

**MAYOR AND COUNCIL MEETING  
MONDAY, NOVEMBER 02, 2020  
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 Contact Card Prior to Speaking)*

**Minutes:**

1. Mayor and Council Minutes of October 19, 2020

**New Business:**

2. (2) New 2020 Alcohol Beverage Applications
3. SPECTRA Contract Flooring - Carpet and Tile Cleaning Agreements for the Public Works Administration Building
4. Professional Services Agreement with Chastain & Associates for Surveys of Ridge Street and Glenwood Avenue
5. Resolution 20-22 Authorizing the Purchase of Real Property Being Lots 20, 21, and 22 of Stonewood Chase Subdivision
6. Resolution 20-23 Authorizing the Purchase of Real Property Located at 915 Brookwood Drive
7. Resolution 20-24 Authorizing the Sale of Real Property to 891 College Drive, LLC.
8. Resolution 20-25 Authorizing the Sale of Real Property to S&S Property Holdings, LLP.
9. Resolution 20-26 Authorizing the Exchange of Real Property Rights Located in West Hill Cemetery
10. Point of Sale Software Agreement with Club Prophet, LLC for Nob North Golf Course

**Supplemental Business**

**Adjournment**

THE CITY OF DALTON  
MAYOR AND COUNCIL MINUTES  
OCTOBER 19, 2020

The Mayor and Council held a meeting this evening at 6:00 p.m. in the Council Chambers of City Hall. Present were Mayor David Pennington, Council members Annalee Harlan via Zoom, Derek Waugh, Tyree Goodlett, and Gary Crews, City Administrator Jason Parker and City Attorney Gandhi Vaughn.

PLEDGE OF ALLEGIANCE

The audience was led in the Pledge of Allegiance.

APPROVAL OF AGENDA

On the motion of Council member Waugh, second Council member Goodlett, the Mayor and Council removed Item (10), “Resolution 20-21 Supporting Expansion of City Employee Retirement Benefits” and approved the October 19, 2020 agenda. The vote was unanimous in favor.

PUBLIC COMMENTARY

1. Bill Weaver spoke in opposition of Resolution 20-21 Supporting Expansion Of City Employee Retirement Benefits
2. Victoria Parker spoke in opposition of Resolution 20-21 Supporting Expansion Of City Employee Retirement Benefits
3. Dr. Luis Viamonte spoke in opposition of Resolution 20-21 Supporting Expansion Of City Employee Retirement Benefits
4. Gary Hill spoke in opposition of Resolution 20-21 Supporting Expansion Of City Employee Retirement Benefits
5. Ed Painter spoke in opposition of Redevelopment Potential of Two Proposed Tax Allocation Districts

MINUTES

The Mayor and Council reviewed the Regular Meeting Minutes of October 5, 2020. On the motion of Council member Crews, second Council member Waugh, the minutes were approved. The vote was unanimous in favor.

DALTON UTILITIES 2020 BOND ORDINANCE FOR REVENUE BOND ISSUANCE

Jim Woodward, Bond Counsel for the City of Dalton and Dalton Utilities, and Dalton Utilities CEO Tom Bundros presented to the Mayor and Council the Dalton Utilities 2020 Bond Ordinance for Revenue Bond Issuance not to exceed \$100 million for financing certain electric sector improvements for electric generation, transmission, and distribution. On the motion of Council member Crews, second Council member Harlan, the Mayor and Council approved the Ordinance for Revenue Bond Issuance. The vote was unanimous in favor.

REDEVELOPMENT POTENTIAL OF TWO PROPOSED TAX ALLOCATION DISTRICTS - BLEAKLY ADVISORY GROUP PRELIMINARY FINDINGS PRESENTATION

Gary Mongeon presented a PowerPoint presentation on the Redevelopment Potential of Two Proposed Tax Allocation Districts (1) North By-Pass and (2) West Walnut Avenue. On the motion of Council member Waugh, second Council member Goodlett, the Mayor and Council voted to authorize Bleakly Advisory Group to proceed to draft the needed 2015 Development Plan Amendment and the new West Walnut Avenue Redevelopment Plan based on the information presented. The vote was unanimous in favor. A copy of this presentation is a part of these minutes.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM GOALS FOR DALTON MUNICIPAL AIRPORT

Airport Manager Andrew Wiersma presented the Disadvantaged Business Enterprise (DBE) Program Goals for Dalton Municipal Airport. Wiersma stated that to comply with the federal financial assistance from the Department of Transportation, the City has signed an assurance to comply with 49 CFR Part 26 which requires the airport submit a Disadvantage Business Enterprise Program Goals document every 3 years. On the motion of Council member Waugh, second Council member Crews, the Mayor and Council approved the goals. The vote was unanimous in favor.

RESOLUTION 20-19 AUTHORIZING THE CANCELLATION OF DEPARTMENT OF COMMUNITY DEVELOPMENT SECURITY DEED - ALEAN WATSON AND ADEL WATSON TIBBS

City Administrator Jason Parker presented Resolution 20-19 Authorizing the Cancellation of Department of Community Development Security Deed to Owners Alean Watson and Adel Watson Tibbs for Property known as 1126 Richards Street given everything has been satisfied in full. On the motion of Council member Crews, second Council member Harlan, the Mayor and Council approved the cancellation. The vote was unanimous in favor.

RESOLUTION 20-20 ACCEPTING DONATION OF REAL PROPERTY FROM INTERMARK USA, INC. & HAMMER PROPERTIES OF DALTON, LLC AND DEDICATION OF PUBLIC RIGHT-OF-WAY OF STREET KNOWN AS CANDLEWICK COURT

Public Works Director Andrew Parker presented a Donation of Real Property from Intermark USA, Inc. & Hammer Properties of Dalton, LLC and Dedication of Public Right-of-Way of Street Known as Candlewick Court. A. Parker stated Public Works requested a 15' wide alley dedication to facilitate access to the proposed residential development of Bryan Spence. On the motion of Council member Waugh, second Council member Harlan, the Mayor and Council accepted the donation. The vote was unanimous in favor.

TRAFFIC CONTROL CHANGE – ONE-WAY TRAVEL FOR ALLEY FROM CHENILLE DRIVE AND FACTORY STREET

Public Works Director Andrew Parker presented the Traffic Control Change – One-Way Travel for Alley from Chenille Drive and Factory Street. On the motion of Council member Goodlett, second Council member Waugh, the traffic control change was approved. The vote was unanimous in favor.

FY-20 BUDGET AMENDMENT #6

CEO Cindy Jackson presented FY2020 Budget Amendment #6 that included the following:

General Fund

- (1) Additional LMIG funds for Dug Gap Battle Road Slope Repair
- (2) To adjust budget to actual for DU 5% transfer fee
- (3) Reduction in HMT due to COVID
- (4) Contracts approved by Council 8/3/20 for Dug Gap Battle Rd Slope Repair
- (5) Contract approved by council 9/21 with Investment Research & Advisory Group for \$25,000
- (6) Contract approved by Council 10/04 with Jacqueline Killings, LLC for \$16,500
- (7) IT equipment & software as discussed at the October Finance Committee Meeting (79 computers and related accessories, additional cloud space, Microsoft licenses)

Hotel motel Tax Fund

- (1) Reduction in HMT due to COVID

Capital Improvements Fund

- (1) IT equipment & software as discussed at the October Finance Committee Meeting (79 computers and related accessories, additional cloud space, Microsoft licenses)

On the motion of Council member Goodlett, second Council member Waugh, Budget Amendment #6 was approved. The vote was unanimous in favor. A copy of the amendment is a part of these minutes.

RESOLUTION 20-21 SUPPORTING EXPANSION OF CITY EMPLOYEE RETIREMENT BENEFITS

This item was removed from the agenda.

Mayor and Council  
Minutes  
Page 4  
October 19, 2020

ADJOURNMENT

There being no further business to come before the Mayor and Council, the meeting was Adjourned at 6:55 p.m.

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Bernadette Chattam  
City Clerk

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David Pennington, Mayor

Recorded  
Approved: \_\_\_\_\_  
Posted: \_\_\_\_\_



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting  
**Meeting Date:** 11-02-2020  
**Agenda Item:** 2020 New 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) New Alcohol Application recommendations by the Public Safety Commission.

**2020 ALCOHOL BEVERAGE APPLICATION**

**PSC TUESDAY OCTOBER 27, 2020**

**M&C MONDAY NOVEMBER 2, 2020**

**(2) 2020 ALCOHOL APPLICATION**

1. Business Owner: God is Good, LLC  
d/b/a: Tequila's Liquor  
Applicant: Juan Carlos Jimenez  
Business Address: 312 N. Glenwood Ave  
Type: Package Beer, Package Wine, Package Liquor  
Disposition: **New**
  
2. Business Owner: Logan's Roadhouse II, LLC  
d/b/a: Logan's Roadhouse #427  
Applicant: Audrea Mills  
Business Address: 811 Walnut Square Blvd  
Type: Pouring Beer, Pouring Wine, Pouring Liquor  
Disposition: **New**



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 11/02/2020

**Agenda Item:** SPECTRA Contract Flooring - Carpet and Tile Cleaning Agreements for the Public Works Administration Building

**Department:** Public Works

**Requested By:** Andrew Parker

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

**Cost:** \$5,562.25 (Annually)

**Funding Source if Not in Budget** Public Works - Building Maintenance Line (142060-000350)

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

This contract is a renewal of the annual carpet and ceramic tile cleaning agreements at the Public Works Administration building. The contract runs from November 2020 – October 2021 and pricing stayed the same as 2020 contract pricing.





A Berkshire Hathaway Company

<b>Proposal Submitted To</b> City of Dalton		<b>Attention</b> *Andrew Parker		<b>Phone</b> (706) 278-7077	<b>Fax</b> (706) 278-1847	<b>Date</b> 10/24/20
				<b>Job Name</b> PCDA/Public Works Carept Cleaning		<b>Job #</b> 177343
<b>Street</b> P. O. Box 1205				<b>Job Street</b> P. O. Box 1205		<b>Proposal ID</b> 328845
<b>City, State and Zip</b> Dalton, GA 30722	<b>Architect</b>	<b>Date of Plans</b>	<b>Add #</b>	<b>Job City, State and Zip</b> DALTON, GA 30722	<b>Customer Job #</b> None	<b>Customer PO</b> None

We hereby submit specifications and estimates for:

Item Description	Price
Clean Carpet: 6x year for (Red Area's - Halls) 4x year for (Blue Area's - Conference Rooms) 2x year for (Green Area's - Offices) Public works - November - 2020 - October - 2021 Carpet Cleaning Maintenance Contract...	\$4,113.22
	\$0.00
<b>Base Bid Total:</b>	<b>\$4,113.22</b>

We PROPOSE to perform the work complete in accordance with the specifications and as described above for the SUM of:

Signature: Tony Gladson Tony Gladson Cell: (706) 463-3958 \$4,113.22  
Email: tony.gladson@spectracf.com

**Conditions of Proposal:**

1. This proposal may be withdrawn if not accepted within 30 days of its issuance. Spectra will consider reasonable requests to engage in negotiations for revisions to this Proposal, including signing a subcontract that incorporates the terms of this Proposal. A proposal not accepted within 30 days will be subject to price escalation for materials.
2. This proposal is subject to credit review and approval. Payment terms are net 30 days. A convenience fee of 2% will be added if paying via credit card. Past due invoices are subject to service charges of 1.5% per month (18% per annum). ~~In the case of any default, Customer shall pay Spectra's reasonable attorney fees and costs, including those on any appeal, even if no suit or action is filed.~~ *80.00.*
3. All work shall be performed in a workmanlike manner according to industry standards. Areas to receive flooring shall be free and clear of debris. Any changes to the work shall be performed only after execution of a written change order.
4. Prior to commencement of Spectra's work: (a) Customer shall test all concrete sub floors receiving flooring for vapor emission levels and alkalinity per manufacturers' recommendations utilizing ASTM F2170 and/or F1869 and provide written results to Spectra, including a list of any sealers applied to the concrete sub floor; (b) If Customer does not provide such reports at least 10 days prior to commencement of Spectra's work, then Customer shall provide Spectra with access to all concrete sub floors for appropriate testing and Customer shall be responsible for the costs of such testing; and (c) Any concrete sub floors not meeting manufacturers' requirements for installation will require correction or the execution of a separate waiver agreement.
5. All work is contingent upon strikes, accidents or delays beyond Spectra's control. Customer shall carry insurance for all hazards, including fire. Spectra's workers are fully covered by Worker's Compensation and Liability Insurance.
6. Customer represents and warrants that: (a) the project site contains no hazardous or other dangerous substances, either exposed or concealed; or (b) Customer has given written notice to Spectra of all such substances and their location(s). ~~To the fullest extent permitted by law, Customer shall indemnify, defend and hold Spectra harmless from any damage, claim, loss, expense and attorney fees related to Spectra's liability, if any, including any federal or state statute related to hazardous or other dangerous substances.~~ *80.00.*
7. Spectra is fully licensed, bonded, and insured. This proposal does not include participation in any OCIP/CCIP or related programs. Requests for Spectra to participate in such programs may result in additional costs.
8. ~~Notwithstanding anything herein to the contrary, all prices are subject to immediate increase without limitation in the event of material change to applicable duties, taxes, tariffs, similar charges, or other government action effective May 10, 2020.~~ *80.00.*

**ACCEPTANCE OF PROPOSAL: The above prices, specifications, and conditions are satisfactory and are hereby ACCEPTED. You are authorized to do the work as specified.**

Customer: City of Dalton Signed: \_\_\_\_\_ Date: \_\_\_\_\_



A Berkshire Hathaway Company

Proposal Submitted To City of Dalton		Attention *Andrew Parker		Phone (706) 278-7077	Fax (706) 278-1847	Date 10/24/20
				Job Name PCDA/Public Works Ceramic Tile Cleaning		Job # 177344
Street P. O. Box 1205				Job Street P. O. Box 1205		Proposal ID 328846
City, State and Zip Dalton, GA 30722	Architect	Date of Plans	Add #	Job City, State and Zip DALTON, GA 30722	Customer Job # None	Customer PO None

We hereby submit specifications and estimates for:

Item Description	Price
1x Ceramic Tile Cleaning (Halls, Restrooms, Break Area). Public Works - November - 2020 - October - 2021 Ceramic Tile Maintenance Contract	\$1,449.03
<b>Base Bid Total:</b>	<b>\$1,449.03</b>

We PROPOSE to perform the work complete in accordance with the specifications and as described above for the SUM of:

Signature: Tony Gladson                      Tony Gladson    Cell: (706) 463-3958                      \$1,449.03  
 Email: tony.gladson@spectracf.com

**Conditions of Proposal:**

- This proposal may be withdrawn if not accepted within 30 days of its issuance. Spectra will consider reasonable requests to engage in negotiations for revisions to this Proposal, including signing a subcontract that incorporates the terms of this Proposal. A proposal not accepted within 30 days will be subject to price escalation for materials.
- This proposal is subject to credit review and approval. Payment terms are net 30 days. A convenience fee of 2% will be added if paying via credit card. Past due invoices are subject to service charges of 1.5% per month (18% per annum). ~~In the case of any default, Customer shall pay Spectra's reasonable attorney fees and costs, including those on any appeal, even if no suit or action is filed.~~ *B.G.D.*
- All work shall be performed in a workmanlike manner according to industry standards. Areas to receive flooring shall be free and clear of debris. Any changes to the work shall be performed only after execution of a written change order.
- Prior to commencement of Spectra's work: (a) Customer shall test all concrete sub floors receiving flooring for vapor emission levels and alkalinity per manufacturers' recommendations utilizing ASTM F2170 and/or F1869 and provide written results to Spectra, including a list of any sealers applied to the concrete sub floor; (b) If Customer does not provide such reports at least 10 days prior to commencement of Spectra's work, then Customer shall provide Spectra with access to all concrete sub floors for appropriate testing and Customer shall be responsible for the costs of such testing; and (c) Any concrete sub floors not meeting manufacturers' requirements for installation will require correction or the execution of a separate waiver agreement.
- All work is contingent upon strikes, accidents or delays beyond Spectra's control. Customer shall carry insurance for all hazards, including fire. Spectra's workers are fully covered by Worker's Compensation and Liability Insurance.
- Customer represents and warrants that: (a) the project site contains no hazardous or other dangerous substances, either exposed or concealed; or (b) Customer has given written notice to Spectra of all such substances and their location(s). ~~To the fullest extent permitted by law, Customer shall indemnify, defend and hold Spectra harmless from any damage, claim, loss, expense and attorney fees related to Spectra's liability, if any, including any federal or state statute related to hazardous or other dangerous substances.~~ *B.G.D.*
- Spectra is fully licensed, bonded, and insured. This proposal does not include participation in any OCIP/CCIP or related programs. Requests for Spectra to participate in such programs may result in additional costs.
- ~~Notwithstanding anything herein to the contrary, all prices are subject to immediate increase without limitation in the event of material change to applicable duties, taxes, tariffs, similar charges, or other government action effective May 13, 2020.~~ *B.G.D.*

**ACCEPTANCE OF PROPOSAL: The above prices, specifications, and conditions are satisfactory and are hereby ACCEPTED. You are authorized to do the work as specified.**

Customer: City of Dalton                      Signed: \_\_\_\_\_                      Date: \_\_\_\_\_



## CITY COUNCIL AGENDA REQUEST

<b>Meeting Type:</b>	Mayor & Council Meeting
<b>Meeting Date:</b>	11/02/20
<b>Agenda Item:</b>	Agreement with Chastain & Associates for Surveys of Ridge Street and Glenwood Avenue
<b>Department:</b>	Public Works
<b>Requested By:</b>	Megan Elliott
<b>Reviewed/Approved by City Attorney?</b>	Yes
<b>Cost:</b>	\$24,500
<b>Funding Source if Not in Budget</b>	2015 SPLOST - SP158

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

This request is to approve the Professional Services Agreement with Chastain and Associates, P.C. to complete the surveys for Ridge Street and Glenwood Avenue areas. These surveys are needed to facilitate detailed drainage analysis in these locations.

Location maps of the survey areas have been attached, and the work is to be completed within 10 weeks from 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 2 day of November, 2020 by and between the City of Dalton, a Georgia Municipal Corporation, hereinafter referred to as "CITY", and Chastain and Associates, P.C., 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 November 3rd, 2020. 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 January 12th, 2021.

6. CONTRACT SUM: The CITY shall pay to CONSULTANT the total sum of \$ 24,500 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, 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: Chastain & Associates, P.C.  
288 North Main Street  
Ellijay, GA 30540

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:

\_\_\_\_\_

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

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

CITY:

CITY OF DALTON, GEORGIA

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

MAYOR

Attest: \_\_\_\_\_

CITY CLERK

# **EXHIBIT 'A'**

**CHASTAIN & ASSOCIATES, P.C.**  
**SURVEYING, PLANNING, CONSULTING**

288 North Main Street  
Ellijay, Georgia 30540

**www.chastainassociates.com**

ELLIJAY: (706)276-7528      DALTON: (706)226-7902

October 22, 2020

RE: Survey Proposal for Ridge Street Area and Glenwood Avenue

To City of Dalton Public Works Department:

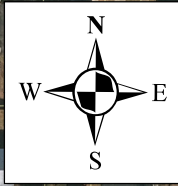
The following quotes and timeframes are based on your request sent via email on October 14, 2020. Our fee to provide the surveying services for the Ridge Street area meeting the specifications of the above referenced email would be \$15,700. This fee is for the areas shaded blue & yellow on the provided map by Arcadis. Our fee to provide the surveying services meeting the specifications of the above referenced email for the Glenwood Avenue area, shown on the map provided, would be \$8,800. As specified by your department, utilities shown as a part of the survey would be located by an 811 design locate. Our deliverables would be signed & sealed PDFs of both survey areas, along with georeferenced an AutoCAD DWG file. Our timeframe needed for completion would be 10 weeks from the notice to proceed.

We appreciate the opportunity to provide a proposal on this project. Included with this proposal is a copy of our Certificate of Insurance. Feel free to contact me should you have any questions.

Thank you,



Jeffrey T. Vick, PLS



Survey areas within private property and right of ways include the collection of the following items: above ground items (i.e. buildings, roadways, utility poles, etc )  
Topo - 2' contours, ditch/stream top of bank and toe of bank locations and elevations, utilities, storm sewers, building footprints and finish floor elevations.

Identify LAG / FFE for these Buildings

Topo / Survey Area

E Matilda ST

N Elm ST

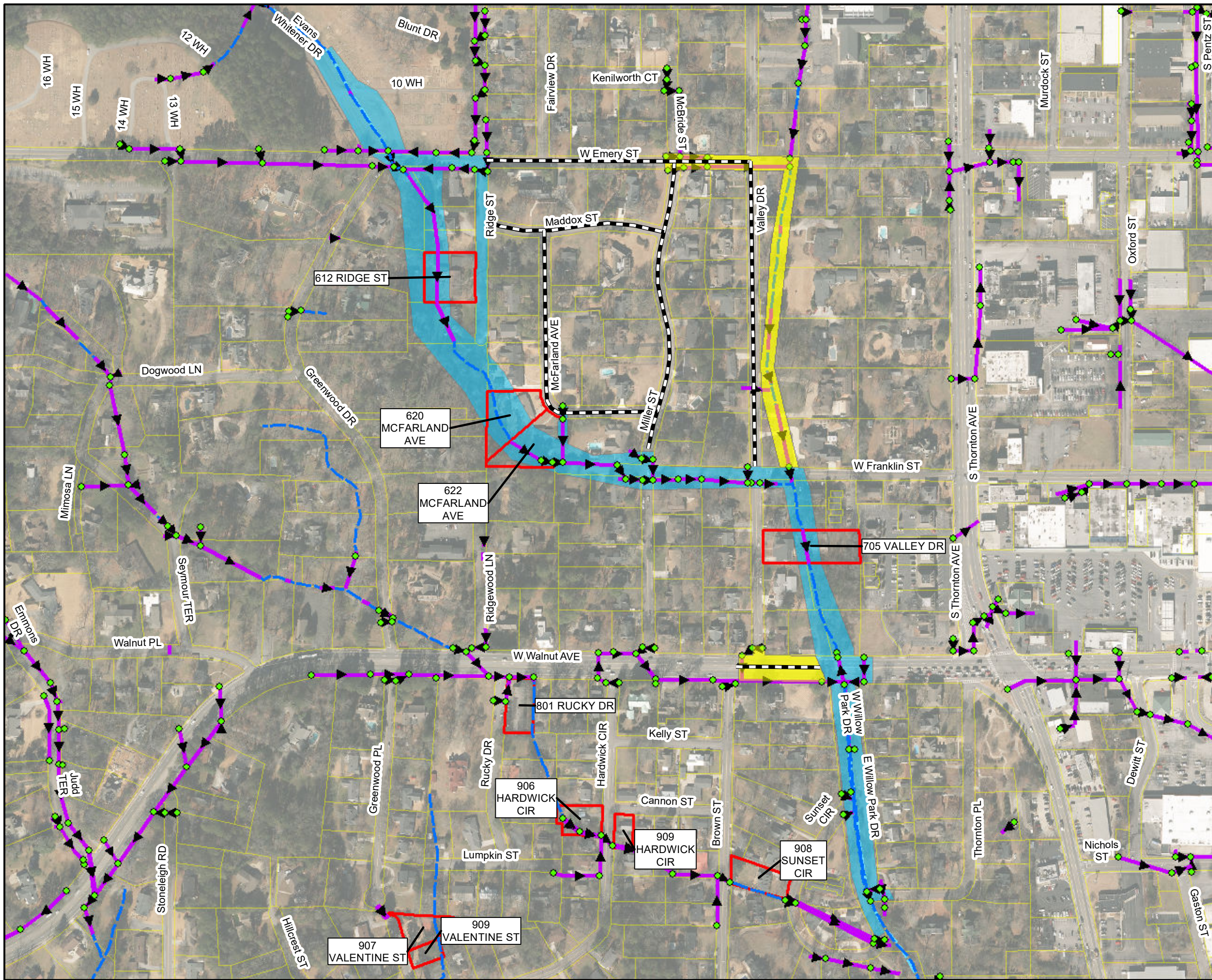
N Glenwood AVE

E Tyler ST

### N Glenwood Ave / E Matilda / N Elm St Survey



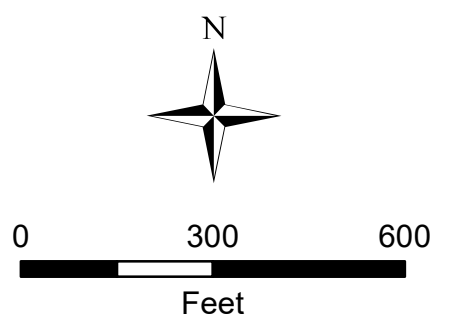
1 inch = 150 feet



### Legend

- Stormwater Structure
- ▶ Stormwater Pipes
- Stormwater Ditches
- Streams
- Roadway Centerline Elevations
- Survey Area
- Storm System Only Survey Area
- Off Right-of-Way Areas of Concern
- Parcels

Survey areas within private property and right of ways include the collection of the following items: above ground items (i.e. buildings, roadways, utility poles, etc) Topo - 2' contours, ditch/stream top of bank and toe of bank locations and elevations, utilities, storm sewers, building footprints and finish floor elevations.



CITY OF DALTON  
STORMWATER SURVEY EXHIBIT

**Ridge Street Drainage Study Survey**

**ARCADIS**

22



## CITY COUNCIL AGENDA REQUEST

<b>Meeting Type:</b>	Mayor & Council Meeting
<b>Meeting Date:</b>	11/02/2020
<b>Agenda Item:</b>	Resolution Authorizing the Purchase of Real Property Being Lots 20, 21, and 22 of Stonewood Chase Subdivision
<b>Department:</b>	Public Works
<b>Requested By:</b>	Andrew Parker
<b>Reviewed/Approved by City Attorney?</b>	Yes
<b>Cost:</b>	\$30,000
<b>Funding Source if Not in Budget</b>	2015 SPLOST - SP177

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

This resolution authorizes the purchase of real property being lots 20, 21, and 22 of Stonewood Chase (aka Covie Ridge) subdivision. These lots, on the north side of Covie Ridge, will be used to construct a permanent detention pond to mitigate downstream stormwater runoff issues. These lots are low-lying in nature and were the site of the temporary sediment basin when the subdivision was developed. The pond is designed to accommodate the typical design storms per the Georgia Blue Book and Dalton-Whitfield Local Design Manual. The project will also include installing a downstream pipe between private residences to the right of way of Winton Drive. Construction easements will be required from the adjacent property owners.

The project is being funded by the 2015 SPLOST and received a positive recommendation to move forward from the Public Works Committee on 10/02/2020.

**CITY OF DALTON  
RESOLUTION  
Resolution No. 20-22**

**RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY  
being  
LOTS 20, 21, 22 OF STONEWOOD CHASE SUBDIVISION**

**WHEREAS**, the Mayor and Council of the City of Dalton has determined that it is consistent with the best interests of the City of Dalton and its citizens that the City of Dalton purchase for public use certain real property being Lots 20, 21, 22 of Stonewood Chase Subdivision as described in Exhibit “A” (the “Property”) from Xuan Truong Nguyen, a Georgia resident ( the “Seller”), as provided for in the Agreement For Sale And Purchase Of Real Estate (the “Purchase Agreement”);

**WHEREAS**, the City of Dalton, under the authority of the Charter of the City of Dalton Sections 4-8(f) and 4-8(r) is authorized to acquire real property for public use;

**WHEREAS**, the City of Dalton obtained an appraisal by a Georgia licensed real estate appraiser to determine the fair market value of the Property;

**WHEREAS**, the Seller has agreed to the proposed terms of sale as provided in the Purchase Agreement;

**WHEREAS**, the City of Dalton has determined that the terms of the Purchase Agreement, including the proposed sales price of \$30,000.00, are fair and just compensation for the purchase of the Property;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Dalton, as follows:

**THAT** the City of Dalton hereby approves the proposed terms of sale as provided in the Purchase Agreement.

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized to enter into the Purchase Agreement and any and all documents necessary to consummate the proposed purchase of the Property.

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized and empowered to take such actions and to execute for and on behalf of the City of Dalton any and all documents as may be necessary or desirable to accomplish and effect the Purchase Agreement and these Resolutions; and such documents shall be in such form and contain such terms and conditions as may be approved by the Mayor on behalf of the City of Dalton and as approved as to form by the City Attorney, and the execution of such documents by the Mayor as herein authorized shall be conclusive evidence of any such approval.



**BE IT FURTHER RESOLVED**, that all acts and doings of the Mayor in connection with the Purchase Agreement which are in conformity with the purposes and intents of these Resolutions and in the furtherance of the transactions contemplated hereby and thereby shall be, and the same hereby are, in all respects approved and confirmed.

**BE IT FURTHER RESOLVED**, that the signature of the Mayor to the Purchase Agreement and other documents executed and delivered in connection therewith shall be conclusive evidence of the authority of the Mayor to execute and deliver such documents on behalf of the City of Dalton.

**BE IT FURTHER RESOLVED**, that the Clerk or any Assistant Clerk of the City of Dalton be, and each hereby is, authorized to attest the signature of any officer of the City of Dalton and impress or attest the City of Dalton's seal appearing on the Purchase Agreement and other documents executed in connection with any of the foregoing Resolutions.

**BE IT FURTHER RESOLVED**, that all resolutions or parts thereof of the City of Dalton in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

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

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

**ADOPTED AND APPROVED** on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at the regular meeting of the Mayor and Council of the City of Dalton.

The foregoing Resolution received its first reading on \_\_\_\_\_. A motion for passage of the Resolution was made by Council person \_\_\_\_\_, second by Council person \_\_\_\_\_ and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays and the Resolution is adopted.

Attest:

CITY OF DALTON, GEORGIA

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

## **EXHIBIT “A”**

Tract No. 1:

A certain tract or parcel of land lying and being in Land No. 184 in the 12th District and 3rd Section of Whitfield County, Georgia, and being Lots 20,21 and 22 of Stonewood Chase Subdivision as shown on plat of said subdivision by Joseph R. Evans, Georgia Registered Land Surveyor No. 2168 dated February 13, 2005 and recorded in Plat Cabinet D, Slides 193-194 of the Whitfield County, Georgia deed records, which plat is incorporated herein and made a part hereof by reference.

Tax ID NO.: 12-184-03-020, 12-184-03-021, 12-184-03-022

After Recording,  
Please Return to:

G. Gargandi Vaughn  
Office of the City Attorney  
City Hall  
300 West Waugh Street  
Dalton, GA 30720

---

**WARRANTY DEED**

STATE OF GEORGIA,  
WHITFIELD COUNTY

IN CONSIDERATION of the sum of Thirty Thousand And No/100 (\$30,000.00) Dollars and other valuable considerations, **XUAN TRUONG NGUYEN**, a Georgia resident, does hereby sell and convey unto the **CITY OF DALTON**, a Georgia municipal corporation, a tract or parcel of land which is described as follows:

SEE **EXHIBIT 'A'** ATTACHED HERETO FOR LEGAL DESCRIPTION

TO HAVE AND TO HOLD said lands and appurtenances unto said Grantee(s), its transferees and assigns in fee simple. This property is conveyed subject to easements, restrictions and covenants of record in so far as the same may lawfully affect the above-described property.

AND THE SAID Grantor shall warrant and forever defend the right and title to the above-described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor(s) have hereunto set their hands and affixed their seals, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

XUAN TRUONG NGUYEN

\_\_\_\_\_(SEAL)

By: Xuan Truong Nguyen  
GRANTOR

Signed, sealed and delivered this  
\_\_\_\_ day of \_\_\_\_\_,  
20\_\_ in the presence of:

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
NOTARY PUBLIC

## **EXHIBIT “A”**

Tract No. 1:

A certain tract or parcel of land lying and being in Land No. 184 in the 12th District and 3rd Section of Whitfield County, Georgia, and being Lots 20,21 and 22 of Stonewood Chase Subdivision as shown on plat of said subdivision by Joseph R. Evans, Georgia Registered Land Surveyor No. 2168 dated February 13, 2005 and recorded in Plat Cabinet D, Slides 193-194 of the Whitfield County, Georgia deed records, which plat is incorporated herein and made a part hereof by reference.

Tax ID NO.: 12-184-03-020, 12-184-03-021, 12-184-03-022

10:40  
30 parcels  
2 chgs

STATEMENT OF OWNERSHIP:  
THIS DRAWING, AS AN INSTRUMENT OF SERVICE, IS THE PROPERTY OF THE SURVEYOR AND MAY NOT BE PUBLISHED, REPRODUCED, ELECTRONICALLY DIGITIZED OR SCANNED, OR OTHERWISE COPIED OR USED WITHOUT THE EXPRESSED AND WRITTEN PERMISSION OF JOSEPH R. EVANS, REGISTERED LAND SURVEYOR.

© 2005 JOSEPH R. EVANS & ASSOCIATES

CERTIFICATE OF OWNERSHIP AND DEDICATION

I (WE) HEREBY CERTIFY THAT I AM (WE ARE) THE OWNERS OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT (WE) HEREBY ADOPT THIS PLAN OF SUBDIVISION ESTABLISH THE MINIMUM SETBACK LINES AND DEDICATE TO THE USE OF THE PUBLIC FOREVER, ALL STREETS, PARKS, DRAINS, EASEMENTS, AND PUBLIC GROUNDS THEREON SHOWN, EXCEPT AS OTHERWISE NOTED. IT IS UNDERSTOOD THAT THIS CERTIFICATE DOES NOT CONSTITUTE THE DEDICATION OF LAND AND IMPROVEMENTS INTENDED TO BE DEDICATED AND THAT (WE) SHALL HAVE PREPARED TO THE SATISFACTION OF LEGAL COUNSEL FOR THE APPROPRIATE PUBLIC AGENCY, SUCH DOCUMENTATION AND MATERIALS AS NECESSARY TO EFFECT SUCH DEDICATION.

William B. Clitwood  
OWNER 17 MAR 05

FINAL PLAT OF

STONEWOOD CHASE

D-193

PART OF THE R.R. BURLEYSON SUBDIVISION  
LAND LOT 184, 12TH DISTRICT, 3RD SECTION  
WHITFIELD COUNTY, GEORGIA

CERTIFICATE OF ACCURACY

I HEREBY CERTIFY THAT THE PLAN SHOWN HEREON IS TRUE AND ACCURATE AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY BY ME OR UNDER MY SUPERVISION TO THE ACCURACY REQUIRED BY THE SUBDIVISION REGULATIONS OF WHITFIELD COUNTY, GEORGIA AND THAT MONUMENTS OR PINS HAVE BEEN PLACED TO THE SPECIFICATIONS SET FORTH IN SAID REGULATIONS.

Joseph R. Evans  
GA. REG. LAND SURVEYOR NO. 2168 22 FEB 05  
DATE

CERTIFICATE OF APPROVAL OF STREETS AND DRAINAGE

I HEREBY CERTIFY THAT THE STREETS AND DRAINAGE IMPROVEMENTS IN THIS SUBDIVISION HAVE BEEN INSTALLED (HAVE BEEN SECURED BY SUFFICIENT SURETY TO BE INSTALLED) IN AN ACCEPTED MANNER AND MEET ALL THE REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THE CITY OF DALTON.

Barth J. Grogan  
CITY PUBLIC WORKS 03/08/05  
DATE

CERTIFICATE OF APPROVAL OF PUBLIC WATER SYSTEM

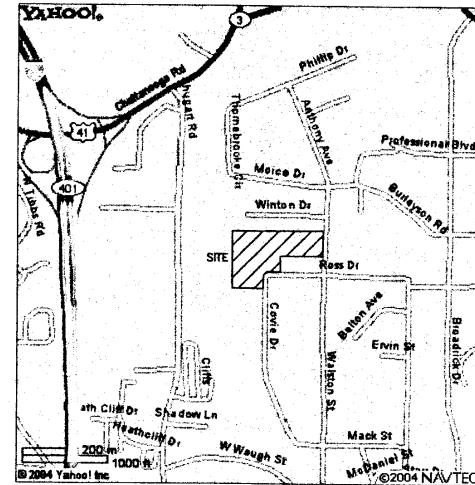
I HEREBY CERTIFY THAT THE PUBLIC WATER SUPPLY AND DISTRIBUTION SYSTEM IN THE SUBDIVISION SHOWN HAVE BEEN SECURED BY SUFFICIENT SURETY TO BE INSTALLED TO MEET THE REQUIREMENTS OF DALTON UTILITIES.

Mark Malone  
DALTON UTILITIES 3/7/05  
DATE

CERTIFICATE OF FIRE PROTECTION

I HEREBY CERTIFY THAT THE LOCATION OF THE FIRE HYDRANTS IN THIS SUBDIVISION ARE INSTALLED (PLANNED FOR INSTALLATION) IN CONFORMANCE WITH RECOMMENDATIONS OF THE DALTON FIRE DEPARTMENT AND ARE HEREBY APPROVED.

John J. ...  
DALTON FIRE CHIEF 3-10-05  
DATE



FILED & RECORDED  
TIME: 10:40  
DATE: 3-30-05  
PLAT CABINET D SLIDE 193  
Dusty Nelson, C.S.C.  
WHITFIELD COUNTY, GA

CERTIFICATE OF APPROVAL OF SEWER SYSTEM

I HEREBY CERTIFY THAT THE PUBLIC SEWAGE COLLECTION AND DISPOSAL SYSTEM IN THIS SUBDIVISION HAVE BEEN INSTALLED (HAVE BEEN SECURED BY SUFFICIENT SURETY TO BE INSTALLED) IN AN ACCEPTABLE MANNER AND MEET FULLY THE REQUIREMENTS OF DALTON UTILITIES AND ARE HEREBY APPROVED.

Mark Malone  
DALTON UTILITIES 3/7/05  
DATE

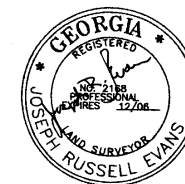
GENERAL INFORMATION:

CURRENT PROPERTY ZONING: R-1  
TAX MAP NO: 56  
TAX PARCEL NO: PT 159-12-1.67, 184-12-1.111, 194-12-1.12  
NUMBER OF LOTS: 34 LOTS  
TOTAL AREA IN SITE: 10.72 AC  
WATER SERVICE: PUBLIC  
SEWAGE DISPOSAL: PUBLIC  
BUILDING SETBACK LINES:  
FRONT IS 15' FROM 10' UTILITY EASEMENT  
SIDE & REAR AREA 20'  
LENGTH OF PROPOSED STREETS: 1699 LN. FT +/-

CERTIFICATE OF APPROVAL FOR RECORDING

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE SUBDIVISION REGULATIONS OF WHITFIELD COUNTY, GEORGIA, AND THAT IT HAS BEEN APPROVED BY THE DALTON-WHITFIELD COUNTY PLANNING COMMISSION FOR RECORDING IN THE OFFICE OF SUPERIOR COURT OF WHITFIELD COUNTY, GEORGIA.

William B. Clitwood  
SECRETARY, DALTON-WHITFIELD COUNTY PLANNING COMMISSION 3/28/05  
DATE



Joseph R. Evans  
GA. REG. LAND SURVEYOR, NO. 2168

JOSEPH R. EVANS & ASSOCIATES  
LAND SURVEYORS

1818 DUG GAP ROAD, DALTON, GA. 30720  
(706) 228-7902 FAX (706) 275-9908

DRAWN BY: J.E.B. CHECK BY: \_\_\_\_\_  
DATE: 13 FEB 05 SCALE: \_\_\_\_\_

REVISIONS: \_\_\_\_\_

SHEET 1 OF 2

# STONEWOOD CHASE

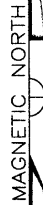
PART OF THE R.R. BURLEYSON SUBDIVISION  
LAND LOT 184, 12TH DISTRICT, 3RD SECTION  
WHITFIELD COUNTY, GEORGIA

PRICE HILLS SUBD.

STATEMENT OF OWNERSHIP:  
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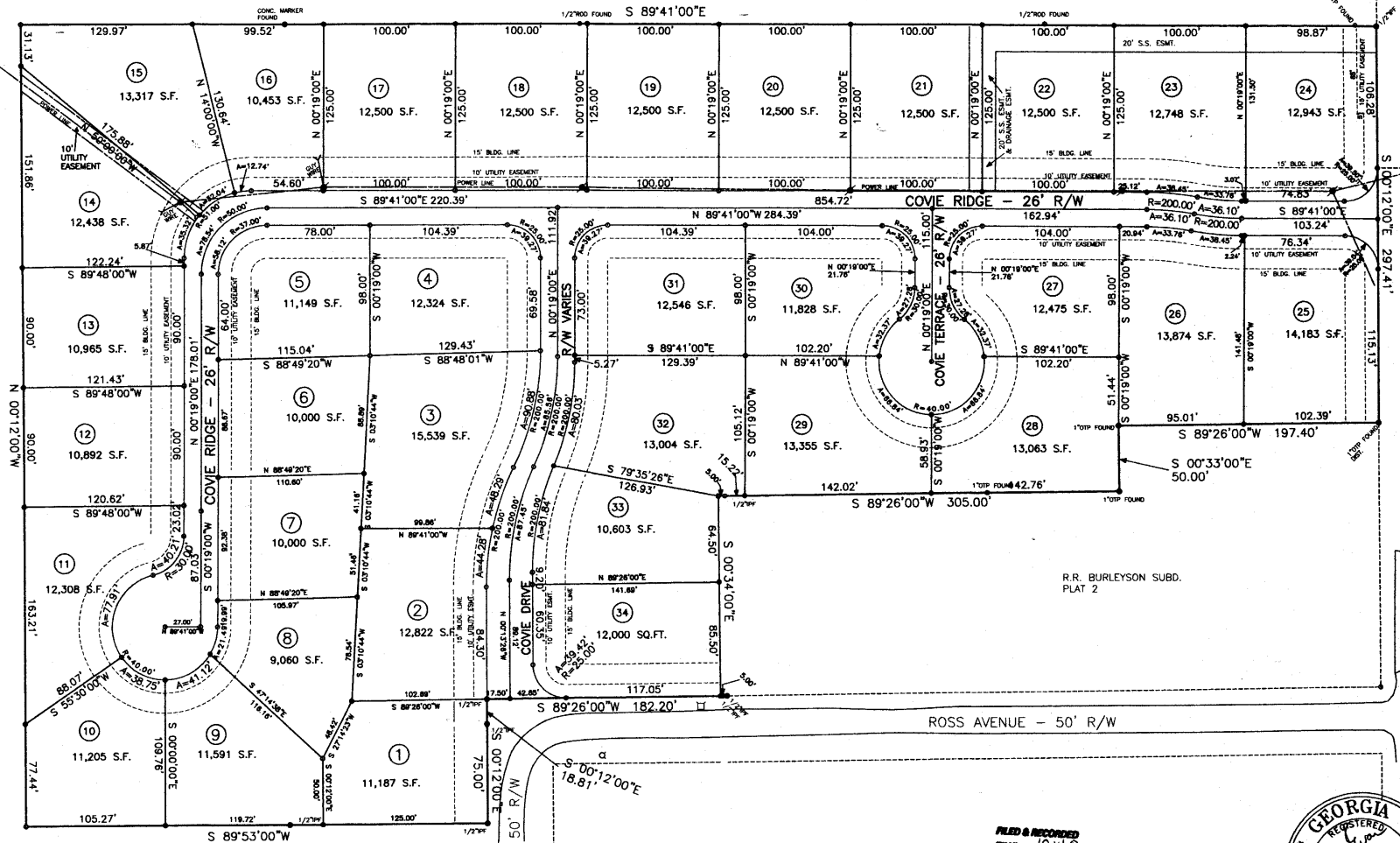
© 2005 JOSEPH R. EVANS & ASSOCIATES

NOTIFY OF ACTION:  
EMORY CANTRELL  
906 DOGWOOD LANE  
DALTON, GA. 30720  
(706) 226-9093



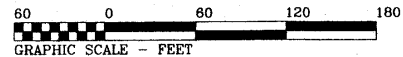
N/F  
WATTS  
PROPERTY

D-194



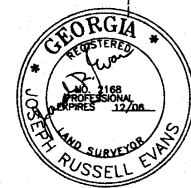
**GENERAL INFORMATION:**

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TOTAL AREA IN SITE: 10.72 AC  
WATER SERVICE: PUBLIC  
SEWAGE DISPOSAL: PUBLIC  
BUILDING SETBACK LINES:  
FRONT IS 15' FROM 10' UTILITY EASEMENT,  
10' SIDE & REAR 20'



SHEET 2 OF 2

FILED & RECORDED  
TIME: 10:40  
DATE: 3-30-05  
PLAT CABINET: D SLIDE 194  
Buty Nelson, C.S.C.  
WHITFIELD COUNTY, GA



JOSEPH R. EVANS  
GA. REG. LAND SURVEYOR, NO. 2168  
**JOSEPH R. EVANS & ASSOCIATES**  
LAND SURVEYORS

1816 DUG GAP ROAD, DALTON, GA. 30720  
(706) 228-7002 FAX (706) 275-9908  
DRAWN BY: J.E.B. CHECK BY: \_\_\_\_\_  
DATE: 13 FEB 05 SCALE: 1"=60'  
REVISIONS: \_\_\_\_\_

NOT IN A 100 YEAR FLOOD PLAIN  
COMMUNITY PANEL NO. 130184-0005 C  
I HEREBY CERTIFY THAT I HAVE SURVEYED  
THE PROPERTY SHOWN HEREON AND THAT THE  
PROPERTY IS LOCATED IN FLOOD ZONE X  
AS SHOWN BY MAPS PREPARED FOR NATIONAL  
FLOOD INSURANCE PROGRAM BY FEDERAL  
EMERGENCY MANAGEMENT AGENCY.

THE FIELD DATA UPON WHICH THIS PLAT  
IS BASED HAS A CLOSURE PRECISION OF  
ONE FOOT IN 10000 FEET AN ANGULAR  
ERROR OF 33" PER ANGLE POINT, AND  
WAS (ADJUSTED) USING THE LSQ RULE  
THIS PLAT HAS BEEN CALCULATED FOR  
CLOSURE AND IS FOUND TO BE ACCURATE  
WITHIN ONE FOOT IN 10000 FEET.  
FIELD WORK WAS DONE BY USING A  
EDM TRANSIT AND A CHAIN

## AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

**THIS AGREEMENT** for the sale and purchase of real property (“this Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between **Xuan Truong Nguyen**, an individual (hereinafter called “Seller”) and the **City of Dalton Georgia**, a municipal corporation of the State of Georgia (hereinafter called “Purchaser”).

### W I T N E S S E T H:

**WHEREAS**, Seller is the owner of certain real property, which real property is more particularly described in Exhibit “A” attached hereto and made a part hereof, together with the improvements located thereon, all easements, appurtenances, hereditaments and rights appurtenant thereto or otherwise arising in connection therewith, herein referred to as the “Property”; and

**WHEREAS**, Purchaser desires to purchase, and Seller to sell, the Property, in accordance with the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, for and in consideration of the above-recited premises, the mutual covenants and agreements hereinafter set forth, the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. **Sale.** Seller, in consideration of the mutual covenants herein contained, agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, upon the terms and conditions hereinafter set forth, the Property.

2. **Consideration.** The consideration to be paid by Purchaser to Seller for the Property shall be **\$30,000.00** subject to prorations and adjustments hereinafter described, and shall be payable as on the date of the Closing (as hereinafter defined) of this transaction payable by cashier’s check or by wired Federal Funds.

3. **Closing.**

3.1 **Time, Date and Place of Closing.** Subject to the provisions of this Agreement, the payments and deliveries contemplated hereby to be made at Closing shall be made at the law offices of the City Attorney, City Hall, 300 West Waugh Street, Dalton, GA within 60 days of the date of execution of this Agreement or on such other date as may be mutually agreeable. The date on which the last of such payments and deliveries occurs is hereinafter referred to as the “Closing Date”, and the events comprising such payments and deliveries are herein referred to as the “Closing”.

3.2 **Events comprising closing:** The following events shall constitute the Closing.

(A) Seller shall execute and deliver to Purchaser a general warranty deed conveying good and marketable fee simple title to the Property. As used in this Agreement, the phrase “good and marketable fee simple title” shall mean such title as is insurable by a title insurance company approved by Purchaser which is licensed to do business in Georgia (the “Title Insurer”), under its standard form of owner’s policy of title insurance, A.L.T.A. Form 2006, as amended at its standard rates, subject only to the following (the “Permitted Exceptions”): (1) the standard

exclusions set forth therein (other than the survey exception); (2) the lien of taxes not yet due and payable; and (3) zoning ordinances affecting the Property.

(B) Seller shall surrender possession of the Property to the Purchaser subject only to those matters described or referenced in this Agreement.

(C) Seller shall deliver to Purchaser an Affidavit, concerning the absence of boundary line disputes on the Property, the possession of the Property by Seller, improvements or repairs made on the Property within three months of the Closing Date, the absence of legal proceedings against Seller, and such other documents as the Title Insurer may reasonably require.

(D) Purchaser shall pay the Purchase Price to Seller in accordance with Section 2 of this Agreement.

(E) All state and county ad valorem taxes levied or imposed upon or assessed against the Property for the calendar year during which the Closing Date occurs shall be prorated as of the Closing Date. If the actual taxes for said calendar year are not known on the Closing Date, the proration shall be based upon the actual taxes for the immediately preceding calendar year, and Purchaser and Seller shall adjust the proration at such time as the actual taxes for the calendar year during which the Closing Date occurs are billed.

(F) Any and all other assessments levied against the Property shall be prorated between the parties as of the Closing Date according to the most reliable information concerning the amount of said costs, with such proration to be adjusted according to the actual assessment as and when made.

(G) Seller shall pay for the Seller's attorney's fees. Purchaser shall pay for Purchaser's attorney's fees, recording fees, the survey, title examination and insurance if elected.

(H) Seller shall terminate any leases on the Property and take any and all necessary actions to remove any existing tenants or other occupants of the Property prior to Closing.

**4. Seller's Representations and Warranties.** As an inducement to Purchaser to enter into this Agreement, and to the purchase of the Property by Purchaser, Seller warrants and represents to Purchaser as follows:

4.1 Title to Property. Seller is the sole owner in fee simple of the Property.

4.2 Absence of Liens. The Property is not subject to any mortgage, pledge or lien, except liens for ad valorem taxes not yet payable and unperfected purchase money security interests existing in the ordinary course of business without the execution of a security agreement.

4.3 Authority; No Consents. Seller has the right, power and authority to enter into this Agreement and the right, power, and authority to convey the Property in accordance with the terms and conditions of this Agreement. No consent of any Federal, State or local authority is required to be obtained by Seller in connection with the consummation by Seller of the transactions contemplated hereby.

4.4 Absence of Notice of Eminent Domain. Seller has received no notice of, nor is Seller aware of, any pending, threatened, or contemplated actions by any governmental authority or agency



having the power of eminent domain other than the City of Dalton, which might result in part of the Property being taken by condemnation or conveyed in lieu thereof. Seller shall, promptly upon receiving any such notice or learning of any such contemplated or threatened action, give Purchaser written notice thereof.

4.5 No Assessments. No assessments have been made against any portion of the Property which are unpaid (except ad valorem taxes for the current year), whether or not they have become liens; and Seller shall notify Purchaser upon learning of any such assessments.

4.6 No Foreign Person. Seller is not a foreign person as defined in Section 1445 of the Internal Revenue Code and the applicable regulations thereunder.

4.7 No Litigation. There is no litigation or proceeding pending, or to Seller's knowledge threatened, against or relating to or affecting all or any part of the Property, nor does Seller know or have reasonable grounds to know of any basis for any such action.

4.8 Leases. There is no tenant, lessee, or other occupant of the Property (including any improvements thereon) having any right or claim to possession or use of the Property (or any such improvements) after the Closing Date hereof other than the Occupant and possession of the Property shall be delivered by Seller to Purchaser at the Closing free of the rights or claims of any tenants, occupants, or other parties in possession of, or having or claiming any right to possession or use of the Property.

4.9 Condition of Improvements. When the transactions contemplated hereby are consummated, the improvements on the Property will be in the same condition as they are on the date of the execution of this Agreement, except for: ordinary wear and tear; any damage caused by an insured event for which full insurance proceeds have been paid to Purchaser; and any change in the condition of the improvements for which proper adjustment has been made between the parties hereto.

4.10 No Notice RE Zoning. Seller has received no notice of any violation of zoning and/or building laws, statutes, ordinances, orders, or requirements affecting the Property from the State of Georgia or any subdivision, agency, or department thereof.

4.11 Survey. Seller agrees to cooperate and take all reasonable actions necessary to resolve any boundary line disputes with adjacent land owners, including execution of any boundary line agreement or quit-claim deed, that may be disclosed by a survey by a Georgia Registered Land Surveyor obtained by Purchaser.

## **5. Right to Examinations:**

5.1 Title. Purchaser shall have thirty (30) days after execution of this Agreement in which to examine title to the Property and furnish to Seller a written statement of objections affecting the marketability of the title. Seller, upon receipt of such written statement from Purchaser, shall have ten (10) days after such receipt in which to satisfy all valid objections. If Seller is unable to satisfy such valid objections within said period, Purchaser may either:

(A) Accept the Property with such remaining objections after deducting from the Purchase Price the cost of curing such objections; or

(B) Terminate this Agreement.

Purchaser may elect (A) or (B) above by written notice to Seller within ten (10) days following the end of the period set forth above for the curing by Seller of such objections.

**6. Risk of Loss; Damage to Property.**

6.1 Risk of Loss. Seller shall bear all risk of loss or damage from any casualty suffered by any and all improvements located on the Property until such time as legal title has passed to Purchaser.

6.2 Damage to Property. Should the improvements on the Property be destroyed or substantially damaged before the transactions contemplated hereby are consummated, then at the election of Purchaser:

- (A) This Agreement may be cancelled, and the earnest money refunded to Purchaser;
- (B) Purchaser may consummate the contract and receive any insurance as is paid on the claim of loss; or
- (C) Purchaser and Seller may reach agreement between themselves with respect to any adjustment in the consideration to be paid as a consequence of such loss or damage.

This election is to be exercised within ten days after Purchaser has been notified in writing by Seller of the amount of the insurance proceeds, if any, Seller will receive on the claim of loss. If Purchaser has not been notified within five days subsequent to the occurrence of such damage or destruction, Purchaser shall have the option to cancel the contract.

**7. Contingency.** This Agreement is made conditioned upon the approval of this Agreement by the Mayor and Council of the City of Dalton, Georgia.

**8. Termination and Abandonment.**

8.1 Right to Terminate. This Agreement may be terminated and the purchase and sale of the Property, if any, abandoned at any time prior to the Closing:

- (A) By mutual agreement of Seller and Purchaser; or
- (B) By Purchaser, if:
  - (1) The warranties and representations of Seller set forth in Section 4 hereof are found to be untrue;
  - (2) The title to the Property is found to be defective and is not cured as required by Section 5.1;
  - (3) The improvements on the Property are destroyed or substantially damaged and Purchaser does not elect to receive the insurance proceeds or adjust the consideration as allowed by Section 6.2; or
  - (4) Seller breaches this Agreement in any material manner; or
- (C) By Seller, if Purchaser breaches this Agreement in any material manner.

8.2 Specific Performance. Notwithstanding any provisions to the contrary contained herein, Seller acknowledges that the rights of Purchaser under this Agreement are special, unique and of extraordinary character, and that, in the event Seller violates or fails and refuses to perform this Agreement or any covenant made by Seller herein, Purchaser may be without adequate remedy at law.

Seller agrees, therefore, that in the event Seller violates or fails and refuses to perform any covenant made by Seller herein, Purchaser may, in addition to any remedies at law for damages or other relief, institute and prosecute an action in any court of competent jurisdiction to enforce specific performance by Seller.

**9. Indemnification.** Seller shall indemnify and hold harmless Purchaser from and against all claims, damages, expenses, liabilities, actions, or causes of action of any kind or nature arising from breaches of Seller's representations, warranties or covenants hereunder or from acts or failures to act occurring, or conditions existing, during Seller's ownership of the Property.

**10. Broker's Commission.** The parties hereby warrant and represent for the benefit of the other parties that no person, firm, corporation or other entity is entitled to any brokerage commission or finder's fee in connection with any of the transactions contemplated by this Agreement. Seller shall indemnify and hold the Purchaser harmless from and against all claims, demands, and actions of all brokers, agents and other intermediaries alleging any dealings, negotiations or communications with the indemnifying party in connection with this Agreement.

**11. Miscellaneous.**

11.1 Counterparts. This Agreement may be executed in multiple counterparts each of which may be deemed an original.

11.2 Assignment; Successors in Interest. This Agreement and all rights, remedies, obligations and liabilities arising hereunder or by reason hereof may be assigned by either party hereto. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns. Except as expressly provided in this Agreement, nothing herein is intended to imply nor shall confer on any person other than the parties hereto, and their respective heirs, legal representatives, successors or assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, or constitute the parties hereto, partners or participants in a joint venture.

11.3 Controlling Law/Venue. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia. The parties agree that in the event that any suit or proceeding is brought in connection with this Agreement, such suit or proceeding shall be brought in the Superior Court of Whitfield County, Georgia and the parties shall submit to the exclusive jurisdiction of such Court and waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

11.4 Amendment; Waiver. The terms of this Agreement may be amended, modified or eliminated, and the observance or performance of any term, covenant, condition or provision herein may be omitted or waived (either generally or in a particular instance and either prospectively or retroactively) only by the written consents of all parties hereto. No omission or waiver shall be deemed to excuse any future observance or performance or to constitute an amendment, modification or elimination unless it expressly so states. The waiver by any party hereto of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

11.5 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

11.6 Notices. All notices, demands, and requests which may be given or which are required to be given by either party to the other shall be in writing and may be: hand delivered; sent by United States certified mail, postage prepaid and return receipt requested; or sent by a nationally recognized overnight delivery service such as Federal Express Corporation, Emery, or United Parcel Service. All notices, demands, and requests shall be deemed effective either: (A) upon delivery if hand delivered, as evidenced by written receipt therefor, whether or not actually received by the person to whom addressed; (B) upon deposit in the United States mail if by certified mail, return receipt requested, addressed to the intended recipient at the address indicated herein; (C) on the day deposited into the custody of a nationally recognized overnight delivery service such as Federal Express Corporation, Emery or United Parcel Service, for overnight next day delivery, addressed to such party at the address indicated herein. Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement shall be as follows:

If to Purchaser, to:

City of Dalton  
City Administrator  
300 W. Waugh ST  
Dalton, GA 30720

If to Seller, to:

Xuan Truong Nguyen  
1234 Arabian Drive  
Dalton, GA 30720

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

11.8 Captions. The sections and other headings contained in this Agreement are for reference purposes only and shall not be deemed to be part of this Agreement, or to affect the meaning or interpretation of this Agreement.

11.9 Gender. Wherever any words are used herein in the masculine gender they shall be construed as though they were also used in the feminine and neuter gender in all cases where they would so apply, and wherever any words are used herein in the singular form they shall be construed as though they were also used in the plural form in all cases where they would so apply.

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

11.11 Survival. The agreements, indemnities, representations and warranties set forth in this Agreement shall survive the consummation of the purchase and sale of the Property on the Closing Date.

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

**Xuan Truong Nguyen**

By: \_\_\_\_\_ (Seal)  
Xuan Truong Nguyen, Individually

**City of Dalton Georgia**

By: \_\_\_\_\_ (Seal)  
City Administrator

## **EXHIBIT “A”**

Tract No. 1:

A certain tract or parcel of land lying and being in Land No. 184 in the 12th District and 3rd Section of Whitfield County, Georgia, and being Lots 20,21 and 22 of Stonewood Chase Subdivision as shown on plat of said subdivision by Joseph R. Evans, Georgia Registered Land Surveyor No. 2168 dated February 13, 2005 and recorded in Plat Cabinet D, Slides 193-194 of the Whitfield County, Georgia deed records, which plat is incorporated herein and made a part hereof by reference.

Tax ID NO.: 12-184-03-020, 12-184-03-021, 12-184-03-022



## CITY COUNCIL AGENDA REQUEST

<b>Meeting Type:</b>	Mayor & Council Meeting
<b>Meeting Date:</b>	11/02/2020
<b>Agenda Item:</b>	Resolution Authorizing the Purchase of Real Property Located at 915 Brookwood Drive
<b>Department:</b>	Public Works
<b>Requested By:</b>	Andrew Parker
<b>Reviewed/Approved by City Attorney?</b>	Yes
<b>Cost:</b>	\$180,000.00
<b>Funding Source if Not in Budget</b>	2015 SPLOST - SP179

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

This resolution authorizes the purchase of real property located at 915 Brookwood Drive for purposes of constructing a flood storage area to mitigate existing drainage issues within the basin. An estimated 30,000 cubic feet of flood plain storage can be created adjacent to Tar Creek based on the preliminary grading plan. This project will also involve rerouting some of the existing storm drain pipes within the right of ways of Brookwood Drive and Stoneleigh Road to address existing system concerns.

The project is being funded by the 2015 SPLOST and received a positive recommendation to move forward from the Public Works Committee on 10/02/2020.

**CITY OF DALTON  
RESOLUTION  
Resolution No. 20-23**

**RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY  
located at  
915 BROOKWOOD DRIVE**

**WHEREAS**, the Mayor and Council of the City of Dalton has determined that it is consistent with the best interests of the City of Dalton and its citizens that the City of Dalton purchase for public use certain real property located at 915 Brookwood Drive as described in Exhibit “A” (the “Property”) from Mary Lee Farmer, a Georgia resident ( the “Seller”), as provided for in the Agreement For Sale And Purchase Of Real Estate (the “Purchase Agreement”);

**WHEREAS**, the City of Dalton, under the authority of the Charter of the City of Dalton Sections 4-8(f) and 4-8(r) is authorized to acquire real property for public use;

**WHEREAS**, the City of Dalton obtained an appraisal by a Georgia licensed real estate appraiser to determine the fair market value of the Property;

**WHEREAS**, the Seller has agreed to the proposed terms of sale as provided in the Purchase Agreement;

**WHEREAS**, the City of Dalton has determined that the terms of the Purchase Agreement, including the proposed sales price of \$180,000.00, are fair and just compensation for the purchase of the Property;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Dalton, as follows:

**THAT** the City of Dalton hereby approves the proposed terms of sale as provided in the Purchase Agreement.

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized to enter into the Purchase Agreement and any and all documents necessary to consummate the proposed purchase of the Property.

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized and empowered to take such actions and to execute for and on behalf of the City of Dalton any and all documents as may be necessary or desirable to accomplish and effect the Purchase Agreement and these Resolutions; and such documents shall be in such form and contain such terms and conditions as may be approved by the Mayor on behalf of the City of Dalton and as approved as to form by the City Attorney, and the execution of such documents by the Mayor as herein authorized shall be conclusive evidence of any such approval.



**BE IT FURTHER RESOLVED**, that all acts and doings of the Mayor in connection with the Purchase Agreement which are in conformity with the purposes and intents of these Resolutions and in the furtherance of the transactions contemplated hereby and thereby shall be, and the same hereby are, in all respects approved and confirmed.

**BE IT FURTHER RESOLVED**, that the signature of the Mayor to the Purchase Agreement and other documents executed and delivered in connection therewith shall be conclusive evidence of the authority of the Mayor to execute and deliver such documents on behalf of the City of Dalton.

**BE IT FURTHER RESOLVED**, that the Clerk or any Assistant Clerk of the City of Dalton be, and each hereby is, authorized to attest the signature of any officer of the City of Dalton and impress or attest the City of Dalton's seal appearing on the Purchase Agreement and other documents executed in connection with any of the foregoing Resolutions.

**BE IT FURTHER RESOLVED**, that all resolutions or parts thereof of the City of Dalton in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

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

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

**ADOPTED AND APPROVED** on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at the regular meeting of the Mayor and Council of the City of Dalton.

The foregoing Resolution received its first reading on \_\_\_\_\_. A motion for passage of the Resolution was made by Council person \_\_\_\_\_, second by Council person \_\_\_\_\_ and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays and the Resolution is adopted.

Attest:

CITY OF DALTON, GEORGIA

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

**EXHIBIT "A"**

Tract No. 1:

A certain tract or parcel of land lying and being in Land No. 259 in the 12th District and 3rd Section of Whitfield County, Georgia, and being Lot No. 625 Brookwood Subdivision, as shown by Plat No. 10 thereof, of record in Plat Book 11, Page 68 (Plat Cabinet A, Slide 331) in the office of the Clerk of Superior Court of Whitfield County, Georgia and being more particularly described as follows:

BEGINNING at the northwest corner of the intersection of the right-of-way of Lakemont Drive and Brookwood Drive; thence North 30 degrees 0 minutes west along the easterly side of Brookwood Drive 156 feet to an iron pin; thence north 60 degrees 0 minutes east 117.70 feet to an iron pin; thence south 28 degrees 35 minutes east 40.82 feet to an iron pin; thence south 28 degrees 23 minutes 20 seconds east 142 feet to an "X" in concrete on the northerly side of Lakemont Drive; thence south 73 degrees 24 minutes west along the northerly side of Lakemont Drive 115.85 feet to the point of beginning.

Tax ID: 12-258-01-084

After Recording,  
Please Return to:

G. Gargandi Vaughn  
Office of the City Attorney  
City Hall  
300 West Waugh Street  
Dalton, GA 30720

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**WARRANTY DEED**

STATE OF GEORGIA,  
WHITFIELD COUNTY

IN CONSIDERATION of the sum of One Hundred And Eighty Thousand And No/100 (\$180,000.00) Dollars and other valuable considerations, **MARY LEE FARMER**, a Georgia resident, does hereby sell and convey unto the **CITY OF DALTON**, a Georgia municipal corporation, a tract or parcel of land which is described as follows:

SEE **EXHIBIT 'A'** ATTACHED HERETO FOR LEGAL DESCRIPTION

TO HAVE AND TO HOLD said lands and appurtenances unto said Grantee(s), its transferees and assigns in fee simple. This property is conveyed subject to easements, restrictions and covenants of record in so far as the same may lawfully affect the above-described property.

AND THE SAID Grantor shall warrant and forever defend the right and title to the above-described property unto the said Grantee against the claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor(s) have hereunto set their hands and affixed their seals, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

MARY LEE FARMER

\_\_\_\_\_(SEAL)

By: Mary Lee Farmer  
GRANTOR

Signed, sealed and delivered this  
\_\_\_\_ day of \_\_\_\_\_,  
20\_\_ in the presence of:

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
NOTARY PUBLIC

**EXHIBIT "A"**

Tract No. 1:

A certain tract or parcel of land lying and being in Land No. 259 in the 12th District and 3rd Section of Whitfield County, Georgia, and being Lot No. 625 Brookwood Subdivision, as shown by Plat No. 10 thereof, of record in Plat Book 11, Page 68 (Plat Cabinet A, Slide 331) in the office of the Clerk of Superior Court of Whitfield County, Georgia and being more particularly described as follows:

BEGINNING at the northwest corner of the intersection of the right-of-way of Lakemont Drive and Brookwood Drive; thence North 30 degrees 0 minutes west along the easterly side of Brookwood Drive 156 feet to an iron pin; thence north 60 degrees 0 minutes east 117.70 feet to an iron pin; thence south 28 degrees 35 minutes east 40.82 feet to an iron pin; thence south 28 degrees 23 minutes 20 seconds east 142 feet to an "X" in concrete on the northerly side of Lakemont Drive; thence south 73 degrees 24 minutes west along the northerly side of Lakemont Drive 115.85 feet to the point of beginning.

Tax ID: 12-258-01-084

SALES CONTRACT

The undersigned Buyer agrees to buy, and the undersigned Seller agrees to sell any and all interest in and to that tract or parcel of land, with such improvements as are located thereon, described as follows:

Location/Mailing address of: 915 Brookwood Drive, Dalton, Georgia  
Whitfield County Tax Parcel No.: 12-258-01-084  
and more fully described on Exhibit "A" attached hereto and incorporated herein.

Together with all electrical, mechanical, plumbing, air-conditioning, and any other systems or fixtures as are attached thereto and ~~all plants, trees and shrubbery now on the premises.~~

The purchase price of said property shall be ONE HUNDRED EIGHTY THOUSAND DOLLARS, (\$180,000.00).

Purchase price to be paid as follows: PROCEEDS TO SELLER AT CLOSING AFTER ALL LIENS AND ENCUMBRANCES, IF ANY, ARE PAID IN FULL.

Seller warrants that Seller presently has title to said property, and at the time the sale is consummated, Seller agrees to convey good and marketable title to said property to Buyer by Warranty Deed, subject only to (1) zoning ordinances affecting said property, (2) general utility easements of record serving said property, (3) subdivision restrictions of record, (4) leases, other easements, other restrictions and encumbrances specified in this contract.

Buyer, if s/he elects, shall move promptly and in good faith after acceptance of this contract to examine title and to furnish Seller with a written statement of objections and if Seller fails to satisfy such valid objections within fifteen calendar days, then at the option of Buyer, evidenced by written notice to Seller, this contract shall be null and void. Marketable title as used herein shall mean title which a title insurance company licensed to do business in the State of Georgia, as selected by Buyer, will insure at its regular rates, subject only to standard exceptions unless otherwise specified herein.

Closing and pertinent documentation shall be handled by office of the CITY ATTORNEY. All parties hereto shall execute, at sale consummation, all paperwork the attorney deems necessary to carry out the terms of this contract.

Buyer, Buyer's agents, or representatives, at Buyer's expense and at reasonable times after normal business hours or by appointment only during business hours, shall have the right to enter upon the property for the purpose of inspecting, examining (including soil boring), testing, and surveying the property. Buyer assumes all responsibility for the acts of Buyer, Buyer's agents, or representatives in exercising Buyer's rights under this paragraph and agrees to hold Seller harmless for any damages resulting therefrom.

Seller warrants that when the sale is consummated the improvements on the property will be in the same condition as they are on the date this contract is signed by Seller, natural wear and tear excepted. However, should the premises be destroyed or substantially damaged before the contract is consummated, then at the election of Buyer (a) the contract may be cancelled and earnest monies returned to him, or (b) Buyer may consummate the contract and receive such insurance as is paid on the claim of loss. This election is to be exercised within ten (10) days after the Buyer has been notified in writing by Seller of the amount of the insurance proceeds, if any, Seller will receive on the claim of loss; if Buyer has not been notified of said amount within forty five (45) days subsequent to the occurrence of such damage or destruction, Buyer may, at Buyer's option, cancel the contract and collect all earnest monies paid.

Time is of the essence with regard to this agreement.

This contract shall inure to the benefit of, and be binding upon, the parties hereto, their heirs, successors, administrators, executors and assigns.

*Seller shall be allowed to remove any shrubs, plants and trees from the premises prior to closing or my*

The interest of parties to this contract may NOT be transferred or assigned to a third party.

This contract constitutes the sole and entire agreement between the parties hereto and no modification of the terms of this contract shall be binding unless in writing and attached hereto, signed by all parties to this agreement. No representation, promise, or inducement not included in this contract shall be binding upon any party hereto. Any and all other agreements, whether oral or written, with terms other than those herein are hereby declared null and void by all parties hereto.

2020 Real property taxes and assessments, if any, on subject property shall be prorated as of the date of closing.

Buyer shall pay State of Georgia property transfer tax at closing.

~~Seller shall select a state certified pest control operator at his/her discretion and will pay for Termite Inspection/Clearance Letter at or before closing.~~

*mf*

Sale shall be closed on or before October 30, 2020.

Buyer agrees to allow Seller to retain possession of the premises until 12:00 p.m. on the date of closing.

~~Seller warrants that all appliances remaining with the building and the heating and air conditioning systems shall be in normal operating conditions at time of closing. Buyer shall have the privilege and responsibility of making inspections of said equipment and systems prior to closing.~~

*mf*

The following special stipulations shall control if in conflict with printed material herein:

- 1.) None.

Agreed and accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

SELLER:

*Mary Lee Farmer*  
Seller: Mary Lee Farmer

Signed, sealed and delivered this  
23rd day of Oct.  
2020 in the presence of:

2020

*Judy L. Warlerough*

Witness  
*Judy L. Warlerough*  
Notary Public

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

BUYER:

\_\_\_\_\_  
Mayor, City of Dalton

Attest:

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



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 11/02/2020

**Agenda Item:** Resolution Authorizing the Sale of Real Property to 891 College Drive, LLC.

**Department:** Public Works

**Requested By:** Andrew Parker

**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:**

This resolution authorizes the sale of a narrow strip of real property from the former College Drive right of way totaling 0.05 acres to 891 College Drive, LLC. (Successor to 503 College Drive, LLC.).

Previously, the City Council adopted Ordinance 17-11 to close a portion of College Drive and conveyed said portion to the adjacent property owners as the property was no longer needed by the public for street purposes.

The appraised value of the 0.05 acre tract is \$1,823.53 and would facilitate the enjoyment of the highest and best use of the abutting owner's property and is allowed under O.C.G.A. 36-37-6(g).

**CITY OF DALTON**  
**RESOLUTION**  
**Resolution No. 20-24**

**RESOLUTION AUTHORIZING THE SALE OF REAL PROPERTY**  
**located at**  
**891 COLLEGE DRIVE**

**WHEREAS**, the Mayor and Council of the City of Dalton has determined that it is consistent with the best interests of the City of Dalton and its citizens that the City of Dalton sell certain real property located at College Drive as described in Exhibit “A” (the “Property”) to 891 College Drive, LLC, a Georgia limited liability company (the “Seller”), as provided for in the Agreement For Sale And Purchase Of Real Estate (the “Purchase Agreement”);

**WHEREAS**, the City of Dalton, under the authority of the O.C.G.A. §36-37-6(g), is authorized to sell and convey narrow strips of land, so shaped or so small as to be incapable of being used independently, to adjoining property owners where such sales and conveyances facilitate the enjoyment of the highest and best use of the real property;

**WHEREAS**, the City of Dalton previously closed a portion of College Drive and conveyed said portion to the adjacent property owners pursuant to Ordinance 17-11 as the property was no longer needed by the public for street or transportation purposes and to that extent no substantial public purpose was served thereby;

**WHEREAS**, the Mayor and Council has determined that the subject property qualifies for sell pursuant to O.C.G.A. § 36-37-6(g);

**WHEREAS**, the Seller has agreed to the proposed terms of sale as provided in the Purchase Agreement;

**WHEREAS**, the City of Dalton has determined that the terms of the Purchase Agreement, including the proposed sales price of \$1,823.53 are fair and just compensation for the purchase of the Property;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Dalton, as follows:

**THAT** the City of Dalton hereby approves the proposed terms of sale as provided in the Purchase Agreement.

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized to enter into the Purchase Agreement and any and all documents necessary to consummate the proposed purchase of the Property.

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized and empowered to take such actions and to execute for and on behalf of the City of Dalton any and all documents as



may be necessary or desirable to accomplish and effect the Purchase Agreement and these Resolutions; and such documents shall be in such form and contain such terms and conditions as may be approved by the Mayor on behalf of the City of Dalton and as approved as to form by the City Attorney, and the execution of such documents by the Mayor as herein authorized shall be conclusive evidence of any such approval.

**BE IT FURTHER RESOLVED**, that all acts and doings of the Mayor in connection with the Purchase Agreement which are in conformity with the purposes and intents of these Resolutions and in the furtherance of the transactions contemplated hereby and thereby shall be, and the same hereby are, in all respects approved and confirmed.

**BE IT FURTHER RESOLVED**, that the signature of the Mayor to the Purchase Agreement and other documents executed and delivered in connection therewith shall be conclusive evidence of the authority of the Mayor to execute and deliver such documents on behalf of the City of Dalton.

**BE IT FURTHER RESOLVED**, that the Clerk or any Assistant Clerk of the City of Dalton be, and each hereby is, authorized to attest the signature of any officer of the City of Dalton and impress or attest the City of Dalton's seal appearing on the Purchase Agreement and other documents executed in connection with any of the foregoing Resolutions.

**BE IT FURTHER RESOLVED**, that all resolutions or parts thereof of the City of Dalton in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

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

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

**ADOPTED AND APPROVED** on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at the regular meeting of the Mayor and Council of the City of Dalton.

The foregoing Resolution received its first reading on \_\_\_\_\_. A motion for passage of the Resolution was made by Council person \_\_\_\_\_, second by Council person \_\_\_\_\_ and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays and the Resolution is adopted.

Attest:

CITY OF DALTON, GEORGIA

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

## EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot No. 234 in the 12th District and 3rd Section of Whitfield County, Georgia, and being more particularly described according to a plat of survey prepared by Max Randall Compton, Georgia Registered Land Surveyor No. 2584, dated October 27, 2017, revised October 15, 2020, and being more particularly described according to said survey as follows:

TO FIND THE TRUE POINT OF BEGINNING of the tract of land herein described, commence at a concrete monument located at the point of intersection of the south line of said Land Lot No. 234 and the west right of way line of Interstate Highway No. 75; thence south 88 degrees 06 minute 56 seconds west, as measured along the south line of said Land Lot No. 234, a distance of 14.01 feet; thence north 84 degrees 32 minutes 32 seconds west a distance of 110.79 feet; thence north 01 degrees 41 minutes 24 seconds east a distance of 33.17 feet; thence running in a northerly direction along an arc to the left (Radius 220.99 feet), arc distance of 70.45 feet, said arc being subtended by a chord with a bearing of north 06 degree 57 minutes 18 seconds west and a chord distance of 70.15 feet; thence north 07 degrees 06 minutes 51 seconds west a distance of 72.78 feet to the TRUE POINT OF BEGINNING of the tract of land herein described; FROM THE TRUE POINT OF BEGINNING thus established thence south 82 degrees 03 minutes 42 seconds west a distance of 6.94 feet; thence north 07 degrees 06 minutes 58 seconds west, as measured along the east right of way line of College Drive as relocated, a distance of 85.45 feet; thence north 11 degrees 03 minutes 02 seconds west, as measured along the east right of way line of College Drive as relocated, a distance of 208.63 feet; thence north 78 degrees 56 minutes 58 seconds east a distance of 7.0 feet; thence south 11 degrees 03 minutes 02 seconds east a distance of 208.08 feet; thence south 07 degrees 06 minutes 51 seconds east a distance of 86.37 feet to the POINT OF BEGINNING.

SUBJECT TO THE RIGHTS of Five Star Hospitality, LLC and Dalton Hospitality Hotel Services, LLC, and their successors, licensees, tenants and assigns to the use of the above described property as a means of ingress and egress to College Drive.

[Space above this line for recording data.]

Please Record and Return To:

J. Tom Minor, IV  
The Minor Firm  
P.O. Box 2586  
Dalton, GA 30722-2586

## QUIT CLAIM DEED

**Georgia, Whitfield County**

**THIS INDENTURE** made this \_\_\_\_ day of \_\_\_\_\_, 2020, between the **City of Dalton**, a municipal corporation of the State of Georgia Grantor, and **891 College Drive, LLC, as successor by name change to 503 College Drive, LLC**, a Georgia limited liability company, Grantee.

The words “Grantor” and “Grantee” whenever used herein shall include all individuals, corporations and any other persons or entities, and all the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them, and the pronouns used herein shall include, when appropriate, either gender and both singular and plural, and the grammatical construction of sentences shall conform thereto. If more than one party shall execute this deed each Grantor shall always be jointly and severally liable for the performance of every promise and agreement made herein.

**THE GRANTOR**, for and in consideration of the sum of one dollar and other valuable considerations, in hand paid at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell, convey, remise, release and forever quit claim unto the said Grantee, all the right, title, interest, claim or demand which the Grantor may have in and to the land as more particularly described in Exhibit “A” attached hereto, reference to which is hereby made and incorporated herein by reference.

**THERE IS HEREBY RESERVED TO GRANTOR**, across under and through the above described property easements for the maintenance of existing utility lines traversing the above described property.

**TO HAVE AND TO HOLD** the said tract of land, with all and singular the rights, members, and appurtenances thereof, to the same being, belonging, or in any wise appertaining, to the only proper use, benefit and behoof of the said Grantee so that neither Grantor nor any other person claiming under him shall at any time, claim or demand any right, title or interest to the said tract of land, or its appurtenances.

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

Signed, sealed and delivered  
In the presence of:

**City of Dalton**

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

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

\_\_\_\_\_  
Notary Public

Attest \_\_\_\_\_  
Clerk

[Corporate Seal}

My commission expires:

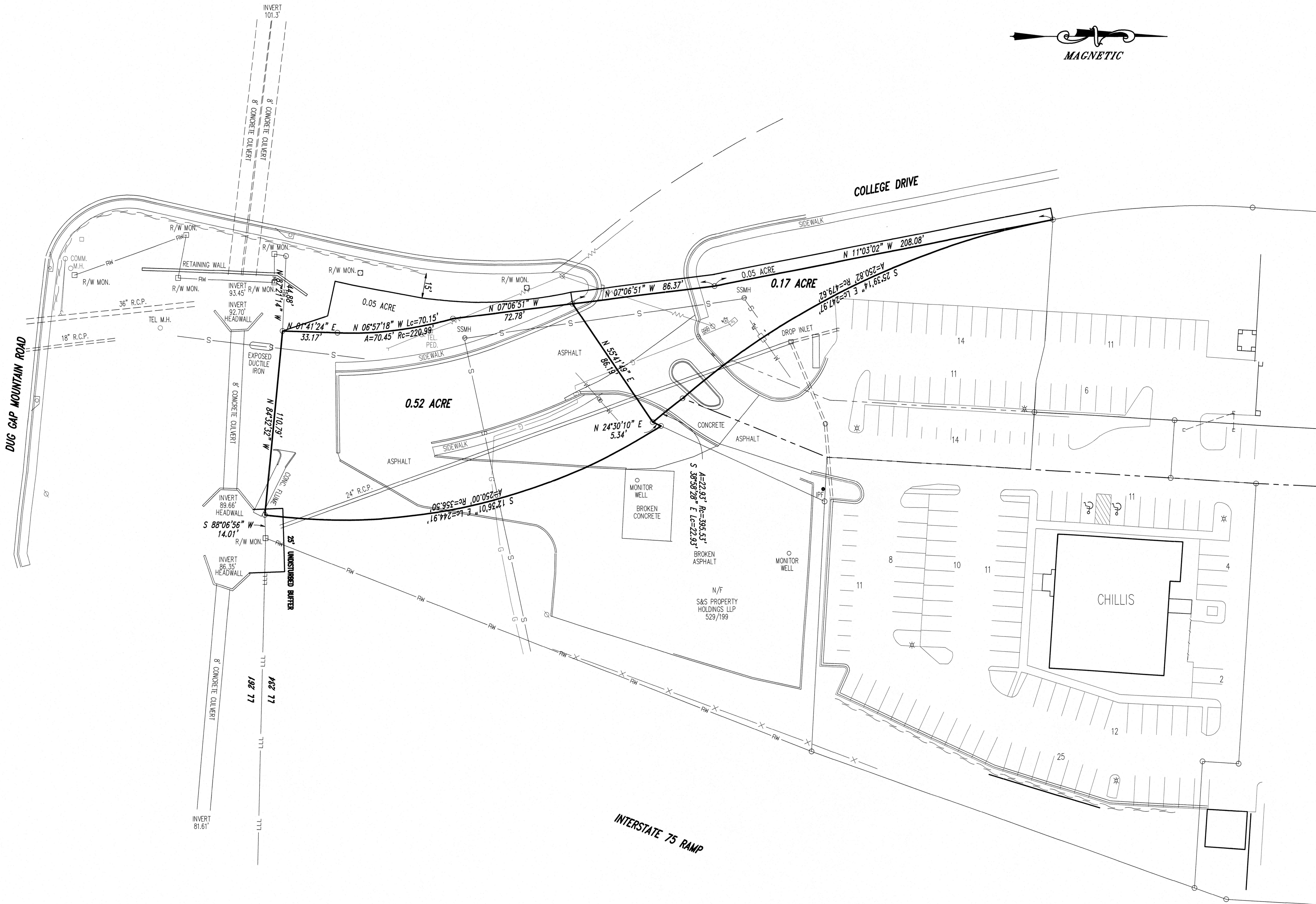
[Notarial Seal]

## EXHIBIT "A"

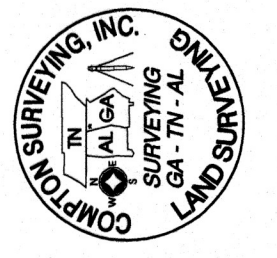
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COMPTON SURVEYING INC.  
 P.O. BOX 339  
 104 CRTENDEN AVENUE  
 CHICKAMAUGA, GA 30707-0339  
 PHONE 706-375-3153  
 FAX 706-375-2679  
 www.comptionsurveying.com



**Project**  
 COLLEGE DRIVE, DUG GAP MOUNTAIN ROAD, INTERSTATE 75

**Client**  
 NAREN PATEL

© 2013, COMPTON SURVEYING, INC.

Revisions	Date

**Drawing Title**

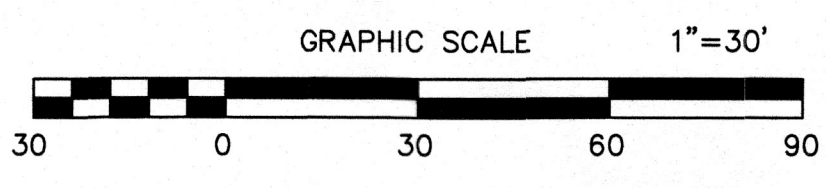
**BOUNDARY-TOPOGRAPHICAL**

<b>DRAWN BY:</b>	<b>DRAWING NO.</b>
<b>DATE:</b>	<b>1 OF 1</b>
<b>PROJECT NO.:</b> 17-331	

NOTE: The professional surveyor has made no complete investigation or had an independent search done for easements of record, encumbrances, restrictive covenants, ownership title evidence or, any other facts that an accurate and current title search may disclose.

**LEGEND**

- I.P.F. 1/2" REBAR FOUND
- I.P.S. 1/2" CAPPED REBAR SET
- M.F.P. METAL FENCE POST
- F.C. FENCE CORNER
- U. UTILITY POLE
- RIGHT OF WAY ——— FW ———
- PROPERTY LINE ——— PL ———
- CENTERLINE ROAD ——— CL ———
- FENCE ——— X ———
- ABOVE GRND. UTILITY ——— W ———
- LAND LOT LINE ——— LLL ———



**VERTICAL DATUM ASSUMED**

<b>SURVEY DATE:</b> 10-13-17	<b>FIELD CLOSURE:</b> 16,371
<b>CREW:</b> R.B., D.M.	<b>ANGLE:</b> 2"
<b>COMPUTED BY:</b> M.R.C.	<b>ADJUSTMENT:</b> N/A
<b>DRAWN BY:</b> M.R.C.	<b>PLAT CLOSURE:</b>
<b>DATE DRAWN:</b> 10-27-17	<b>INSTRUMENT:</b>
<b>REVISED:</b> 10-15-20	<b>DEED REF:</b>

LOCATED IN LAND LOT'S 234 & 261  
 12TH DISTRICT 3RD SECTION  
 WHITFIELD COUNTY, GEORGIA

SCALE: 1" = 30'

## **AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE**

**THIS AGREEMENT** for the sale and purchase of real property (“this Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between **891 College Drive, LLC**, a Georgia limited liability company (hereinafter called “Purchaser”) and the **City of Dalton Georgia**, a municipal corporation of the State of Georgia (hereinafter called “Seller”).

### **W I T N E S S E T H:**

**WHEREAS**, Seller is the owner of certain real property, which real property is more particularly described in Exhibit “A” attached hereto and made a part hereof, together with the improvements located thereon, all easements, appurtenances, hereditaments and rights appurtenant thereto or otherwise arising in connection therewith, herein referred to as the “Property”; and

**WHEREAS**, Purchaser desires to purchase, and Seller to sell, the Property, in accordance with the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, for and in consideration of the above-recited premises, the mutual covenants and agreements hereinafter set forth, the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

**1. Sale.** Seller, in consideration of the mutual covenants herein contained, agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, upon the terms and conditions hereinafter set forth, the Property.

**2. Consideration.** The consideration to be paid by Purchaser to Seller for the Property shall be **\$1,823.53** subject to prorations and adjustments hereinafter described, and shall be payable as on the date of the Closing (as hereinafter defined) of this transaction payable by cashier’s check or by wired Federal Funds.

**3. Closing.**

3.1 Time, Date and Place of Closing. Subject to the provisions of this Agreement, the payments and deliveries contemplated hereby to be made at Closing shall be made at the law offices of the City Attorney, City Hall, 300 West Waugh Street, Dalton, GA within 60 days of the date of execution of this Agreement or on such other date as may be mutually agreeable. The date on which the last of such payments and deliveries occurs is hereinafter referred to as the “Closing Date”, and the events comprising such payments and deliveries are herein referred to as the “Closing”.

3.2 Events comprising closing: The following events shall constitute the Closing.

(A) Seller shall execute and deliver to Purchaser a general warranty deed conveying good and marketable fee simple title to the Property. As used in this Agreement, the phrase “good and marketable fee simple title” shall mean such title as is insurable by a title insurance company approved by Purchaser which is licensed to do business in Georgia (the “Title Insurer”), under its standard form of owner’s policy of title insurance, A.L.T.A. Form 2006, as amended at its standard rates, subject only to the following (the “Permitted Exceptions”): (1) the standard



exclusions set forth therein (other than the survey exception); (2) the lien of taxes not yet due and payable; and (3) zoning ordinances affecting the Property.

(B) Seller shall surrender possession of the Property to the Purchaser subject only to those matters described or referenced in this Agreement.

(C) Seller shall deliver to Purchaser an Affidavit, concerning the absence of boundary line disputes on the Property, the possession of the Property by Seller, improvements or repairs made on the Property within three months of the Closing Date, the absence of legal proceedings against Seller, and such other documents as the Title Insurer may reasonably require.

(D) Purchaser shall pay the Purchase Price to Seller in accordance with Section 2 of this Agreement.

(E) All state and county ad valorem taxes levied or imposed upon or assessed against the Property for the calendar year during which the Closing Date occurs shall be prorated as of the Closing Date. If the actual taxes for said calendar year are not known on the Closing Date, the proration shall be based upon the actual taxes for the immediately preceding calendar year, and Purchaser and Seller shall adjust the proration at such time as the actual taxes for the calendar year during which the Closing Date occurs are billed.

(F) Any and all other assessments levied against the Property shall be prorated between the parties as of the Closing Date according to the most reliable information concerning the amount of said costs, with such proration to be adjusted according to the actual assessment as and when made.

(G) Seller shall pay for the Seller's attorney's fees. Purchaser shall pay for Purchaser's attorney's fees, recording fees, the survey, title examination and insurance if elected.

(H) Seller shall terminate any leases on the Property and take any and all necessary actions to remove any existing tenants or other occupants of the Property prior to Closing.

**4. Seller's Representations and Warranties.** As an inducement to Purchaser to enter into this Agreement, and to the purchase of the Property by Purchaser, Seller warrants and represents to Purchaser as follows:

4.1 Title to Property. Seller is the sole owner in fee simple of the Property.

4.2 Absence of Liens. The Property is not subject to any mortgage, pledge or lien, except liens for ad valorem taxes not yet payable and unperfected purchase money security interests existing in the ordinary course of business without the execution of a security agreement.

4.3 Authority; No Consents. Seller has the right, power and authority to enter into this Agreement and the right, power, and authority to convey the Property in accordance with the terms and conditions of this Agreement. No consent of any Federal, State or local authority is required to be obtained by Seller in connection with the consummation by Seller of the transactions contemplated hereby.

4.4 Absence of Notice of Eminent Domain. Seller has received no notice of, nor is Seller aware of, any pending, threatened, or contemplated actions by any governmental authority or agency

having the power of eminent domain other than the City of Dalton, which might result in part of the Property being taken by condemnation or conveyed in lieu thereof. Seller shall, promptly upon receiving any such notice or learning of any such contemplated or threatened action, give Purchaser written notice thereof.

4.5 No Assessments. No assessments have been made against any portion of the Property which are unpaid (except ad valorem taxes for the current year), whether or not they have become liens; and Seller shall notify Purchaser upon learning of any such assessments.

4.6 No Foreign Person. Seller is not a foreign person as defined in Section 1445 of the Internal Revenue Code and the applicable regulations thereunder.

4.7 No Litigation. There is no litigation or proceeding pending, or to Seller's knowledge threatened, against or relating to or affecting all or any part of the Property, nor does Seller know or have reasonable grounds to know of any basis for any such action.

4.8 Leases. There is no tenant, lessee, or other occupant of the Property (including any improvements thereon) having any right or claim to possession or use of the Property (or any such improvements) after the Closing Date hereof other than the Occupant and possession of the Property shall be delivered by Seller to Purchaser at the Closing free of the rights or claims of any tenants, occupants, or other parties in possession of, or having or claiming any right to possession or use of the Property.

4.9 Condition of Improvements. When the transactions contemplated hereby are consummated, the improvements on the Property will be in the same condition as they are on the date of the execution of this Agreement, except for: ordinary wear and tear; any damage caused by an insured event for which full insurance proceeds have been paid to Purchaser; and any change in the condition of the improvements for which proper adjustment has been made between the parties hereto.

4.10 No Notice RE Zoning. Seller has received no notice of any violation of zoning and/or building laws, statutes, ordinances, orders, or requirements affecting the Property from the State of Georgia or any subdivision, agency, or department thereof.

4.11 Survey. Seller agrees to cooperate and take all reasonable actions necessary to resolve any boundary line disputes with adjacent land owners, including execution of any boundary line agreement or quit-claim deed, that may be disclosed by a survey by a Georgia Registered Land Surveyor obtained by Purchaser.

**5. Right to Examinations:**

5.1 Title. Purchaser shall have thirty (30) days after execution of this Agreement in which to examine title to the Property and furnish to Seller a written statement of objections affecting the marketability of the title. Seller, upon receipt of such written statement from Purchaser, shall have ten (10) days after such receipt in which to satisfy all valid objections. If Seller is unable to satisfy such valid objections within said period, Purchaser may either:

(A) Accept the Property with such remaining objections after deducting from the Purchase Price the cost of curing such objections; or

(B) Terminate this Agreement.

Purchaser may elect (A) or (B) above by written notice to Seller within ten (10) days following the end of the period set forth above for the curing by Seller of such objections.

**6. Risk of Loss; Damage to Property.**

6.1 Risk of Loss. Seller shall bear all risk of loss or damage from any casualty suffered by any and all improvements located on the Property until such time as legal title has passed to Purchaser.

6.2 Damage to Property. Should the improvements on the Property be destroyed or substantially damaged before the transactions contemplated hereby are consummated, then at the election of Purchaser:

- (A) This Agreement may be cancelled, and the earnest money refunded to Purchaser;
- (B) Purchaser may consummate the contract and receive any insurance as is paid on the claim of loss; or
- (C) Purchaser and Seller may reach agreement between themselves with respect to any adjustment in the consideration to be paid as a consequence of such loss or damage.

This election is to be exercised within ten days after Purchaser has been notified in writing by Seller of the amount of the insurance proceeds, if any, Seller will receive on the claim of loss. If Purchaser has not been notified within five days subsequent to the occurrence of such damage or destruction, Purchaser shall have the option to cancel the contract.

**7. Contingency.** This Agreement is made conditioned upon the approval of this Agreement by the Mayor and Council of the City of Dalton, Georgia.

**8. Termination and Abandonment.**

8.1 Right to Terminate. This Agreement may be terminated and the purchase and sale of the Property, if any, abandoned at any time prior to the Closing:

- (A) By mutual agreement of Seller and Purchaser; or
- (B) By Purchaser, if:
  - (1) The warranties and representations of Seller set forth in Section 4 hereof are found to be untrue;
  - (2) The title to the Property is found to be defective and is not cured as required by Section 5.1;
  - (3) The improvements on the Property are destroyed or substantially damaged and Purchaser does not elect to receive the insurance proceeds or adjust the consideration as allowed by Section 6.2; or
  - (4) Seller breaches this Agreement in any material manner; or
- (C) By Seller, if Purchaser breaches this Agreement in any material manner.

8.2 Specific Performance. Notwithstanding any provisions to the contrary contained herein, Seller acknowledges that the rights of Purchaser under this Agreement are special, unique and of extraordinary character, and that, in the event Seller violates or fails and refuses to perform this Agreement or any covenant made by Seller herein, Purchaser may be without adequate remedy at law.

Seller agrees, therefore, that in the event Seller violates or fails and refuses to perform any covenant made by Seller herein, Purchaser may, in addition to any remedies at law for damages or other relief, institute and prosecute an action in any court of competent jurisdiction to enforce specific performance by Seller.

**9. Indemnification.** Seller shall indemnify and hold harmless Purchaser from and against all claims, damages, expenses, liabilities, actions, or causes of action of any kind or nature arising from breaches of Seller's representations, warranties or covenants hereunder or from acts or failures to act occurring, or conditions existing, during Seller's ownership of the Property.

**10. Broker's Commission.** The parties hereby warrant and represent for the benefit of the other parties that no person, firm, corporation or other entity is entitled to any brokerage commission or finder's fee in connection with any of the transactions contemplated by this Agreement. Seller shall indemnify and hold the Purchaser harmless from and against all claims, demands, and actions of all brokers, agents and other intermediaries alleging any dealings, negotiations or communications with the indemnifying party in connection with this Agreement.

**11. Miscellaneous.**

11.1 Counterparts. This Agreement may be executed in multiple counterparts each of which may be deemed an original.

11.2 Assignment; Successors in Interest. This Agreement and all rights, remedies, obligations and liabilities arising hereunder or by reason hereof may be assigned by either party hereto. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns. Except as expressly provided in this Agreement, nothing herein is intended to imply nor shall confer on any person other than the parties hereto, and their respective heirs, legal representatives, successors or assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, or constitute the parties hereto, partners or participants in a joint venture.

11.3 Controlling Law/Venue. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia. The parties agree that in the event that any suit or proceeding is brought in connection with this Agreement, such suit or proceeding shall be brought in the Superior Court of Whitfield County, Georgia and the parties shall submit to the exclusive jurisdiction of such Court and waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

11.4 Amendment; Waiver. The terms of this Agreement may be amended, modified or eliminated, and the observance or performance of any term, covenant, condition or provision herein may be omitted or waived (either generally or in a particular instance and either prospectively or retroactively) only by the written consents of all parties hereto. No omission or waiver shall be deemed to excuse any future observance or performance or to constitute an amendment, modification or elimination unless it expressly so states. The waiver by any party hereto of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

11.5 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

11.6 Notices. All notices, demands, and requests which may be given or which are required to be given by either party to the other shall be in writing and may be: hand delivered; sent by United States certified mail, postage prepaid and return receipt requested; or sent by a nationally recognized overnight delivery service such as Federal Express Corporation, Emery, or United Parcel Service. All notices, demands, and requests shall be deemed effective either: (A) upon delivery if hand delivered, as evidenced by written receipt therefor, whether or not actually received by the person to whom addressed; (B) upon deposit in the United States mail if by certified mail, return receipt requested, addressed to the intended recipient at the address indicated herein; (C) on the day deposited into the custody of a nationally recognized overnight delivery service such as Federal Express Corporation, Emery or United Parcel Service, for overnight next day delivery, addressed to such party at the address indicated herein. Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement shall be as follows:

If to Purchaser, to:

891 College Drive, LLC  
C/O Tom Minor, Esq.

If to Seller, to:

City of Dalton  
City Administrator  
300 W. Waugh ST  
Dalton, GA 30720

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

11.8 Captions. The sections and other headings contained in this Agreement are for reference purposes only and shall not be deemed to be part of this Agreement, or to affect the meaning or interpretation of this Agreement.

11.9 Gender. Wherever any words are used herein in the masculine gender they shall be construed as though they were also used in the feminine and neuter gender in all cases where they would so apply, and wherever any words are used herein in the singular form they shall be construed as though they were also used in the plural form in all cases where they would so apply.

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

11.11 Survival. The agreements, indemnities, representations and warranties set forth in this Agreement shall survive the consummation of the purchase and sale of the Property on the Closing Date.

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

**891 COLLEGE DRIVE, LLC**

By: \_\_\_\_\_ (Seal)  
Member

**City of Dalton Georgia**

By: \_\_\_\_\_ (Seal)  
City Administrator

## **EXHIBIT "A"**

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SUBJECT TO THE RIGHTS of Five Star Hospitality, LLC and Dalton Hospitality Hotel Services, LLC, and their successors, licensees, tenants and assigns to the use of the above described property as a means of ingress and egress to College Drive.



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 11/02/2020

**Agenda Item:** Resolution Authorizing the Sale of Real Property to S&S Property Holdings, LLP.

**Department:** Public Works

**Requested By:** Andrew Parker

**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:**

This resolution authorizes the sale of a narrow strip of real property from the former College Drive right of way totaling 0.05 acres to S&S Property Holdings, LLP.

Previously, the City Council adopted Ordinance 17-11 to close a portion of College Drive and conveyed said portion to the adjacent property owners as the property was no longer needed by the public for street purposes.

The appraised value of the 0.05 acre tract is \$1,823.53 and would facilitate the enjoyment of the highest and best use of the abutting owner's property and is allowed under O.C.G.A. 36-37-6(g).



**CITY OF DALTON**  
**RESOLUTION**  
**Resolution No. 20-25**

**RESOLUTION AUTHORIZING THE SALE OF REAL PROPERTY**  
**located at**  
**891 COLLEGE DRIVE**

**WHEREAS**, the Mayor and Council of the City of Dalton has determined that it is consistent with the best interests of the City of Dalton and its citizens that the City of Dalton sell certain real property located at College Drive as described in Exhibit “A” (the “Property”) to S&S Property Holdings, LLP, a Georgia limited liability partnership (the “Seller”), as provided for in the Agreement For Sale And Purchase Of Real Estate (the “Purchase Agreement”);

**WHEREAS**, the City of Dalton, under the authority of the O.C.G.A. §36-37-6(g), is authorized to sell and convey narrow strips of land, so shaped or so small as to be incapable of being used independently, to adjoining property owners where such sales and conveyances facilitate the enjoyment of the highest and best use of the real property;

**WHEREAS**, the City of Dalton previously closed a portion of College Drive and conveyed said portion to the adjacent property owners pursuant to Ordinance 17-11 as the property was no longer needed by the public for street or transportation purposes and to that extent no substantial public purpose was served thereby;

**WHEREAS**, the Mayor and Council has determined that the subject property qualifies for sell pursuant to O.C.G.A. § 36-37-6(g);

**WHEREAS**, the Seller has agreed to the proposed terms of sale as provided in the Purchase Agreement;

**WHEREAS**, the City of Dalton has determined that the terms of the Purchase Agreement, including the proposed sales price of \$1,823.53 are fair and just compensation for the purchase of the Property;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Dalton, as follows:

**THAT** the City of Dalton hereby approves the proposed terms of sale as provided in the Purchase Agreement.

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized to enter into the Purchase Agreement and any and all documents necessary to consummate the proposed purchase of the Property.

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized and empowered to take such actions and to execute for and on behalf of the City of Dalton any and all documents as

may be necessary or desirable to accomplish and effect the Purchase Agreement and these Resolutions; and such documents shall be in such form and contain such terms and conditions as may be approved by the Mayor on behalf of the City of Dalton and as approved as to form by the City Attorney, and the execution of such documents by the Mayor as herein authorized shall be conclusive evidence of any such approval.

**BE IT FURTHER RESOLVED**, that all acts and doings of the Mayor in connection with the Purchase Agreement which are in conformity with the purposes and intents of these Resolutions and in the furtherance of the transactions contemplated hereby and thereby shall be, and the same hereby are, in all respects approved and confirmed.

**BE IT FURTHER RESOLVED**, that the signature of the Mayor to the Purchase Agreement and other documents executed and delivered in connection therewith shall be conclusive evidence of the authority of the Mayor to execute and deliver such documents on behalf of the City of Dalton.

**BE IT FURTHER RESOLVED**, that the Clerk or any Assistant Clerk of the City of Dalton be, and each hereby is, authorized to attest the signature of any officer of the City of Dalton and impress or attest the City of Dalton's seal appearing on the Purchase Agreement and other documents executed in connection with any of the foregoing Resolutions.

**BE IT FURTHER RESOLVED**, that all resolutions or parts thereof of the City of Dalton in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

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

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

**ADOPTED AND APPROVED** on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at the regular meeting of the Mayor and Council of the City of Dalton.

The foregoing Resolution received its first reading on \_\_\_\_\_. A motion for passage of the Resolution was made by Council person \_\_\_\_\_, second by Council person \_\_\_\_\_ and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays and the Resolution is adopted.

Attest:

CITY OF DALTON, GEORGIA

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

## EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot No. 234 in the 12th District and 3rd Section of Whitfield County, Georgia, and being more particularly described according to a plat of survey prepared by Max Randall Compton, Georgia Registered Land Surveyor No. 2584, dated October 27, 2017, revised October 15, 2020, and being more particularly described according to said survey as follows:

TO FIND THE TRUE POINT OF BEGINNING of the tract of land herein described, commence at a concrete monument located at the point of intersection of the south line of said Land Lot No. 234 and the west right of way line of Interstate Highway No. 75; thence south 88 degrees 06 minute 56 seconds west, as measured along the south line of said Land Lot No. 234, a distance of 14.01 feet; thence north 84 degrees 32 minutes 32 seconds west a distance of 110.79 feet to the TRUE POINT OF BEGINNING of the tract of land herein described; FROM THE TRUE POINT OF BEGINNING thus established, thence north 18 degrees 26 minutes 38 seconds west, as measured along the east right of way line of College Drive as relocated, a distance of 28.68 feet; thence north 77 degrees 47 minutes 36 seconds west, as measured along the east right of way line of College Drive as relocated, a distance of 21.27 feet; thence north 10 degrees 46 minutes 57 seconds east, as measured along the east right of way line of College Drive as relocated, a distance of 53.55 feet; thence running in a northerly direction, as measured along the east right of way line of College Drive as relocated, along an arc to the left (Radius 247.77 feet), arc distance of 90.31 feet, said arc being subtended by a chord with a bearing of north 02 degrees 16 minutes 27 seconds west and a chord distance of 89.81 feet; thence north 82 degrees 03 minutes 42 seconds east a distance of 6.94 feet; thence south 07 degrees 06 minutes 51 seconds east a distance of 72.78 feet; thence running in a southerly direction, along an arc to the right (Radius 220.99 feet), arc distance of 70.45 feet, said arc being subtended by a chord with a bearing of south 06 degrees 57 minutes 18 seconds east and a chord distance of 70.15 feet; thence south 01 degrees 41 minutes 24 seconds west a distance of 33.17 feet to the POINT OF BEGINNING.

[Space above this line for recording data.]

---

Please Record and Return To:

J. Tom Minor, IV  
The Minor Firm  
P.O. Box 2586  
Dalton, GA 30722-2586

## QUIT CLAIM DEED

### Georgia, Whitfield County

**THIS INDENTURE** made this \_\_\_\_\_ day of \_\_\_\_\_, 2020, between the **City of Dalton**, a municipal corporation of the State of Georgia, Grantor, and **S&S Property Holdings, LLLP**, a Georgia limited liability limited partnership, Grantee.

The words “Grantor” and “Grantee” whenever used herein shall include all individuals, corporations and any other persons or entities, and all the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them, and the pronouns used herein shall include, when appropriate, either gender and both singular and plural, and the grammatical construction of sentences shall conform thereto. If more than one party shall execute this deed each Grantor shall always be jointly and severally liable for the performance of every promise and agreement made herein.

**THE GRANTOR**, for and in consideration of the sum of one dollar and other valuable considerations, in hand paid at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell, convey, remise, release and forever quit claim unto the said Grantee, all the right, title, interest, claim or demand which the Grantor may have in and to the land as more particularly described in Exhibit “A” attached hereto, reference to which is hereby made and incorporated herein by reference.

**THERE IS HEREBY RESERVED TO GRANTOR**, across under and through the above described property easements for the maintenance of existing utility lines traversing the above described property.

**TO HAVE AND TO HOLD** the said tract of land, with all and singular the rights, members, and appurtenances thereof, to the same being, belonging, or in any wise appertaining, to the only proper use, benefit and behoof of the said Grantee so that neither Grantor nor any other person claiming under him shall at any time, claim or demand any right, title or interest to the said tract of land, or its appurtenances.

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

Signed, sealed and delivered  
In the presence of:

**City of Dalton**

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

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

\_\_\_\_\_  
Notary Public

Attest \_\_\_\_\_  
Clerk

[Corporate Seal]

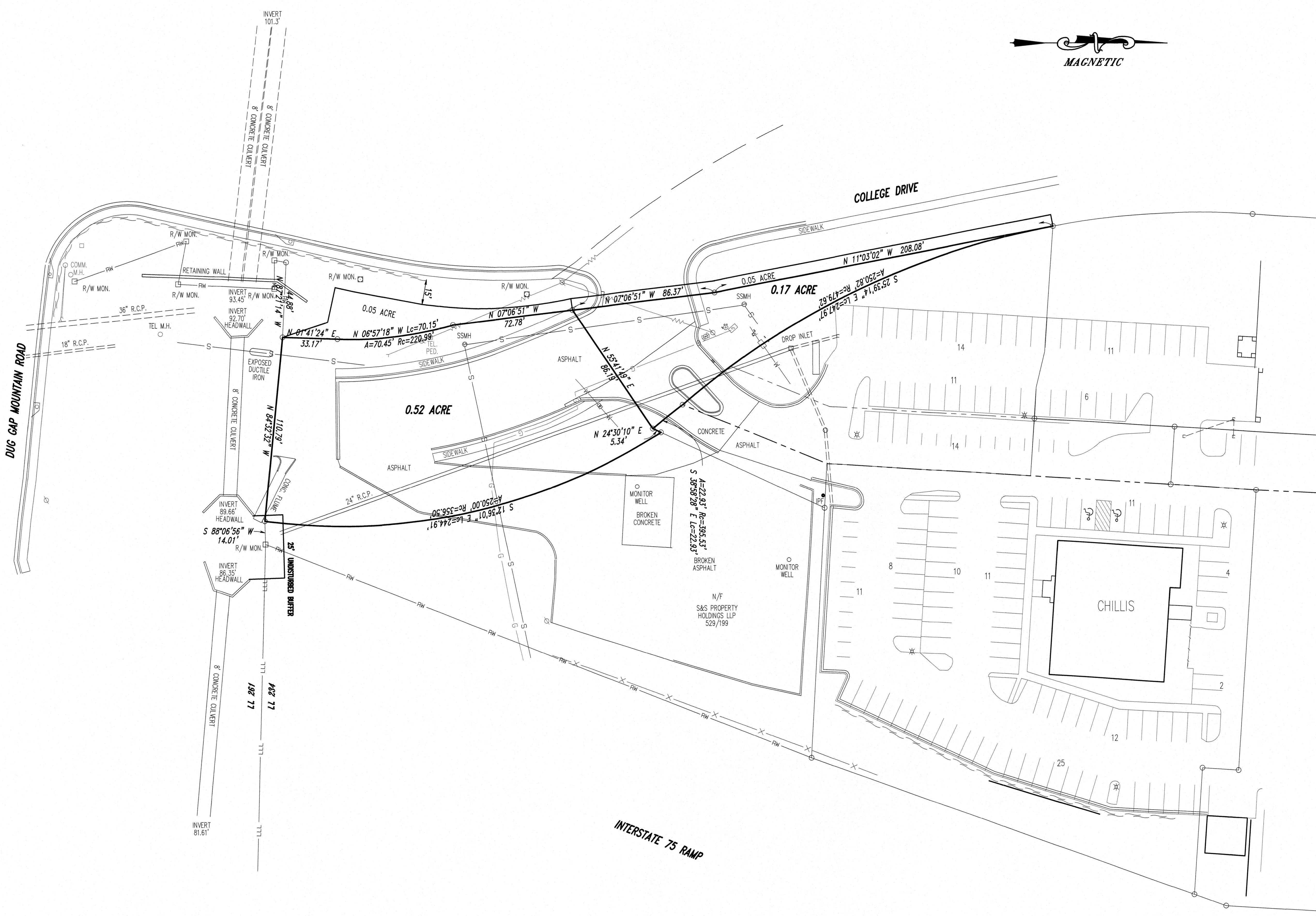
My commission expires:

[Notarial Seal]

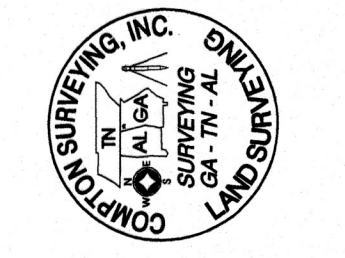
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**COMPTON SURVEYING INC.**  
 P.O. BOX 339  
 104 CRTENDEN AVENUE  
 CHICKAMAUGA, GA 30707-0339  
 PHONE 706-375-3153  
 FAX 706-375-2679  
 www.comptonsurveying.com



**Project**  
 COLLEGE DRIVE, DUG GAP MOUNTAIN ROAD, INTERSTATE 75

**Client**  
 NAREN PATEL

© 2013, COMPTON SURVEYING, INC.

Revisions	Date

**Drawing Title**  
 BOUNDARY-TOPOGRAPHICAL

**DRAWN BY:** \_\_\_\_\_ **DRAWING NO.:** 1 OF 1

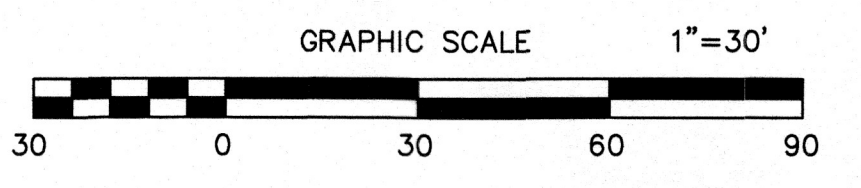
**DATE:** \_\_\_\_\_

**PROJECT NO.:** 17-331

*NOTE: The professional surveyor has made no complete investigation or had an independent search done for easements of record, encumbrances, restrictive covenants, ownership title evidence or, any other facts that an accurate and current title search may disclose.*

**LEGEND**

I.P.F.	1/2" REBAR FOUND
I.P.S.	1/2" CAPPED REBAR SET
M.F.P.	METAL FENCE POST
F.C.	FENCE CORNER
U.	UTILITY POLE
RIGHT OF WAY	— FW —
PROPERTY LINE	— PL —
CENTERLINE ROAD	— CL —
FENCE	— X —
ABOVE GRND. UTILITY	— W —
LAND LOT LINE	— LLL —



**VERTICAL DATUM**  
 ASSUMED

SURVEY DATE: 10-13-17	FIELD CLOSURE: 16,371
CREW: R.B., D.M.	ANGLE: 2"
COMPUTED BY: M.R.C.	ADJUSTMENT: N/A
DRAWN BY: M.R.C.	PLAT CLOSURE:
DATE DRAWN: 10-27-17	INSTRUMENT:
REVISED: 10-15-20	DEED REF:

LOCATED IN LAND LOT'S 234 & 261  
 12TH DISTRICT 3RD SECTION  
 WHITFIELD COUNTY, GEORGIA

SCALE: 1" = 30'



## AGREEMENT FOR SALE AND PURCHASE OF REAL ESTATE

**THIS AGREEMENT** for the sale and purchase of real property (“this Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between **S&S Property Holdings, LLP**, a Georgia limited liability partnership (hereinafter called “Purchaser”) and the **City of Dalton Georgia**, a municipal corporation of the State of Georgia (hereinafter called “Seller”).

### W I T N E S S E T H:

**WHEREAS**, Seller is the owner of certain real property, which real property is more particularly described in Exhibit “A” attached hereto and made a part hereof, together with the improvements located thereon, all easements, appurtenances, hereditaments and rights appurtenant thereto or otherwise arising in connection therewith, herein referred to as the “Property”; and

**WHEREAS**, Purchaser desires to purchase, and Seller to sell, the Property, in accordance with the terms and conditions hereinafter set forth;

**NOW, THEREFORE**, for and in consideration of the above-recited premises, the mutual covenants and agreements hereinafter set forth, the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. **Sale.** Seller, in consideration of the mutual covenants herein contained, agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, upon the terms and conditions hereinafter set forth, the Property.

2. **Consideration.** The consideration to be paid by Purchaser to Seller for the Property shall be **\$1,823.53** subject to prorations and adjustments hereinafter described, and shall be payable as on the date of the Closing (as hereinafter defined) of this transaction payable by cashier’s check or by wired Federal Funds.

3. **Closing.**

3.1 **Time, Date and Place of Closing.** Subject to the provisions of this Agreement, the payments and deliveries contemplated hereby to be made at Closing shall be made at the law offices of the City Attorney, City Hall, 300 West Waugh Street, Dalton, GA within 60 days of the date of execution of this Agreement or on such other date as may be mutually agreeable. The date on which the last of such payments and deliveries occurs is hereinafter referred to as the “Closing Date”, and the events comprising such payments and deliveries are herein referred to as the “Closing”.

3.2 **Events comprising closing:** The following events shall constitute the Closing.

(A) Seller shall execute and deliver to Purchaser a general warranty deed conveying good and marketable fee simple title to the Property. As used in this Agreement, the phrase “good and marketable fee simple title” shall mean such title as is insurable by a title insurance company approved by Purchaser which is licensed to do business in Georgia (the “Title Insurer”), under its standard form of owner’s policy of title insurance, A.L.T.A. Form 2006, as amended at its standard rates, subject only to the following (the “Permitted Exceptions”): (1) the standard

exclusions set forth therein (other than the survey exception); (2) the lien of taxes not yet due and payable; and (3) zoning ordinances affecting the Property.

(B) Seller shall surrender possession of the Property to the Purchaser subject only to those matters described or referenced in this Agreement.

(C) Seller shall deliver to Purchaser an Affidavit, concerning the absence of boundary line disputes on the Property, the possession of the Property by Seller, improvements or repairs made on the Property within three months of the Closing Date, the absence of legal proceedings against Seller, and such other documents as the Title Insurer may reasonably require.

(D) Purchaser shall pay the Purchase Price to Seller in accordance with Section 2 of this Agreement.

(E) All state and county ad valorem taxes levied or imposed upon or assessed against the Property for the calendar year during which the Closing Date occurs shall be prorated as of the Closing Date. If the actual taxes for said calendar year are not known on the Closing Date, the proration shall be based upon the actual taxes for the immediately preceding calendar year, and Purchaser and Seller shall adjust the proration at such time as the actual taxes for the calendar year during which the Closing Date occurs are billed.

(F) Any and all other assessments levied against the Property shall be prorated between the parties as of the Closing Date according to the most reliable information concerning the amount of said costs, with such proration to be adjusted according to the actual assessment as and when made.

(G) Seller shall pay for the Seller's attorney's fees. Purchaser shall pay for Purchaser's attorney's fees, recording fees, the survey, title examination and insurance if elected.

(H) Seller shall terminate any leases on the Property and take any and all necessary actions to remove any existing tenants or other occupants of the Property prior to Closing.

**4. Seller's Representations and Warranties.** As an inducement to Purchaser to enter into this Agreement, and to the purchase of the Property by Purchaser, Seller warrants and represents to Purchaser as follows:

4.1 Title to Property. Seller is the sole owner in fee simple of the Property.

4.2 Absence of Liens. The Property is not subject to any mortgage, pledge or lien, except liens for ad valorem taxes not yet payable and unperfected purchase money security interests existing in the ordinary course of business without the execution of a security agreement.

4.3 Authority; No Consents. Seller has the right, power and authority to enter into this Agreement and the right, power, and authority to convey the Property in accordance with the terms and conditions of this Agreement. No consent of any Federal, State or local authority is required to be obtained by Seller in connection with the consummation by Seller of the transactions contemplated hereby.

4.4 Absence of Notice of Eminent Domain. Seller has received no notice of, nor is Seller aware of, any pending, threatened, or contemplated actions by any governmental authority or agency

having the power of eminent domain other than the City of Dalton, which might result in part of the Property being taken by condemnation or conveyed in lieu thereof. Seller shall, promptly upon receiving any such notice or learning of any such contemplated or threatened action, give Purchaser written notice thereof.

4.5 No Assessments. No assessments have been made against any portion of the Property which are unpaid (except ad valorem taxes for the current year), whether or not they have become liens; and Seller shall notify Purchaser upon learning of any such assessments.

4.6 No Foreign Person. Seller is not a foreign person as defined in Section 1445 of the Internal Revenue Code and the applicable regulations thereunder.

4.7 No Litigation. There is no litigation or proceeding pending, or to Seller's knowledge threatened, against or relating to or affecting all or any part of the Property, nor does Seller know or have reasonable grounds to know of any basis for any such action.

4.8 Leases. There is no tenant, lessee, or other occupant of the Property (including any improvements thereon) having any right or claim to possession or use of the Property (or any such improvements) after the Closing Date hereof other than the Occupant and possession of the Property shall be delivered by Seller to Purchaser at the Closing free of the rights or claims of any tenants, occupants, or other parties in possession of, or having or claiming any right to possession or use of the Property.

4.9 Condition of Improvements. When the transactions contemplated hereby are consummated, the improvements on the Property will be in the same condition as they are on the date of the execution of this Agreement, except for: ordinary wear and tear; any damage caused by an insured event for which full insurance proceeds have been paid to Purchaser; and any change in the condition of the improvements for which proper adjustment has been made between the parties hereto.

4.10 No Notice RE Zoning. Seller has received no notice of any violation of zoning and/or building laws, statutes, ordinances, orders, or requirements affecting the Property from the State of Georgia or any subdivision, agency, or department thereof.

4.11 Survey. Seller agrees to cooperate and take all reasonable actions necessary to resolve any boundary line disputes with adjacent land owners, including execution of any boundary line agreement or quit-claim deed, that may be disclosed by a survey by a Georgia Registered Land Surveyor obtained by Purchaser.

## **5. Right to Examinations:**

5.1 Title. Purchaser shall have thirty (30) days after execution of this Agreement in which to examine title to the Property and furnish to Seller a written statement of objections affecting the marketability of the title. Seller, upon receipt of such written statement from Purchaser, shall have ten (10) days after such receipt in which to satisfy all valid objections. If Seller is unable to satisfy such valid objections within said period, Purchaser may either:

(A) Accept the Property with such remaining objections after deducting from the Purchase Price the cost of curing such objections; or

(B) Terminate this Agreement.

Purchaser may elect (A) or (B) above by written notice to Seller within ten (10) days following the end of the period set forth above for the curing by Seller of such objections.

**6. Risk of Loss; Damage to Property.**

6.1 Risk of Loss. Seller shall bear all risk of loss or damage from any casualty suffered by any and all improvements located on the Property until such time as legal title has passed to Purchaser.

6.2 Damage to Property. Should the improvements on the Property be destroyed or substantially damaged before the transactions contemplated hereby are consummated, then at the election of Purchaser:

- (A) This Agreement may be cancelled, and the earnest money refunded to Purchaser;
- (B) Purchaser may consummate the contract and receive any insurance as is paid on the claim of loss; or
- (C) Purchaser and Seller may reach agreement between themselves with respect to any adjustment in the consideration to be paid as a consequence of such loss or damage.

This election is to be exercised within ten days after Purchaser has been notified in writing by Seller of the amount of the insurance proceeds, if any, Seller will receive on the claim of loss. If Purchaser has not been notified within five days subsequent to the occurrence of such damage or destruction, Purchaser shall have the option to cancel the contract.

**7. Contingency.** This Agreement is made conditioned upon the approval of this Agreement by the Mayor and Council of the City of Dalton, Georgia.

**8. Termination and Abandonment.**

8.1 Right to Terminate. This Agreement may be terminated and the purchase and sale of the Property, if any, abandoned at any time prior to the Closing:

- (A) By mutual agreement of Seller and Purchaser; or
- (B) By Purchaser, if:
  - (1) The warranties and representations of Seller set forth in Section 4 hereof are found to be untrue;
  - (2) The title to the Property is found to be defective and is not cured as required by Section 5.1;
  - (3) The improvements on the Property are destroyed or substantially damaged and Purchaser does not elect to receive the insurance proceeds or adjust the consideration as allowed by Section 6.2; or
  - (4) Seller breaches this Agreement in any material manner; or
- (C) By Seller, if Purchaser breaches this Agreement in any material manner.

8.2 Specific Performance. Notwithstanding any provisions to the contrary contained herein, Seller acknowledges that the rights of Purchaser under this Agreement are special, unique and of extraordinary character, and that, in the event Seller violates or fails and refuses to perform this Agreement or any covenant made by Seller herein, Purchaser may be without adequate remedy at law.

Seller agrees, therefore, that in the event Seller violates or fails and refuses to perform any covenant made by Seller herein, Purchaser may, in addition to any remedies at law for damages or other relief, institute and prosecute an action in any court of competent jurisdiction to enforce specific performance by Seller.

**9. Indemnification.** Seller shall indemnify and hold harmless Purchaser from and against all claims, damages, expenses, liabilities, actions, or causes of action of any kind or nature arising from breaches of Seller's representations, warranties or covenants hereunder or from acts or failures to act occurring, or conditions existing, during Seller's ownership of the Property.

**10. Broker's Commission.** The parties hereby warrant and represent for the benefit of the other parties that no person, firm, corporation or other entity is entitled to any brokerage commission or finder's fee in connection with any of the transactions contemplated by this Agreement. Seller shall indemnify and hold the Purchaser harmless from and against all claims, demands, and actions of all brokers, agents and other intermediaries alleging any dealings, negotiations or communications with the indemnifying party in connection with this Agreement.

**11. Miscellaneous.**

11.1 Counterparts. This Agreement may be executed in multiple counterparts each of which may be deemed an original.

11.2 Assignment; Successors in Interest. This Agreement and all rights, remedies, obligations and liabilities arising hereunder or by reason hereof may be assigned by either party hereto. This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns. Except as expressly provided in this Agreement, nothing herein is intended to imply nor shall confer on any person other than the parties hereto, and their respective heirs, legal representatives, successors or assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, or constitute the parties hereto, partners or participants in a joint venture.

11.3 Controlling Law/Venue. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia. The parties agree that in the event that any suit or proceeding is brought in connection with this Agreement, such suit or proceeding shall be brought in the Superior Court of Whitfield County, Georgia and the parties shall submit to the exclusive jurisdiction of such Court and waive any and all jurisdiction, venue, and inconvenient forum objections to such Court.

11.4 Amendment; Waiver. The terms of this Agreement may be amended, modified or eliminated, and the observance or performance of any term, covenant, condition or provision herein may be omitted or waived (either generally or in a particular instance and either prospectively or retroactively) only by the written consents of all parties hereto. No omission or waiver shall be deemed to excuse any future observance or performance or to constitute an amendment, modification or elimination unless it expressly so states. The waiver by any party hereto of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

11.5 Severability. Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

11.6 Notices. All notices, demands, and requests which may be given or which are required to be given by either party to the other shall be in writing and may be: hand delivered; sent by United States certified mail, postage prepaid and return receipt requested; or sent by a nationally recognized overnight delivery service such as Federal Express Corporation, Emery, or United Parcel Service. All notices, demands, and requests shall be deemed effective either: (A) upon delivery if hand delivered, as evidenced by written receipt therefor, whether or not actually received by the person to whom addressed; (B) upon deposit in the United States mail if by certified mail, return receipt requested, addressed to the intended recipient at the address indicated herein; (C) on the day deposited into the custody of a nationally recognized overnight delivery service such as Federal Express Corporation, Emery or United Parcel Service, for overnight next day delivery, addressed to such party at the address indicated herein. Unless changed in accordance with the preceding sentence, the addresses for notices given pursuant to this Agreement shall be as follows:

If to Purchaser, to:

S&S Property Holdings, LLP  
C/O Tom Minor, Esq.

If to Seller, to:

City of Dalton  
City Administrator  
300 W. Waugh ST  
Dalton, GA 30720

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

11.8 Captions. The sections and other headings contained in this Agreement are for reference purposes only and shall not be deemed to be part of this Agreement, or to affect the meaning or interpretation of this Agreement.

11.9 Gender. Wherever any words are used herein in the masculine gender they shall be construed as though they were also used in the feminine and neuter gender in all cases where they would so apply, and wherever any words are used herein in the singular form they shall be construed as though they were also used in the plural form in all cases where they would so apply.

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

11.11 Survival. The agreements, indemnities, representations and warranties set forth in this Agreement shall survive the consummation of the purchase and sale of the Property on the Closing Date.

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

**S&S PROPERTY HOLDINGS, LLP**

By: \_\_\_\_\_ (Seal)  
Partner

**City of Dalton Georgia**

By: \_\_\_\_\_ (Seal)  
City Administrator

## **EXHIBIT "A"**

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## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 11/02/2020

**Agenda Item:** Resolution Authorizing the Exchange of Real Property Rights Located in West Hill Cemetery

**Department:** Public Works

**Requested By:** Andrew Parker

**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:**

On July 24 2013, the City of Dalton granted a Cemetery Easement to Internal Management, Inc. as recorded in Deed Book 05928, Page 0326 in West Hill Cemetery for the donation of certain real property from Internal Management, Inc. by Warranty Deed recorded in Deed Book 05928, Page 0323.

This resolution accepts the termination (quit claim) of the above referenced Cemetery Easement in exchange for a new cemetery easement in West Hill Cemetery near the intersection of Lewell Street and General Thomas Drive.

The easement being quit claimed by Internal Management, Inc. is 1.05 acres and the new easement is 1.03 acres. Staff recommends approval of this exchange due to potential downstream stormwater concerns if the original easement area (which is currently wooded) is cleared/graded. Additionally, the new easement area is not able to be used for direct burial purposes based on subsurface conditions but can be used for above ground burial (i.e. mausoleum, etc.).

**CITY OF DALTON  
RESOLUTION  
Resolution No. 20-26**

**RESOLUTION AUTHORIZING THE EXCHANGE OF REAL PROPERTY RIGHTS  
located in  
WEST HILL CEMETERY**

**WHEREAS**, the Mayor and Council of the City of Dalton has determined that it is consistent with the best interests of the City of Dalton and its citizens that the City of Dalton exchange for public use certain easement rights on real property located in West Hill Cemetery as described in Exhibit “A” and “B” (the “Property”) by and between Internal Management, Inc., a Georgia domestic corporation (the “Seller”);

**WHEREAS**, the City of Dalton previously granted a Cemetery Easement to Internal Management, Inc, as recorded in Deed Book 05928, Page 0326 in West Hill Cemetery for the donation of certain real property from Internal Management, Inc. by Warranty Deed recorded in Deed Book 05928, Page 0323 under the authority of the Charter of the City of Dalton Sections 4-8(f), 4-8(r) and 4-8(aa) is authorized to acquire real property for public use;

**WHEREAS**, the Mayor and Council have determined that the termination of the above-referenced Cemetery Easement shall provide stormwater management benefits to the City of Dalton;

**WHEREAS**, the Seller has agreed to exchange the real estate interests in the subject Property by cancellation of the previously conveyed Cemetery Easement by Quit-Claim Deed for a grant of a new Cemetery Easement by the City of Dalton;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Dalton, as follows:

**THAT** the City of Dalton hereby approves the proposed terms of exchange as provided for herein.

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized to enter into an Exchange Agreement and any and all documents necessary to consummate the proposed exchange of the real property interest in the subject Property by Quit-Claim of the Seller’s interest and grant of a new Cemetery Easement to Seller.

**BE IT FURTHER RESOLVED**, that the Mayor is hereby authorized and empowered to take such actions and to execute for and on behalf of the City of Dalton any and all documents as may be necessary or desirable to accomplish and effect the Exchange Agreement and these Resolutions; and such documents shall be in such form and contain such terms and conditions as may be approved by the Mayor on behalf of the City of Dalton and as approved as to form by the City Attorney, and the execution of such documents by the Mayor as herein authorized shall be conclusive evidence of any such approval.

**BE IT FURTHER RESOLVED**, that all acts and doings of the Mayor in connection with the Exchange Agreement which are in conformity with the purposes and intents of these Resolutions and in the furtherance of the transactions contemplated hereby and thereby shall be, and the same hereby are, in all respects approved and confirmed.

**BE IT FURTHER RESOLVED**, that the signature of the Mayor to the Exchange Agreement and other documents executed and delivered in connection therewith shall be conclusive evidence of the authority of the Mayor to execute and deliver such documents on behalf of the City of Dalton.

**BE IT FURTHER RESOLVED**, that the Clerk or any Assistant Clerk of the City of Dalton be, and each hereby is, authorized to attest the signature of any officer of the City of Dalton and impress or attest the City of Dalton's seal appearing on the Exchange Agreement and other documents executed in connection with any of the foregoing Resolutions.

**BE IT FURTHER RESOLVED**, that all resolutions or parts thereof of the City of Dalton in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

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

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

**ADOPTED AND APPROVED** on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at the regular meeting of the Mayor and Council of the City of Dalton.

The foregoing Resolution received its first reading on \_\_\_\_\_. A motion for passage of the Resolution was made by Council person \_\_\_\_\_, second by Council person \_\_\_\_\_ and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays and the Resolution is adopted.

Attest:

CITY OF DALTON, GEORGIA

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

## Exhibit "A"

All that tract or parcel of land lying and being in Land Lot No. 236 in the 12th District and 3rd Section of Whitfield County, Georgia, and being more particularly described according to a plat of survey entitled Lewell Street, by Michael Paul Bunch, Georgia Registered Land Surveyor No. 3350, September 13, 2019, and being more particularly described according to said survey as follows:

BEGINNING at an iron pin at the southeast intersection of the east right of way line of Lewell Street (50' R/W) and the southeast right of way of General Thomas Drive, said point being located south 08 degrees 10 minutes 59 seconds east a distance of 212.18 feet from the intersection of the centerlines of Lewell Street and West Cuyler Street; thence north 66 degrees 06 minutes 53 seconds east, along the southeast right of way line of General Thomas Drive, a distance of 78.12 feet; north 67 degrees 58 minutes 01 seconds east, along the southeast right of way line of General Thomas Drive, a distance of 75.34 feet to an iron pin; thence south 01 degrees 30 minutes 16 seconds east a distance of 340.50 feet to an iron pin; thence south 88 degrees 29 minutes 44 seconds west a distance of 144.89 feet to an iron pin; thence north 00 degrees 49 minutes 42 seconds west, along the east right of way line of Lewell Street, a distance of 177.79 feet; thence north 01 degrees 30 minutes 16 seconds west, along the east right of way line of Lewell Street, a distance of 106.56 feet to an iron pin, which is the POINT OF BEGINNING.

## Exhibit "B"

All that tract or parcel of land lying and being in Land Lot No. 237 in the 12th District and 3rd Section of Whitfield County, Georgia, and being more particularly described according to a plat of survey prepared for Shelby Peeples by Joseph R. Evans, Georgia Registered Land Surveyor No. 2168, dated May 9, 2013, and being more particularly described according to said survey as follows:

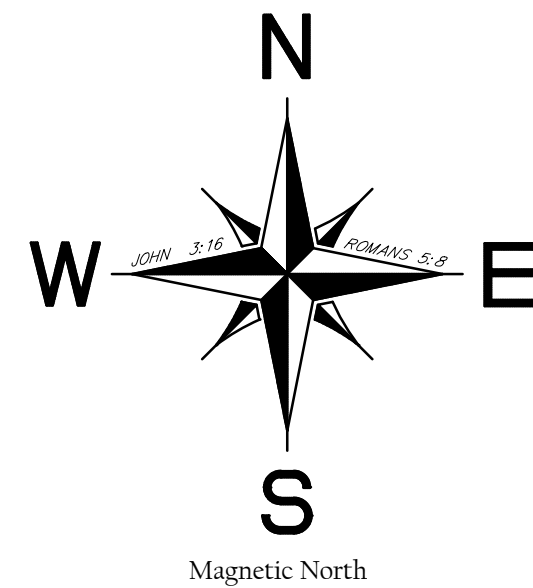
BEGINNING at an iron pin located north 70 degrees 05 minutes 05 seconds west a distance of 527.53 feet from the intersection of the centerline of Emery Street and the centerline of Ridge Street; thence north 86 degrees 33 minutes 00 seconds west a distance of 207.91 feet to an iron pin; thence north 07 degrees 30 minutes 35 seconds west a distance of 76.49 feet; thence north 21 degrees 26 minutes 38 seconds west a distance of 35.41 feet; thence north 26 degrees 19 minutes 09 seconds west a distance of 46.26 feet; thence north 31 degrees 58 minutes 57 seconds west a distance of 88.79 feet to an iron pin; thence south 87 degrees 42 minutes 09 seconds east a distance of 229.54 feet to an iron pin; thence south 16 degrees 41 minutes 58 seconds east a distance of 238.96 feet to an iron pin and the POINT OF BEGINNING.

# BOUNDARY SURVEY

## FOR Lewell Street

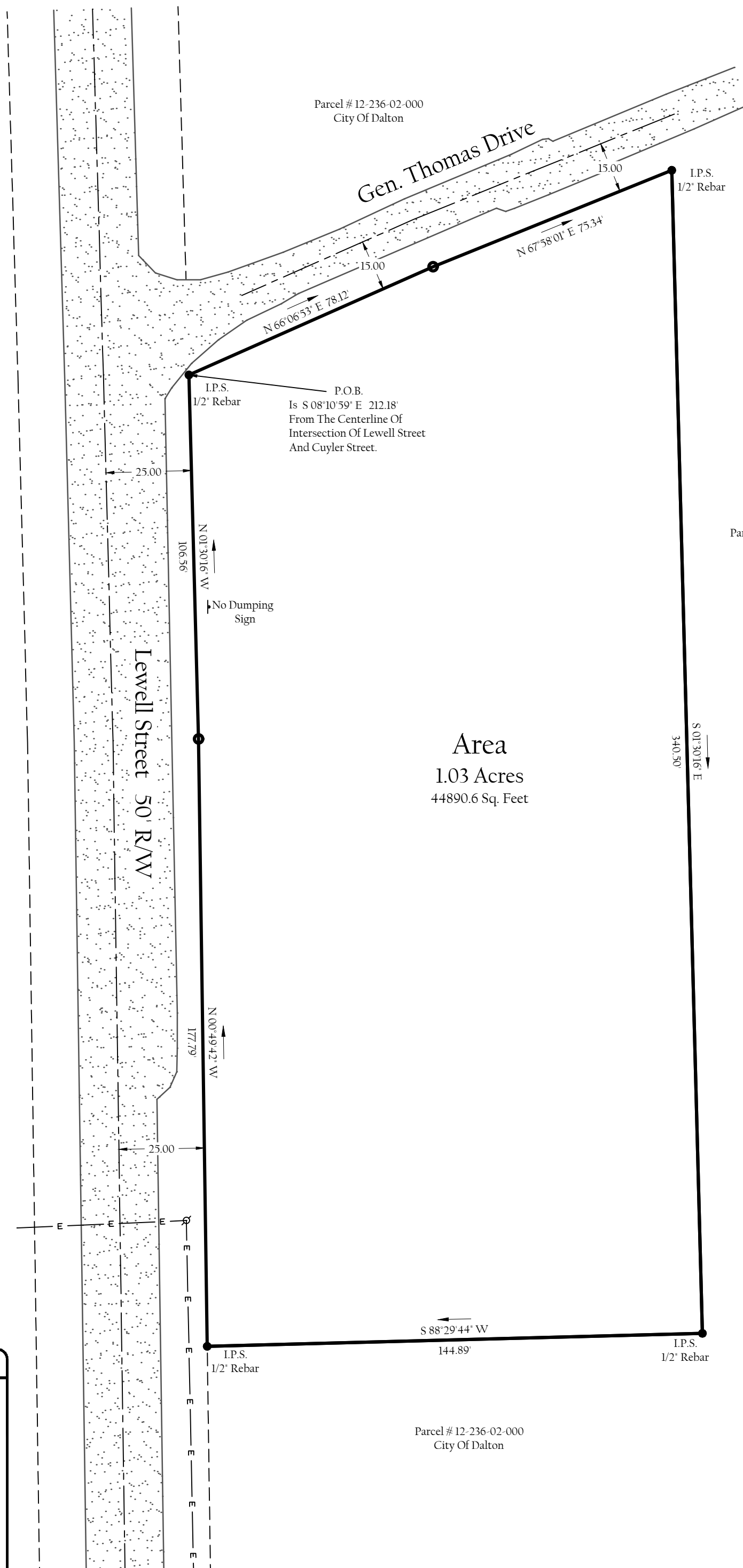
WHITFIELD County, Georgia

LOCATED IN LAND LOT 236, 12th DISTRICT &  
3rd SECTION OF WHITFIELD COUNTY, GEORGIA  
BEING LOCATED IN THE CITY OF DALTON



This block reserved for the Clerk of the Superior Court.

Date of field work: 9/11/2019  
Date of plat: 9/13/2019



— LEGEND —

- I.P.F. - IRON PIN FOUND
- I.P.S. - IRON PIN SET
- R/W - RIGHT OF WAY
- P/L - PROPERTY LINE
- L.L.L. - LAND LOT LINE
- ⊕ - POWER POLE
- ⊙ - CENTER LINE
- x - x - x -
- FENCE LINE
- ⊠ - CONC. R/W MARKER
- E - E - E - E -
- ELECTRIC LINE

— NOTE —

THIS PROPERTY IS NOT IN A FLOOD HAZARD AREA ACCORDING TO MAPS FURNISHED BY F.E.M.A. COMMUNITY-PANEL NUMBER: 13313C - 0138D

THIS PLAT SUBJECT TO ALL EASEMENTS AND RIGHTS OF WAY. THIS PLAT HAS BEEN CALCULATED TO HAVE A CLOSURE OF 1' IN 100,000+ THE FIELD DATA UPON WHICH THIS PLAT IS BASED ON HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000+ FEET AND AN ANGULAR ERROR OF 02" PER ANGLE POINT, AND WAS ADJUSTED USING THE COMPASS RULE.

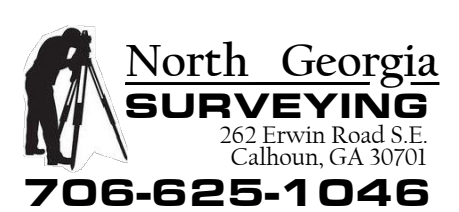
FIELD WORK WAS DONE BY USING A TOPCON GPT-3003LV 03" SECOND TOTAL STATION & CARLSON DATA COLLECTOR.

SURVEYORS CERTIFICATION

As required by subsection (d) of O.C.G.A. Section 15-6-67, this plat has been prepared by a land surveyor and approved by all applicable local jurisdictions for recording as evidenced by approval certificates, signatures, stamps, or statements hereon. Such approvals or affirmations should be confirmed with the appropriate governmental bodies by any purchaser or user of this plat as to intended use of any parcel. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.



*Michael Paul Bunch*  
Michael Paul Bunch GA RLS #3350 9/13/2019



## **‘Exhibit B’**

### **City of Dalton Cemetery Maintenance Standards**

**The purpose of these care and maintenance standards is to provide for the perpetual process of keeping the cemetery and its lots, graves, grounds, landscaping, roads, paths, parking lots, fences, mausoleums, columbaria, vaults, crypts, utilities, and other improvements, structures, and embellishments in a well-cared for and dignified condition. Care and maintenance shall include, but is not limited to, the following activities: mowing and trimming of grass at reasonable intervals, raking of leaves and cleaning the grave spaces and adjacent areas, pruning of shrubs and trees, suppression of weeds and exotic flora, maintenance and repairs of drains, drainage areas, roads, buildings and other improvements. Care and maintenance shall also include repair or restoration of improvements necessary or desirable as a result of wear, deterioration, accident, damage or destruction. In addition, care and maintenance shall include as follows:**

- In areas deemed by the City Sexton to require maintenance, mowing and weed trimming shall be performed on all surfaces including flat areas, ditches, banks, and trim work around buildings or obstructions like: headstones, walls, fences, trees, shrubbery, driveways, etc.
- Mowers equipped with mulching decks shall be utilized to minimize grass accumulation on cemetery grounds. Should grass clippings accumulate on cemetery improvements/features, responsible party shall blow these clippings off as soon as possible.
- The cemetery maintenance shall be completed on a weekly basis, weather permitting. The responsible party shall make every effort to complete maintenance each week before the weekend, as the cemetery receives more visitors at that time. No mowing on Sundays whatsoever.
- Special consideration shall be given to the cemetery prior to the time of the Easter, Mother’s Day, Father’s Day, Memorial Day, and Fourth of July holiday weeks.
- Mowing services are to be provided from March 15 through November 15 on a weekly basis and twice a month from November 15 through December 15.
- Outside parties performing maintenance are responsible for any damage to City property or improvements to the Cemetery caused by mowers, weed eaters, or other equipment used during the maintenance operations.
- No wide-spread use of herbicide is permitted. Insecticides may be use as needed for ants, bees, wasps, and other common pests.

- Debris that inhibits mowing must be removed and disposed of in an appropriate manner. Excess leaves shall be bagged or raked and removed from site.
- If shrub and flower beds exist, pruning shall take place in the spring and summer as needed.
- Flower beds shall be replanted in the spring and fall using fertilizer, soil conditioner, and pre-emergent herbicides at the time of planting.
- All landscaped beds and tree rings shall be mulched during spring with a layer of ground pine mulch. Before being mulched, each bed and tree ring shall be edged. No “volcano” mulching around shrubs or tree rings shall be permitted.
- The Cemetery Sexton shall serve as the on-site contact person for the City of Dalton. Any problems discovered in the cemetery shall be reported promptly to the Cemetery Sexton.

[Space above this line for recording data.]

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Please Record and Return To:

J. Tom Minor, IV  
The Minor Firm  
P.O. Box 2586  
Dalton, GA 30722-2586

**CITY OF DALTON  
CEMETERY EASEMENT**

For and inconsideration of the sum of Ten Dollars and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the **City of Dalton, Georgia** (“City of Dalton”), hereby grants and conveys unto **Internal Management, Inc.**, and its, successors and assigns (“Grantee”), a perpetual, exclusive easement for the right to build a mausoleum and the right of interment therein in over, through and across the following lands in the West Hill Cemetery in the City of Dalton, Georgia, the same being 1.03 acres, to wit (the “Premises”):

All that tract or parcel of land lying and being in Land Lot No. 236 in the 12th District and 3rd Section of Whitfield County, Georgia, and being more particularly described according to a plat of survey entitled Lewell Street, by Michael Paul Bunch, Georgia Registered Land Surveyor No. 3350, September 13, 2019, and being more particularly described according to said survey as follows:

BEGINNING at an iron pin at the southeast intersection of the east right of way line of Lewell Street (50’ R/W) and the southeast right of way of General Thomas Drive, said point being located south 08 degrees 10 minutes 59 seconds east a distance of 212.18 feet from the intersection of the centerlines of Lewell Street and West Cuyler Street; thence north 66 degrees 06 minutes 53 seconds east, along the southeast right of way line of General Thomas Drive, a distance of 78.12 feet; north 67 degrees 58 minutes 01 seconds east, along the southeast right of way line of General Thomas Drive, a distance of 75.34 feet to an iron pin; thence south 01 degrees 30 minutes 16 seconds east a distance of 340.50 feet to an iron pin; thence south 88 degrees 29 minutes 44 seconds west a distance of 144.89 feet to an iron pin; thence north 00 degrees 49 minutes 42 seconds west, along the east right of way line of Lewell Street, a distance of 177.79 feet; thence north 01 degrees 30 minutes 16 seconds



west, along the east right of way line of Lewell Street, a distance of 106.56 feet to an iron pin, which is the POINT OF BEGINNING.

To have and to hold the same, for Grantee and his heirs and permitted assigns, forever, for the purpose of building a mausoleum on said property and for the right to interment therein on the express conditions that: (a) the Premises shall be subject to the current rules, conditions and restrictions imposed by the City of Dalton on West Hill Cemetery; provided however, the City of Dalton shall have no rights of ingress or egress over or through the Premises except as provided in the **Cemetery Easement Maintenance Agreement** entered into between the parties of record in Deed Book \_\_\_\_\_, Page \_\_\_\_\_; (b) Grantee and his heirs, successors and assigns shall maintain the Premises in accordance with the **City of Dalton Cemetery Maintenance Standards** for West Hill Cemetery, and as may be amended, in perpetuity; and (c) the City of Dalton makes no warranties with respect to the title to or the condition of the Premises, including but not limited to, the presence of rock or other conditions in the subsurface, the easement is granted "AS IS".

IN WITNESS WHEREOF, the City of Dalton, Georgia has caused this easement to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY OF DALTON, GEORGIA**

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

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

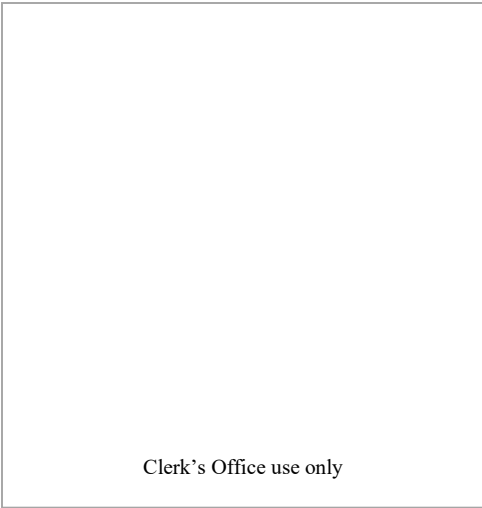
Signed, sealed and delivered in the presence of:

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

\_\_\_\_\_  
Notary Public

[Seal]

Record and return to:  
G. Gargandi Vaughn  
City Attorney  
City of Dalton  
300 West Waugh Street  
Dalton, GA 30722



Clerk's Office use only

**CEMETERY EASEMENT MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 20\_\_, by and between Internal Management, Inc. (hereinafter “Grantee”), and the CITY OF DALTON, a Georgia municipal corporation (hereinafter “City”). WHEREAS, the Grantee has received a cemetery easement from the City, located in West Hill Cemetery, on that certain tract or parcel of land as shown on the plat of survey entitled Lewell Street, by Michael Paul Bunch, Georgia Registered Land Surveyor No. 3350, September 13, 2019, shown as Exhibit A and as recorded by deed in the land records of Whitfield County, Georgia, Deed Book \_\_\_\_\_, Page(s) \_\_\_\_, hereinafter called the “Property”.

WHEREAS, improvements are being planned by the Grantee to be built or installed on the Property, including a burial mausoleum; and

WHEREAS, the Site Plan provided by the Grantee, hereinafter called the “Plan”, which is expressly made a part hereof, as approved or to be approved by the City, provides for perpetual maintenance of the property by the Grantee, as indicated, within the confines of the Property; and

WHEREAS the City, Grantee, their successors and assigns, agree that the health, safety and welfare of the residents of the City of Dalton, Georgia, require that on-site maintenance of the Property be accomplished by the Grantee, in perpetuity; and

WHEREAS, the City requires that once constructed or installed as shown on the Plan, the Property shall be adequately maintained by the Grantee, its successors and assigns.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto agree as follows:

1. The Grantee, its successors and assigns, shall adequately maintain the Property. Adequate maintenance is herein defined as compliance with the City of Dalton Cemetery Maintenance Standards currently published, and as may be amended, by the Public Works Department as shown in Exhibit B.
2. The City, its employees and authorized agents, are hereby authorized to enter upon the Property for the purposes of inspection.
3. In the event the Grantee, its successors and assigns, fails to maintain the Property adequately within a reasonable time period after receiving a written directive from the City, the City may enter upon the Property and take reasonable steps to correct any deficiencies identified by the City not in compliance with the provisions of Exhibit B, and to thereafter charge the reasonable costs of such repairs or maintenance to the Grantee, its successors and assigns. It is expressly understood and agreed that the City is under no obligation to routinely maintain or repair said Property or improvements located thereon, and in no event shall this Agreement be construed to impose any such obligation on the City.
4. The Grantee, its successors and assigns, shall perform the work necessary to keep the Property and improvements adequately maintained in compliance with the requirements as outlined in Exhibit B.
5. In the event the City, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like on the Property the Grantee, its successors and assigns, shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual cost incurred by the City hereunder.
6. This Agreement imposes no liability of any kind whatsoever on the City and the Grantee agrees to hold the City harmless from any liability related to the maintenance of the Property.
7.
  - a. This Agreement shall be recorded among the land records of Whitfield County, Georgia, and shall constitute a covenant running with the land, and shall be binding upon Grantee, its executors, assigns, heirs and any other successors in interests,.
  - b. Any deed or conveyance transferring an interest in the land to a subsequent Grantee shall contain language essentially as follows, to wit: "The land conveyed herein is subject to that Cemetery Easement Maintenance

Clerk's Office use only

Agreement of record in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, Whitfield County, Georgia, Clerk's Records" (inserting proper recording data).

c. Upon any conveyance of the Easement by Grantee to a third party, said Grantee shall notify the City of Dalton in writing addressed to City Administrator, City of Dalton, P.O. Box 1250, Dalton, GA 30722 of the name, address and phone number of the new Grantee; and said notification shall be acknowledged in writing by the new Grantee as the case may be.

Signed, sealed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ in the presence of:

INTERNAL MANAGEMENT, INC.

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

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

\_\_\_\_\_  
Notary Public

Attest: \_\_\_\_\_  
GRANTEE (printed name)

Signed, sealed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ in the presence of:

City of Dalton, Georgia

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

BY: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Authorized Signatory  
CITY OF DALTON

[Space above this line for recording data.]

Please Record and Return To:

J. Tom Minor, IV  
The Minor Firm  
P.O. Box 2586  
Dalton, GA 30722-2586

## QUIT CLAIM DEED

**Georgia, Whitfield County**

**THIS INDENTURE** made this \_\_\_\_ day of \_\_\_\_\_, 2020, between **Internal Management, Inc.**, a Georgia corporation, Grantor, and the **City of Dalton, Georgia**, a municipal corporation, Grantee.

The words “Grantor” and “Grantee” whenever used herein shall include all individuals, corporations and any other persons or entities, and all the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them, and the pronouns used herein shall include, when appropriate, either gender and both singular and plural, and the grammatical construction of sentences shall conform thereto. If more than one party shall execute this deed each Grantor shall always be jointly and severally liable for the performance of every promise and agreement made herein.

**THE GRANTOR**, for and in consideration of the sum of one dollar and other valuable considerations, in hand paid at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell, convey, remise, release and forever quit claim unto the said Grantee, all the right, title, interest, claim or demand which the Grantor may have in and to the land as more particularly described in Exhibit “A” attached hereto, reference to which is hereby made and incorporated herein by reference.

**IT IS THE PURPOSE** of this Quit Claim Deed to convey to Grantee any interest owned by Grantor in the property described in that certain Cemetery Easement dated July 24, 2013, and recorded in Deed Book 5928 Page 326, Whitfield County, Georgia Land Records.

**TO HAVE AND TO HOLD** the said tract of land, with all and singular the rights, members, and appurtenances thereof, to the same being, belonging, or in any wise appertaining, to the only proper use,

benefit and behoof of the said Grantee so that neither Grantor nor any other person claiming under him shall at any time, claim or demand any right, title or interest to the said tract of land, or its appurtenances.

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

Signed, sealed and delivered  
in the presence of:

**Internal Management, Inc.**

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

By: \_\_\_\_\_ (Seal)  
Shelby Peoples, President

\_\_\_\_\_  
Notary Public

My commission expires:

[Notarial Seal]

## EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot No. 237 in the 12th District and 3rd Section of Whitfield County, Georgia, and being more particularly described according to a plat of survey prepared for Shelby Peeples by Joseph R. Evans, Georgia Registered Land Surveyor No. 2168, dated May 9, 2013, and being more particularly described according to said survey as follows:

BEGINNING at an iron pin located north 70 degrees 05 minutes 05 seconds west a distance of 527.53 feet from the intersection of the centerline of Emery Street and the centerline of Ridge Street; thence north 86 degrees 33 minutes 00 seconds west a distance of 207.91 feet to an iron pin; thence north 07 degrees 30 minutes 35 seconds west a distance of 76.49 feet; thence north 21 degrees 26 minutes 38 seconds west a distance of 35.41 feet; thence north 26 degrees 19 minutes 09 seconds west a distance of 46.26 feet; thence north 31 degrees 58 minutes 57 seconds west a distance of 88.79 feet to an iron pin; thence south 87 degrees 42 minutes 09 seconds east a distance of 229.54 feet to an iron pin; thence south 16 degrees 41 minutes 58 seconds east a distance of 238.96 feet to an iron pin and the POINT OF BEGINNING.



## CITY COUNCIL AGENDA REQUEST

**Meeting Type:** Mayor & Council Meeting

**Meeting Date:** 11-02-2020

**Agenda Item:** Agreement with Club Prophet, LLC for Point of Sale Software

**Department:** Dalton Parks and Recreation/Nob North Golf Course Mike Miller

**Requested By:** and Eric Hester

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

**Cost:** \$8499

**Funding Source if Not in Budget** Current Budget

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

This agreement is for a new Point of Sale program that will enhance the sale of goods, control inventory, ability to adjust fees, allow for online tee times that are pre-paid and up scale the web site to be more user/mobile friendly.





---

Sep 17, 2020

The City of Dalton, Parks and Recreation Department  
298 Nob North Drive  
Cohutta, GA

Dear Eric,

Included in this document, you will find the following information:

1. Monthly Software, Hardware, Installation, Setup and Training cost breakdown for you.
2. The monthly service fee agreement, which you will sign and date.
3. The ACH authorization form to complete your billing information.
4. The hardware and web service requirements.

Once we receive your complete signed agreement, we will confirm the receipt of the agreement via email and introduce you to your project manager.

If you have any questions after looking over the information, please contact me.

Sincerely,

Ian Versaw  
National Sales Director

e: [ian@clubprophet.com](mailto:ian@clubprophet.com)

a: Club Prophet  
701 Russellton Road  
Cheswick, PA 15024

w: [www.clubprophet.com](http://www.clubprophet.com)



Prepared by: Ian Versaw

Date: Sep 17, 2020

Customer Information	Prepared For
<b>The City of Dalton, Parks and Recreation Department 298 Nob North Drive Cohutta, GA</b>	<b>Eric Hester Head Golf Professional ehester@pga.com</b>

**The below monthly fees include software, training, 24/7 technical support and future software updates:**

Software Service and Support			
Name	Price	Qty	Total Price
<b>Golf POS, Inventory, Customer Management</b>	\$150.00	<b>1</b>	<b>\$150.00</b>
<b>Golf POS Additional License</b>	\$25.00	<b>2</b>	<b>\$50.00</b>
<b>Tee Sheet &amp; Email Marketing</b>	\$75.00	<b>1</b>	<b>\$75.00</b>
<b>Online Reservations</b>	\$75.00	<b>1</b>	<b>\$75.00</b>
<b>CPS Air</b>	\$50.00	<b>1</b>	<b>\$50.00</b>
<b>CPS Air additional license</b>	\$25.00	<b>1</b>	<b>\$25.00</b>
<b>Admin License</b>	\$20.00	<b>2</b>	<b>\$40.00</b>
<b>1-2-1 Website &amp; Email Marketing (Email DB up to 15k)</b>	\$199.00	<b>1</b>	<b>\$199.00</b>
<b>Total:</b>			<b>\$664.00</b>

Training, Installation and Setup			
Name	Price	Qty	Total Price
<b>Data Conversion</b>	\$0.00	<b>1</b>	<b>\$0.00</b>
<b>Support &amp; Software Updates</b>	\$0.00	<b>1</b>	<b>\$0.00</b>
<b>On Site Training (8/hr day)</b>	\$0.00	<b>2</b>	<b>\$0.00</b>
<b>Estimated Travel Expenses</b>	\$1,200.00	<b>1</b>	<b>\$1,200.00</b>
<b>Total:</b>			<b>\$1,200.00</b>

<b>Hardware</b>			
<b>Name</b>	<b>Price</b>	<b>Qty</b>	<b>Total Price</b>
<b>Dell 3070 Micro (I5-9400, 16GB RAM, 256SSD)</b>	<b>\$800.00</b>	<b>3</b>	<b>\$2,400.00</b>
<b>ELO 19" Touchscreen Monitor</b>	<b>\$640.00</b>	<b>3</b>	<b>\$1,920.00</b>
<b>Epson TM-T88VI Thermal Receipt Printer</b>	<b>\$325.00</b>	<b>3</b>	<b>\$975.00</b>
<b>Zebra/Symbol Barcode Scanner</b>	<b>\$160.00</b>	<b>2</b>	<b>\$320.00</b>
<b>PAX S300 EMV Terminal</b>	<b>\$0.00</b>	<b>3</b>	<b>\$0.00</b>
<b>MMF Cash Drawer</b>	<b>\$120.00</b>	<b>3</b>	<b>\$360.00</b>
<b>CPS Air Infinea Tab M Swipe</b>	<b>\$220.00</b>	<b>2</b>	<b>\$440.00</b>
<b>CPS Air Infinea Tab M Case</b>	<b>\$110.00</b>	<b>2</b>	<b>\$220.00</b>
<b>Total:</b>			<b>\$6,635.00</b>

***By signing and accepting below you are acknowledging that you have read and agree to the specific terms outlined in this document and wish to proceed. Please note the above pricing does not include any shipping fees, travel expenses or taxes. Where applicable, those items will be billed at cost.***

***If you would rather print and sign this document, please fax to 724-274-0387 or email to sales@clubprophetsystems.***

<b>Authorized Signature for The City of Dalton, Parks and Recreation Department</b>	<b>Today's Date</b>



## MONTHLY SERVICE FEE AGREEMENT

I, Eric Hester, acting on behalf of The City of Dalton, Parks and Recreation Department, herein referred to as Customer, hereby accept this proposal provided to me by Club Prophet, Inc., and herein referred to as Company.

The following sections are in place to outline the key items that will help, both Customer and Company, ensure a smooth implementation.

### TERMS OF SALE

1. In order for Company to reserve installation and training dates, the undersigned agrees to execute and return this Acceptance of Proposal along with payment/deposit for the hardware and first month service agreement in the amount of \$8,499.
2. \*\*Monthly payments of \$664 will then be due starting the second month of Customer's usage and will be auto-drafted from Customer's checking account.
3. The monthly payments will remain constant for two years as long as Customer continues to use Company's POS software solution.
  - a. Any additional software modules will have an additional monthly service fee.
  - b. Software customizations will be considered on a case by case basis and will be an additional fee.
  - c. \*\*After two years, Company reserves the right to raise the monthly software fee. That increase will be limited to 2% each year.
  - d. Following the initial term of one year, any additional term shall require the City of Dalton to authorize said funding for each successive year.
4. Monthly Service Fee includes:
  - a. The right to install and use the number of SAAS licenses for the Company Modules licensed.
  - b. Unlimited technical support on business days from 8:00am to 7:00pm eastern time.
  - c. Emergency support when the support office is closed with typical response within 15 minutes.
  - d. Customer retains ownership of the data collected with Company's products.

**Initial:** 5. Either party may terminate this agreement with 30 days written notice without cause.

### CUSTOMER RESPONSIBILITIES

1. Customer agrees to assign a Project Manager responsible for the coordination of the installation, compiling of data, and training under this agreement.
2. Customer has reviewed Company's Hardware Minimum Requirements (Exhibit B) and acknowledges that all PCs and peripheral hardware meet Company's Hardware Minimum Requirements.
3. Customer acknowledges that Club Prophet offers specific PCI Organization - PA-DSS Validated credit card integrations. A PA-DSS Validated payment application is a core requirement for a Customer to establish a PCI-Compliant environment for processing credit cards. Options vary by country and these validations may dictate hardware requirements and compatible processing platforms. Additional integration fees may apply. Company has elected to use \_\_\_\_\_ for their credit card integration. **Limitation of Liability with Credit Card Interface:** The merchant/customer is responsible for reconciling all credit card transactions with CPS reporting and merchant's bank deposits. CPS will not be responsible or liable for any discrepancies that were not reported to CPS within 10 business days of the transaction or any discrepancies that were caused by the lack of merchant reconciliation between CPS, the Terminal, and the merchant's bank deposit.
4. Customer will be responsible for hiring a qualified network company to install, set up, and cable the necessary networking components of computers. This work is to include cabling, network configuration, hubs/switches, computer installation, monitor and printer set up, and all other standard "off the shelf" peripherals. Company will not support our software on generic, home-built PCs or on networks that do not meet the specifications listed in Exhibit B.



## MONTHLY SERVICE FEE AGREEMENT

If Customer is not purchasing computers from Company, Customer must purchase only industry-standard, brand-name PCs that meet the specifications listed in Exhibit B. Under no circumstances will Company be responsible for any network problems or reimburse Customer for any fees incurred by or from outside software/hardware vendors, or Internet Service Providers.

All hardware warranty issues that arise from the purchase of any hardware from Company will fall under the manufacturer's original warranty.

Initial

### TRAINING

1. Initial training includes specified days (8/hr day) of onsite training per the Training, Installation and Setup section in the quote above.  
**Note: Any training over the allotted hours stated in the agreement may result in a \$50/per hour fee.**
2. Additional on-site and/or remote training can be scheduled through Company's sales office and is available at a daily rate of \$800 plus expenses for on-site training or \$100 per hour for remote training.
3. All pass-through expenses for travel, shipping, tax, etc., (See Exhibit A) that are associated with the cost of training and installation, will be billed upon the completion of said training and installation and will be due within ten (10) days of the invoice date.
4. Standard Training is included. However Premium Training / Travel Applies as follows:
  - a. IF the training dates require the trainer to **Travel** on a weekend or holiday, (i.e., must travel Sunday to start training Monday morning) then there is \$125.00/day charge for weekend travel.
  - b. IF **Training** is required on a weekend or holiday (i.e., Saturday training), there is a \$250.00/day charge for weekend training.

Initial

### CONFIDENTIAL INFORMATION

The Customer acknowledges that Company may use products, materials, or methodologies proprietary to Company. The Customer agrees that Company's provision of services under this Agreement shall not be grounds for the Customer to have or obtain any rights in such proprietary products, materials, or methodologies unless the parties have executed a separate written agreement with respect thereto.

Company, for itself and its officers, agents and employees, agrees that it shall treat all information provided to it by the Customer ("Customer Information") as confidential and shall not disclose any such information to a third party without the prior written approval of the Customer or as may be required by the Georgia Open Records Act..



**MONTHLY SERVICE FEE AGREEMENT**

**WARRANTIES AND REMEDIES**

COMPANY EXPRESSLY DISCLAIMS ANY WARRANTY. THE SOFTWARE IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE ENTIRE RISK ARISING OUT OF USE OR PERFORMANCE OF THE SOFTWARE IS AND REMAINS WITH CUSTOMER. THIS LIMITED WARRANTY GIVES CUSTOMER SPECIFIC LEGAL RIGHTS. CUSTOMER MAY HAVE OTHERS WHICH VARY FROM STATE TO STATE.

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.

**ACCEPTANCE OF PROPOSAL**

By initialing above and signing below, I imply my understanding and acceptance of each point set forth by Company.

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Print name

# Club Prophet

## Pass Through Expenses

*(Exhibit A)*

With each installation, Club Prophet incurs certain pass-through expenses. All pass-through expenses are billed to the customer at cost.

***Pass through expenses include but are not limited to:***

- AIRFARE
  - Coach Class
  - Reasonable Travel Time-of-Day
  - Twenty-One (21) Day Advance Purchase Rates When Available
  - Airport Parking or Taxi/Uber fees.
  
- GROUND TRANSPORTATION
  - Mid-Size Automobile Rates
  - Parking and Tolls
  - Gasoline
  - Cab Fares (If Applicable)
  
- HOTEL LODGING
  - Reasonable Full Service Hotels (or comparable housing provided by club)
  
- FOOD / TELEPHONE / MISCELLANEOUS
  
- ALL SHIPPING EXPENSES
  - Equipment/Hardware
  - Software
  - Overnight Shipping
  
- TRAINER COMPENSATION
  - Premium Training/Travel Rates\*\*

\*\* Regular Training is included. However Premium Training / Travel Applies as follows:

- IF the training dates require the trainer to Travel on a weekend or holiday, (i.e., must travel Sunday to start training Monday morning) then there is \$125.00/day charge for weekend travel.
- IF Training is required on a weekend or holiday (i.e., Saturday training), there is a \$250.00/day charge for weekend training.



**Club Prophet Hardware Requirements – 2/1/2020**

Club Prophet is not responsible for system performance if the required specifications are not met.

**Data Server that has 6 or more POS Stations connected:**

<b>Minimum Specification</b>	<b>Recommended Specification</b>
Intel Xeon Silvermont/Haswell 2012 Quad Core (or greater) Microsoft Windows Server 2012 64-bit (or greater) 8 GB of Installed Memory (or greater) 40 GB Available Hard Drive Space (or greater) MSSQL 2012 R2 Full Edition (Standard, Workgroup or Enterprise) (or greater) Offsite data backup recommended Antivirus software Offsite Data server requires 5MB upload and 5MB download speeds	Intel Xeon Goldmont/Kaby+ Quad Core (or greater) Microsoft Windows Server 2019 64-bit (or greater) 16 GB of Installed Memory (or greater) 3- 1TB Drives in RAID 5 Configuration and Separate OS and Data partitions MSSQL 2016 Full Edition (Standard, Workgroup or Enterprise) (or greater) Mirrored Raid Configuration or offsite backup Antivirus software

**POS Stations and Web Server:**

<b>Minimum Specification</b>	<b>Recommended Specification</b>
Intel Core i5 Silvermont/Haswell Dual Core (or greater) Microsoft Windows 10 Pro 64-bit (or greater) + Windows Updates 8 GB of Installed Memory (or greater) 40 GB Available Hard Drive Space (or greater) Wired Network Connectivity Antivirus software	Intel Core i7 Goldmont/Kaby+ Dual Core (or greater) Microsoft Windows 10 Pro 64-bit (or greater) + Windows Updates 8+ GB of Installed Memory (or greater) 256 SSD Wired Network Connectivity Antivirus software

**Peripheral Hardware:**

- Thermal Receipt Printers supported - (USB Only): Citizen CTS2000 Epson TM-T88IV or newer
- Impact Printers supported (for remote kitchen printing): Epson TM-U200 series (Ethernet only)
- Cash Drawers Supported: APG-320 Cash Drawer, MMF Cash Drawer
- Epson Intelligent Printers: TM-U220-i, TM-T88VI-i -and TM-T88VI ( Needed for CPSAIR)
- Bar Code Scanners Supported: Symbol, PSC, Metrologic
- Bar Code Printer Supported: Zebra ZD410
- Windows Bluetooth Printer: Citizen CMP-30LBTU
- Touch Screen Monitors supported: minimum LCD size 15"
- Pole Displays: Logic Controls PD3000 (USB)
- Credit Card Devices: Ingenico iSC250, Ingenico iPP320, S300, PX 5, USB non encrypted Magtek keyboard emulation
- Card printer: Zebra ZXP Series 3 or Fargo DTC410
- CPSair/CPSgo: iPad running iOS 10 or newer with Infinea Tab M Sled (cell data usage < 500MB a month)
- CPSiv: Apple TV 4th gen or newer
- iOS Bluetooth Printer: Epson TM-P20
- iCPS Stock App: iPod Touch 5th Gen on iOS 9 or newer with Linea Pro 5 Sled with 2D scanner

**Internet speeds for Cloud Servers requires > 5 Mbps Upload and Download**



**"1-2-1 Marketing" License Agreement**

This License Agreement (the "Agreement") is entered into on November 1, 2020, between RW2 Marketing & Design, Inc., a Texas corporation DBA 1-2-1 Marketing (from now on referred to as "1-2-1") located at 101 S New York Ave #201, Winter Park, Florida 32789, and the City of Dalton, Parks and Recreation Department on behalf of Nob North Golf Course (referred to as "Licensee").

WHEREAS, 1-2-1 is the licensor and owner of an Internet based server (referred to as the "Technology"), established for the use of Website Design & Hosting. 1-2-1 will allow Licensee use of the Technology for design, hosting and management of Licensee's Website, <http://www.nobnorth.com/>

WHEREAS, the use of the Technology includes an Internet based mail server, established for the use of handling electronic mail messages via the Internet. 1-2-1 will allow Licensee use of the Technology for secure email transmissions through the use of Email Clients & Email Marketing Software. Licensee's operation of their own E-Marketing program will be administered by the Licensee and is subject to the restrictions put forth by the U.S. CAN SPAM Act of 2003 and the restrictions set forth in this Agreement. Licensee will maintain its own customer database and transmit such messages with appropriate anti-spam content and "opt out" provisions.

1-2-1 wishes to license Technology to the Licensee and Licensee wishes to use the Technology, both on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The recitals above and any schedules or exhibits attached hereto are made a part of this Agreement.
2. **Grant of License.** In consideration of Licensee's payment of sums due hereunder, and subject to Licensee's compliance with the terms and conditions in this Agreement, 1-2-1 grants to Licensee a non-exclusive, non-transferable, revocable, limited license of the use, in object code form, each of the Technologies described in Section 6 herein and as may be set forth in any Exhibit hereto. The Technology is owned, operated, and maintained by 1-2-1, and its use is being licensed to, not sold to Licensee. Nothing in this Agreement shall be deemed to grant Licensee any rights not expressly granted herein. 1-2-1 may collect and use for any business purpose it designates anonymized data generated by the Technologies described herein.
3. **Copyright.** The Technology provided by 1-2-1 is protected by United States copyright laws and International treaty provisions. Therefore, Licensee may not copy the Technology provided herein, or allow use by anyone other than Licensee for reasons described above.

4. **Transfer and Use Restrictions.** Licensee may use the Technology for purposes of Hosting & Maintaining Licensee's Website and Email, and Email Marketing of their own customers, contacts, and vendors within their business. Licensee may not sell, license, lend, distribute in any way, or otherwise assign or transfer the Technology to any third party. Neither Licensee nor any consultant retained by Licensee may reverse engineer, decompile, disassemble, customize, or attempt to determine the source code, create any derivative works of any portion of the Technology.

5. **Term & Termination.** This Initial License Agreement will run for 12 months and shall be automatically renewed for successive 30-day terms. Either party may terminate this License Agreement at any time should the other fail to comply with the terms of Agreement. Upon termination, Licensee must discontinue use of the Technology. Licensee may terminate this License Agreement at any time with no penalty except forfeiture of initial deposit, which forfeiture will not apply if termination is due to 1-2-1's non-compliance with this Agreement.

6. **Services, Fees & Payment.** The services to be provided by 1-2-1, as well as the fees and payment terms for such are set forth on Schedule 1, attached hereto, and further referred to as the "**Service Schedule.**"

7. **No Warranty.** The Technology is provided on an "as available," "as-is" basis. To the maximum extent permitted by law, 1-2-1 disclaims all warranties with respect to the Technology, including, but not limited to, the implied warranties of non-infringement, title, merchantability, quiet enjoyment, quality of information, and fitness for a particular purpose. 1-2-1 does not warrant that the Technology will meet Licensee's requirements, or that the operation of the Technology will be uninterrupted or error-free, or that any defects will be corrected. No oral or written information or advice given by 1-2-1 shall create any additional warranties or in any way increase the scope of 1-2-1's obligations hereunder. Should the Licensee feel the Technology is not performing to the standards it expects, Licensee may discontinue the use of, and payments for the Technology at any time, with proration of unearned fees, if any. Although 1-2-1 endeavors to create Technology that is accessible to all users, 1-2-1 makes no warranty that the Technology is compliant with the American with Disabilities Act or the W3C Level One Guidelines ("ADA"), and Licensee should engage a separate third party to confirm ADA compliance.

8. **Licensee Remedies.** 1-2-1's entire liability and Licensee's exclusive remedy shall be, at 1-2-1's option. Either (I) repair or replacement of the Technology Licensee has identified as not performing to its expectations, or (II) refund of a prorated portion of the license fee provided that any portion of the Fee has been paid up front to 1-2-1 and is as yet unearned. If failure of the Technology resulted from accident, abuse or misapplication by Licensee, 1-2-1 shall have no obligation to remediate any failures or to refund any fees paid by Licensee.

9. **Website Content.** Licensee is at any time NOT allowed to publish "Inappropriate content". Any such violation is subject for immediate termination of this contract by 1-2-1. "Inappropriate Content" is defined as "any content that is pornographic, offensive, or graphic in nature".

10. **Spam Content.** Licensee is at any time NOT allowed to communicate or transmit Spam Emails. Any such violation is subject for immediate termination of this contract by 1-2-1. Licensee must follow guidelines of U.S. CAN SPAM Act of 2003, as amended.

11. **Bandwidth Usage.** Licensee is granted unlimited monthly bandwidth for purpose of email communication with licensee's customers, contacts, and vendors, and any other normal email communications, provided licensee adheres to and abides by Website Content & Spam Content guidelines.

12. **NO LIABILITY FOR CONSEQUENTIAL DAMAGES.** To the maximum extent authorized by Georgia law, in no event shall 1-2-1 be liable for any damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or other pecuniary loss) arising out of the use or inability to use the Technology, even if 1-2-1 has been advised of the possibility of such damages. The entire liability of 1-2-1 under this Agreement for all damages of every kind and type (whether such damages arise in contract, tort (including negligence), or otherwise) shall be limited to the fees paid by Licensee for the Technology.

13. **Support Services.** 1-2-1 shall provide Licensee telephone or email access to 1-2-1 staff personnel 7 days per week from 7am-7pm Eastern Time, to answer routine questions with respect to the Technology or to assist with service problems or interruptions. In addition, 1-2-1 will provide a support website with written and video procedures to help educate and keep up-to-date information regarding the Technology.

14. **Vendor.** 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.

15. **Privacy Policy.** 1-2-1 shall at no time use, share, or disclose any "Information" belonging to Licensee. "Information" is defined as all Customer, Vendor and Contact database information, including images, logos, and content and text, which is exclusively owned and maintained by Licensee, or as may be required by the Georgia Open Records Act.

16. **Entire Agreement.** This License Agreement shall constitute the entire understanding of the parties with respect to the subject matter hereof and supersedes any and all prior understandings and agreements, written or oral, relating thereto.

17. **Notices.** All notices referred to herein shall be sufficient if delivered by: (i) personal delivery; (ii) email or fax with confirmation; or (iii) certified mail, return receipt requested to the respective parties at the addresses set forth above their signatures to this Agreement, or such other addresses as they shall from time to time furnish to each other by written notice.

18. **Governing Law.** 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."

19. **Assignment.** 1-2-1 may assign this agreement without Licensee's consent to a third-party purchaser of substantially all of its assets or of its business.

IN WITNESS WHEREOF, each of the parties has caused this License Agreement to be executed as of the date first written above.

**RW2 Marketing & Design, Inc., DBA 1-2-1 Marketing**  
**151 N Maitland Ave #348193**  
**Maitland, FL 32751**

By: \_\_\_\_\_  
Ryan Wood  
President

By: \_\_\_\_\_  
David Pennington  
Mayor  
City of Dalton

**Schedule 1**

**Service & Fee Schedule**

**Services.** 1-2-1 shall provide the Following Services & Support to Licensee:

***Website, Email Marketing, Online Store, Event Registration, eBlog, Club Prophet Integration, Gallus Integration, CampaignPilot, Social Media Integration, eBlog, and Event Calendar.***

Additional website features can be added or removed by 1-2-1 and Licensee at costs stated on 1-2-1's website.

**Fees.**

(a) The License "Fee" due to 1-2-1 under the first term of this Agreement shall be the rate of **\$199.00/month**.

All fees are in US Dollars (USD). Fee begins as of **November 1, 2020**. Licensee must communicate any developmental start delays to 1-2-1 via telephone or email. Service will include up to 10 hours of work on the initial website design and development, after which an hourly rate of \$75 will apply.

(b) Initial Payment. 1-2-1 will design Licensee's website for initial, upfront fee of **\$0**. Licensee will be required to pay the first three (3) monthly fees in advance (\$597.00) and return signed Agreement to begin website design project.

**Payment / Billing Options.**

Licensee may choose one of the following 3 options for the schedule and method of payment as follows:

**Payment Schedule** (please initial next to preferred method):

**Monthly**  **Quarterly** (Invoiced via email on 1/1, 4/1, 7/1 & 10/1)  **Annual** (Invoiced via email on 7/1)

**Payment Method** (please initial next to preferred method):

**Credit Card** (Visa, Mastercard, Amex, & Discover)  **ACH**  **Check**

Licensee is responsible to keep Credit Card and Billing Information current. This includes a valid Email Address for PDF Invoice / Statement delivery via email. All fees will be prorated to the next billing cycle if needed, and Invoices must be paid by Licensee within 30 days unless otherwise agreed upon terms.

The license "Fee" due to 1-2-1 each successive term under this Agreement shall be as determined by 1-2-1. Fee must be communicated to Licensee by 1-2-1 on or before ninety (90) days prior to the expiration of the current license term. 1-2-1 will elect to raise Licensee's Fee only if 1-2-1's costs for the Technology rise, the Technology is improved, or Licensee adds additional services.

**CLUB PROPHET**  
**ACH AUTHORIZATION AGREEMENT – US**

CUSTOMER NAME :

**The City of Dalton, Parks and Recreation Department**

TELEPHONE # :

BANK NAME :

BANK ADDRESS :

BANK ROUTING # :

BANK ACCOUNT # :

I/We authorize **Pro-Shopkeeper Computer Software Company DBA Club Prophet Systems** to begin deductions for monthly regular recurring payments and/or one-time payments from time to time, for payment of all charges arising under my Club Prophet Systems account. Regular monthly payments for the full amount of services will be debited to my account on the 10<sup>th</sup> day of each month. Club Prophet Systems will provide 7 days' notice for the amount of each debit. This authority remains in effect until Club Prophet Systems has received written notification from me of change or termination.

ONE-TIME DEPOSIT \$

8,499

MONTHLY SERVICE FEE \$

664

SIGNATURE OF ACCOUNT HOLDER :

PRINT NAME :

DATE :

EMAIL (for monthly billing statements) :

**PLEASE RETURN FORM TO:**

**Club Prophet Systems**

[kate@clubprophetsystems.com](mailto:kate@clubprophetsystems.com)

**Fax: 724.274.0387**

**Questions: 1.800.793.1872 x7006**



# Feature Rich. Easy to Use.

**Club Prophet Systems is the world leader in golf management software. With over 1,700 facilities in 16 countries and in nine languages, Golf Point of Sale (POS) integrates all of your transactions in real time, including sales, inventory, customer management, reporting, security, and more. POS is designed specifically for the golf business to meet the needs of the smallest "mom & pop" shop to national golf management accounts, from elite resorts to PGA tour stops.**

## **Sales**

**Customize an unlimited number of "Quick Sale" keys for each point-of-sale terminal. Items can be sold using a touch screen, scanning a bar code, or typing in the product code or description. Each sale can be tied to an account for customer billing and sales history tracking, as well as to support sales analytics and target marketing. Inventory updates in real time. Open and save tabs. Generate rain checks that are pro-rated by the number of holes played and assigned a monetary value. Rain checks are uniquely bar-coded to prevent duplication and the balance is simply deducted at redemption from the current green fee, which means that your customer is not restricted to redeem a rain check for the same green fee originally purchased.**

## **CPS Air**

**CPS Air is a new 100% mobile IOS application that can extend POS anywhere a WIFI or cellular connection is available. CPS Air is perfect for beverage carts, sales tents, overflow, special events, or even off-site retail shows.**

## **Credit Cards and Gift Cards**

**Club Prophet Systems is PA-DSS validated with the PCI organization. Integrated payment transactions are fast, using EMV, NFC (ApplePay and Google), card-on-file, tokenization and more. CPS supports several processing platforms and has an in-house credit card expert to help you evaluate the best options for merchant services. CPS Gift Cards are in internal solution so there are no per transaction fees for gift card transactions. CPS can supply the physical card as well with your brand on the card.**

## **Inventory Control**

**The integrated inventory module supports unlimited suppliers and products. Its features include tier and seasonal pricing, purchase orders, real-time updates of inventory, and a physical inventory wizard. Bar code scanning and price tag printing allows you to set your own product code or use the products UPC code.**

## **Customer Management**

**The customer management module handles membership dues, season pass holders, loyalty programs, credit books, prepaid programs, smart card tracking, dependents, recurring charges, customer photos, and many more features. Customer data can inform your business decisions and strategies with the access you'll gain to customer purchases and activities. You benefit from having a complete professional billing system, as well as an intelligent marketing tool to grow your business.**





## People don't carry cash like they used to.

Having the ability to accept credit cards for payment out on the course will increase your sales. Mobile POS brings the ability to take credit cards at the beverage cart. Your golf course's tee times and check-in updates connect to the POS in real time, so your starter can verify that golfers have paid while also collecting their email addresses for future marketing.

## 10 of the Many Benefits of CPS Point of Sale

- **Touch Screen Design**
- **Credit Cards & Gift Cards (PA-DSS Validated)**
- **Buying Clubs**

- **Cash Management**
- **Photo ID-Cards**
- **Loyalty Programs**
- **Inventory Management**
- **Report via E-mail Service**
- **Customer Billing Integration**
- **Tee Sheet Integration**

# Feature Rich. Easy to Use.

**What if your golf business software could identify, in advance, exactly when you needed to drive play at your golf course, and then quickly contact the golfers to fill your online tee sheet?**

**Club Prophet Systems Starter Hut Tee Sheet is the most powerful and easy-to-use tee sheet scheduling software ever developed. If you're tired of the torturous way tee sheet reservations operate and want a business software solution that has been designed especially for the world of golf shop operations, you're about to learn how to end all that suffering... for good!**

**Starter Hut Tee Sheet is pro-shop software that has been designed from the ground up to give staff online tee times at a glance. It works for single or multiple courses and at sites with local or cloud-based solutions.**

**With Starter Hut Tee Sheet, it is easy for golf courses to manage tee sheet bookings and events, as well as to move players and groups on the tee sheet or between multiple tee sheets for multiple courses. Set various rates, special, bid-up, and reverse auctions. You can also manage golf carts, caddies, and rental clubs. Want to know what more it can do for your facility?**

## 10 of the Many Benefits of the StarterHut Tee-Sheet

- **Group Reservations & Event Management**
- **Squeeze, Move & Place Instantly**
- **Bid-Up & Reverse Auctions**
- **Full POS Integration**
- **Tee Sheet Reporting**
- **Referral Tracking**
- **Forecasting and Analysis**
- **Marketing Tools**
- **Utilization Reports**
- **Paid, Cancelled & No-Show Tracking**

**Big or small, full service or quick service, white tablecloth or snack shop, burgers or vegan smoothies, CPS Food and Beverage module is the perfect addition to any business that offers food service. This is not just another golf POS installed in your F&B facility. This is a complete system designed specifically for F&B.**

**For fine dining we provide seating / table layout, assigned tables to wait staff, firing tickets to remote printers for the kitchen and bar and table side ordering and payment. For casual dining and snack-bar you can skip the seating chart and go right to the transaction screen for quick service sales. We even have kiosk options for customers to order their own food.**

**The Integrated time clock combined with built-in security allows you to track your employees with ease. Finally, advanced reporting and easy exporting to your accounting program make end-of-day statements a breeze.**

**CPS F&B software is a module that integrates smoothly with the CPS suite of golf course management software to facilitate real-time posting of transactions to customer loyalty programs and billing.**

## **10 of the Many Benefits of POS Express F&B**

- **User Defined Menu & Modifiers**
- **Reorder, Move Tables & Items**
- **Table Side Order Entry**
- **Quick and Easy Order Entry**
- **Floor Layout or Transaction View**
- **End of Shift Checkouts**
- **Integrated Time Clock**
- **Remote Printing**
- **Advanced Reporting**
- **Split Checks**

# Feature Rich. Easy to Use.

Whether your facility is completely public, fully private, or somewhere in between – the best customer is an existing customer. Club Prophet Systems gives you the tools to treat each customer as a VIP.

The Customer Management module can track each POS transaction to a specific customer. This is an important concept for identifying and tracking your core customers, as well as those customers who you have recently acquired or who have defected. Your golf business will truly understand your customers with access to valuable data and the ability to detect trends and opportunities.

The Customer Management module features a complete history of every sales transaction for the customer. For private clubs a complete system to manage membership dues, assessments, and F&B minimums. For all facility types features include season pass holders, loyalty programs, credit books, prepaid programs, smart card tracking, gift cards, customer id cards, dependents and many more features that give you the ability to track all customer purchases and activity; allowing you to provide a complete professional billing system as well as an intelligent marketing tool to grow your business.

The CPS Customer Management module will help your golf business to thrive. Contact CPS today for a no-obligation consultation.

## 10 of the Many Benefits of the CPS Customer Management

- Customer Profile with Photo
- Complete Sales History with Lookup
- Loyalty Points Program
- Credit Book, Pre-Paid and Smart Card Programs
- Customer Billing/Statements
- Online Customer Statements & Payments
- Recurring Charges
- Dependent and Sub-Accounts
- Credit Card On-File
- Member ID Card & Entry Systems

# 10 of the Many Benefits of CPS Mobile Applications

- **Increase Speed of Service**
- **More personal Interaction with Customers**
- **Fully Integrated in real-time to the CPS Database**
- **More touch-points to gather emails**
- **Ability to accept credit cards anywhere**
- **Full reporting and tracking**
- **Pace of Play tracking**
- **Wifi and Cell Network options**
- **Stands with Integrated card swipe and bar code scanner**
- **Starter has real time access to the tee sheet**

# Harness Your Data

The Club Prophet Systems suite of applications is rich in marketing features and tools that help you analyze your business and drive new business to your golf course. E-mail broadcasting and detailed analysis of your facility allow you to target customers and maximize your profit.

Customer data sets, including email address and cell phone number for SMS, drive the marketing machine. Club Prophet provides multiple touch points to help you gather this information.

Online Tee Time, Lesson Reservations, and Online Web-Stores collect the customer data and automatically populate your club's database. You also have the option of getting it during check-in from the golfer. No time for that? How about a starter application on the first tee, where the starter can verify that everyone has paid by having real-time access to the tee sheet. While doing so, gather the foursome for a photo on the first tee. Gather their email addresses to send them the photo!

Another option, our Data Collect Kiosk can be strategically placed in one or more locations at your facility, as well as on your website. This kiosk presents an offer, and then the CPS system validates the customer's email to provide a certificate for the offer to qualified customers. Again you capture the customer's email address automatically.

## 10 of the Many Benefits of Email Marketing

- Email Broadcasts
- Promotional Emails
- Birthday Specials
- Targeted Marketing
- Email = No Postage
- Automatically Collect Email Addresses via the Web
- Store and Track Online Reservations
- Forecasting to Let You Know When You Need to Drive Play.
- Easily Track Success & Return on Investment
- Encourage Customer Loyalty



## **Web Interface Services Requirements**

If you are using an external web service application, Web Store, Online Reservations, Remote License or any service that requires Web Services, the following requirements need to be met prior to our installation/setup.

**\*\*You will need an IT Professional to set up these requirements.\*\***

1. A public and static IP address. Your internet service provider can tell you if you have a static or dynamic IP address. If it's dynamic, you will need to ask your internet service provider to set you up with a static IP address.
2. Port 80 (or other port) needs to be open and forwarded to your web server. Depending on the brand of router that you have, it may be called NAT Translation. Please provide a screen shot of [www.canyouseeme.org](http://www.canyouseeme.org) website showing the successful open port connection test on the web server. This screen shot will show the public static IP address and show the opened port you are using.
3. For PCI Compliance, you need to have a web server that is separate from your data server. You will need to use a different computer than your server to control traffic from the web. This machine can be one of your client machines that you are already using with our software.
4. Send this information along with your IT Professional's contact information to Lee Hanyo, Project Manager: [lee@clubprophetsystems.com](mailto:lee@clubprophetsystems.com)
5. If you have any questions regarding the information listed above, please contact Lee Hanyo, Project Manager at 800.793.1872 (Option 1) or email [lee@clubprophetsystems.com](mailto:lee@clubprophetsystems.com)



FINANCE DEPARTMENT  
 P.O. BOX 1205  
 DALTON, GEORGIA 30722  
 PHONE: (706) 278-6006  
 FAX: (706) 277-4640



FOR CITY USE ONLY

<input type="checkbox"/> Initial Application		<input type="checkbox"/> Revision	
Vendor ID			
Month	Day	Year	
Initial Below when complete Packet Completion verified _____			

**VENDOR APPLICATION**

	Contract Number _____
	Project Name _____
Company/Individual Name: <u>ProShopkeeper Computer Software Company</u>	
Doing Business As: <u>Club Prophet Systems</u>	
Physical Address: <u>701 Russelton Road</u>	
City: <u>Cheswick</u>	State: <u>PA</u> Zip Code: <u>15024</u>
Remittance Address for payments: <u>701 Russelton Road</u>	
City: <u>Cheswick</u>	State: <u>PA</u> Zip Code: <u>15024</u>
Principal line of business, please briefly describe any services or products provided: _____ Point of Sale software for Parks and Rec - Golf course	
Phone Number: <u>1.800.793.1872 x7006</u>	Fax Number: <u>724-274-0387</u>
E-Mail Address: <u>kate@clubprophet.com</u>	
Vendor Contact/Representative: <u>Kate Coccaro</u>	
Organized as: <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Corporation	Date: _____ State: <u>PA</u>
Federal Tax ID Number (if company): <u>2 3 2 9 1 3 8 9 5</u>	
Social Security Number (if individual): _____ - _____ - _____	
DUNS Number: _____	
Special Status: <input type="checkbox"/> DBE-Disadvantaged Business Enterprises (Please submit copy of certificate) <input type="checkbox"/> MBE-Minority Owned (Please submit copy of certificate) <input type="checkbox"/> WBE-Women Business Enterprises (Please submit copy of certificate)	

FOR CITY USE ONLY	
Vendor #:	_____
Setup Date:	_____
Initials:	_____

## City of Dalton ACH Payment Approval Form

Dear City of Dalton Vendor or Contractor:

The City of Dalton has a program that allows vendors the option of receiving payments for goods and/or services by electronic funds transfers (EFT) through the Automated Clearing House Network (ACH) in the NACHA CCD Format. If the City of Dalton sets you up for EFT processing, payments will be deposited directly to your account, as opposed to mailing you a check. If you give us your e-mail address, a payment notice will be sent out each time an ACH transfer is executed. We anticipate that this alternate method payment will introduce collection/payment efficiencies for both your institution and ours.

This form is a request for you to authorize us to pay by EFT. By completing this form and providing an authorized signature, you (1) authorize the City of Dalton to make payments for goods and/or services by EFT, (2) certify that your company has selected the designated depository financial institution, and (3) direct that all such electronic funds transfers be made as provided below. If you have questions about this form, please contact the Finance Department at 706-278-6006.

Depository Institution Name: PNC Bank			
Depository Institution Address: PO BOX 609 Pittsburgh Pa 15230			
Routing Number: 043000096	Account Number: 1004954869	Checking <input checked="" type="checkbox"/>	Savings <input type="checkbox"/>
E-mail address for Payment Notification: kate@clubprophet.com			

The below named company acknowledges and agrees that the terms and conditions of all agreements with the City of Dalton concerning the method of payment for goods and/or services shall be amended to allow for ACH payments as described above.

The below named company will give thirty (30) days written notice to the City of Dalton of any changes in depository financial institution or other payment instructions. When properly executed, this Authorization will become effective fifteen (15) days after its receipt by the City of Dalton.

Company Name: Club Prophet Systems		Contact Person Name: Kate Coccaro	
Contact Person Phone Number: 1.800.793.1872 x7006		Contact Person E-mail Address: kate@clubprophet.com	

X \_\_\_\_\_  
Authorized Signature and Title

\_\_\_\_\_  
Date



Please return completed form to Attn: Accounts Payable at the address below or by fax to (706) 277-4640.

City of Dalton  
Attn: Accounts Payable  
P.O. Box 1205  
Dalton, GA 30722-1205

Retain for Your Records



STATE OF GEORGIA  
DEPARTMENT OF REVENUE  
SALES TAX CERTIFICATE OF EXEMPTION  
GEORGIA PURCHASER OR DEALER

To: \_\_\_\_\_ (SUPPLIER) \_\_\_\_\_ (DATE)  
\_\_\_\_\_  
(SUPPLIER'S ADDRESS) (CITY) (STATE) (ZIP CODE)

THE UNDERSIGNED DOES HEREBY CERTIFY that all tangible personal property purchased or leased after this date will be for the purpose indicated below and that this certificate shall remain in effect until revoked in writing. Any tangible personal property obtained under this certificate of exemption is subject to the sales and use tax if it is used or consumed by the purchaser in any manner other than that indicated on this certificate. (Check appropriate box.)

1. Purchases or leases of tangible personal property or services for resale. O.C.G.A. § 48-8-30
2. Purchases or leases of tangible personal property or services made by the Federal Government, The American Red Cross, Georgia State Government, any county, municipality, qualifying authority, or public school system of this state. When paid for by warrant on appropriated Government funds. A Georgia Sales and Use tax number is not required for this exemption. O.C.G.A. § 48-8-3(1)(8)(8.1)(8.2)
3. Purchases or leases of tangible personal property or services for **RESALE ONLY** by a church, qualifying nonprofit child caring institution, nonprofit parent teacher organization or association, nonprofit private school (grades K-12), nonprofit entity raising funds for a public library, member council of the Boy Scouts of the U.S.A. or Girl Scouts of the U.S.A. **THIS EXEMPTION DOES NOT EXTEND TO ANY PURCHASE TO BE USED BY OR DONATED BY THE PURCHASING ENTITY.** A Georgia Sales and Use tax number is not required for this exemption. O.C.G.A. § 48-3(15)(39)(41)(58)(59)(71)
4. Materials used for packaging tangible personal property for shipment or sale. Such materials must be used solely for packaging and must not be purchased for reuse by the shipper or seller. A Georgia Sales and Use tax number is not required for this exemption. O.C.G.A. § 48-8-3(94)
5. Aircraft, watercraft, motor vehicles, and other transportation equipment manufactured or assembled in this state sold by the manufacturer or assembler for use exclusively outside of this state when possession is taken by the purchaser within this state for the sole purpose of removing the property from this state under its own power due to the fact that the equipment does not lend itself more reasonably to removal by other means. A Georgia Sales and Use tax number is not required for this exemption. O.C.G.A. § 48-8-3(32)
6. The sale of aircraft, watercraft, railroad locomotives and rolling stock, motor vehicles, and major components and replacement/repair parts of each, which will be used principally to cross the borders of this state in the service of transporting passengers or cargo by common carriers in interstate or foreign commerce under authority granted by the United States government. Private and contract carriers are not exempt. O.C.G.A. § 48-8-3(33)(A)
7. Purchases or leases of tangible personal property or services made by a federally chartered credit union, credit unions organized under the laws of this state, and credit unions organized under the laws of the United States and domiciled within this state. A Georgia Sales and Use tax number is not required for this exemption. 12 U.S.C.S. 1768; O.C.G.A. § 48-8-97

(Describe Purchaser's Business Activity)

*Under penalties of perjury I declare that this certificate has been examined by me and to the best of my knowledge and belief is true and correct, made in good faith, pursuant to the sales and use tax laws of the State of Georgia.*

Business Name: CITY OF DALTON Sales Tax Number: \_\_\_\_\_

Business Address: 300 WEST WAUGH STREET City: DALTON State: GA Zip Code: 30722

Purchaser's Name: C. Mark Burford Signature: C. Mark Burford Title: Accounting Specialist

A dealer must secure one properly completed certificate of exemption from each buyer making purchases without payment of the tax. The dealer must maintain a copy of the certificate of exemption presented for audit purposes.

# Request for Taxpayer Identification Number and Certification

Give Form to the requester. Do not send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

**ProShopkeeper Computer Software Company**

2 Business name/disregarded entity name, if different from above

**DBA Club Prophet Systems**

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:

- Individual/sole proprietor or single-member LLC  
 Limited liability company. Enter the tax classification (D=C corporation, S=S corporation, P=partnership) ▶ \_\_\_\_\_  
 Other (see instructions) ▶ \_\_\_\_\_
- C Corporation  
 S Corporation  
 Partnership  
 Trust/estate
- Note: For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) \_\_\_\_\_

Exemption from FATCA reporting code (if any) \_\_\_\_\_

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)

**701 Russellton Road**

6 City, state, and ZIP code

**Cheswick, PA 15024**

Requester's name and address (optional)

7 List account number(s) here (optional)

Print or type  
See Specific Instructions on page 2.

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I Instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note: If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number

			-						
--	--	--	---	--	--	--	--	--	--

OR

Employer identification number

2	3	-	2	9	1	3	8	9	5
---	---	---	---	---	---	---	---	---	---

## Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification Instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here

Signature of U.S. person ▶

*Katie Connor*

Date ▶ 10/9/2020

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/irb](http://www.irs.gov/irb).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

• Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)

• Form 1099-C (canceled debt)

• Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

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**CLUB PROPHET SYSTEMS**  
**PRO-SHOPKEEPER COMPUTER SOFTWARE CO., INC.**  
701 RUSSELLTON ROAD  
CHESWICK, PA 15024  
PH: 800.793.1872 FAX: 724.274.0387

PNC BANK, NATIONAL ASSOCIATION  
8-9/430

PAY TO THE  
ORDER OF

VOID

\$ VOID

DOLLARS

VOID

AUTHORIZED SIGNATURE

MEMO

⑆015246⑆ ⑆043000096⑆ 1004954869⑆

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