



**MAYOR AND COUNCIL MEETING  
MONDAY, MARCH 20, 2023  
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)*

**Minutes:**

- [1.](#) Mayor & Council Meeting of March 6, 2023

**New Business:**

- [2.](#) (1) 2023 New Alcohol Beverage Application
- [3.](#) Traffic Control Change Request - No Parking on Portions of Benton Street
- [4.](#) Traffic Control Change Request - No Parking on Portion of Jones Street
- [5.](#) Corrective Action Plan, Temporary Construction Easement, and Permanent Drainage Easement for 906 Hardwick Circle
- [6.](#) Resolution 23-07 A Resolution Of The Mayor And Council Of The City Of Dalton Pursuant To Chapter 1 Of Title 22 And Article 2 Of Chapter 2 Of Title 22 Of The Official Code Of Georgia Annotated For The Exercise Of The Power Of Eminent Domain For That Property Known As 312 W. Waugh Street, City Of Dalton; To Make Findings Of Public Necessity; And To Authorize The City's Attorney To Petition The Superior Court For An In Rem Judgment Against Said Real Estate And Appurtenances; And For Other Purposes
- [7.](#) First Amendment to Development Agreement with Hammond Creek Township for TAD#4

**Supplemental Business**

**Announcements**

**Adjournment**

THE CITY OF DALTON  
MAYOR AND COUNCIL MINUTES  
MARCH 6, 2023

The Mayor and Council held a meeting this evening at 6:00 p.m. at City Hall. Present were Mayor David Pennington, Council members Annalee Sams, Dennis Mock and Steve Farrow, City Attorney Terry Miller and City Administrator Andrew Parker. Council member Tyree Goodlett was absent.

CALL TO ORDER

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

APPROVAL OF AGENDA

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

PUBLIC COMMENTARY

Isaac Rubio Director of Dalton State College Campus Activities Board came before the Mayor and Council. Rubio stated he wants to bridge the gap with the college campus and the City of Dalton. He further stated that he wants to improve the retention rate at Dalton State by getting the students involved with the City and asked for a contact person in case there are any volunteer and internship opportunities in the city.

MINUTES

The Mayor and Council reviewed the Regular Meeting Minutes of February 20, 2023. On the motion of Council member Sams, second Council member Mock, the minutes were approved. The vote was unanimous in favor.

PROFESSIONAL SERVICES AGREEMENT FOR LIMITED ASBESTOS SURVEY

Recreation Director Caitlin Sharpe presented the Professional Services Agreement for a Limited Asbestos Survey for John Davis Recreation Center with Terracon Consultants, Inc. in the amount of \$5800.00 to be paid from the 2020 SPLOST. Sharpe stated the scope of work included the proposal must be completed prior to demolition and remodeling of the building. On the motion of Council member Mock, second Council member Sams, the Agreement was approved. The vote was unanimous in favor.

AIRPORT - CONTRACT WITH GEORGIA DEPARTMENT OF TRANSPORTATION

Airport Director Andrew Wiersma presented the Contract with Georgia DOT for Grant Funding for Construction and Design Projects at Dalton Municipal Airport in the amount of \$1,922,756.66. Wiersma stated that projects include phase 2 of the main aircraft parking ramp rehabilitation; design of runway and taxiway pavement and electrical rehabilitation; and design of the runway obstruction removal. Wiersma additionally stated the local match is \$11,587.02. On the motion of Council member Mock, second Council member Sams, the Contract was approved. The vote was unanimous in favor.

PROFESSIONAL SERVICES AGREEMENT WITH BION SECURITY

IT Director Jorge Paez presented the Professional Services Agreement with BION Security for Fortinet Networking Equipment Deployment not to exceed \$20,000 to be paid from the IT Operating Budget. Paez stated this will help and guide the city's IT Department in deploying networking equipment to best practices in security. On the motion of Council member Farrow, second Council member Mock, the Agreement was approved. The vote was unanimous in favor.

RIGHT OF WAY ENCROACHMENT PERMIT FOR 265 N HAMILTON STREET

Public Works Director Chad Townsend presented a Right of Way Encroachment Permit for 265 N Hamilton Street to install a grease trap to serve a future restaurant. On the motion of Council member Sams, second Council member Mock, the permit was approved. The vote was unanimous in favor.

RIGHT OF WAY ENCROACHMENT PERMIT FOR 301 N HAMILTON STREET

Public Works Director Chad Townsend presented a Right of Way Encroachment Permit for 301 N Hamilton Street to install a grease trap to serve a future restaurant. On the motion of Council member Sams, second Council member Mock, the permit was approved. The vote was unanimous in favor.

FY- 2023 BUDGET AMENDMENT #1

CFO Cindy Jackson presented FY-2023 Budget Amendment #1. On the motion of Council member Mock, second Council member Farrow, the following FY-2023 Budget Amendment #1 was approved:

- General Fund
  1. To record donation from Community Foundation for Burr Park for the Burr Park concrete paver preplacement project and total project cost
  2. Insurance reimbursement for damage to fire apparatus' struck by an ambulance
  3. Insurance reimbursement received in 2023 for Mack Gaston gym floors damaged by sprinkler system
- CAPITAL IMPROVEMENTS FUND
  1. Estimated sales of capital assets, interest income, and fees for GovDeals
  2. Carry over of unfinished 2022 CIP projects of \$2,719,400
  3. Additional funds of \$10,000 needed for City Hall AV Project

The vote was unanimous in favor.

FY-2022 BUDGET AMENDMENT #6

CFO Cindy Jackson presented FY-2022 Budget Amendment #6. On the motion of Council member Mock, second Council member Sams, the following FY-2022 Budget Amendment #6 was approved:

2022 BUDGET AMMENDMENT #6

- 2022 Budget Amendment #6 to adjust final budgets.
  - o General Fund
    1. Actual exceeded estimated due to tax bills not due until 1/20/2023
    2. To record excess sales tax revenue for 2022
    3. To record interest earned due to investments and renegotiating bank terms
    4. OPIOID Settlement revenue from Janssen & Distributor agreements
    5. Excess hotel-motel tax for 2022
    6. To record additional legal fees incurred due to Charter re-write
    7. Primarily fraudulent charges to credit card #970 (awaiting charge back)
    8. Operating deficit for Senior Center & close out of fund
    9. To cover annual administrative fee to Building Authority for bond
    10. Airport project #2106.005 Apron Rehab Phase 2 to 6 – GDOT contract not yet written
    11. Transfer to cover workers compensation legacy claims shortfall – includes settlement
    12. Reallocate fuel budget excess to cover other budget lines
  - o Debt Service Fund
    1. To cover annual administrative fee to Building Authority for bond
  - o Airport Grant Fund
    1. Airport project #2106005 Apron Rehab Phase 2 to 6 – GDOT contract not yet written & to adjust to actual revenue and expenditures
  - o CIP Fund
    1. To adjust budget to actual
    2. Bathrooms at Civitan, AV Upgrade, GovDeals fees
  - o Grant Fund – CDBG
    1. To adjust to actual grant proceeds remaining
  - o Economic Development Fund
    1. To adjust to actual PILOT payments
  - o TAD #3 Fund
    1. To record 2022 actual City tax revenue
  - o Tad #5 Fund
    1. To record 2022 actual City tax revenue
  - o Hotel Motel Tax Fund
    1. To record 2022 actual revenue and increase offsetting expenditure budget
  - o 2015 SPLOST Fund
    1. To record 2022 actual revenue and increase offsetting capital accounts
  - o 2022 SPLOST FUND
    1. To record 2022 actual revenue and increase offsetting capital accounts
  - o 2021 Bonded Capital Projects
    1. To record 2022 actual revenue and increase offsetting capital accounts

The vote was unanimous in favor.

MASTER PROFESSIONAL SERVICES AGREEMENT – DECKARD TECHNOLOGIES INC.

City Administrator Andrew Parker presented the Master Professional Services Agreement with Deckard Technologies Inc. Parker stated the software solution will monitor new or existing short-term rental activity in the City’s jurisdiction. Parker further stated the total annual fee is \$3000.00. On the motion of Council member Mock, second Council member Sams, the Agreement was approved. The vote was unanimous in favor.

INTERGOVERNMENTAL AGREEMENT WITH DALTON-WHITFIELD COUNTY JOINT DEVELOPMENT AUTHORITY - CORONET DRIVE

City Administrator Andrew Parker presented Intergovernmental Agreement with Dalton-Whitfield County Joint Development Authority for Coronet Drive Stormwater Project. Parker stated that JDA and the City would contract with each other for the City to provide certain storm water improvements upon the real property located on Cornet Drive within the City. On the motion of Council member Mock, second Council member Sams, the Agreement was approved. The vote was unanimous in favor.

RESOLUTION 23-05 - HOMESTEAD EXEMPTIONS FROM CITY OF DALTON AD VALOREM TAXES FOR CERTAIN PERSONS AND FOR OTHER PURPOSES

City Administrator Andrew Parker presented Resolution 23-05 Approving Introduction and Passage of Local Acts in the 2023 Regular Session of the General Assembly of Georgia To Provide for Local Referendum of The Electors of The City of Dalton To Consider Approval of Increases to The Homestead Exemptions from City of Dalton Ad Valorem Taxes for Certain Persons and For Other Purposes. On the motion of Council member Mock, second Council member Farrow, the Resolution was approved. The vote was unanimous in favor.

ORDINANCE 23-01 REZONING MELANIE HONIG

Ethan Calhoun of the Whitfield County Planning & Community Development presented Ordinance 23-01 The request of Melanie Honig to rezone from Low Density Single Family Residential (R-2) to Medium Density Single Family Residential (R-3) a tract of land totaling 0.21 acres located at NE corner of Tyler Street and Chattanooga Avenue. Parcel (12-200-01-025). On the motion of Council member Mock, second Council member Sams, the request was approved. The vote was unanimous in favor.

ORDINANCE 23-02 - REZONING SERGIO PAEZ

Ethan Calhoun of the Whitfield County Planning & Community Development presented Ordinance 23-02 The request of Sergio Paez to rezone from Rural Residential (R-5) to Neighborhood Commercial (C-1) a tract of land totaling 0.22 acres located at 401 Hawthorne Street. Parcel (12-200-14-001). On the motion of Council member Mock, second Council member Sams, the request was approved with conditions that include limit access to Spencer Street and must provide a parking plan. The vote was unanimous in favor.

ORDINANCE 23-04 - REZONING BRYAN SPENCE (SHERIDAN AVENUE)

Ethan Calhoun of the Whitfield County Planning & Community Development presented Ordinance 23-04 The request of Bryan Spence to rezone from Rural Residential (R-5) and High Density Residential (R-7) to Zero Lot Line Residential (R-4) a tract of land totaling 2.849 acres located on Sheridan Avenue. Parcels (12-254-45-000 and 12-254-06-001) (County+City). On the motion of Council member Sams, second Council member Farrow, the request was tabled. The vote was unanimous in favor.

REAPPOINTMENT - DALTON AIRPORT AUTHORITY

On the motion of Council member Sams, second Council member Farrow, the reappointment of Earl Boyd to the Dalton Airport Authority for a 5-year Term to Expire December 31, 2027 was approved. The vote was unanimous in favor.

APPOINTMENT - DALTON HOUSING AUTHORITY

On the motion of Council member Mock, second Council member Sams, the appointment Brenda Barrett to the Dalton Housing Authority for a 1-year Resident Member Term to Expire October 14, 2023 was approved. The vote was unanimous in favor.

APPOINTMENT - DALTON HOUSING AUTHORITY

On the motion of Council member Mock, second Council member Farrow, the appointment of Zach Adamson to the Dalton Housing Authority for a 5-year Term to Expire October 14, 2027 was approved. The vote was unanimous in favor.

Note: The WORK SESSION scheduled March 6, 2023 at 5:00 P.M. – 3<sup>RD</sup> FLOOR CONFERENCE ROOM regarding the Review of Draft Updated Charter with the Public Safety Commission was cancelled due to the death of Public Safety Commissioner Bill Weaver.

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was Adjourned at 6:44 p.m.

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Bernadette Chattam  
City Clerk

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David Pennington, Mayor

Recorded  
Approved: \_\_\_\_\_  
Post: \_\_\_\_\_



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 03/20/2023

**Agenda Item:** 2023 Alcohol Application Review

**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:**

Review of (1) 2023 Alcohol Application.

**2023 ALCOHOL BEVERAGE APPLICATION APPROVAL**  
**M&C MEETING – MONDAY, MARCH 20<sup>th</sup>**

**(1) 2023 ALCOHOL APPLICATION(S)**

- |                    |  |
|--------------------|--|
| 1. Business Owner: | AK Empire, LLC                                 |
| d/b/a:             | AK Smoke & Vape Shop                           |
| Applicant:         | Dawood Hussain                                 |
| Business Address:  | 908 S. Thornton Ave. Suite 1                   |
| License Type:      | Package Beer, Package Wine (Convenience Store) |
| Disposition:       | <b>New</b>                                     |





## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 3/20/2023

**Agenda Item:** Traffic Control Change Request - No Parking on Portions of Benton Street

**Department:** Public Works

**Requested By:** Chad Townsend

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

**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 request for further information.

**PUBLIC WORKS DEPARTMENT**

**CHAD TOWNSEND, DIRECTOR**

[ctownsend@daltonga.gov](mailto: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 SAMS  
TYREE GOODLETT  
STEVE FARROW

**TRAFFIC CONTROL CHANGE**

Type: Two-Lane Residential No Parking

Location: Benton Street

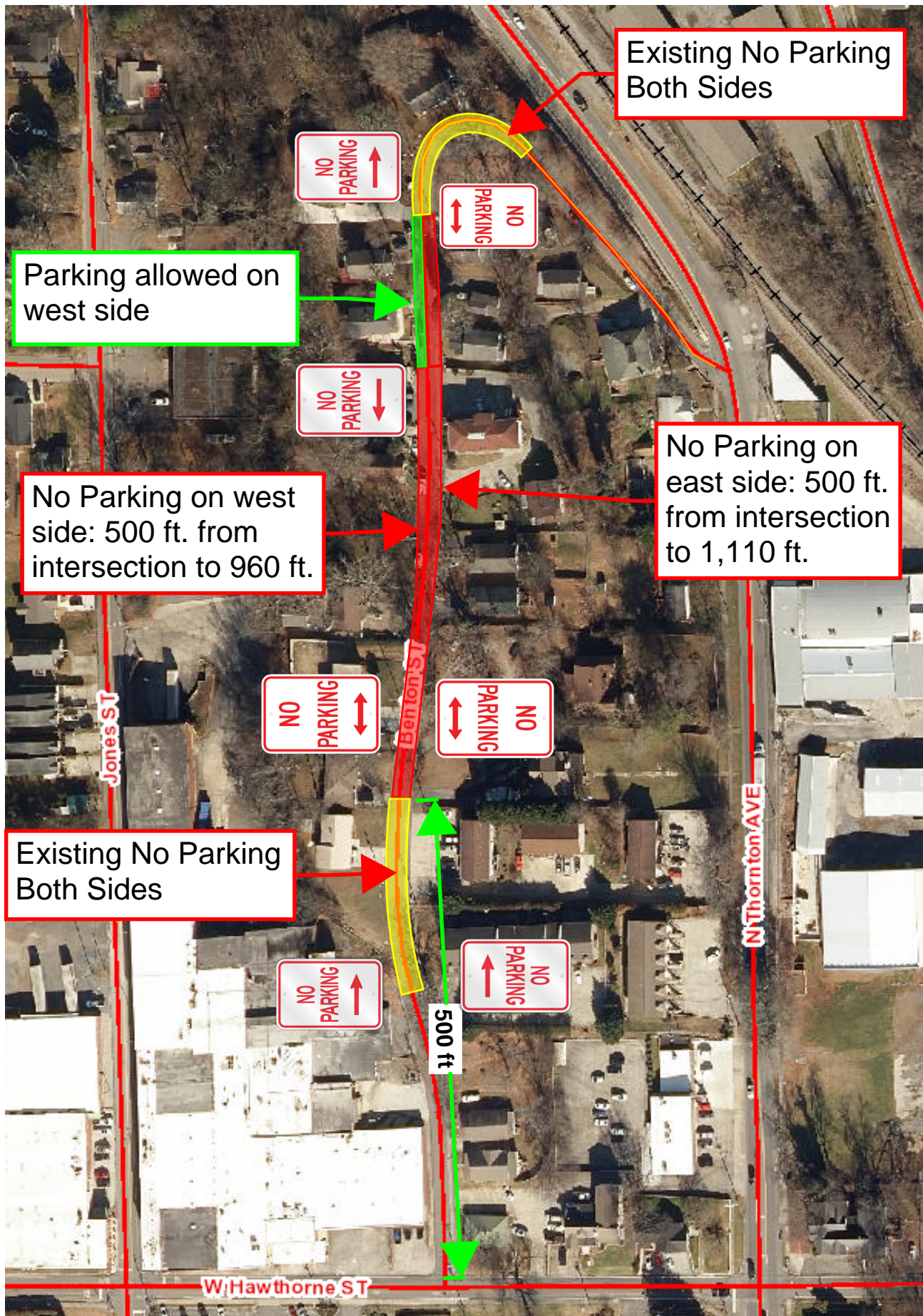
Comments: The purpose of this Traffic Control Change is to extend a No Parking section on both sides of Benton Street. For the North-bound travel lane, No Parking will start 500 ft from the Hawthorne St intersection and extend to a point 1,110 ft to the North of said intersection, and merge with the existing No Parking area further North. For the South-bound travel lane, No Parking will start 500 ft from the Hawthorne St. intersection and extend to a point 960 ft North of said intersection because 437 and 439 Benton St. have limited driveway parking. The City of Dalton Police Department has received several complaints, and observed on street parking within this portion of street impeding sight distance for through traffic. Vehicular traffic is forced to encroach into oncoming traffic where limited sight distance is available due to the algebraic difference in grade of the vertical crest in the road. The section of Benton Street described above is not conducive for safe passing according to AASHTO geometric design standards. If the Traffic Control Change is approved, the Public Works Department will install the required signage.

Date of Approval: \_\_\_\_\_

Mayor's Signature: \_\_\_\_\_



# Traffic Control Change - Benton Street No Parking





## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 3/20/2023

**Agenda Item:** Traffic Control Change Request – No Parking on Portion of Jones Street

**Department:** Public Works

**Requested By:** Chad Townsend

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

**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 request for further information.

**PUBLIC WORKS DEPARTMENT**

**CHAD TOWNSEND, DIRECTOR**

[ctownsend@daltonga.gov](mailto:ctownsend@daltonga.gov)

535 N. Elm Street  
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**DAVID PENNINGTON, MAYOR**

**CITY COUNCIL MEMBERS:**

DENNIS MOCK  
ANNALEE SAMS  
TYREE GOODLETT  
STEVE FARROW

**TRAFFIC CONTROL CHANGE**

Type: Two-Lane Residential No Parking on South-bound Lane

Location: Jones Street

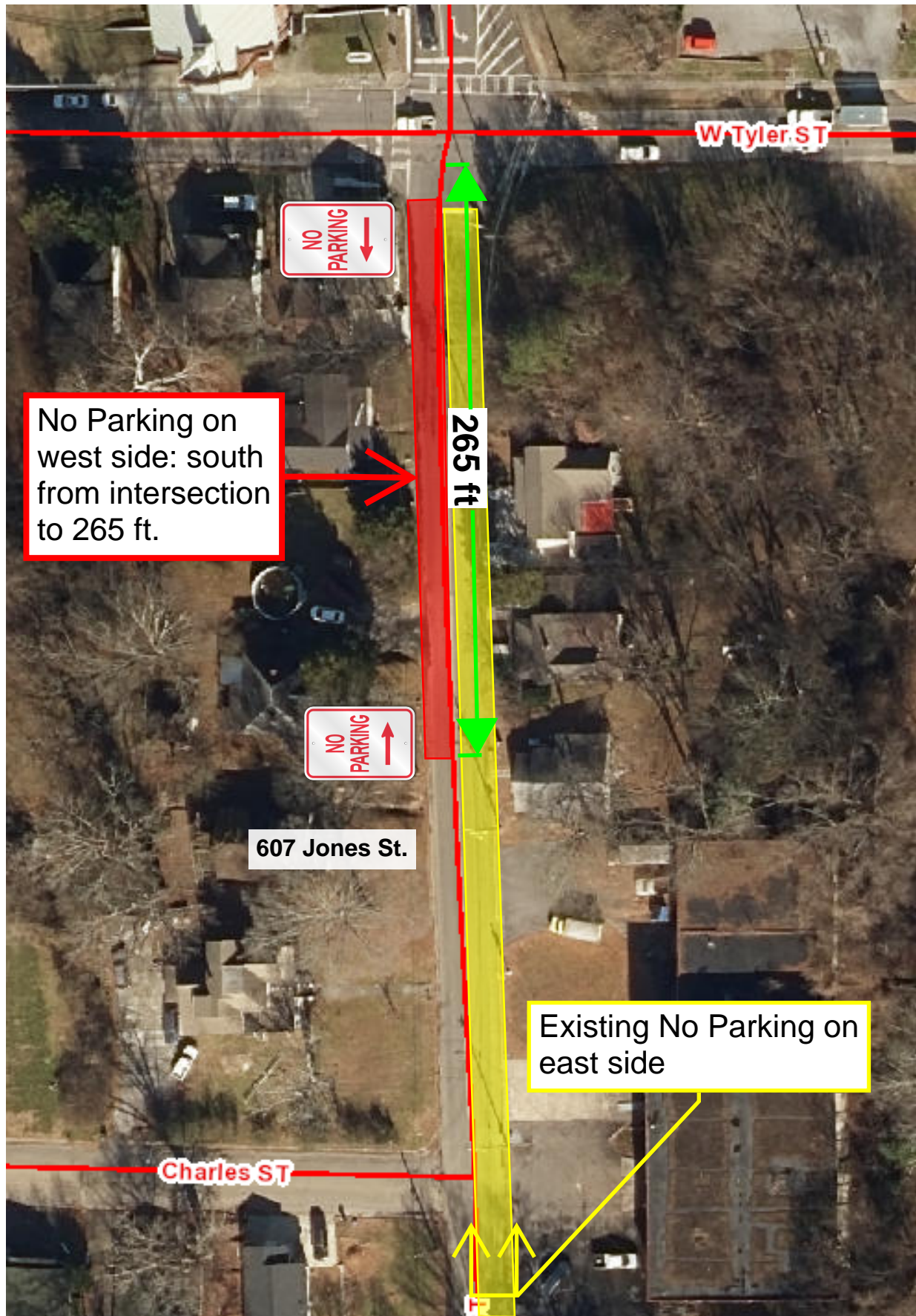
Comments: The purpose of this Traffic Control Change is to implement No Parking on Jones Street in the South-bound lane from the Tyler St intersection to a point 265 feet to the South of said intersection. This will allow on street parking for the resident residing at 607 Jones St which has no driveway. A No Parking zone exists on the North-bound lane from School Street to Tyler Street. The City of Dalton Police Department has observed parking issues within this portion of street, and observed schoolchildren walking along the street as there are no sidewalks on either side of this portion of the Jones Street corridor. Vehicular traffic is forced to encroach into oncoming traffic where limited sight distance is available due to the algebraic difference in grade of the vertical crest in the road. The section of Benton Street described above is not conducive for safe passing according to AASHTO geometric design standards. If the Traffic Control Change is approved, the Public Works Department will install the required signage.

Date of Approval: \_\_\_\_\_

Mayor's Signature: \_\_\_\_\_



## Traffic Control Change - Jones Street No Parking





## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 3/20/2023

**Agenda Item:** 906 Hardwick Circle Corrective Action Plan

**Department:** Public Works

**Requested By:** Chad Townsend

**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 Corrective Action Plan, Temporary Construction, and Permanent Drainage Easements for more information.

**PUBLIC WORKS DEPARTMENT**

**CHAD TOWNSEND, DIRECTOR**

[ctownsend@daltonga.gov](mailto: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 SAMS  
TYREE GOODLETT  
STEVE FARROW

**M E M O R A N D U M**

**TO:** Mayor and City Councilmembers

**FROM:** Chad Townsend, Public Works Director

**RE:** Corrective Action Plan & Permanent Easement – 906  
Hardwick Circle Permanent Drainage Easement

**DATE:** December 5<sup>th</sup>, 2022

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The Public Works Department has been working on stormwater issues throughout the City. One area of concern is located within the residence of 906 Hardwick Circle. The Public Works Department had previously installed a stormwater conveyance system to mitigate the structural flooding hazards on this property. While the installed improvements have improved drainage within this location, the inlet is prone to blockages from vegetation and debris causing the risk of further flooding to increase. To address the perpetual maintenance required off right-of-way, the following corrective action plan has been developed to legally allow the Public Works Department to maintain the previously installed system of which, the City has historically exercised dominion of control over.

Two 24" reinforced concrete pipes collect runoff from a ditch on the western part of the property, and convey it approximately 70 feet southeast toward the southwestern corner of the house. From there, the two pipes head east about 70 feet more to a catch basin within the Hardwick Circle right-of-way on the southeast corner of the property.

Since the City installed these pipes, it is the City's responsibility to maintain them. The inlets on the western part of the property become clogged with debris. Access is necessary to clean out the inlets and perform other general maintenance. Therefore, a temporary construction easement, and permanent drainage easement will be required for 906 Hardwick Circle for maintenance of the conveyance network.

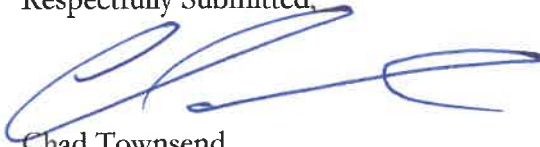
Sec. 96-1 of City Code provides for the acceptance of temporary or permanent easements for public dedication of certain drainage systems including those connected directly to the City's existing system and conveys runoff from City right of way. The Public Works Department has developed the enclosed Corrective Action Plan drawings for the subject location and is recommending that City Council adopt this plan to allow city intervention. This plan would



provide a long-term solution for a key drainage network within the Tar Creek drainage basin. The Corrective Action Plan requires a temporary construction and permanent drainage easement be provided by the property owner and accepted by the City Council. The property owner must provide written commitment to provide the easement areas described. The Corrective Action Plan is subject to minor revisions related to the exact alignment of the pipe to accommodate unforeseen field conditions.

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

Respectfully Submitted,



Chad Townsend  
Public Works Director

Cc: City Administrator, Andrew Parker, P.E.  
City Attorney, Terry Miller

Enclosures:

Corrective Action Plan – 906 Hardwick Circle Permanent Drainage Easement  
Storm Drainage Easement Agreement

## TEMPORARY CONSTRUCTION EASEMENT

Georgia, Whitfield County

This **Temporary Construction Easement** (sometimes the "Agreement") is made this 3<sup>RD</sup> day of MARCH, 2023 (the "Effective Date"), by and between **Bret Perkins**, party of the first part (hereinafter "Grantor"), and the **City of Dalton, Georgia**, a municipal corporation of the State of Georgia, party of the second part (hereinafter "Grantee"), their respective heirs, administrators, successors and assigns:

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

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

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

**WHEREAS**, upon completion of the construction identified therein said construction easement shall cease; and

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

1. **Temporary Construction Easement.** Grantor, for and on behalf of his heirs, administrators, executors, legal representatives, and assigns, does hereby grant unto Grantee, a temporary, non-exclusive easement in, on, over, under, across, and through that Property shown on Exhibit "A" (the "Construction Easement"). The rights, benefits, privileges, and easement granted herein are for the purpose of that construction identified in Exhibit B and as provided in Section 3 herein below (the "Construction Project"). Said Easement is temporary and shall expire upon completion of the construction therein.

2. **Term of Temporary Construction Easement.** The parties contemplate that the construction project can be completed in thirty (30) days or less once on site. However, the parties acknowledge that said construction start date may be delayed and the time frame for completion may be delayed due to weather conditions. Except as may be amended by Grantee upon written notice to Grantor, said Temporary Construction Easement shall be for a period of thirty (30) days beginning on the date of commencement. Grantee shall notify Grantor of any reasonable delay in commencement or delay in completion due to weather related delays as soon

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

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

- (a) the right of entry into and upon the Property for the purpose of access and ingress to and egress from the Property in order to effect the rights, privileges and easements set forth herein;
- (b) the right to cut away, remove and dispose of all trees, undergrowth or other obstructions which exist on the Temporary Construction Easement, which removal is necessary for stormwater and erosion control within the easement area;
- (c) the right to install stone rip rap, fabric or other materials for stormwater and erosion control within the easement area; and
- (d) the right, when required by law, governmental regulation or necessity to conduct scientific, geotechnical, archaeological or other studies, investigation or other testing on or below the ground surface of the Property.

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

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

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

6 **Covenants of Grantor.**

- (a) Grantor waives all right to any compensation for the use and enjoyment of the rights and privileges granted herein and further acknowledges that the use granted herein does not constitute an action of eminent domain or condemnation by the Grantee. Grantor does not waive any claim for damages that may result from the negligent acts or omissions of the Grantee or its contractors in its use of the Temporary Construction Easement.

- (b) Grantor does hereby covenant with the Grantee that Grantor is lawfully seized and possessed of the Property above described, that Grantor has a good and lawful right to convey said easement, rights and privileges granted herein.
7. **No Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift of dedication to the general public or for any general public use.
8. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and understanding between Grantor and Grantee relating to the subject matter hereof and may not be amended, waived or discharged except by instrument in writing executed by the party against which enforcement of such amendment, waiver or discharge is sought.
9. **Severability.** The invalidity of any one of the covenants, agreements, conditions or provisions of this Agreement, or any portion thereof, shall not affect the remaining portions thereof, or any part thereof, and this Agreement shall be modified to substitute in lieu of the invalid provision, a like and valid provision which reflects the agreement of the parties with respect to the covenant, agreement, condition or provision which has been deemed invalid.
10. **Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, and upon execution by the Grantor and Grantee.
11. **Time of Essence.** Time is of the essence with respect to this Agreement.
12. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.

[Signatures on next page]

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

Signed, sealed and delivered  
in the presence of:

Grantor:

Brianna Cunn  
Unofficial Witness

Bret Perkins  
Bret Perkins

Tosha Haynes  
Notary Public  
My Commission Expires:

Acceptance of Grantee:

CITY OF DALTON



\_\_\_\_\_  
Authorized Officer

**EXHIBIT "A"**

Deed Doc WD  
Recorded 10/27/2020 12:16PM  
Georgia Transfer Tax Paid \$79.00  
MELICA HENDRICK  
Clerk Superior Court, WHITFIELD County, Ga  
Bk 06803 Pg 0687-0689

Ph4002794

**RETURN TO:**

L. STEPHEN KELEHEAR  
LITTLE, BATES & KELEHEAR, P.C.  
PO BOX 488  
DALTON, GA 30722-0488

**STATE OF GEORGIA**  
**COUNTY OF WHITFIELD**

**WARRANTY DEED**

**THIS INDENTURE, made the 26th day of October, 2020, between McFarland Hill Baptist Church, Inc. (hereinafter "Grantor"), of the County of Whitfield and State of Georgia, and Bret Perkins (hereinafter "Grantee"), of the County of Whitfield and State of Georgia.**

**WITNESSETH**

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

**SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF**

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

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

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

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

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

McFarland Hill Baptist Church, Inc.

BY: Mark Jones (SEAL)  
Mark Jones, President

ATTEST: Randle Smith (SEAL)  
Randle Smith, Secretary

Signed, sealed and delivered  
this 26th day of October, 2020,

in the presence of:

WITNESS  
Judy L. Harbrough  
NOTARY PUBLIC

Judy L. Harbrough  
Notary Public, Whitfield County, Georgia  
My Comm. Expires 04/07/2021

EXHIBIT "A"

**A certain tract or parcel of land lying and being in Land Lot 258 of the 12th District and 3rd Section of Whitfield County, Georgia, and being Lots 73, 74 and 75 of Kelley Subdivision and the south 20 feet of Cannon Street and being more particularly described in a survey for Russell W. Dirks by Norman B. Deloach, Georgia Registered Land Surveyor No. 1347, dated April 5, 1994, as follows:**

**BEGINNING at an iron pin located at the southwest intersection of Hardwick Street (40 foot right of way) and the center of an unopened street (Cannon Street), thence following the west right of way of Hardwick Street south 00 degrees 00 minutes 00 seconds east 95 feet to an iron pin; thence south 87 degrees 28 minutes 14 seconds west 117.28 feet to an iron pin; thence north 00 degrees 00 minutes 00 seconds west 95 feet to an iron pin located in the centerline of an unopened street (Cannon Street); thence following said centerline north 87 degrees 28 minutes 14 seconds east 117.28 feet to an iron pin and the point of beginning.**





EXHIBIT "B"

906 Hardwick Circle Temporary Drainage Easement



[Space above this line for recording data.]

Please Record and Return To:

Terry L. Miller  
Mitchell & Mitchell, P.C.  
108 S. Thornton Ave.  
P.O. Box 668  
Dalton, GA 30722-668

## **STORM DRAINAGE EASEMENT AGREEMENT**

**Georgia, Whitfield County**

**This Storm Drainage Easement Agreement** (this "Agreement") is made this 29<sup>th</sup> day of NOVEMBER, 2022 (the "Effective Date"), by and between Bret Perkins, of the first part (hereinafter called "Grantor"), and the City of Dalton, Georgia, a municipal corporation of the State of Georgia, party of the second part (hereinafter called "Grantee"), their respective heirs, administrators, successors and assigns:

### **WITNESSETH:**

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

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

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

**WHEREAS**, Grantor acknowledges that the work to be performed in this Agreement will not alleviate all issues relating to the flooding of the Perkins Property and that there may be damages that will occur in the future to the Perkins Property; and

**WHEREAS,** Grantee desires non-exclusive access to and use of a portion of the Perkins Property to discharge storm water originating from the City Property into the Perkins Municipal Storm Sewer; and Grantor is willing to grant the requested access and use on and subject to the terms hereof; and

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

**WHEREAS,** upon completion of the installation and construction of the Perkins Municipal Storm Sewer, Grantee intends to be responsible for all costs associated with the use, maintenance, repair, replacement, inspection, and reconstruction of the Perkins Municipal Storm Sewer, as it relates to maintaining reasonable drainage flow from the right of way to the discharge point; and

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

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

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

2. **Temporary Construction Easement.** Grantor, and for and on behalf of his heirs, administrators, successors and assigns, and for and on behalf of anyone claiming by, through or

under Grantor, does hereby grant, bargain, sell and convey unto Grantee and its successors and assigns, a temporary, non-exclusive easement in, on, over, under, across and through the Perkins Property described by the legal description attached hereto as Exhibit "A" and incorporated herein by this reference (the "Construction Easement"). The rights, benefits, privileges, and easement granted herein is for the purpose of the non-exclusive construction and/or maintenance of the Perkins Municipal Storm Sewer. Said Construction Easement is temporary and shall expire upon completion of the Perkins Municipal Storm Sewer.

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

- (a) all rights, benefits, privileges, and easements necessary or convenient for the full enjoyment and use of the Storm Drainage Easement for the purposes described herein;
- (b) the right of entry into and upon the Perkins Property for the purpose of access and ingress to and egress from the Storm Drainage Easement in order to effect the rights, privileges and easements set forth herein;
- (c) the right to cut away and keep clear, remove and dispose of all trees, undergrowth or other obstructions now or as may exist on the Storm Drainage Easement, which removal is necessary for Grantee's use and enjoyment of easements, rights and privileges granted herein; and
- (d) the right, when required by law, governmental regulation or necessity to conduct scientific, geotechnical, archaeological or other studies, investigation or other testing on or below the ground surface of the Storm Drainage Easement.

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

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

- (a) The use of the Storm Drainage Easement by the Grantee shall be in accordance with all laws, ordinances, codes, and regulations of all governmental authorities having jurisdiction over the Storm Drainage Easement. Any such use of the Storm Drainage Easement by the Grantee shall be undertaken in such a manner as to minimize the disturbance to and interruption of Grantor's use of the Perkins Property to the greatest extent practicable.
- (b) Grantee shall operate, repair, replace and maintain continuously the Perkins Municipal Storm Sewer on or within the Storm Drainage Easement.
- (c) Grantee shall be solely responsible to maintain reasonable drainage flow from the right of way to the discharge point, which shall be at Grantee's absolute discretion. The Perkins

Municipal Storm Sewer and Storm Drainage Easement shall remain free and clear of all liens and other encumbrances arising out of the exercise by the Grantee of its rights hereunder.

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

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

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

6. **Covenants of Grantor.**

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

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

(c) Grantor irrevocably binds itself to refrain from making any claim or demand, or to commence, cause, or permit to be prosecuted any action in law or equity against Grantee, or any other person, firm or entity claiming by or through Grantee on account of any damage that may occur or resulting from the installation or the operation of the Storm Drainage Easement.

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

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

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

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

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

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

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

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

Signed, sealed and delivered  
In the presence of:

Unofficial Witness

Notary Public

My commission expires:

4-3-2026  
[Notarial Seal]

Grantor:

By:

Bret Perkins

(Seal)



**Grantee:**

**City of Dalton**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public  
My Commission Expires:

## EXHIBIT "A"

Deed Doc: WD  
Recorded 10/27/2020 12:16PM  
Georgia Transfer Tax Paid : \$79.00  
MELICA KENDRICK  
Clerk Superior Court, WHITFIELD County, Ga  
Bk: 06803 Pg: 0687-0689

Ph1002794

### RETURN TO:

L. STEPHEN KELEHEAR  
LITTLE, BATES & KELEHEAR, P.C.  
PO BOX 488  
DALTON, GA 30722-0488

STATE OF GEORGIA  
COUNTY OF WHITFIELD

### WARRANTY DEED

THIS INDENTURE, made the 26th day of October, 2020, between McFarland Hill Baptist Church, Inc. (hereinafter "Grantor"), of the County of Whitfield and State of Georgia, and Bret Perkins (hereinafter "Grantee"), of the County of Whitfield and State of Georgia.

### WITNESSETH

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

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

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



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

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

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

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

McFarland Hill Baptist Church, Inc.

BY: Mark Jones (SEAL)  
Mark Jones, President

ATTEST: Randle Smith (SEAL)  
Randle Smith, Secretary

Signed, sealed and delivered  
this 26th day of October, 2020,  
in the presence of:

WITNESS

Judy L. Yarbrough  
NOTARY PUBLIC

Judy L. Yarbrough  
Notary Public, Whitfield County, Georgia  
My Comm. Expires 04/07/2024

EXHIBIT "A"

**A certain tract or parcel of land lying and being in Land Lot 258 of the 12th District and 3rd Section of Whitfield County, Georgia, and being Lots 73, 74 and 75 of Kelley Subdivision and the south 20 feet of Cannon Street and being more particularly described in a survey for Russell W. Dirks by Norman B. DeLoach, Georgia Registered Land Surveyor No. 1347, dated April 5, 1984, as follows:**

**BEGINNING at an iron pin located at the southwest intersection of Hardwick Street (40 foot right of way) and the center of an unopened street (Cannon Street), thence following the west right of way of Hardwick Street south 00 degrees 00 minutes 00 seconds east 95 feet to an iron pin; thence south 87 degrees 28 minutes 14 seconds west 117.28 feet to an iron pin; thence north 00 degrees 00 minutes 00 seconds west 95 feet to an iron pin located in the centerline of an unopened street (Cannon Street); thence following said centerline north 87 degrees 28 minutes 14 seconds east 117.28 feet to an iron pin and the point of beginning.**

*RS*  
*MJ.*

## EXHIBIT "B"

### 906 Hardwick Circle Permanent Drainage Easement





## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 03/20/23

**Agenda Item:** Resolution 23-07

**Department:** Administration

**Requested By:** Andrew Parker

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

**Cost:**

**Funding Source if Not  
in Budget**

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

RESOLUTION 23-07 OF THE MAYOR AND COUNCIL OF THE CITY OF DALTON PURSUANT TO CHAPTER 1 OF TITLE 22 AND ARTICLE 2 OF CHAPTER 2 OF TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED FOR THE EXERCISE OF THE POWER OF EMINENT DOMAIN FOR THAT PROPERTY KNOWN AS 312 W. WAUGH STREET, CITY OF DALTON; TO MAKE FINDINGS OF PUBLIC NECESSITY; AND TO AUTHORIZE THE CITY'S ATTORNEY TO PETITION THE SUPERIOR COURT FOR AN IN REM JUDGMENT AGAINST SAID REAL ESTATE AND APPURTENANCES; AND FOR OTHER PURPOSES

**CITY OF DALTON  
RESOLUTION**

**Resolution No. 23-07**

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF DALTON PURSUANT TO CHAPTER 1 OF TITLE 22 AND ARTICLE 2 OF CHAPTER 2 OF TITLE 22 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED FOR THE EXERCISE OF THE POWER OF EMINENT DOMAIN FOR THAT PROPERTY KNOWN AS 312 W. WAUGH STREET, CITY OF DALTON; TO MAKE FINDINGS OF PUBLIC NECESSITY; AND TO AUTHORIZE THE CITY’S ATTORNEY TO PETITION THE SUPERIOR COURT FOR AN IN REM JUDGMENT AGAINST SAID REAL ESTATE AND APPURTENANCES; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and Council have authority to condemn private property for public use where it is necessary to take or damage such private property for public necessity and use; and

WHEREAS, the City of Dalton has determined that it requires the total taking of the real estate and appurtenances thereto known as “312 W. Waugh Street, City of Dalton” being Tax Parcel No. 12-219-39-002 (“the Property”) for the construction of its Prater Alley Stormwater Improvement And Flood Mitigation Project in the Prater Alley drainage basin; and

WHEREAS, the City of Dalton has had the Property and its appurtenances appraised as to the fair market value and offered to the owner of the Property the amount of such appraisal believed to constitute just and adequate compensation along with relocation expense, but has been unable to acquire the Property by contract to date of this Resolution; and

WHEREAS, the City of Dalton has determined to proceed with its public works construction project for such stormwater improvements and flood mitigation in the Prater Alley drainage basin:

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Dalton and by authority of the same IT IS HEREBY RESOLVED as follows:

**-1-**

The Mayor and Council find it to be a matter of public necessity in order to construct the the stormwater improvements and flood mitigation project for the Prater Alley drainage basin to exercise its power of eminent domain over that Property which is described by Exhibit “A” and to take fee simple title to the entire tract and its appurtenances.

**-2-**

A plat of the Property along with photograph thereof is attached hereto as cumulative Exhibit “B.”

**-3-**

The City of Dalton has heretofore offered an amount to the owner of the Property as just compensation in accordance with its appraisal thereof, including an amount for an outdoor sign affixed to the building, and for relocation expenses.

**-4-**

The Owner has declined the City’s offer of just compensation countering with an amount (per Owner’s counsel’s letter of February 21, 2023) the Mayor and Council find to be in excess of its fair market value or other proper compensation and does hereby decline to accept.

**-5-**

Prior to consideration of this Resolution the City has posted a sign at the Property and provided notices as provided in O.C.G.A. § 22-1-10 (a) (1) and (2).

**-6-**

The City Attorney is hereby authorized to file an in rem action in Whitfield County Superior Court against the Property and its appurtenances pursuant to Article 2 of Chapter 2 of

Title 22 of the Official Code of Georgia Annotated it being necessary to have the Court supervise the process under O.C.G.A. 22-2-100 et. seq.

-7-

The City Clerk is directed to record this action and this Resolution in the minutes and proceedings of the Mayor and Council.

-8-

This Resolution shall be effective upon its passage by vote of the Mayor and Council approving same.

SO RESOLVED this \_\_\_\_\_ day of March, 2023.

City of Dalton

By: \_\_\_\_\_  
Mayor

Attest:

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

The foregoing Resolution was read at regular meeting of the Mayor and Council on March 20, 2023. Upon Motion by Council member \_\_\_\_\_ and second by Council member \_\_\_\_\_ the question was called and the vote was \_\_\_\_\_ AYES, \_\_\_\_\_ NAYS and the Motion DOES pass.

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

## **EXHIBIT “A”**

All that tract or parcel of land lying and being in the City of Dalton, Whitfield County, Georgia, commonly known as 312 W. Waugh Street, and of the following description:

Fronting 62 feet, more or less, along the north side of Waugh Street, and running back North therefrom 146 feet, more or less, being the identical lands conveyed to Mrs. Dixie Bradley Bandy by Warranty Deed of Mrs. J.C. Henderson dated September 6, 1955 and recorded in Deed Book 88, Page 194, in the Deed Records of Whitfield County, Georgia. Said lands being more particularly described as follows: COMMENCING on the north side of Waugh Street at the southeast corner of the lands now or formerly owned by W.L. Manton and W.C. Bryant, said point being 130 feet east of the northeast corner of the intersection of said Waugh Street with Thornton Avenue; thence north 100 feet, more or less; thence west 1 foot; thence north 46 feet, more or less; thence east 63 feet, more or less; thence south 146 feet, more or less to the north side of Waugh Street; thence west along the north side of Waugh Street 62 feet, more or less, to the point of beginning.

Tax parcel No. 12-219-39-002.



EXHIBIT "B"  
A-1 of J.M.

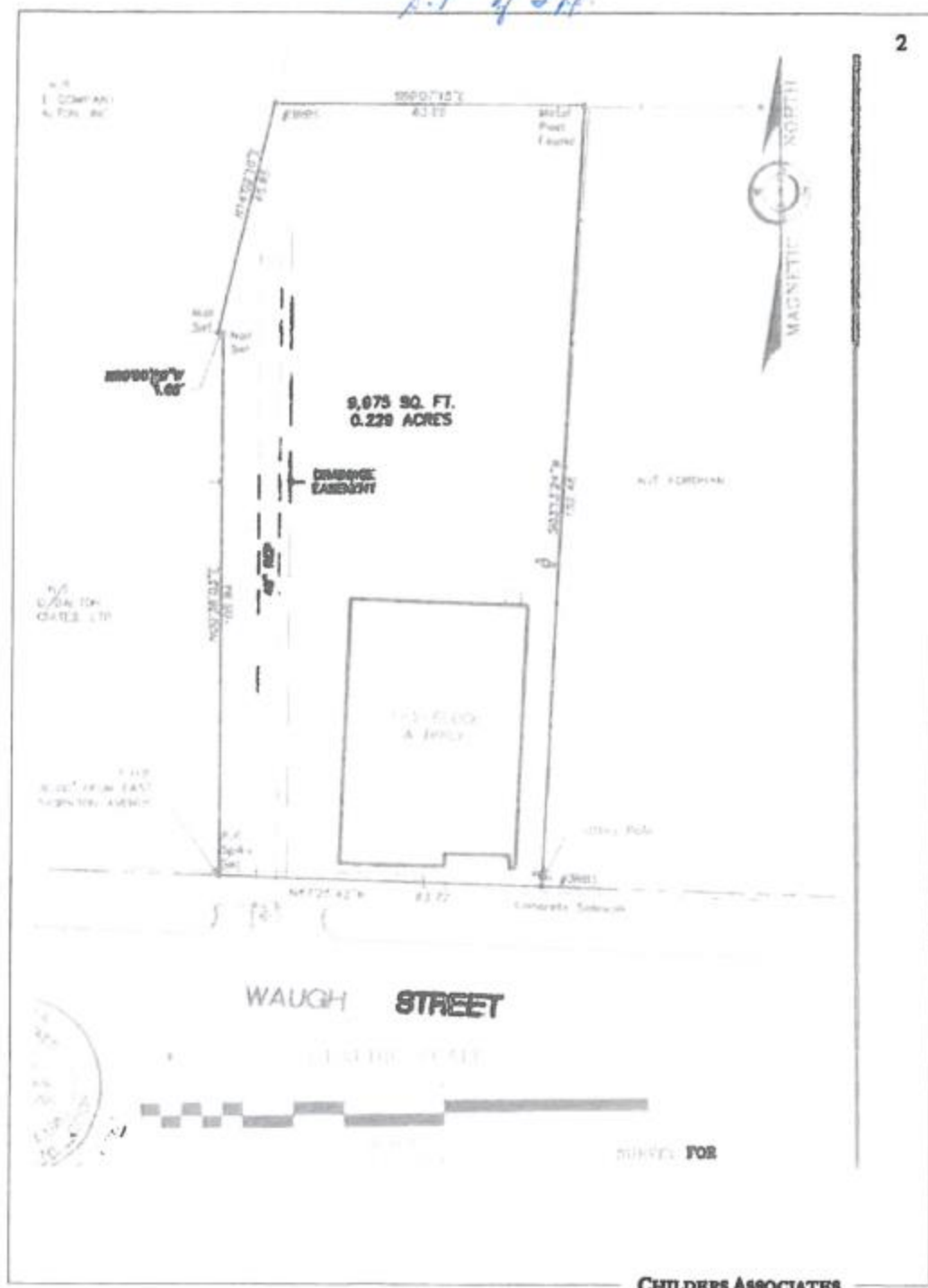


EXHIBIT "B"

P. 2 of 2

19

### Improvements

The subject is improved with a single-story commercial building constructed in 1960. Representative photographs of the subject building are included below. A brief description of the subject building follows the photographs.

### Subject Photographs

View of front exterior finish of subject



CHILDERS ASSOCIATES



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 03/20/23

**Agenda Item:** First Amendment to Development Agreement

**Department:** Finance

**Requested By:** Cindy Jackson

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

**Cost:**

**Funding Source if Not in Budget**

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

First Amendment to Development Agreement with Hammond Creek Township for TAD#4 to amend that the Project Completion shall now occur on or before October 31, 2025 instead of December 31, 2024.

## **FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this “Agreement”), dated as of this \_\_\_\_ day of \_\_\_\_\_, 2023, 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.

WHEREAS, the City and the Developer have entered into a Development Agreement, dated as of \_\_\_\_\_, 2022 (the “Development Agreement”), regarding the development of a new multifamily residential facility (the “Project”) located in the Tax Allocation District #4 North Bypass (Hammond Creek) (the (“TAD #4”); and

WHEREAS, the Development Agreement provides that the Project Completion (as defined therein) shall occur on or before December 31, 2024; and

WHEREAS, the City and Developer desire to amend the Development Agreement to provide that the Project Completion shall occur on or before October 31, 2025; and

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

1. The Development Agreement is hereby amended by deleting “December 31, 2024” in the definition of the “Completion Date” and in Section 5.1 of the Development Agreement and replacing it with “October 31, 2025.”
2. This First Amendment to Development Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
3. All other terms of the Development Agreement shall continue in full force and effect subject to this First Amendment to Development Agreement as set forth herein.

IN WITNESS HEREOF, the parties hereto have caused this instrument to be duly executed  
as of the \_\_\_\_ day of \_\_\_\_\_, 2023.

**CITY OF DALTON, GEORGIA**

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
Clerk

[SEAL]

**HAMMOND CREEK TOWNSHIP, LLC,**  
a Georgia limited liability company

By: \_\_\_\_\_  
Title: