise the work nor to direct the contractor's personnel.

FEE

Based on our understanding of the scope of services required for this project, we have attached a cost estimate for construction materials testing services and special inspections for the referenced scope of work and durations presented in the included cost breakdown.

There is no precise way of determining our final costs since they will depend on the actual construction schedule, weather, and other factors beyond our control. Therefore, we will bill for all of our services on a unit-rate basis in accordance with the attached Schedule of Fees.

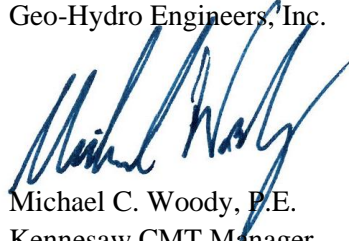
We will submit progress invoices at the end of each month for which our services are provided. No change orders will be issued for the scope of services within our cost breakdown. Change orders, if any, will only be requested for agreed upon additional scope items beyond what is indicated on our cost estimate.

* * * * *

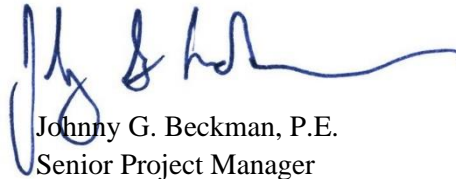
If this proposal is acceptable, please authorize our services by executing and returning the attached agreement or by providing us your professional services contract. We look forward to working with you on this project. Please contact us if you have any questions.

Respectfully,

Geo-Hydro Engineers, Inc.



Michael C. Woody, P.E.
Kennesaw CMT Manager
mwoody@geohydro.com



Johnny G. Beckman, P.E.
Senior Project Manager
jbeckman@geohydro.com

JGB\MCW\221365.P0 Northeast Community Center Soccer Fields Proposal

CONSTRUCTION MATERIALS TESTING AND SPECIAL INSPECTIONS COST ESTIMATE

SUBGRADE EVALUATIONS & SOIL DENSITY TESTING

Subgrade Evaluations and Density Testing (Based on 15 days at 6 hours per day)

90 hours	Senior Engineering Technician	at	\$60.00 per hour	\$5,400.00
Laboratory Testing				
1 tests	Standard Proctor (ASTM D 698)	at	\$150.00 each	\$150.00
Project Management				
15 hours	Senior Project Manager	at	\$140.00 per hour	\$2,100.00
Travel				
15 trips	Mileage (120 miles per trip)	at	\$0.58 per trip	\$1,044.00
Subtotal				\$8,694.00

SHALLOW FOUNDATION EVALUATION

Building Shallow Foundation Evaluations (Based on 2 trips @ 4 hours each)

8 hours	Senior Engineering Technician	at	\$60.00 per hour	\$480.00
Project Management				
2 hours	Senior Project Manager	at	\$140.00 per hour	\$280.00
Travel				
2 trips	Mileage (120 miles per trip)	at	\$0.58 per mile	\$139.20
Subtotal				\$899.20

CAST-IN-PLACE CONCRETE TESTING AND REINFORCING STEEL OBSERVATIONS

Field Concrete Testing and Sampling (Based on 3 pours @ avg. 5 hours each)

15 hours	Senior Engineering Technician	at	\$60.00 per hour	\$900.00
Sample Pickups (When not combined with other services, 3 trips @ 2 hours each)				
6 hours	Senior Engineering Technician	at	\$60.00 per hour	\$360.00
Laboratory Testing				
20 specimens	Compressive Strength	at	\$20.00 each	\$400.00
Project Management				
3 hours	Senior Project Manager	at	\$140.00 per hour	\$420.00
Travel				
6 trips	Mileage (120 miles per trip)	at	\$0.58 per mile	\$417.60
Subtotal				\$2,497.60

TOTAL MATERIALS TESTING COST ESTIMATE \$12,090.80

Geotechnical Engineering Construction Materials Testing, Special Inspections, and NPDES Compliance Services Schedule of Fees

Northeast Community Complex Soccer Fields
Dalton, Georgia
Geo-Hydro Proposal Number 221365.P0

FIELD TESTING SERVICES

Soil, Concrete, and Miscellaneous Testing

Engineering Technician, per hour.....	\$ 50.00
Senior Engineering Technician, per hour.....	\$ 60.00
Special Inspection Technician, per hour.....	\$ 70.00

Steel Testing

Structural Steel Inspector, per hour.....	\$ 110.00
Skidmore-Wilhelm Bolt Tension Calibrator., per day.....	\$ 75.00
Ultrasonic Flaw Detector, per day.....	\$ 120.00

Coring - Pavement or Concrete

Equipment Rental (generator & coring machine), per day.....	\$ 100.00
Diamond Bit Usage, per inch diameter, per lineal inch.....	\$ 1.50
Coring Technician, per hour.....	\$ 65.00

Special Field Test Equipment

Floor Flatness Test Equipment, per day.....	\$250.00
“Profometer 4” rebar locator, per day.....	\$150.00
Windsor Probe, per shot.....	\$ 35.00
Nuclear Density Gauge, per day.....	\$ 40.00
Pavement Quality Indicator (PQI) Non-Nuclear Density Gauge, per day.....	\$ 40.00
StructureScan Mini all-in-one high-resolution GPR, per day.....	\$300.00
Thermal Imaging Camera, per day.....	\$250.00

NOTE: Above special field test equipment requires an operator billed at the appropriate hourly rate.

StructureScan Mini all-in-one high-resolution GPR, half day.....	\$800.00
<i>(Includes travel, operator, and report)</i>	
StructureScan Mini all-in-one high-resolution GPR, full day.....	\$1,500.00
<i>(Includes travel, operator, and report)</i>	

NPDES SERVICES

NPDES Inspection, per trip.....	\$ 150.00
Monthly Monitoring Report, each.....	\$ 115.00
Automatic Storm Water Sampler, per month.....	\$ 150.00
Turbidity Analysis, each.....	\$ 20.00

PROFESSIONAL CONSULTING SERVICES

Principal Engineer/Geologist, per hour.....	\$ 185.00
Senior Project Manager/Senior Registered Engineer, per hour.....	\$ 140.00
Project Manager/Registered Engineer, per hour.....	\$ 120.00
Special Inspection Professional, per hour.....	\$ 95.00
Staff Professional, per hour.....	\$ 85.00
Engineering Aide, per hour.....	\$ 65.00
Administrative Assistant, per hour.....	\$ 40.00

Geotechnical Engineering Construction Materials Testing, Special Inspections, and NPDES Compliance Services Schedule of Fees

Northeast Community Complex Soccer Fields
Dalton, Georgia
Geo-Hydro Proposal Number 221365.P0

LABORATORY TESTING SERVICES

Soil-Cement/Cement Treated Base Mix Design Testing

Mix Design with up to Three Cement Amendment rates, each.....	\$ 1,500.00
Proctor Compaction Tests (ASTM D558), each.....	\$ 150.00
Soil-Cement Specimens, Compressive Strength, per specimen	\$ 15.00

Soil & Graded Aggregate Base Material

Proctor Compaction Tests	
Standard (ASTM D-698), each	\$ 150.00
Modified (ASTM D-1557), each	\$ 200.00
Atterberg Limits (ASTM D-4318), each	\$ 95.00
Soil Particle Size Analysis with Hydrometer (ASTM D-422), each	\$ 150.00
Particle Size Analysis of Coarse Aggregate (ASTM C-136), each	\$ 125.00

Concrete, Grout, Mortar, and Masonry

Cylinders, Compressive Strength (ASTM C-39), per cylinder	\$ 20.00
Beams, Flexural Strength (ASTM C-78), each.....	\$ 25.00
Concrete Cores, Lab Preparation and Compressive Strength	
Testing, (ASTM C-42), each	\$ 60.00
Cube Specimens (2" x 2"), Lab Preparation and Compressive	
Strength Testing (ASTM C-109), each.....	\$ 15.00
Masonry Grout Compressive Strength, Lab Preparation	
and Compressive Strength Testing, (ASTM C-1019), each	\$ 15.00
Masonry Prisms, Lab Preparation and Compressive Strength	
Testing, (ASTM C 1314), each.....	\$ 150.00
Concrete Masonry Unit (CMU) Lab Preparation and	
Compressive Strength Testing, (ASTM C 140), each	\$ 140.00

Bituminous Materials

Bitumen Content & Gradation (ASTM D-2172; GDT-83), each.....	\$ 300.00
Core Density and Thickness Determination, each.....	\$ 35.00
For cores which require splitting add, each	\$ 10.00
Theoretical Voidless Density Determination (AASHTO T-209), each.....	\$ 200.00

MISCELLANEOUS

Mileage, per mile.....	\$ 0.58
Authorized Ancillary Expenses.....	Cost + 15%

- Hourly rates are portal to portal. -All prices are quoted for services performed during a normal 8:00 a.m. to 5:00 p.m. work day (Monday through Friday). For services required outside of these hours (or on Saturday, Sundays and holidays), multiply unit rates by 1.5. A minimum charge of 4 hours will apply to all necessary weekend or holiday work
- Expert witness testimony will be billed at a multiplier of 2.0 times the appropriate unit rate for all time spent in preparation, depositions, court appearances, etc.
- Prices are valid for 90 days from date of schedule.

AGREEMENT

Project Name: Northeast Community Center Soccer Fields

Project Location: Dalton, Georgia

Proposal Number: 221365.P0 Date: March 2, 2022

The Client, as identified and defined below, engages Geo-Hydro Engineers, Inc. to provide the services on the Project as detailed in the proposal previously provided to the Client, the terms of which are incorporated herein and made a part of this Agreement. The general terms and conditions on the following pages are likewise incorporated herein and are explicitly made part of this Agreement.

This Agreement is entered into this _____ day of _____, _____ between

Geo-Hydro Engineers, Inc. (“Consultant”) and _____ (“Client”).

GEO-HYDRO ENGINEERS, INC.

Client Firm Name

Signature of Authorized Agent

Signature of Authorized Agent

Print Name

Print Name

Title

Title

Please complete information in box

Billing Entity Name _____

Individual to Receive Invoices _____

Email address _____ Phone No. _____

Street Address _____

City and State: _____

TERMS AND CONDITIONS OF SERVICE

A. STANDARD OF CARE.

Services under this contract will be performed by Consultant in accordance with that degree of care and skill ordinarily exercised under similar conditions by members of Consultant's profession practicing in the same locality.

B. CERTIFICATION.

Consultant may employ sampling procedures during the course of the work. Client acknowledges that such procedures indicate actual conditions only at the precise locations and elevations from which samples were taken. Client further acknowledges that, in accordance with the generally accepted construction practice, Consultant shall make certain inferences based on the results of sampling and any related testing to form a professional opinion of conditions in areas beyond those from which samples were taken. Client acknowledges that despite proper implementation of sampling and testing procedures, and despite proper interpretation of their results, Consultant cannot guarantee the existence or absence of conditions which it may infer to exist. Client further acknowledges and agrees that Client shall not cause any resolution of a dispute, including, but not limited to, payment or settlement, contingent upon Consultant's certification of certain conditions, without first receiving Consultant's written certification regarding those conditions.

C. WARRANTIES.

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, CONSULTANT MAKES NO WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO CONSULTANT'S WRITTEN REPORTS, FINDINGS, OPINIONS, OR SERVICES PROVIDED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

D. EXISTING CONDITIONS.

Client agrees that subsurface explorations and geotechnical or environmental engineering evaluations are subject to naturally occurring and/or man-made soil and other conditions which cannot always be discovered or anticipated and that a potential exists for such phenomena to impact the Project in ways for which Consultant cannot be responsible. Client shall disclose, at least 7 days before any scheduled inspections by Consultant, the presence and location of all known man-made or naturally occurring objects which could be affected by or affect field tests or borings to be performed by Consultant.

Client acknowledges and agrees that Consultant has neither created nor contributed to the creation or existence of any irritant, pollutant, or hazardous, radioactive, toxic, otherwise dangerous or harmful substance that may exist at the site, or dangerous conditions resulting therefrom. Client further acknowledges that Consultant's sole role is to provide a service intended to benefit Client and that Consultant is performing no function at or association with the site that would classify Consultant as a generator, disposer, treater, storer, coordinator, handler, or transporter of hazardous materials.

(i) SAMPLING OR TEST LOCATION.

Unless otherwise stated, the fees in this proposal do not include costs associated with surveying of the site for the accurate horizontal and vertical locations of tests. Field tests described in a report or shown on sketches are based upon information furnished by others or estimates made in the field by Consultant's representatives. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated.

(ii) HAZARDOUS SUBSTANCES.

Client agrees to advise Consultant, in writing, of any hazardous substances on or near the site within 24 hours after Client learns about the presence of such hazardous substances. In the event that test samples obtained contain substances hazardous to health, safety, or the environment, these samples shall remain the property of the Client. Likewise, any equipment which becomes contaminated and cannot be reasonably decontaminated shall become the property and responsibility of Client. Such samples or equipment will be delivered to Client. Client agrees to pay transportation costs for samples and equipment and the fair market value of such contaminated equipment upon request. Exploratory activities may expose soil and/or ground water considered to be hazardous by local and/or state and/or federal agencies. Consultant agrees to contain such materials in a manner approved by Consultant both during and at the completion of Consultant's field activities. Client understands and agrees that Client, and not Consultant, is responsible for the storage or disposal of hazardous materials or suspected hazardous materials brought to the surface during Consultant's exploratory activities.

(iii) DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Client agrees that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. Client also agrees that the discovery of unanticipated hazardous materials could make it necessary for Consultant to take immediate measures to protect human health, safety, or the environment. Consultant agrees to notify Client as soon as practically possible should unanticipated hazardous materials or suspected hazardous materials be encountered. Client encourages Consultant to take any and all measures that in Consultant's professional opinion are justified to preserve and protect the health and safety of Consultant's personnel, and Client agrees to compensate Consultant for the additional cost of such work. In addition, Client waives any claim against Consultant, and agrees to indemnify, defend, and hold Consultant harmless from any claim or liability for injury, loss or perceived loss arising from Consultant's encountering of unanticipated hazardous materials or suspected hazardous materials. Client acknowledges that discovery of hazardous materials or suspected hazardous materials may lead to a temporary or permanent diminution of property value, and/or may cause delays in or otherwise affect completion of the real estate transaction Client now contemplates.

E. AQUIFER CONTAMINATION.

Subsurface sampling may result in unavoidable contamination of certain subsurface areas, as when a probe or boring device moves through a contaminated area, linking it to an aquifer, underground stream, or other hydrous body not previously contaminated and capable of spreading hazardous materials off-site. Because nothing can be done to eliminate the risk of such an occurrence, and when subsurface sampling is a part of the work which Consultant will perform on Client's behalf, Client hereby waives any claim against Company, and agrees to defend, indemnify and hold Consultant harmless from any claim or liability for injury or loss which may arise as a result of alleged cross-contamination caused by sampling. Client further agrees to compensate Consultant for any time spent or expenses incurred by Consultant in defense of such claim, including, but not limited to, any attorneys' fees and expenses incurred by Consultant, in accordance with Consultant's prevailing fee schedule and expense reimbursement policy.

F. SAMPLES, DATA AND RECORDS.

Consultant shall be the sole owner of any and all data gathered by Consultants or reports prepared by Consultant. No entity or individual, other than Consultant, its representatives, or Client, may use or rely upon any data collected by Consultant or reports prepared by Consultant. Except as expressly set forth in this Agreement, Consultant and Client do not intend the benefits of this Agreement, including, but not limited to, the samples, data, and records created by Consultant, to inure to any third party, and nothing contained herein shall be construed as creating any right, claim or

cause of action in favor of any such third party, against either Consultant or Client.

Routine test specimens will be discarded immediately upon completion of tests. Consultant shall retain drilling samples of soil or rock for a period of ninety (90) days following submission of Consultant's report to Client. If Client requests a longer period of storage, Consultant will retain test specimens or drilling samples for an agreed upon time period and fee. Records relating to services hereunder shall be maintained by Consultant for at least three (3) years following completion of Consultant's services.

G. ENTRY.

Client shall provide Consultant, its representatives, and equipment with right of entry on to the Project site. Consultant will endeavor to minimize damage to the land upon which the project is located, however Consultant shall not be under any duty or responsibility whatsoever to restore the Project site to its condition prior to performance of any tests or borings unless a separate agreement to do so is acknowledged in writing with Client. Unless otherwise indicated, Consultant's scope of service contains no provision for backfilling boreholes, test pits, or other exploration holes created to facilitate testing. Client hereby acknowledges that, unless some other arrangement is made in writing between Client and Consultant, Consultant cannot be held liable for any injuries or damages that may occur for Consultant's failure to perform services not included in the Proposal or this Agreement. Client further acknowledges that testing operations may result in damage to certain landscaping or improvements, due to the tests themselves, disposal of cuttings or ground water, movement of equipment, or due to other cause(s) that can commonly occur and are outside Consultant's control. Consultant will attempt to avoid causing damage, but Client understands and acknowledges that Consultant cannot guarantee damage will not occur and, accordingly, Client agrees to waive any claim against Consultant and to hold harmless, indemnify, and defend Consultant for any claim alleging injury or damage as a consequence of unfilled exploration holes on the site or any other disturbance to natural conditions of or any improvements on the site. Any costs of such restoration shall be added to our compensation pursuant to an agreed-upon price and terms set forth in a separate written agreement entered into between Consultant and Client.

H. FIELD MONITORING AND TESTING.

Whenever Consultant's personnel make on-site observations of materials and/or services provided by a contractor engaged by Client (the "Contractor"), Client agrees that Consultant is not responsible for the Contractor's means, methods, techniques, sequences or procedures of construction. Client acknowledges and agrees that the field services provided by Consultant shall not relieve the Contractor of his responsibilities for performing the work in accordance with the plans and specifications. The words "monitoring," "supervision," "inspection," or "control" mean the periodic observation of the work and the conducting of tests by Consultant to verify substantial compliance with the plans, specifications, and design concepts for the Project. Continuous or full-time monitoring does not mean that our personnel are observing placement of all materials or that we assume any responsibility or liability for placing or directing placement of materials.

I. SAFETY.

During the provision of observations or monitoring services at the job site during construction, Client agrees that in accordance with the generally accepted construction practice, the contractor will be solely and completely responsible for working conditions on the job site, including safety of all persons and property during the performance of the work and compliance with OSHA regulations. These requirements will apply continuously and are not limited to normal working hours. Any monitoring of the contractor's procedures conducted by

Consultant does not include review of the adequacy of the contractor's safety measures in, on, adjacent to, or near the construction site.

J. FREEDOM TO REPORT.

It is contemplated that, during the course of this engagement, Consultant may be required to report on the past or current performance of others engaged or being considered for engagement directly or indirectly by Client and to render opinions and advice in that regard. Those about whom reports and opinions are rendered may, as a consequence, initiate claims of libel or slander against Consultant and its present or former principals, officers, shareholders, directors, agents, representatives, consultants, successors, insurers, and attorneys (the "Consultant Representatives"). To help create an atmosphere in which Consultant's personnel feel free to express themselves candidly, Client agrees (1) to waive any claim against the Consultant Representatives and (2) to defend, indemnify, and hold harmless the Consultant Representatives from any claim or liability for injury or loss allegedly arising from professional opinions rendered by Consultant to Client or Client's agents, including, but not limited to, claims for slander or libel. Client further agrees to compensate the Consultant Representatives for any time spent or expenses incurred by the Consultant Representatives in defense of any such claim, in accordance with Consultant prevailing fee schedule and expense reimbursement policy. Client acknowledges that Client and/or Consultant may be required by local, state, and/or federal statute and/or regulations to report the discovery of hazardous materials to a government agency, and that Consultant, when practical, will do so only after notifying Client. Client waives any cause of action, claim, suit, or demand associated with Consultant's compliance with its duties to report as required by local, state, and/or federal laws and regulations.

K. PAYMENT.

Client agrees to pay Consultant in full for all services provided by Consultant to Client. Time is of the essence regarding payment of Consultant's invoices. Client's obligation to pay Consultant is not dependent upon Client's ability to obtain financing, approval of any governmental or regulatory agency, or upon Client's successful completion of the Project. Consultant reserves the right to submit progress invoices to Client on a monthly basis and a final invoice upon completion of Consultant's work. Each invoice is due and payable to Consultant, by Client, immediately upon presentation. All amounts due to Consultant and not paid within thirty (30) days of the presentation of the invoice shall bear interest at the rate of eighteen percent (18%) per annum (or the maximum permissible rate allowed by law) until paid in full.

~~If any obligation of Client hereunder is collected by legal proceeding, including, but not limited to, a demand letter, lawsuit, arbitration, and/or mediation, Client shall pay to Consultant, in addition to the amount due, all Costs of Collection (as defined below), including, but not limited to, fifteen percent (15%) of the total amount due by Client to Consultant as reasonable attorney's fees as well as all costs incurred by Consultant if the legal proceeding does not result in a lawsuit or arbitration proceeding, and thirty percent (30%) of the total amount due by Client to Consultant as reasonable attorneys' fees as well as all court costs incurred by Consultant if the legal proceeding results in a lawsuit or arbitration proceeding. "Costs of collection" shall include, but are not limited to, the hourly cost to Consultant for employee's time expended in collection efforts.~~

-JS 3/4/22

L. TERMINATION.

In the event that Client requests termination of the work prior to completion, Consultant reserves the right to complete such analysis and records as are necessary to place Consultant's files in order and to complete a report on the work performed to date. Client acknowledges and agrees that the amount of damages that Consultant will sustain in the event Client terminates this Agreement prior to Consultant's completion of its work required by the proposal and this Agreement will be uncertain or difficult to ascertain. As such, Client agrees that in the event Client terminates this Agreement prior to Consultant's completion of the work required by the proposal and this Agreement, Client shall be liable to Consultant for liquidated damages in the amount equal to thirty percent (30%) of all charges incurred as of the date of Client's termination of the Agreement (the "Liquidated Damages")

acknowledges and agrees that the foregoing Liquidated Damages do not represent a penalty, but rather, represent a good faith pre-estimation by the parties of the damages that would be incurred by Consultant.

M. PROFESSIONAL LIABILITY.

Client agrees that the liability of Consultant and its principals, officers, shareholders, directors, agents, representatives, consultants, successors, insurers, and attorneys, to Client due to any negligent professional acts, errors or omissions, or breach of contract will be limited to an aggregate of \$50,000.00 or Consultant's total fee, whichever is greater. If Client prefers to have higher limits of professional liability, Consultant agrees to increase the limit up to a maximum of the available professional liability insurance proceeds at the time of judgment or settlement upon Client's written request at the time of accepting Consultant's proposal, providing that Client agrees to pay an additional consideration of ten percent of Consultant's total fee, or \$500.00, whichever is greater. The additional charge for the higher liability limit is because of the greater risk assumed by Consultant and is not a charge for additional professional liability insurance.

-JS 3/4/22

Consultant does not assume any responsibilities, duties, or obligations of Client or any other entity or individual. Consultant's performance shall not be considered to reduce, eliminate, abridge, or abrogate, any responsibilities, duties, or obligations of any other party. Consultant is not responsible for the design or construction of the project or the failure of any party to perform in accordance with the plans and specifications for the Projects or any of Consultant's recommendations or instructions.

N. INDEMNIFICATION.

Client shall indemnify and hold harmless Consultant and its officers, directors, agents, and employees from any loss, damage, or liability, including, but not limited to, Consultants' attorneys' fees and costs, resulting from, relating to, or arising out of the following: (i) subsurface conditions, damage to subsurface structures, whether owned by Client or any third party, the presence or location of which were not revealed to Consultant by Client in writing at least 7 days prior to the commencement of Consultant's performance; (ii) any alleged cross-contamination caused by Consultant's sampling; (iii) unanticipated hazardous materials discovered during the course of Consultant's work; (iv) any damage to Consultant's equipment or personnel as a result of actions engaged in by the Contractor; or (v) any alleged aquifer cross-contamination caused by Consultant's sampling.

-JS 3/4/22

O. CONFIDENTIALITY.

Consultant agrees to keep confidential and not to disclose to any person or entity, other than Consultant's principals and employees, any data or information not previously known to and generated by Consultant or furnished to Consultant and marked CONFIDENTIAL by Client ("Confidential Information"). These provisions shall not apply to information in whatever form that is in the public domain, nor shall it restrict Consultant from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency, arbitrator, or other legitimate authority, or if disclosure is reasonably necessary for Consultant to defend itself from any legal action or claim.

P. NON-CIRCUMVENTION.

Each party agrees that the information disclosed pursuant to this Agreement, including, but not limited to, any Confidential Information, will be used solely and exclusively for the purpose of Consultant providing the services on the Project as detailed in the proposal. Each party agrees that it shall not seek to circumvent the other or make use of the other's Confidential Information or trade secrets, including, but not limited to, its relationships with any third-party service providers to enhance their own business in any way. Any

Confidential Information disclosed pursuant to this Agreement will not be used by the receiving party to generate revenues nor to create other commercial arrangements without the prior written consent of the disclosing party.

Q. GOVERNING LAW; VENUE.

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties to this Agreement, shall be governed and construed by the laws of the State of Georgia, and Venue shall lie in the State of Georgia, Cobb County, for all causes of action under this Agreement.

R. SEVERANCE; SURVIVAL.

-JS 3/4/22

If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any party hereto under this Agreement will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance here from and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible.

S. EXECUTION.

This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall together constitute one document. In the event one or more of the parties intends to sign and deliver this Agreement by facsimile transmission, ".pdf", or "jpeg," each party agrees that the delivery of the Agreement by facsimile, ".pdf", or "jpeg" shall have the same force and effect as delivery of original signatures, and each party may use such facsimile, ".pdf", or "jpeg" signatures as evidence of the execution and delivery of the Agreement by all parties to the same extent that an original signature could be used.

T. REPRESENTATIONS.

Client represents and warrants that it has full authority to enter into this Agreement and to consummate the transactions contemplated herein, and that this Agreement is not in conflict with any other Agreement to which Client is a party or by which it may be bound.

U. MISCELLANEOUS.

This instrument constitutes the entire agreement of the parties. There are no terms or conditions except those set forth herein. This Agreement may not be modified, altered, or amended except in a subsequent written instrument executed by each of the parties which refers to this Agreement and specifies the amendment made. No waiver of any breach of this Agreement shall be deemed or considered a waiver of any other or subsequent breach. Paragraph headings are used to facilitate reference to the various provisions and do not affect the meaning or construction of any provision. This Agreement is governed by the laws of the State of Georgia.



CITY COUNCIL AGENDA REQUEST

Meeting Type: Mayor & Council Meeting

Meeting Date: 03/07/2022

Agenda Item: Professional Services Agreement with Childers Associates – Real Estate Consultants and Appraisers for Market Street and Flood Mitigation Project Properties

Department: Administration

Requested By: Megan Elliott

Reviewed/Approved by City Attorney? Yes

Cost: \$87,500 (Not to Exceed Price)

Funding Source if Not in Budget 2021 Bond Series

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

This request is to approve the Professional Services Agreement with Childers Associates for Market Street and Flood Mitigation Project Properties to complete the appraisals for Twenty (20) parcels for the two projects listed above.

The work is to be completed within 180 days of the Notice to Proceed.

See attached proposal for additional information about the scope of work.

**CITY OF DALTON
PUBLIC WORKS DEPARTMENT**

GENERAL PROFESSIONAL SERVICES AGREEMENT

THIS GENERAL PROFESSIONAL SERVICES AGREEMENT is made and entered into on this 7th day of March 2022 by and between the City of Dalton, a Georgia Municipal Corporation, hereinafter referred to as "CITY", and Childers Associates, hereinafter referred to as "CONSULTANT".

WHEREAS, the CITY desires to engage the CONSULTANT to provide professional services; and,

WHEREAS, the CITY finds that the proposed Scope of Services and terms of this Contract are acceptable; and,

WHEREAS, the CONSULTANT desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth,

WITNESSETH: That the parties hereto for the considerations hereinafter provided covenant and agree as follows:

1. EMPLOYMENT OF CONSULTANT: The CITY hereby engages the CONSULTANT and the CONSULTANT hereby agrees to perform the professional services hereinafter set forth.

2. PROJECT/SCOPE OF SERVICES: The CONSULTANT shall complete the project and perform the scope of services specified in the CITY's Request for Proposal which is included herein by reference and the specifications provided in the CONSULTANT's proposal attached hereto as Exhibit "A".

3. ADDITIONAL SERVICES: The CONSULTANT shall provide additional services, not specifically provided for in Exhibit "A", upon written request and authorization by the CITY.

4. DATE OF COMMENCEMENT: The CONSULTANT shall commence work on the project on April 1st, 2022. If no date is provided, then the date of commencement shall be five days from execution of this Agreement.

5. DATE OF COMPLETION: The CONSULTANT shall complete the project on or before Sept 23rd, 2022.

6. CONTRACT SUM: The CITY shall pay to CONSULTANT the total price not to exceed \$85,700.00 Dollars (not including post-appraisal services) for the performance of the project and terms of this Agreement. In addition, CITY shall pay to CONSULTANT for any authorized additional services performed at the rate or amount provided in the Compensation Schedule attached hereto as Exhibit "B".

7. CONTRACT PENALTY: The CONSULTANT shall pay to the CITY the amount of \$ 100.00 Dollars per calendar day for unexcused delay in completion of the project past the date of completion.

8. PAYMENT: The CITY shall pay the contract sum to CONSULTANT upon complete performance of the project and terms of this Agreement. CONSULTANT shall provide to CITY an Affidavit from the CONSULTANT stating the CONSULTANT has fully performed all terms of the Agreement. Final payment shall be made no later than 30 days after receipt of said Affidavit. Upon completion of any additional services, said additional services shall be paid within 30 days of receipt of invoice from CONSULTANT. Payment(s) shall be made via electronic funds transfer (EFT).

9. CITY COVENANTS: CITY covenants and agrees:

(a) to provide all available information, data, reports, records and maps to which CITY has possession or control which are necessary for CONSULTANT to perform the scope of services provided for herein;

(b) to provide reasonable assistance and cooperation to CONSULTANT in obtaining any information or documentation which are necessary for CONSULTANT to perform the scope of services provided for herein;

(c) to designate a representative authorized to act on the CITY's behalf with respect to the project. Unless otherwise provided, said CITY representative shall be the Director of Public Works;

(d) to permit access to the subject public property and obtain permission to access necessary private property for CONSULTANT to complete the scope of services;

(e) to provide reasonable assistance to CONSULTANT in applying for and obtaining any necessary Federal, State or local government permits for the scope of services;

10. CONSULTANT COVENANTS: CONSULTANT covenants and agrees:

(a) to perform the scope of services in a professional manner, using that degree of care and skill ordinarily exercised by consultants practicing in the same or similar

field;

- (b) to use only employees and subcontractors qualified to complete the work with sufficient experience in same or substantially similar projects;
- (c) to use only properly licensed employees or subcontractors for any work requiring a specialty or professional license issued by the State of Georgia;
- (d) to designate a representative authorized to act on the CONSULTANT's behalf with respect to the project.
- (e) to use the subject property in a safe, careful and lawful manner;
- (f) to promptly report in writing to CITY any unsafe or defective condition of the subject property and any adverse site condition, which shall include but not be limited to limited access, extremely dense vegetation, subsurface conditions, damaged property, or existing utilities, that may adversely affect CONSULTANT's ability to complete the scope of services or other terms of this Agreement;
- (g) to promptly report in writing to CITY any damage to or injuries sustained on the subject property and to promptly repair any damage to the subject property which is made necessary by any act of CONSULTANT, its employees, agents, subcontractors, or invitees;
- (h) to keep the subject property in a clean and orderly condition and to remove any personal property of CONSULTANT upon completion of the project;
- (i) to perform all work on the project in a good and workmanlike manner, free from faults and defects, and in conformance with the terms of this Agreement;
- (j) to determine the appropriate method, details and means of performing the scope of services provided by this Agreement;
- (k) to exercise the ordinary standard of care in complying with the laws, codes, and regulations applicable to the CONSULTANT's services;
- (l) to exercise diligence and to complete delivery of the scope of services in a timely manner consistent with the exercise of due care;
- (m) to attend meetings to make presentations or to otherwise review the progress of the work as set out in the scope of services at the reasonable request of the CITY;
- (n) to prepare and submit to the CITY reports required by the scope of services or upon the written request of the CITY.

11. INDEMNITY: CONSULTANT shall indemnify CITY from and hold CITY harmless against all claims, demands and judgments for loss, damage or injury to person or property, resulting from or incurring by reason of CONSULTANT'S use and occupancy of the subject property or by the negligence, willful acts, or errors or omissions with respect to the performance of the professional services of CONSULTANT, its employees, agents, subcontractors, or invitees and from all expenses incurred by CITY as a result thereof including, without limitation, reasonable attorneys' fees and expenses and court costs, except if arising from or caused by the sole fault or negligence of CITY or any of CITY's employees, agents or representatives acting on behalf of the CITY.

Additionally, pursuant to State law, CITY shall not indemnify or hold harmless CONSULTANT for any claims arising from the actions or omissions of CONSULTANT or any third party.

Additionally, CONSULTANT agrees that all personal property that may be at any time at the subject property shall be at CONSULTANT's sole risk or at the risk of those claiming through CONSULTANT and that CITY shall not be liable for any damage to or loss of such personal property except if arising from or caused by the sole fault or negligence of CITY.

12. INSURANCE: CONSULTANT agrees to carry at its own expense through the term of this Agreement the types and amounts of insurance required to maintain status as a Vendor of the City of Dalton or as provided herein below, whichever is greater. CONSULTANT shall provide CITY with copies or evidence of such insurance coverage prior to the commencement date of the Agreement. Such insurance policies shall name CITY as an additional insured and shall be issued by such insurance companies and on such forms as may be approved by CITY. Said insurance shall include the following:

- (a) General Liability Coverage - General Liability policy with a minimum limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
- (b) Workers' Compensation Coverage – Workers' Compensation policy with the following minimum limits:
 - (1) Workers' Compensation statutory limits;
 - (2) Employer's Liability:
 - a. Bodily Injury by Accident - \$100,000.00
 - b. Bodily Injury by Disease - \$500,000.00 policy limit
 - c. Bodily Injury by Disease - \$100,000.00 each employee.

CONSULTANT shall complete the Workers' Compensation Insurance Affidavit of the City of Dalton to determine if any exemption to Workers' Compensation Insurance is applicable.

- (c) Auto Liability Coverage – Auto Liability policy with a minimum of \$1,000,000.00 limit per occurrence for bodily injury and property damage, if motor vehicle is used in performance of scope of services. Comprehensive form covering all owned, non-

owned, and hired vehicles.

(d) Professional Services Errors & Omissions Coverage – Professional Services E&O policy with a minimum of \$1,000,000.00 per claim.

14. ASSIGNMENT: CONSULTANT may not assign all or any portion of the Agreement without the prior written permission of CITY.

15. SUBCONTRACTOR: The CONSULTANT shall provide written notice to CITY of CONSULTANT’S intent to use a subcontractor for any portion of the project. CITY shall be entitled to reject any subcontractor it deems not qualified to complete the project. Any subcontractor approved for work on the project shall abide by any and all terms of this Agreement.

16. NON-WAIVER OF DEFAULT: The failure or delay by either party hereto to enforce or exercise at any time any of the rights or remedies or other provisions of this Agreement shall not be construed to be a waiver thereof, not affect the validity of any part of this Agreement or the right of either party thereafter to enforce each and every such right or remedy or other provision. No waiver of any default or breach of the Agreement shall be held to be a waiver of any other default and breach.

17. NOTICES: Any notice required or permitted to be given under this Agreement or by law shall be deemed to have been given if reduced in writing and delivered in person or mailed by certified mail, return receipt requested, postage prepaid to the party who is to receive such notice.

Such notice to CITY shall be mailed to: City of Dalton
ATTN: City Administrator
P.O. Box 1205
Dalton, GA 30722-1205

Such notice to CONSULTANT shall be mailed to: Childers Associates
Real Estate Consultants and Appraisers
321 Fourteenth Street, N.W.
Atlanta, GA 30318

When so mailed, the notice shall be deemed to have been given as of third (3rd) day after the date it was mailed. The addresses may be changed by giving written notice thereof to the other party.

18. CONTRACT DOCUMENTS: The Agreement shall include the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Addenda relating to bidding and proposal requirements, and any other written information provided by the CITY in anticipation of receiving bids or proposals, if any, except as specifically excluded herein, and the CONSULTANT’S bid or proposal. The terms of this Agreement shall supersede any terms in

the above-referenced documents in direct conflict with the terms of this Agreement.

Additionally, the Contract Documents and all drawings, plans, specifications and other related construction or service related documents shall be the sole property of the CITY. The CONSULTANT shall be permitted to retain copies thereof for its records and for its future professional services.

Additionally, CITY shall be authorized to rely upon all documents, whether in hard copy or electronic format, provided by CONSULTANT. Any changes to the material terms of any document shall be clearly identified and noted to CITY.

19. VENDOR: CONSULTANT shall register and remain active as a Vendor of the CITY by completing the City of Dalton Vendor Packet and fully comply with any and all requirements of said Vendor during the term of this Agreement.

20. TERMINATION OF CONTRACT: In the event that CONSULTANT defaults or neglects to perform work on the project in accordance with the terms of this Agreement, CITY may terminate this Agreement by providing written notice of termination. Prior to termination of this Agreement for default, CITY shall provide written notice to CONSULTANT of any default and provide CONSULTANT ten (10) days to correct said default or deficiency,

21. MISCELLANEOUS PROVISIONS:

(a) Governing Law; Venue. This Agreement is being executed and delivered in the State of Georgia and shall be construed and enforced in accordance with the laws of that state. 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.

(b) Successors and Assigns. This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties. CONSULTANT shall not assign its rights or obligations under this Agreement without the prior written consent of the CITY.

(c) Severability of Invalid Provisions. If any provision of this Agreement shall be deemed invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.

(d) Complete Agreement; Amendments. This Agreement constitutes the entire agreement between the parties hereto; it supersedes all previous understandings and agreements between the parties, if any, and no oral or implied representation or understanding shall vary its terms, and it may not be amended except by written instrument executed by both parties hereto.

(e) Remedies Cumulative. All rights, powers, and privileges conferred hereunder upon the parties hereto shall be cumulative, but not restrictive to those given by law.

(f) Time is of the Essence. Time is of the essence of this Agreement in each and all of its provisions.

(g) Attorney Fees. In the event the CITY must enforce the terms of this Agreement by filing a civil action against CONSULTANT, then CONSULTANT shall pay an amount equal to fifteen percent (15%) of the contract sum as attorney fees.

(h) Confidentiality. All information and documentation regarding the project and the CONSULTANT's services shall be maintained in confidence and shall not be disclosed to any third party by CONSULTANT, without CITY's written authorization, except as may be required by the Georgia Open Records Act. CONSULTANT shall promptly notify CITY of any third party request for said information or documentation prior to any disclosure. CITY agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by CONSULTANT pertaining to this Agreement shall be considered confidential and proprietary, and shall not be disclosed to any third party, except as may be required by the Georgia Open Records Act.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

CONSULTANT:

CONSULTANT:

Childers Associates

By: _____

Title: _____

CITY:

CITY OF DALTON, GEORGIA

By: _____

MAYOR

Attest: _____

CITY CLERK

CHILDERS ASSOCIATES

REAL ESTATE CONSULTANTS AND APPRAISERS

321 FOURTEENTH STREET, N.W.

ATLANTA, GEORGIA 30318

TELEPHONE: (404) 876-5100

DAVID W. CHILDERS, MAI
JOHN P. MURRAY, MAI
CHAD A. LIESKE

March 3, 2022



Ms. Devon S. Brooks
Special Projects Coordinator
City of Dalton
535 Elm Street
Dalton, Georgia 30722

Re: Proposal for Appraisal Services
Market Street Road Improvement Project
18 Parcels
Flood Mitigation Grant Project
2 Parcels
Dalton, GA 30722

Dear Ms. Brooks:

Per your request, I have preliminarily researched the 20 parcels referenced in the two projects listed above. You have previously provided documentation of the first project via email on Thursday, February 10, 2022. Information involving the second project was provided via email on Wednesday, February 23, 2022. The following letter provides a proposed scope of work for each appraisal along with a fee quote and anticipated timeframe for completion of the projects.

The larger project involves 18 parcels located along or in proximity of Market Street in the City of Dalton. Based on my preliminary analysis of the project plans, I have determined that eight of the parcels appear to have no significant impact and can be valued using a reduced scope of work while the remaining 10 parcels either appear obviously impacted or it is unclear if they are impacted and therefore require a more in-depth scope of work. I have placed each of the parcels within one of these two groupings and will discuss each below.

1. Parcels 2, 4, 5, 6, 7, 8, 11, and 16: No obvious impact.

- a. My analysis of the project plans in relation to the above parcels revealed no obvious impact on the remainders of each parcel. Therefore, each of these parcels can be valued using a reduced scope of work that involves estimating the market value of the underlying land only and then using the market value of the land to estimate the market value of the proposed acquisitions. This scope of work is commensurate with GDOT's Form 388C which is appropriate when a parcel is not believed to be impacted by the proposed acquisitions. A summary of each parcel with proposed fee is as follows:
 - i. **Parcel 2** – 3.39-acre commercial site improved with a 32,700-square foot retail building occupied by Harley Davidson; the parcel is part of a

- larger neighborhood shopping center located at the southern end of Market Street. The proposed acquisition is one temporary construction easement measuring 75 square feet. No impact on the remainder is apparent. I propose a fee of \$2,500 for this appraisal.
- ii. **Parcel 4** – 2.48-acre site improved with a 124-room, Hampton branded hotel. Acquisition includes one fee acquisition and one temporary easement. No impact observed. I propose a fee of \$2,500 for this appraisal.
 - iii. **Parcel 5** – 0.53-acre vacant commercial lot; the lot was formerly improved with a Dairy Queen but has been cleared. The proposed acquisition is a fee acquisition of the entire parcel. I propose a fee of \$3,500 for this appraisal.
 - iv. **Parcel 6** – 3.11-acre commercial land tract that was formerly improved with a portion of a neighborhood shopping center; the improvements have been removed from the site and the property is vacant; we note that a portion of the land remains dedicated to surface parking supporting the remaining portion of the shopping center. The acquisition is two fee acquisitions totaling 3,654 square feet and two temporary easements totaling 18,537 square feet. Neither acquisition area impacts the utility of the remainder tract. No impact is apparent. I propose a fee of \$2,500 for this appraisal.
 - v. **Parcel 7** – 3.00-acre site improved with a 10,074-square foot retail restaurant building occupied by Cracker Barrel. The proposed acquisitions include one fee acquisition measuring 2,330 square feet and one temporary easement measuring 2,226 square feet. The temporary easement will reduce the landscaping area supporting the site, but only for a temporary time. This landscaping can be replaced as part of a cost to cure. No impact is apparent. I propose a fee of \$2,500 for this appraisal.
 - vi. **Parcel 8** – 2.19-acre site improved with a 96-room, Holiday Inn Express branded hotel. The proposed acquisitions include one fee acquisition measuring 1,074 square feet and one temporary easement measuring 2,012 square feet. Neither acquisition impacts the utility of the remainder. I propose a fee of \$2,500 for this appraisal.
 - vii. **Parcel 11** – 0.70-acre site improved with a 1,652-square foot Waffle House restaurant; the primary site is located on West Walnut Avenue with only a rear driveway fronting along Market Street. The proposed acquisition includes one fee acquisition measuring 119 square feet and one temporary easement measuring 848 square feet. The acquisitions do not impact access or the overall utility of the remainder. I propose a fee of \$2,500 for this appraisal.
 - viii. **Parcel 16** – 0.87-acre site improved with a 2,952-square foot, Kentucky Fried Chicken branded fast food restaurant. The building faces West Walnut Street and is removed from Market Street. However, the proposed acquisition involves a 768-square foot temporary easement that encumbers the rear corner of the tract. It

appears that one parking space may be impacted but we are uncertain until an inspection of the site is made. For bidding purposes, we have assumed that the site is not damaged and quote a fee of \$2,500 for this appraisal. If, upon inspection, we determine the acquisition impacts the remainder and creates a damage, we will request a scope of work change for this parcel.

2. **Parcels 1, 3, 9, 10, 12, 13, 14, 15, 17, and 18. Potential impact noted.**

a. My analysis of the project plans in relation to the above parcels reveals a potential for impacts to each remainder resulting from the proposed acquisitions or project itself. Therefore, each of these parcels should be valued using a traditional, five-step valuation model used in eminent domain appraisals. That is, each appraisal will include five valuations: 1) the market value before the acquisition; 2) the market value of the parts acquired; 3) the value of the remainder as part of the whole; 4) the market value of the remainder; and 5) the market value of consequential damages and specific benefits. In doing the above scope of work, we will estimate the just compensation due each property owner, considering any and all potential impacts from the project. This scope of work is commensurate with GDOT's Form 388C which is appropriate when a parcel is not believed to be impacted by the proposed acquisitions. A summary of each parcel with proposed fee is as follows:

- i. **Parcel 1** – 8.66-acre land tract improved with an approximate 141,990-square foot, multitenant neighborhood shopping center. This property is located at the southern end of Market Street and is the largest property on the project. The proposed acquisitions include two fee acquisitions totaling 39,149 square feet and four temporary construction easements totaling 26,239 square feet. The acquisitions result in a loss of parking and a loss of landscaping supporting the subject shopping center. These losses are believed only temporary during the project but do impact the overall utility of the remainder. I propose a fee of \$8,500 for this complex appraisal.
- ii. **Parcel 3** – 1.27-acre commercial outparcel site improved with a 6,163-square foot, full service restaurant leased to Outback Steakhouse. The proposed acquisitions include one fee acquisition measuring 1,542 square feet and one temporary easement measuring 3,089 square feet. The acquisitions alter access onto the site and appear to slightly reduce the parking availability in proximity of the building. The remainder is potentially damaged by these changes. A fee of \$5,500 for this restaurant property is proposed.
- iii. **Parcel 9** – 1.59-acre, mostly vacant commercial site; this parcel is improved with a small utility building that is located at the rear of the tract and is leased to a utility company. The principal improvements on the site have been removed. The proposed acquisitions currently include a 4,414-square foot fee acquisition and a 2,602-square foot temporary easement. Additionally, the project results in the property losing all vehicular access to Market Street. However, we note that the

project plans are reportedly being changed to allow access. If access is fully restored to the site, there may be no damage to the property. In that case, the scope of work would be reduced. As the plans currently show, the parcel is impacted by the loss of access and should be appraised to estimate the value of this impact. A fee of \$4,800 is proposed.

- iv. **Parcel 10** – 1.05-acre site improved with a 24,361-square foot retail strip center. The proposed acquisitions include one fee acquisition measuring 4,552 square feet and one temporary easement measuring 7,510 square feet. The project also reduces the access to Market Street and eliminates a significant amount of onsite parking. In these regards, the remainder as improved is likely impacted and is appraised to estimate the market value of this impact. A fee of \$6,500 is proposed.
- v. **Parcel 12** – 1.56-acre site improved with a 5,181-square foot McDonald’s operated fast food restaurant. The proposed acquisitions include one fee acquisition measuring 3,587 square feet and one temporary easement measuring 2,922 square feet. The acquisitions temporarily reduce the available supply of parking supporting the building. An appraisal estimating the market value of this impact is needed. A fee of \$5,500 is proposed.
- vi. **Parcel 13** – 0.96-acre site improved with a 14,000-square foot, single tenant retail building; the building is occupied by Carpet Express Outlet. The proposed acquisitions include a single fee acquisition measuring 6,022 square feet and two temporary easements totaling 4,233 square feet. The project eliminates access from Market Street and also reduces the parking available to the building. An appraisal estimating the value of these impacts is warranted. A fee of \$4,800 is proposed.
- vii. **Parcel 14** – 2.06-acre site improved with a 78-room, Super 8 branded motel building. The proposed acquisitions include one fee acquisition measuring 6,080 square feet and one temporary easement measuring 1,373 square feet. The acquisitions eliminate direct access to Market Street but replace it with comparable new access to Business Access Road. The question for this appraisal is whether the subject signage will remain along Market Street or if it will be removed. If it remains, there may not be any impact or damage to the property. However, if it is removed, this would result in a potential damage. We have assumed it is removed for the purpose of our fee proposal. We propose a fee of \$7,200 for this appraisal.
- viii. **Parcel 15** – 0.91-acre site improved with a 1,684-square foot fast food restaurant occupied by Panda Express. The proposed acquisitions include one fee acquisition measuring 5,978 square feet and one temporary easement measuring 8,985 square feet. The project results in a loss of direct access to Market Street with replacement access provided to Business Access Road. However, this reorientation of the driveway appears to impact the internal circulation of the property. It

may be that the relocation of the driveway necessitates an engineering report to verify the functionality of the internal access. I would know more once an inspection is conducted. However, it does appear as though the property is impacted. A fee of \$5,500 is proposed.

- ix. **Parcel 17** – 0.53-acre, vacant site; the property is used as surface parking in support of the shopping center on Parcel 1. This parcel may be combined with Parcel 1 as they appear to have the same ownership and use. The proposed acquisitions include one fee acquisition measuring 10,674 square feet and one temporary easement measuring 5,072 square feet. My analysis of the project plans reveals the acquisitions impact nearly all of the central portion of the site and leave only a small remnant remaining. The remnant does not appear to be independently developable which would result in a damage. A fee of \$4,200 is proposed.
- x. **Parcel 18** – 0.97-acre site improved with a portion of a larger shopping center development. This parcel could be combined with Parcel 1. The proposed acquisitions include two temporary easements totaling 6,114 square feet. The easements appear to block the front of the retail building and encumber prime parking spaces. In this regard, it appears as though the acquisitions may impact the remainder. A fee of \$5,500 is proposed.

The above fee schedule includes 18 parcels and totals \$79,000 for the entire project. As discussed above, a few of the parcels could be reduced to reflect the lesser scope of work if it is determined that the project does not impact the property. That would be determined after I am able to personally inspect each property and take a deeper look into the project plans and specific properties. For bidding purposes, I have used my best judgment to estimate the appropriate scope of work and fee for each parcel.

The second project involves two parcels located in different portions of the City of Dalton. The first parcel is located at 312 West Waugh Street and consists of a 1,802-square foot, single story, single tenant commercial building situated on a 0.21-acre land tract. It appears the building may be leased and is currently used as a DUI School business. It is my understanding that you need to estimate the market value of the fee simple interest in the subject in order to acquire the entire property as part of a flood mitigation program. For this commercial property, I believe the appropriate scope of work consists of estimating the market value of the land and improvements. The income and sale comparison approaches will be employed to value the property as improved while the sale comparison approach will be utilized to value the underlying land. I will also investigate whether the leasehold interest has significant value and, if so, will allocate the fee simple value between the leased fee and leasehold interests. The fee for this assignment is \$4,200.

The second parcel on the flood mitigation project is an approximate 3,608-square foot single family residential structure situated on 1.16 acres of land. The residential property is located at 133 Huntington Road in the City of Dalton. The residential property is assumed impacted by flooding and will be acquired in fee simple as part of the project. Therefore, the intended use of the appraisal will be to estimate the market value of the fee simple interest in the subject for the purpose to assisting the

Ms. Devon Brooks
March 3, 2022

client with the acquisition of the subject property. I will estimate the market value of the land and improvements. The land value will be estimated by a sale comparison approach while the property as improved will be valued using the cost and sale comparison approaches. I estimate a fee of \$2,500 for this appraisal.

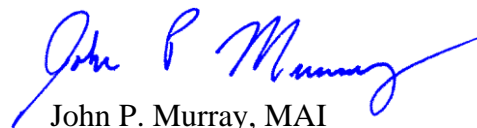
For timing, I would estimate a total time frame of 120 days from the initial start date to complete the work on Market Street. I would prepare a General Data Book which would be delivered within 30 days of the start date. I would then begin the appraisal work with the parcels included in Part 1 above likely completed first (unless you notify me of a different preference). As we discussed by phone, given my current workload, I would anticipate beginning the work the last week of March if you provide a notice to proceed prior to that time.

I would estimate a time frame for the flood mitigation appraisals of 45 days from your notice to proceed. I could coordinate the two projects however you prefer in terms of prioritization. The total time for both projects to be complete is estimated at 165 days. Please note, the fees for the second project – specifically the commercial property – have been made in consideration of data that will be obtained for the Market Street project. Therefore, the fees are intended to be as part of the entirety of contracted work. Under the scope of work discussed above, the total fee schedule is not anticipated to exceed \$85,700 for the 20 appraisals (not including any post-appraisal services conducted on an hourly basis as stated below).

Finally, if any of the above appraisals requires supplementary work such as update appraisal work, deposition preparation, or court testimony, I bill on an hourly basis. My billable rate is \$175.00 per hour while any work conducted by a junior associate is billed at \$75.00 per hour.

Please do not hesitate to contact me with any additional questions regarding the scope of work for these assignments. Also, if you want to discuss any part of the fees or timing, let me know.

Sincerely,



John P. Murray, MAI
Certified General Real Property Appraiser
State of Georgia No. 261994

QUALIFICATIONS – JOHN P. MURRAY, MAI

Education: B.B.A., (Real Estate) University of Georgia, Athens, Georgia.

Completed Uniform Standards of Professional Appraisal Practice and Applications, Advanced Income Capitalization, Market Analysis and Highest and Best Use, Advanced Sales Comparison and Cost Approach, Report Writing and Valuation Analysis, and Advanced Applications courses offered by the Atlanta Chapter of the Appraisal Institute.

Completed continuing education offerings: Appraising and Analyzing Office Buildings for Mortgage Underwriting, The Nuts and Bolts of Green Buildings for Appraisers, Business Practice and Ethics, National Uniform Standards of Professional Appraisal Practice Update, Condemnation Appraising: Principles and Applications, Construction Details and Trends, Regression Analysis, Comparative Analysis, Revenue Forecasting, Georgia Supervisor – Trainee Course, Reviewing Residential Appraisals, Real Estate Finance Statistics and Valuation Modeling, Review Theory General

Experience: Prepares appraisal reports for government agencies, attorneys, corporations and individuals in the Metropolitan Atlanta area. Assignments include industrial, commercial and residential properties including land, office buildings, federal courthouses, post offices, shopping centers, abandoned rights of way, golf courses, and industrial facilities. Qualified as a Level 3 Appraiser with the Georgia Department of Transportation; Experienced as an associate real estate appraiser with Childers Associates in Atlanta, Georgia since May 2002

Professional Affiliations:

Practicing Designated Member, Appraisal Institute, (MAI)
Certified General Real Property Appraiser, State of Georgia, Number 261994

Active in the Atlanta Area Chapter of the Appraisal Institute since fall 2002
2007 Southeast Regional Representative of the Appraisal Institute
2008 Southeast Regional Representative of the Appraisal Institute
2011 Alternate Southeast Regional Representative of the Appraisal Institute