

Mayor

Derek Easterling

City Manager

Jeff Drobney, ICMA-CM

City Clerk

Lea Alvarez, CMC

**Council**

Mayor Pro-Tem Tracey Viars

Lynette Burnette

Pat Ferris

Antonio Jones

Trey Sinclair

**City Council
Meeting Agenda
June 5, 2023 6:30 PM
Council Chambers**

1. Invocation**2. Pledge of Allegiance****3. Call to Order****4. Announcements**

- A. This public meeting is being conducted via the use of real-time telephonic technology allowing the public simultaneous access to the public meeting. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed. Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: <https://www.facebook.com/CityofKennesaw/>
- B. If you are not able to attend a meeting in-person and would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 PM the night of the regular meeting. Your comments on a specific agenda item will be read aloud or grouped into categories for the record. **Facebook Live is not monitored for public comment.**

5. Presentations

- A. A PROCLAMATION declaring June 5-9, 2023 as Municipal Court Clerks Week in the City of Kennesaw.

6. Public Comment/Business from the Floor**7. Old Business****8. New Business**

9. Committee and Board Reports

10. Public Hearing(s)

- A. FIRST PUBLIC HEARING: Approval of RESOLUTION adopting the updates to the Capital Improvement Element and Short Term Work Program (CIE/STWP) report covering the five-year period of 2023-2027. No action will take place until the regularly scheduled June 19, 2023, Mayor and Council meeting. Case# MISC2023-04.

11. Consent Agenda

- A. Approval of the May 1, 2023 City Council executive session minutes.
- B. Approval of the May 8, 2023 City Council work session minutes.
- C. Approval of the May 15, 2023 City Council regular meeting minutes.
- D. Approval of RESOLUTION and authorization for the Mayor to execute the Lease Supplement with Georgia Municipal Association (GMA) for the direct leasing program for two (2) 2022 Ford Interceptors for Police use.
- E. Parcel Combination plat application submitted by Surina Narine and Avery Richardson for 0 Live Oak Drive (20017701170) and 0 Live Oak Drive (20017701180). Case number PC2023-05.

12. General and Administrative

- A. Consideration for approval of an Alcohol License for Beer and Sunday Sales for Lukes of Kennesaw LLC d/b/a Buffalo Lukes located at 2768 Cobb Pkwy, Kennesaw, GA 30152. Applicant: Robert Stoll.

13. Public Safety

14. Information Technology

15. Public Works

- A. Approval of RESOLUTION to award bid and authorize the Mayor to sign the attached contract to F. S. Scarbrough, LLC for resurfacing of various streets - 2023 LMIG

16. Recreation and Culture

17. Community Development

18. Public Comment/Business from the Floor

19. City Manager's Report

- A. Reports, Discussions, and Updates

- B. Approval of the Amended and Restated Galleria Convention Funding and Operating Agreements with the Cobb-Marietta Coliseum and Exhibit Hall Authority.
- C. Recommendation of the City Manager to ratify the appointment of Assistant Parks and Recreation Director, Bill McNair, to Parks and Recreation Director.

20. Mayor's Report

- A. Acceptance of the resignation of Joe Bozeman from the Cemetery Preservation Commission

21. Council Comments

22. Executive Session

Pursuant to the provisions of O.C.G.A 50-14-3, the City Council could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney; and/or personnel matters; and/or real estate matters.

23. Adjourn



PROCLAMATION

DECLARING JUNE 5 -9, 2023 AS MUNICIPAL COURT CLERKS WEEK

WHEREAS: Municipal Court Clerks play a significant role in ensuring that municipal courts preserve public safety and promote quality of life in the City of Kennesaw and local municipalities across the state; and

WHEREAS: more people come in contact with Municipal Court Clerks than all other city services combined and public impression of the Georgia judicial system is largely dependent upon the public's experience in municipal court; and

WHEREAS: Municipal Court Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

WHEREAS: the Kennesaw Municipal Court is committed to the notion that our legal system is based on the principle that an independent, fair, and competent judiciary will interpret and apply the laws that govern us; Municipal Court Clerks act in a manner that promotes public confidence in the integrity and impartiality of the judiciary; and

NOW, THEREFORE, BE IT PROCLAIMED, I Derek Easterling, Mayor of the City of Kennesaw, do recognize the week of June 5-9, 2023, as Municipal Court Clerks Week and further extend appreciation to our Municipal Court Clerks, Brittany Swiney, Court Clerk, Lisa DiGiovanni, Deputy Court Clerk, Kelly Hardin, Court Services Assistant, and all Municipal Court Clerks for the vital services they perform and their exemplary dedication to the communities they

IN WITNESS THEREOF, I have hereunto set my hand and caused the official seal of the City of Kennesaw, Georgia, to be affixed this 5th day of June, 2023.

ATTEST:

APPROVED:

Lea Alvarez

Derek Easterling, Mayor



Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: June 5, 2023

TITLE: FIRST PUBLIC HEARING: Approval of RESOLUTION adopting the updates to the Capital Improvement Element and Short Term Work Program (CIE/STWP) report covering the five-year period of 2023-2027. No action will take place until the regularly scheduled June 19, 2023, Mayor and Council meeting. Case# MISC2023-04.

Summary:

The City of Kennesaw is required to adopt an annual report on the Capital Improvement Element and the Short Term Work Projects. The Atlanta Regional Commission and the Georgia Department of Community Affairs completed the regional review of the 2023 CIE Update for the City of Kennesaw. The Georgia Department of Community Affairs has determined that the updates conform to the Development Impact Fee Compliance Requirements. Renewal of Qualified Local Government (QLG) status is contingent on local adoption of the update. This annual report review and adoption is required for all jurisdictions that collect development impact fees. This is the first of two (2) required public hearings with adoption to be considered at the June 19, 2023, Mayor and Council meeting at 6:30 PM.

Recommendation:

STAFF RECOMMENDATION: The Zoning Administrator recommends carrying this item forward for a second public hearing and adoption.

Fiscal Impact:

Attachments:

1. Cobb County CIE Comments
2. CIE-STWP 2023 Report Packet
3. RES 2023-08,2023

4. Legal Ad 05-19-2023
5. Legal Ad 05-26-2023



COBB COUNTY
COMMUNITY DEVELOPMENT AGENCY

Planning Division
P.O. Box 649
Marietta, GA 30061-0649
Phone: (770) 528-2018; Fax: (770) 528-2126
comdev@cobbcounty.org

March 30, 2023

Donald Shockley, AICP, LEED GA
Plan Review Manager
Community Development
Atlanta Regional Commission

Re: 2023 City of Kennesaw Annual CIE Update

Dear Mr. Shockley:

Thank you for the opportunity to provide comments regarding the City of Kennesaw's annual CIE update. I am not sure if this is the appropriate forum, but Cobb County would like to comment to ensure we continue to have an efficient and effective relationship with the City of Kennesaw.

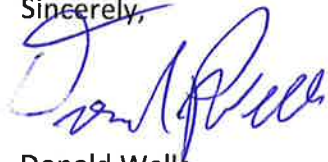
As you may be aware, the City of Mableton was recently approved by the citizens of Mableton to incorporate into its own city within Cobb County. The creation of this new city has also created the need for the county to negotiate new Intergovernmental Agreements and a new Service Delivery Strategy with Mableton. Although this process has started, it is still in its infancy as the new City Council has not been formed. Cobb County is also in the process of drafting a new Unified Development Code (UDC) which may require the County to update existing agreements with all cities within Cobb County. Several line items listed in Kennesaw's CIE update relate to land use and development. Those items include updates or revisions to the city's UDC, Zoning Ordinance, Comprehensive Plan, and Future Land Use Maps.

Cobb County is not opposed to any of the mentioned land use program items. The County wants to ensure that appropriate representatives of Cobb have an opportunity for input or review on any updates or revisions to the zoning ordinance or Unified Development Code as mentioned in the Short Term Work Program. This will help guide land use compatibility between the County and the City of Kennesaw.

The city is also continuing to implement the next phase of an annexation plan citywide. To this point, there may be a need for revisions to current agreements or service delivery strategies considering the creation of the City of Mableton and the updated UDC. To continue to be good government partners, Cobb County wants to ensure the City of Kennesaw continues to inform

the County of annexations in a timely manner subject to the most recently agreed upon SDS and IGA.

Sincerely,



Donald Wells
Intergovernmental Coordinator

ANNUAL FEE FINANCIAL REPORT - FY 2021-2022
CITY OF KENNESAW, GEORGIA

	PARKS/REC	Police	Total
IMPACT FEE FUND BALANCE FROM FY 2020/2021 (ENDING 09/30/2021)	\$ 498,299.79	\$ 137,686.98	\$ 635,986.77
PRIOR PERIOD ADJUSTMENT	\$ -	\$ -	\$ -
IMPACT FEES COLLECTED IN FY 2021/2022	\$ 254,436.01	\$ 12,777.00	\$ 267,213.01
INTEREST EARNED	\$ 11,265.13	\$ 565.70	\$ 11,830.83
ADMINISTRATIVE/OTHER COST	\$ -	\$ -	\$ -
(IMPACT FEE REFUNDS)	\$ -	\$ -	\$ -
(PROJECT EXPENDITURES)	\$ 83,663.77	\$ -	\$ 83,663.77
IMPACT FEE FUND BALANCE ENDING FY 2021/2022 (9/30/22)	\$ 680,337.16	\$ 151,029.68	\$ 831,366.84
IMPACT EXPENDITURES ENCUMBERED	\$ -	\$ -	\$ -

CITY OF KENNESAW
SUMMARY OF FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM

	A	B	C	D	E	F	G	H
1								
2		FY2022-2023	FY2023-2024	FY2024-2025	FY2025-2026	FY2026-2027	TOTAL	
3	Police vehicles	250,000	200,000	200,000	200,000	250,000	\$ 1,100,000	
4	Parks & Recreation Vehicles	45,000	30,000	40,000	45,000	80,000	\$ 240,000	
5	Street Vehicles	65,000	100,000	100,000	150,000	150,000	\$ 565,000	
6	Stormwater utility CIP Project	200,000	500,000	500,000	250,000	250,000	\$ 1,700,000	
7	Street Improvements	350,000	800,000	900,000	800,000	300,000	\$ 3,150,000	
8	Drainage Improvements	300,000	750,000	800,000	800,000	300,000	\$ 2,950,000	
9	Neighborhood Park Improvements	35,000	20,000	40,000	35,000	35,000	\$ 165,000	
10	Smith-Gilbert Gardens Improvements	200,000	200,000	100,000	100,000	NA	\$ 600,000	
11	Computer System Upgrades	70,000	70,000	75,000	100,000	100,000	\$ 415,000	
12	Traffic Improvements	7,000,000	4,000,000	10,000,000	4,000,000	7,000,000	\$ 32,000,000	
13	Community Center Improvements	100,000	50,000	250,000	NA	NA	\$ 400,000	
14	Swift-Cantrell Park Improvement	100,000	100,000	100,000	NA	NA	\$ 300,000	
15	Depot Park Amphitheater	2,800,000	4,000,000	NA	NA	NA	\$ 6,800,000	
16	Public Safety Building	NA	NA	7,500,000	1,000,000	NA	\$ 8,500,000	
17	East Park Community Park	50,000	250,000	250,000	250,000	250,000	\$ 1,050,000	
18	Depot Park Phases 9 - 12	NA	800,000	500,000	NA	NA	\$ 1,300,000	
19	Public Works Building Improvements	NA	1,000,000	600,000	NA	NA	\$ 1,600,000	
20	Public Works Site Improvements	NA	350,000	NA	NA	NA	\$ 350,000	
21	Cemetery Improvements - Street Paving	NA	NA	100,000	NA	NA	\$ 100,000	
22	Cemetery Improvements - Erosion Control	NA	NA	NA	50,000	NA	\$ 50,000	
23	Cemetery Improvements - Space Force Flag	NA	NA	NA	NA	20,000	\$ 20,000	
24	Trail Improvements - Pedestrian Bridges	NA	NA	250,000	NA	NA	\$ 250,000	
25	Swift Cantrell Traffic Light	NA	NA	350,000	NA	NA	\$ 350,000	
26	Smith-Gilbert Gardens Education Center	NA	NA	NA	2,000,000	2,000,000	\$ 4,000,000	
27	Fleet Maintenance Facility Upgrade	NA	NA	NA	NA	2,500,000	\$ 2,500,000	
28								
29	Totals	\$ 11,565,000	\$ 13,220,000	\$ 22,655,000	9,780,000	13,235,000	\$ 70,455,000	
30								
31								
32								
33								
34								

2022-2023								
PROJECT DESCRIPTION	PROJECT START DATE	PROJECT END DATE	EST. COST OF PROJECT	% FUNDING FROM IMPACT FEES	OTHER FINANCE SOURCES	EXPENDITURES FOR YEAR	IMPACT FEES ENCUMBERED THROUGH YEAR	STATUS/REMARKS
Police vehicles	10/1/2022	9/30/2023	\$ 1,100,000	10%	GF/CPF/CSIF	\$ 250,000	\$ 25,000	Programmed for FY 2023
Parks & Recreation Vehicles	10/1/2022	9/30/2023	\$ 240,000	0%	General Fund	\$ 45,000		Programmed for FY 2023
Street Vehicles	10/1/2022	9/30/2023	\$ 565,000	0%	General Fund	\$ 65,000		Programmed for FY 2023
Stormwater utility CIP Project	10/1/2022	9/30/2023	\$ 1,700,000	0%	Stormwater	\$ 200,000		Programmed for FY 2023
Street Improvements	10/1/2022	9/30/2023	\$ 3,150,000	0%	SPLOST/HUD Earmark	\$ 350,000		Programmed for FY 2023
Drainage Improvements	10/1/2022	9/30/2023	\$ 2,950,000	0%	CDBG/SPLOST/HUD Earmark	\$ 300,000		Programmed for FY 2023
Neighborhood Park Improvements	10/1/2022	9/30/2023	\$ 165,000	50%	General Fund	\$ 35,000	\$ 15,000	Programmed for FY 2023
Smith-Gilbert Gardens Improvements	10/1/2022	9/30/2023	\$ 600,000	0%	SPLOST/Grants	\$ 200,000		Programmed for FY 2023
Computer System Upgrades	10/1/2022	9/30/2023	\$ 415,000	0%	General Fund	\$ 70,000		Programmed for FY 2023
Traffic Improvements	10/1/2022	9/30/2023	\$ 32,000,000	0%	SPLOST	\$ 7,000,000		Programmed for FY 2023
Community Center Improvements	10/1/2022	9/30/2023	\$ 400,000	0%	SPLOST/GF	\$ 100,000		Programmed for FY 2023
Swift-Cantrell Park Improvement	10/1/2022	9/30/2023	\$ 300,000	25%	SPLOST	\$ 100,000	\$ 50,000	Programmed for FY 2023
Depot Park Amphitheatre	10/1/2022	9/30/2023	\$ 6,800,000	0%	SPLOST	\$ 2,800,000		Programmed for FY 2023
East Park Community Park	10/1/2022	9/30/2023	\$ 1,050,000	50%	Grants	\$ 50,000		Programmed for FY 2023
TOTAL			\$ 51,435,000			\$ 11,565,000		

2023-2024								
PROJECT DESCRIPTION	PROJECT START DATE	PROJECT END DATE	EST. COST OF PROJECT	% FUNDING FROM IMPACT FEES	OTHER FINANCE SOURCES	EXPENDITURES FOR YEAR	IMPACT FEES ENCUMBERED THROUGH YEAR	STATUS/REMARKS
Police vehicles	10/1/2023	9/30/2024	\$ 1,100,000	10%	GF/CPF/CSIF	\$ 200,000	\$ 30,000	Programmed for FY 2024
Parks & Recreation Vehicles	10/1/2023	9/30/2024	\$ 240,000	0%	General Fund	\$ 30,000		Programmed for FY 2024
Street Vehicles	10/1/2023	9/30/2024	\$ 565,000	0%	General Fund	\$ 100,000		Programmed for FY 2024
Stormwater utility CIP Project	10/1/2023	9/30/2024	\$ 1,700,000	0%	Stormwater	\$ 500,000		Programmed for FY 2024
Street Improvements	10/1/2023	9/30/2024	\$ 3,150,000	0%	SPLOST/HUD Earmark	\$ 800,000		Programmed for FY 2024
Drainage Improvements	10/1/2023	9/30/2024	\$ 2,950,000	0%	CDBG/SPLOST/HUD Earmark	\$ 750,000		Programmed for FY 2024
Neighborhood Park Improvements	10/1/2023	9/30/2024	\$ 165,000	50%	General Fund	\$ 20,000	\$ 10,000	Programmed for FY 2024
Smith-Gilbert Gardens Improvements	10/1/2023	9/30/2024	\$ 600,000	0%	SPLOST/Grants	\$ 200,000		Programmed for FY 2024
Computer System Upgrades	10/1/2023	9/30/2024	\$ 415,000	0%	General Fund	\$ 70,000		Programmed for FY 2024
Traffic Improvements	10/1/2023	9/30/2024	\$ 32,000,000	0%	SPLOST	\$ 4,000,000		Programmed for FY 2024
Community Center Improvements	10/1/2023	9/30/2024	\$ 400,000	0%	SPLOST/GF	\$ 50,000		Programmed for FY 2024
Swift-Cantrell Park Improvement	10/1/2023	9/30/2024	\$ 300,000	25%	SPLOST	\$ 100,000	\$ 20,000	Programmed for FY 2024
Depot Park Amphitheatre	10/1/2023	9/30/2024	\$ 6,800,000	0%	SPLOST	\$ 4,000,000		Programmed for FY 2024
East Park Community Park	10/1/2023	9/30/2024	\$ 1,050,000	50%	Grants	\$ 250,000	\$ 250,000	Programmed for FY 2024
Depot Park Phases 9 - 12	10/1/2023	9/30/2024	\$ 1,300,000	0%	SPLOST	\$ 800,000		Programmed for FY 2024
Public Works Building Improvements	10/1/2023	9/30/2024	\$ 1,600,000	0%	SLFRF	\$ 1,000,000		Programmed for FY 2024
Public Works Site Improvements	10/1/2023	9/30/2024	\$ 350,000	0%	SLFRF	\$ 350,000		Programmed for FY 2024
TOTAL			\$ 54,685,000			\$ 13,220,000		

2024-2025								
PROJECT DESCRIPTION	PROJECT START DATE	PROJECT END DATE	EST. COST OF PROJECT	% FUNDING FROM IMPACT FEES	OTHER FINANCE SOURCES	EXPENDITURES FOR YEAR	IMPACT FEES ENCUMBERED THROUGH YEAR	STATUS/REMARKS
Police vehicles	10/1/2024	9/30/2025	\$ 1,100,000	10%	GF/CPF/CSIF	\$ 200,000	\$ 20,000	Programmed for FY 2025
Parks & Recreation Vehicles	10/1/2024	9/30/2025	\$ 240,000	0%	General Fund	\$ 40,000		Programmed for FY 2025
Street Vehicles	10/1/2024	9/30/2025	\$ 565,000	0%	General Fund	\$ 100,000		Programmed for FY 2025
Stormwater utility CIP Project	10/1/2024	9/30/2025	\$ 1,700,000	0%	Stormwater	\$ 500,000		Programmed for FY 2025
Street Improvements	10/1/2024	9/30/2025	\$ 3,150,000	0%	SPLOST/HUD Earmark	\$ 900,000		Programmed for FY 2025
Drainage Improvements	10/1/2024	9/30/2025	\$ 2,950,000	0%	CDBG/SPLOST/HUD Earmark	\$ 800,000		Programmed for FY 2025
Neighborhood Park Improvements	10/1/2024	9/30/2025	\$ 165,000	50%	General Fund	\$ 40,000	\$ 20,000	Programmed for FY 2025
Smith-Gilbert Gardens Improvements	10/1/2024	9/30/2025	\$ 600,000	0%	SPLOST/Grants	\$ 100,000		Programmed for FY 2025
Computer System Upgrades	10/1/2024	9/30/2025	\$ 415,000	0%	General Fund	\$ 75,000		Programmed for FY 2025
Traffic Improvements	10/1/2024	9/30/2025	\$ 32,000,000	0%	SPLOST	\$ 10,000,000		Programmed for FY 2025
Community Center Improvements	10/1/2024	9/30/2025	\$ 400,000	0%	SPLOST/GF	\$ 250,000		Programmed for FY 2025
Swift-Cantrell Park Improvement	10/1/2024	9/30/2025	\$ 300,000	25%	SPLOST	\$ 100,000		Programmed for FY 2025
Public Safety Building	10/1/2024	9/30/2025	\$ 8,500,000	0%	SPLOST	\$ 7,500,000		Programmed for FY 2025
East Park Community Park	10/1/2024	9/30/2025	\$ 1,050,000	50%	Grants	\$ 250,000	\$ 25,000	Programmed for FY 2025
Depot Park Phases 9-12	10/1/2024	9/30/2025	\$ 1,300,000	0%	SPLOST	\$ 500,000		Programmed for FY 2025
Public Works Building Improvements	10/1/2024	9/30/2025	\$ 1,600,000	0%	SLFRF	\$ 600,000		Programmed for FY 2025
Cemetery Improvements - Street Paving	10/1/2024	9/30/2025	\$ 100,000	0%	General Fund	\$ 100,000		Programmed for FY 2025
Trail Improvements - Pedestrian Bridges	10/1/2024	9/30/2025	\$ 250,000	0%	Earmark HUD	\$ 250,000		Programmed for FY 2025
Swift-Cantrell Traffic Light	10/1/2024	9/30/2025	\$ 350,000	0%	Earmark DOT	\$ 350,000		Programmed for FY 2025
TOTAL			\$ 56,735,000			\$ 22,655,000		

2025-2026								
PROJECT DESCRIPTION	PROJECT START DATE	PROJECT END DATE	EST. COST OF PROJECT	% FUNDING FROM IMPACT FEES	OTHER FINANCE SOURCES	EXPENDITURES FOR YEAR	IMPACT FEES ENCUMBERED THROUGH YEAR	STATUS/REMARKS
Police vehicles	10/1/2025	9/30/2026	\$ 1,100,000	10%	GF/CPF/CSIF	\$ 200,000	\$ 35,000	Programmed for FY 2026
Parks & Recreation Vehicles	10/1/2025	9/30/2026	\$ 240,000	0%	General Fund	\$ 45,000		Programmed for FY 2026
Street Vehicles	10/1/2025	9/30/2026	\$ 565,000	0%	General Fund	\$ 150,000		Programmed for FY 2026
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Street Improvements	10/1/2025	9/30/2026	\$ 3,150,000	0%	SPLOST/HUD Earmark	\$ 800,000		Programmed for FY 2026
Drainage Improvements	10/1/2025	9/30/2026	\$ 2,950,000	0%	CDBG/SPLOST/HUD Earmark	\$ 800,000		Programmed for FY 2026
Neighborhood Park Improvements	10/1/2025	9/30/2026	\$ 165,000	50%	General Fund	\$ 35,000	\$ 20,000	Programmed for FY 2026
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Public Safety Building	10/1/2025	9/30/2026	\$ 8,500,000	0%	SPLOST	\$ 1,000,000		Programmed for FY 2026
East Park Community Park	10/1/2025	9/30/2026	\$ 1,050,000	50%	Grants	\$ 250,000	\$ 250,000	Programmed for FY 2026
Cemetery Improvements - Erosion Control	10/1/2025	9/30/2026	\$ 50,000	0%	General Fund	\$ 50,000		Programmed for FY 2026
Smith-Gilbert Gardens Education Center	10/1/2025	9/30/2026	\$ 4,000,000	0%	Grants/SPLOST	\$ 2,000,000		Programmed for FY 2026
TOTAL			\$ 57,185,000			\$ 9,780,000		

2026-2027								
PROJECT DESCRIPTION	PROJECT START DATE	PROJECT END DATE	EST. COST OF PROJECT	% FUNDING FROM IMPACT FEES	OTHER FINANCE SOURCES	EXPENDITURES FOR YEAR	IMPACT FEES ENCUMBERED THROUGH YEAR	STATUS/REMARKS
Police vehicles	10/1/2026	9/30/2027	\$ 1,100,000	10%	GF/CPF/CSIF	\$ 250,000	\$ 35,000	Programmed for FY 2027
Parks & Recreation Vehicles	10/1/2026	9/30/2027	\$ 240,000	0%	General Fund	\$ 80,000		Programmed for FY 2027
Street Vehicles	10/1/2026	9/30/2027	\$ 565,000	0%	General Fund	\$ 150,000		Programmed for FY 2027
Stormwater utility CIP Project	10/1/2026	9/30/2027	\$ 1,700,000	0%	Stormwater	\$ 250,000		Programmed for FY 2027
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Community Center Improvements	10/1/2026	9/30/2027	\$ 400,000	0%	SPLOST/GF	NA		Programmed for FY 2027
Swift-Cantrell Park Improvement	10/1/2026	9/30/2027	\$ 300,000	25%	SPLOST	NA		Programmed for FY 2027
East Park Community Park	10/1/2026	9/30/2027	\$ 1,050,000	100%	Grants	\$ 250,000	\$ 250,000	Programmed for FY 2027
Cemetery Improvements - Space Force Flag	10/1/2026	9/30/2027	\$ 20,000	0%	General Fund	\$ 20,000		Programmed for FY 2027
Smith-Gilbert Gardens Education Center	10/1/2026	9/30/2027	\$ 4,000,000	0%	Grants/SPLOST	\$ 2,000,000		Programmed for FY 2027
Fleet Maintenance Facility Upgrade	10/1/2026	9/30/2027	\$ 2,500,000	0%	SPLOST	\$ 2,500,000		Programmed for FY 2027
TOTAL			\$ 51,155,000			\$ 13,235,000		

City of Kennesaw Annual Short Term Work Program Update FY2022/2023							
Project Number	Plan Element		Start Date	End Date	Estimated Cost	Funding Source	Responsible Party
1	Land Use	Implement next phase of annexation plan city wide	2022	2023	N/A	N/A	Economic Dev. & Planning
2	Public Facilities	Storm Water Utility CIP Project	2022	2023	\$200,000	SPLOST	Public Works
3	Public Safety	police vehicles	2022	2023	\$250,000	Court Services/GF	Economic Development
4	Economic Development	Apply for grants for development projects	2022	2023	\$5,000	N/A	Economic Development & Planning
5	Land Use	conduct broadband study for opportunity for business recruitment	2022	2023	NA	GF	Planning and Zoning
6	Land Use	Conduct pedestrian and bike study	2022	2023	N/A	NA	Community Development
7	Land Use	Review of Historic District Guidelines	2022	2023	N/A	NA	Planning
8	Community Development	Revision of Unified Development Code	2022	2023	N/A	NA	Community Development
9	Community Facilities	coordinate with police department on exploring technology for safety and business recruitment	2022	2023	N/A	N/A	Park and Recreation
10	Community Facilities	Continued marketing of Downtown venues in cooperation with Downtown Merchants	2022	2023	N/A	KDDA	Economic Development
11	Information Technology	City Wide Software Upgrades/purchases City Wide Computer upgrade and integration WI-FI integration in parks	2022	2023	\$70,000	GF	Information Technology
12	Information Technology	GIS upgrades for land use analysis and public safety	2022	2023	\$10,000	GF	Community Development
13	Community Facilities	Drainage Improvements	2022	2023	\$300,000	CDBG	Public Works
14	Community Facilities	Promote partnerships with Gardens,KDDA and art Commisison	2022	2023	N/A	N/A	Community Development
15	Community Facilities	Street Improvements	2022	2023	\$350,000	SPLOST	Public Works
16	Community Facilities	Establish quarterly meeting with KSU	2022	2023	N/A	GF	Planning
18	Land Use	Increase training of Traditional Neighborhood Districts and Smart Growth techniques for the Planning Commission	2022	2023	\$3,000	GF	Planning
19	Community facilities	Swift Cantrell park improvements	2022	2023	\$100,000	SPLOST	Parks and Recreation
	Community Facilities	Smith Gilbert Gardens Improvements	2022	2023	\$200,000	GF	Parks and Recreation

FY 2023/2024							
Project Number	Plan Element	Project Description	Start Date	End Date	Estimated Cost	Funding Source	Responsible Party
1	Community Facilities	LCI plan project evaluation	2023	2024	N/A	NA	Planning and Zoning
2	Community Facilities	review sustainability policies for city facilities	2023	2024	N/A	N/A	Public Works
3	Economic Development	Continue business recruitment, expansion and retention efforts	2023	2024	\$5,000	GF, KDA & KDDA	Economic Development
4	Economic Development	Apply for grants for development projects	2023	2024	N/A	N/A	Economic Development & Planning
5	Community Facilities	Evaluate effectiveness of Museum marketing strategies and make adjustments as needed	2023	2024	N/A	N/A	Museum & Economic Dev
6	Community Facilities	Upgrade neighborhood parks	2023	2024	\$20,000	GF	Parks and Recreation
7	Land Use	Initiate study for sustainability initiatives and incentive program for new development	2023	2024	N/A	N/A	Planning and Zoning
8	Community facilities	Reevaluating Trail Master plan	2023	2024	N/A	N/A	Parks and Recreation
9	Housing	Continue strategies (through zoning) aimed at the identification and preservation of existing sound housing and stable residential neighborhoods including preservation of historic properties	2023	2024	N/A	N/A	Community Development
10	Land Use	Re evaluate green city objectives	2023	2024	N/A	N/A	Planning and Zoning
11	Information Technology	City Wide Computer upgrade and integration	2023	2024	\$70,000	GF	Information Technology
12	Community Facilities	Traffic Improvements	2023	2024	\$4,000,000	SPLOST	Public Works
13	Economic Development	Continue implementation of downtown master plan	2023	2024	N/A	SPLOST	Community Development
14			2023	2024		GF	
15	Community Facilities	Storm Water Utility assesment and system analysis	2023	2024	N/A	GF	Public Works
16	Community Facilities	Street Improvements	2023	2024	\$800,000	SPLOST	Parks and Recreation
17	Community Facilities	Drainage Improvements	2023	2024	\$750,000	SPLOST	Public Works
18	Land Use	Evaluate downtown Entertainment District signage standards	2023	2024	N/A	N/A	Planning and Zoning
19	Community Facilities	Depot master plan review of projects	2023	2024	N/A	N/A	Parks and Recreation
20	Community Facilities	Smith-Gilbert Gardens facility improvements	2023	2024	\$200,000	SPLOST	Parks and Recreation
21	Land Use	Historic District Standards reevaluation	2023	2024	N/A	N/A	Planning and Zoning

City of Kennesaw Annual STWP Update 2024/2025							
Project Number	Plan Element	Project Description	Start Date	End Date	Estimated Cost	Funding Source	Responsible Party
1	Economic Development	Continue business recruitment, expansion and retention efforts	2024	2025	\$8,000	KDA & KDDA	Economic Development
2	Community Facilities	Evaluate master trail system tie-in to Cobb County System	2024	2025	N/A	N/A	Planning and Zoning/parks and recreation
3	Community Facilities	Erosion Control measures installation for City Cemetery areas along southern and Northern areas (bordering the Revival Development between Lewis Family and Pauper sections)	2024	2025	\$50,000	N/A	Public Works
4	Housing	Continue strategies (through zoning) aimed at the identification and preservation of existing sound housing and stable residential neighborhoods including preservation of historic properties	2024	2025	N/A	N/A	Planning and Zoning
5	Community Facilities	Storm Water Utility CIP Project	2024	2025	\$500,000	SPLOST	Public Works
6	Community Facilities	Traffic Improvements	2024	2025	\$10,000,000	SPLOST	Public Works
7	Land Use	Annual review of Unified Development code	2024	2025	NA	NA	Planning and Zoning
8	Community Facilities	Smith Gilbert Gardens facility improvements	2024	2025	\$100,000	SPLOST	Parks and Recreation
9	Community Facilities	Street Improvements	2024	2025	\$400,000	SPLOST	Public Works
10	Community Facilities	Pave Streets throughout city cemetery	2024	2025	\$100,000	GF	Public Works
11	Land Use	Strengthen enforcement of housing codes in order to revitalize neighborhoods	2024	2025	N/A	N/A	Community Development
12	Community Facilities	Reevaluate Future land use maps and character areas as identified in the comprehensive plan	2024	2025	N/A	N/A	Community Development
13	Information Technology	City Wide Computer upgrade and integration	2024	2025	\$75,000	GF	Information Technology
14	Housing	Reevaluate housing inventory city wide and occupancy rate	2024	2025	N/A	N/A	Planning and Zoning
15	Community Facilities	Community Center Improvements	2024	2025	\$250,000	GF	Parks and Recreation
16	Community Facilities	Review status of adopted redevelopment areas	2024	2025	NA	NA	Economic Development/Planning

City of Kennesaw Annual STWP Update FY2025/2026							
Project Number	Plan Element	Project Description	Start Date	End Date	Estimated Cost	Funding Source	Responsible Party
1	Economic Development	Continue implementation of Kennesaw LCI downtown master plan	2025	2026	N/A	N/A	Mayor and Council & City Manager
2	Land Use	review downtown master plan	2025	2026	N/A	N/A	Community Development
3	Economic Development	Continue business recruitment, expansion and retention efforts	2025	2026	\$5,000	GF, KDA, KDDA	Economic Development
4	Community Facilities	re-evaluate storm water management plan	2025	2026	N/A	N/A	Public Works
5	Land Use	updating comprehensive plans and objectives	2025	2026	N/A	N/A	Community Development
6	Land Use	Evaluate existing development regulations for provisions that may limit diversity in housing types and barriers to revitalization and infill development and recommend changes where appropriate	2025	2026	\$5,000	KDDA, GF, and DCA Grants	Community Development
7	Community Facilities	Traffic Improvements	2025	2026	\$4,000,000	SPLOST	Public Works
8	Land Use	Analyze Senior Housing inventory	2025	2026	N/A	N/A	Planning and Zoning
9	Land Use	Annual review of Unified Development code	2025	2026	N/A	N/A	Community Development, Public Works
10	Land Use	Develop additional development standards for the provision and location of pedestrian and bicycle facilities in connection with private development projects.	2025	2026	N/A	N/A	Community Development
11	Community Facilities	Upgrade neighborhood parks	2025	2026	\$35,000	GF	Parks and Recreation
12	Land Use	Review Comprehensive plan and 2040 Plan	2025	2026	N/A	N/A	Planning and Zoning
13	Community Facilities	Establish strategies and priorities for funding road improvements needed in the city in conjunction with county, state, regional and federal agencies.	2025	2026	N/A	N/A	Public Works/Economic Development
14	Land Use	evaluate needs for student housing	2025	2026	NA	NA	Planning and Zoning
15	Community Facilities	Promote the expansion of local public transit alternatives in conjunction with Cobb County, DOT, GRTA, CCT, ARC and other state/regional agencies.	2025	2026	N/A	N/A	Community Development
16	Community Facilities	Storm Water Utility CIP Project	2025	2026	\$250,000	SPLOST	Public Works
17	Information Technology	City Wide Computer upgrade and integration	2025	2026	\$100,000	GF	Information Technology
18	Environmental	Evaluate environmentally sensitive areas affected by development	2025	2026	N/A	N/A	Public Works/Community development
19	Land Use	Participate in regional and local transportation studies and initiatives to promote rail connectivity to cities and county	2025	2026	N/A	N/A	Community Development
20	Land Use	Work with Cobb County to implement a greenbelt system for flood plains that can also be used as a passive recreation resource.	2025	2026	N/A	N/A	Community Development
21	Economic Development	Evaluate Economic Development Incentive program	2025	2026	N/A	N/A	Community Development
22	Community Facilities	Review trail network program	2025	2026	N/A	N/A	Parks and Recreation

City of Kennesaw Annual STWP Update FY2026-2027							
Project Number	Plan Element	Project Description	Start Date	End Date	Estimated Cost	Funding Source	Responsible Party
1	Land Use	Create housing audit report	2026	2027	N/A	N/A	Mayor and Council & City Manager
2	Public Facilities	Revisions to Zoning ordinance and development standards	2026	2027	N/A	N/A	Community Development
3	Public Facilities	Continue business recruitment, expansion and retention efforts	2026	2027	\$5,000	GF, KDA & KDDA	Economic Development
4	Land Use	Update Comprehensive Plan	2026	2027	N/A	N/A	Planning and Zoning
5	Land Use	Review of implementation of Plan 2040	2026	2027	N/A	N/A	Community Development
6	Economic Development	Evaluate annexation action plan for all commercial and industrial corridors	2026	2027	N/A	NA	Community Development
7	Public Facilities	Transportation study on existing roadways and gateways into the City in association with GRTA and ARC consistent with the LCI Plan.	2026	2027	NA	NA	Community Development, Public Works
8	Public Facilities	Add space for flag	2026	2027	\$20,000	N/A	Community Development, Parks and Recreation
9	Economic Development	Reevaluate Entertainment District Growth Strategy	2026	2027	N/A	GF, KDDA	Economic Development
10	Economic Development	Review strategic growth plan with Planning and Zoning Department	2026	2027	N/A	N/A	Museum & Economic Dev
11	Community Facilities	Upgrade Neighborhood Parks	2026	2027	\$35,000	GF	Parks and Recreation
12	Information Technology	implement electronic submittal programs for all departments	2026	2027	N/A	N/A	Information Technology
13	Community Facilities	Street Improvements	2026	2027	\$300,000	SPLOST	Public Works
14	Transportation Element	Promote the expansion of local public transit alternatives in conjunction with Cobb County, ARC and other state/regional agencies.	2026	2027	N/A	N/A	Community Development
15	Community Facilities	City Wide Computer upgrade and integration	2026	2027	\$100,000	GF	Information Technology
16	Economic Development	Review Downtown Development authority business recruitment strategy	2026	2027	N/A	N/A	Community Development
17	Community Facilities	Review greenspace requirement for population	2026	2027	N/A	N/A	Parks and Recreation
18	Economic Development	Analyze the downtown business retention plan	2026	2027	N/A	N/A	Economic Development
19	Land Use	City to expand network with local school board system in order to improve input regarding future development	2026	2027	N/A	N/A	Commuinty Dev
20	Land Use	Review Housing Audit	2026	2027	N/A	N/A	Community Development
21	Community Facilities	Annual comprehensive plan updates	2026	2027	N/A	NA	Planning and Zoning
22	land use	analyze Senior Housing inventory for lifelong community initiative	2026	2027	N/A	N/A	Planning and Zoning
23	Community Facilities	Storm Water Utility assessment of projects	2026	2027	N/A	NA	Public Works
24	Community Facilities	Drainage system improvements	2026	2027	\$300,000	SPLOST	Public Works
25	Community Facilities	review city transportation plan	2026	2027	N/A	GF	Public Works

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2023-08, 2023

**RESOLUTION ADOPTING THE TRANSMITTAL OF UPDATES TO THE
CAPITAL IMPROVEMENT ELEMENT AND THE SHORT-TERM WORK
PROGRAM COVERING THE FIVE-YEAR PERIOD 2023-2027**

**BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF
KENNESAW, COBB COUNTY, GEORGIA AS FOLLOWS:**

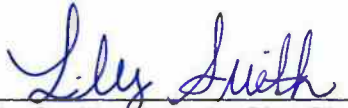
WHEREAS, the City of Kennesaw has prepared an annual update to the Capital Improvements Element and Short Term Work Program; and

WHEREAS, the annual update of the Capital Improvements Element and Short-Term Work Program was prepared in accordance with the Development Impact Fee Compliance Requirements and the Minimum Planning Standards and Procedures for Local Comprehensive Planning established by the Georgia Planning Act of 1989, and a Public Hearing was held on March 20, 2023 6:30 p.m. in the Kennesaw City Hall.

BE IT THEREFORE RESOLVED, which the Mayor and the Council of the City of Kennesaw does hereby submit for transmittal the annual update of the Capital Improvements Element and Short Term Work Program covering the five-year period 2023-2027 to the Atlanta Regional Commission for Regional review, as per the requirements of the Georgia Planning Act of 1989.

PASSED AND ADOPTED by the Kennesaw City Council on this 20th day of March 2023.

ATTEST:



Lily Smith, Deputy City Clerk

CITY OF KENNESAW



Derek Easterling, Mayor

nily	8003	Public Hearing
Chil- seor-	MDJ-4367 GPN-16	
fions and have	CITY OF KENNESAW PUBLIC NOTICE	
that not You rk of er's Cobb saw, r re- (60) ser-	Notice is hereby given that the City of Kennesaw shall hold two public hearings to consider the final adoption of the Capital Improvement Element and Short-Term Work Program report for Fiscal Years 2023 through 2027. A copy of the report is on file at City Hall in the Planning and Zoning Office for review during normal business hours of 8:00 AM - 5:00 PM Monday through Friday.	
'med ttor- y re- lifies court f the ard-	The Mayor and Council will hold the first public hearing on June 5, 2023 at 6:30 PM. The final adoption hearing is scheduled for a meeting on June 19, 2023 at 6:30 PM in the Kennesaw City Council Chambers, 2529 J.O. Stephenson Avenue. Any interested citizens are invited to email kennesawcouncil@kennesaw-ga.gov or attend to be heard.	
iran-	Mayor and Council will be conducting their meeting in person as well as through Zoom Meeting and Facebook Live and you can access the meeting via the following link: https://www.facebook.com/CityofKennesaw/	
	5:19,26-2023	

5:12,19,26; 6:2-2023

**MDJ-4367
GPN-16
CITY OF KENNESAW
PUBLIC NOTICE**

Notice is hereby given that the City of Kennesaw shall hold two public hearings to consider the final adoption of the Capital Improvement Element and Short-Term Work Program report for Fiscal Years 2023 through 2027.

A copy of the report is on file at City Hall in the Planning and Zoning Office for review during normal business hours of 8:00 AM - 5:00 PM Monday through Friday.

The Mayor and Council will hold the first public hearing on June 5, 2023 at 6:30 PM. The final adoption hearing is scheduled for a meeting on June 19, 2023 at 6:30 PM in the Kennesaw City Council Chambers, 2529 J.O. Stephenson Avenue. Any interested citizens are invited to email

kennesawcouncil@kennesaw-ga.gov or attend to be heard.

Mayor and Council will be conducting their meeting in person as well as through Zoom Meeting and Facebook Live and you can access the meeting via the following link: <https://www.facebook.com/CityofKennesaw/>

5:19,26-2023

**MDJ-4602
GPN-16
CITY OF KENNESAW**

**MINUTES OF CITY COUNCIL WORK SESSION MEETING
CITY OF KENNESAW
Council Chambers
May 8, 2023
6:30 PM**

Present Mayor Derek Easterling
 Mayor Pro Tem Tracey Viars
 Councilmember Lynette Burnette
 Councilmember Pat Ferris
 Councilmember Antonio Jones
 Councilmember Trey Sinclair
 City Clerk Lea Alvarez
 City Manager Jeff Drobney
 City Attorney Randall Bentley, Sr.

1. Invocation

2. Pledge of Allegiance

3. Call to Order

4. Announcements

- A. This public meeting is being conducted via the use of real-time telephonic technology allowing the public simultaneous access to the public meeting. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed. Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: <https://www.facebook.com/CityofKennesaw/>
- B. If you are not able to attend a meeting in-person and would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 PM the night of the regular meeting. Your comments on a specific agenda item will be read aloud or grouped into categories for the record. **Facebook Live is not monitored for public comment.**

5. Presentations

6. Public Comment/Business from the Floor

7. Old Business

8. New Business

- A. Approval of RESOLUTION authorizing the use of Parks and Recreation impact fee funds in the amount of \$89,825 for the design of New Chalker Park.

City Manager Jeff Drobney presented a resolution authorizing the use of Parks and Recreation impact fee funds for the design of New Chalker Park in the amount of \$89,825. As part of the Development Agreement with East Park, now that the city is collecting its impact fees, initial design is the next step, so we can go out to bid.

Councilmember Jones asked if there was anything else the city could add to the park. Dr. Drobney said we do not have a design yet, so we are not sure what we would add or not add. Right now, it is a park, dog park, walking path, etc. At the end of the day, the design will be driven by the amount of impact fees that are collected for the project, which are still unknown at this point. Assistant City Manager Marty Hughes said this project would be done in two phases based on how the dollars come in, with the first being site prep and the second being construction.

After receiving confirmation from Council, Mayor Easterling suggested moving the item to the Consent Agenda.

9. Committee and Board Reports

10. Public Hearing(s)

- A. Consideration to approve a land use permit application for the property located at 1205 Mountain Springs Drive as submitted by applicant Ann Moormann. Case # LU2023-01.

Assistant Zoning Administrator and Planner Albert Trevino presented a land use permit application for the property located at 1205 Mountain Springs Drive as submitted by applicant Ann Moormann. The applicant is looking to acquire an occupational home business license to make soaps and bath-related products within the R-10 zoning district. Her products will include soaps, bath bombs, solid bubble bath bars, shampoo bars, shower steam bars, as well as lip balms. All the equipment used to make these products is commonly found as household items. The applicant plans to sell her products at craft fairs, farmers markets, and social media. All products will be sold off-site or delivered through a carrier service. Mr. Trevino noted the applicant would not be allowed to have any customers pick up products at her house. If approved, the permit will be valid for 24 months per the Unified Development Code. Zoning staff recommends approval with two conditions. The first condition is that this land use permit is limited to, exclusively for, and only valid for the current applicant and the life of this particular business. Its use is not transferrable and any changes will need to come back before the city for approval. The second condition is that no clients, customers, or employees should be allowed on the property, as well as that there shall be no evidence that this is a business from outside the home.

- B. Approval of an ORDINANCE authorizing a rezoning request of property located at 0 Cobb Parkway or parcel number 20013900990 and owned by the City of Kennesaw. Case # RZ2023-02(A).

Assistant Zoning Administrator and Planner Albert Trevino provided brief context regarding the next seven rezoning items. The properties are being rezoned from their current designation to the Central Business District (CBD). Each item was applied for by the City of Kennesaw, and they will be voted on separately at the regular meeting. Mr. Trevino explained that over 20 years ago, the city created the CBD district, which laid the groundwork for the downtown core as we know it today. It is a mixed-use district, which was adopted by the City Council in 2002. In 2003, city staff mailed out invitation letters to all downtown properties with responses from over 100 property owners to buy in to the new district. In 2005, another rezoning for CBD was done with responses from about 30 property owners. This year, staff mailed out invitation letters to about 25 property owners within downtown that were not zoned CBD. Mr. Trevino stated that staff's intention was to plug in the islands that were not CBD to make downtown a more contiguous zoning category. He emphasized that if these properties are rezoned as CBD, they will have to come back before the Council through the CBD application process for any new development.

Mr. Trevino presented an ordinance authorizing the rezoning request for property located at 0 Cobb Parkway or parcel number 20023900990 and owned by the City of Kennesaw. This property is located in Adams Park, which is a detention pond. The intention of this rezoning is to make Adams Park a contiguous zoning destination.

- C. Approval of an ORDINANCE authorizing a rezoning request of property located at 2681 South Main Street or parcel number 20016700140 and owned by Old South Village, LLC c/o Kodiak Ventures. Case # RZ2023-02 (B).

Assistant Zoning Administrator and Planner Albert Trevino presented an ordinance authorizing a rezoning request of property located at 2681 South Main Street or parcel number 20016700140 and owned by Old South Village, LLC c/o Kodiak Ventures. This property is currently a privately owned mobile home park. It is about 3.5 acres with approximately 25 manufactured homes on site. Mr. Trevino explained rezoning the property to the Central Business District (CBD) would not change the use of the property. It will still operate as a mobile home property, which is protected by the city's non-conforming ordinance within the Unified Development Code.

Councilmember Jones asked if any of the lots are owned by individuals or are they owned by a subdivision. Mr. Trevino responded that the parcel is owned by an individual, but the pads are leased out to the manufactured home owners. Councilmember Jones asked how long the lease agreements were and if the tenants had rights if the owner decides to sell the property. Mr. Trevino said staff could ask how long the leases are and if there is a clause indicating the timeframe and relocation process for tenants if the property owner decides to sell his or her parcel.

- D. Approval of an ORDINANCE authorizing a rezoning request of property located at 2716 South Main Street or parcel number 20013801750 and owned by Hugh E. Byrd. Case # RZ2023-02 (C).

Assistant Zoning Administrator and Planner Albert Trevino presented an ordinance authorizing a rezoning request for property located at 2716 South Main Street or parcel number 20013801750 and owned by Hugh E. Byrd. The property is currently zoned R-

15 and is an occupied, single detached family house and will remain as such.

Councilmember Jones asked if the Council approved this rezoning to the Central Business District, and if the property owner has a homestead exemption, would the owner lose that exemption? Mr. Trevino responded there would be no impact on the homeowner.

- E. Approval of an ORDINANCE authorizing a rezoning request of property located at 2753 Watts Drive or parcel number 20013900590 and owned by the City of Kennesaw. Case #RZ2023-02 (D).

Assistant Zoning Administrator and Planner Albert Trevino presented an ordinance authorizing a rezoning request of property located at 2753 Watts Drive or parcel number 20013900590 and owned by the City of Kennesaw. This property is the location of the Ben Robertson Community Center. The intent of this rezoning is to make Adams Park a contiguous zoning category.

- F. Approval of an ORDINANCE authorizing a rezoning request of property located at 2754 South Main Street or parcel number 20013801880 and owned by Bencivenga Gabriel Living Trust 7/9/02, Gabriel Bencivenga, LLC. Case #RZ2023-02 (E).

Assistant Zoning Administrator and Planner Albert Trevino presented an ordinance authorizing a rezoning request of property located at 2754 South Main Street or parcel number 20013801880 and owned by Bencivenga Gabriel Living Trust 7/9/02, Gabriel Bencivenga, LLC. This property has one building that houses two eating establishments: Fern Gully and Kennesaw Thai. These establishments will remain if the parcel is rezoned to the Central Business District.

- G. Approval of an ORDINANCE authorizing a rezoning request of property located at 2817 Sardis Street or parcel number 20013800770 and owned by the City of Kennesaw. Case #RZ2023-02 (F).

[Councilmember Ferris shared he will abstain from the vote on item 10 - G at the regular meeting due to his proximity to the property].

Assistant Zoning Administrator and Planner Albert Trevino presented an ordinance authorizing a rezoning request for property located at 2817 Sardis Street or parcel number 20013800770. The property is currently zoned R-15 and is a part of Depot Park. It is the last parcel in Depot Park not zoned in the Central Business District.

- H. Approval of an ORDINANCE authorizing a rezoning request of property located at 2971 North Main Street or parcel number 20013900200 and owned by David & Kathryn Collier. Case #RZ2023-02 (G).

[Mayor Pro Tem Viars shared she will abstain from the vote on item 10 - H at the regular meeting since she has worked with the homeowner on other real estate projects].

Assistant Zoning Administrator and Planner Albert Trevino presented a rezoning

request for property located at 2971 North Main Street or parcel number 20013900200 and owned by David and Kathryn Collier. It is a historic, detached single family home zoned R-15 located within the Historic District.

Mr. Trevino stated staff is recommending approval on items 10 - B through G, as well as the Planning Commission; however, the Planning Commission recommended denying the rezoning request regarding item 10 - H. The following day, staff received an email from the applicant requesting to withdraw the application. Staff changed their recommendation to withdraw the application with prejudice, which means the Zoning department cannot receive an application for this property for the next 12 months following the Council's decision to accept this request to withdraw.

- I. Approval of ORDINANCE to amend the Unified Development Code, Appendix A, Chapter 5 "Standards for Accessory and Temporary Uses," Section 5.03.14 and Section 5.03.18 of said chapter regarding political campaign signage as submitted by the City of Kennesaw. Case #MISC2023-02.

Zoning Administrator Darryl Simmons presented an ordinance to amend the Unified Development Code, Appendix A, Chapter 5, "Standards for Accessory and Temporary Uses," Section 5.03.14 and Section 5.03.18 of said chapter regarding political campaign signage as submitted by the City of Kennesaw. Mr. Simmons explained these text amendments stem from conversations had with the Council back in January. This amendment is to clearly define and give reference to O.C.G.A 16-7-58 (a)(2), which is the standard for political signs regarding the length of stay on property, exceptions, and clarifying some language about political signage on right of way or public property.

City Attorney Randall Bentley, Sr. shared this ordinance change originated from Councilmember Ferris' concerns regarding political signs on the city's right of way and private property.

Councilmember Ferris shared he was happy with the amendments because they extended beyond political signs. He mentioned his frustration with signs on telephone poles. With the changes the attorneys made, staff will have new options regarding enforcement of signage like that.

Councilmember Jones asked if the city has jurisdiction over light poles or are they owned by the utility companies. Mr. Simmons said our sign ordinance states there shall be no signs on the city's right of way or public infrastructure, which includes light poles. He further explained the city does not allow signage on light poles because of safety concerns. All the code enforcement is driven by public safety.

11. Consent Agenda

- A. Approval of the April 24, 2023 City Council work session minutes.
- B. Approval of the May 1, 2023 City Council regular meeting minutes.

12. General and Administrative

13. Public Safety

- A. Receipt of April 2023 Crime Statistics.

Police Chief Bill Westenberger presented the April 2023 crime statistics.

14. Information Technology

15. Public Works

- A. Approval of RESOLUTION providing a Power Distribution Easement Agreement with Georgia Power.

Public Works Director Ricky Stewart presented a resolution authorizing a power distribution easement agreement with Georgia Power. Georgia Power is requesting an easement to run their underground from their distribution to the transformers that will be supplying power to the restrooms and stage at the amphitheater in Depot Park. The easement will be placed 10 feet on either side of the infrastructure.

After receiving confirmation from Council, Mayor Easterling suggested moving the item to the Consent Agenda.

- B. Approval of RESOLUTION authorizing the purchase of six crosswalk sign assemblies.

Public Works Director Ricky Stewart presented a resolution authorizing the purchase of six crosswalk sign assemblies. The city budgeted, through state and local fiscal recovery act funds, to upgrade our current crosswalk signs. The six proposed signs will match what was installed in front of the Revival apartment complex. The recommendation is to replace the six existing cross walks at Main Street and Watts Drive, Main Street and Moon Station Road, Main Street and Dallas Street, Main Street and Park Drive, Cherokee Street at the ampitheatre crossing, as well as Watts Drive at the Revival crossing.

Councilmember Jones asked staff to look at the signs the City of Milton put in front of their crosswalks before making any decisions. He believes it is easier to see their signs than it is to see ours.

Mayor Easterling stated the Council could still approve the item with a follow-up request to look at the City of Milton's crosswalks. After receiving confirmation from Council, Mayor Easterling suggested moving the item to the Consent Agenda.

Councilmember Sinclair hopes with six more cross walks that match the one in front of Revival, maybe more people will pay attention.

- C. Approval of RESOLUTION re-authorizing the condemnation of Parcel 15 – Cherokee Street Improvement Project, located at 3195 Travelers Trail, Kennesaw, Georgia, 30144, as required for the Special Purpose Local Option

Sales Tax (SPLOST) Cherokee Street Project.

Public Works Director Ricky Stewart presented a resolution re-authorizing the condemnation of project Parcel 15, a part of the Cherokee Street Improvement Project, located at 3195 Travelers Trail. Mr. Stewart shared the Council has heard and approved this condemnation before, but is restating the condemnation as we get closer to actually filing.

Councilmember Ferris wondered why the Council had to approve the condemnation again. City Manager Jeff Drobney stated the city has been advised by Legal that because the approval was longer than six months ago, it is important to bring it back to the Council. City Attorney Randall Bentley, Sr. mentioned that if the approvals lapse six months, the value of the property could change.

Mayor Easterling asked for the condemnations to remain where they are on the agenda.

- D. Approval of RESOLUTION re-authorizing the condemnation of Parcel 25 – Cherokee Street Improvement Project, located at 3248 Cherokee Street, Kennesaw, Georgia, 30144, as required for the Special Purpose Local Option Sales Tax (SPLOST) Cherokee Street Project.

Public Works Director Ricky Stewart presented a resolution re-authorizing the condemnation of project Parcel 25, a part of the Cherokee Street Improvement Project, located at 3248 Cherokee Street. Again, Mr. Stewart stated the Council has approved condemnation of this property, but it has been greater than six months since that approval.

- E. Approval of RESOLUTION authorizing the condemnation of Parcel 35 – Cherokee Street Improvement Project, located at 3326 Cherokee Street, Kennesaw, Georgia, 30144, as required for the Special Purpose Local Option Sales Tax (SPLOST) Cherokee Street Project.

Public Works Director Ricky Stewart presented a resolution authorizing the condemnation of project Parcel 35, a part of the Cherokee Street Improvement Project, located at 3326 Cherokee Street. Mr. Stewart noted the city has had land agents in discussion with the property owner; however, no fair value has been established, so staff is requesting to begin the condemnation process.

- F. Approval of RESOLUTION re-authorizing the condemnation of Parcel 55 – Cherokee Street Improvement Project, located at 3461 Cherokee Street, Kennesaw, Georgia, 30144, as required for the Special Purpose Local Option Sales Tax (SPLOST) Cherokee Street Project.

Public Works Director Ricky Stewart presented a resolution re-authorizing the condemnation of project Parcel 55, a part of the Cherokee Street Improvement Project, located at 3461 Cherokee Street. Again, Mr. Stewart stated the Council has approved condemnation of this property, but it has been greater than six months since that approval.

- G. Approval of RESOLUTION re-authorizing the condemnation of Parcel 59 – Cherokee Street Improvement Project, located at 3481 Cherokee Street, Kennesaw, Georgia, 30144, as required for the Special Purpose Local Option Sales Tax (SPLOST) Cherokee Street Project.

Public Works Director Ricky Stewart presented a resolution re-authorizing the condemnation of project Parcel 59, a part of the Cherokee Street Improvement Project, located at 3481 Cherokee Street. Again, Mr. Stewart stated the Council has approved condemnation of this property, but it has been greater than six months since that approval.

Mayor Easterling requested item 15 - E be moved to the end of section 15 to distinguish the initial condemnation item from the items requesting re-authorization. Motion by Councilmember Jones to move item 15 - E , a resolution authorizing the condemnation of project Parcel 25, a part of the Cherokee Street Improvement Project, located at 3326 Cherokee Street, to the end of section 15 to distinguish it from the items requesting reauthorization for condemnation, as requested. Seconded by Mayor Pro Tem Viars. The vote was taken and the motion unanimously passed 5-0. Motion carried.

16. Recreation and Culture

17. Community Development

18. Public Comment/Business from the Floor

19. City Manager's Report

- A. Reports, Discussions, and Updates.

20. Mayor's Report

- A. Mayor and Council (re)appointments to Boards and Commissions. This item is for (re)appointments made by the Mayor to any Board, Committee, Authority, or Commission requiring an appointment to fill any vacancies, resignations, and to create or dissolve boards and commissions, as deemed necessary.

21. Council Comments

22. Executive Session

Pursuant to the provisions of O.C.G.A 50-14-3, the City Council could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney; and/or personnel matters; and/or real estate matters.

23. Adjourn

Mayor Easterling adjourned the meeting at 7:13 P.M. The next regular meeting will be held Monday, May 15, 2023 at 6:30 P.M. in the Council Chambers. The public is

encouraged to attend or view via Facebook Live.

DRAFT

**MINUTES OF CITY COUNCIL MEETING
CITY OF KENNESAW
Council Chambers
May 15, 2023
6:30 PM**

Present

Mayor Derek Easterling
Mayor Pro Tem Tracey Viars
Councilmember Pat Ferris
Councilmember Antonio Jones
Councilmember Trey Sinclair
City Clerk Lea Alvarez
City Manager Jeff Drobney
Assistant City Attorney Sam Hensley, Jr.

1. Invocation

City Resident Carlene Fregeolle led the invocation.

2. Pledge of Allegiance

City Resident Andrew Bramlett led the Pledge of Allegiance.

3. Call to Order

Mayor Easterling called the meeting to order at 6:30 p.m.

4. Annoucements

- A. This public meeting is being conducted via the use of real-time telephonic technology allowing the public simultaneous access to the public meeting. You may also attend in person with limited seating available at both the Council Chambers and the Ben Robertson Community Center, if needed. Mayor and Council will be conducting their meeting via real-time telephonic technology using Zoom Meeting and Facebook Live. You can access the meeting via the following link: <https://www.facebook.com/CityofKennesaw/>
- B. If you are not able to attend a meeting in-person and would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 PM the night of the regular meeting. Your comments on a specific agenda item will be read aloud or grouped into categories for the record. **Facebook Live is not monitored for public comment.**

5. Presentations

6. Public Comment/Business from the Floor

[The City Attorney swore-in any witnesses or individuals offering comments on the agenda].

6:32 p.m. Floor Open for Public Comments

JAMES STEWART [City Resident]: Mr. Stewart, a resident and owner of 2975 North Main Street, which directly adjoins 2971 North Main Street, asked the Council to deny its rezoning application. He shared several areas of concern regarding the property's potential rezoning to the Central Business District. Mr. Stewart stated the lot is a definitive part of the historic, residential corridor of Main Street between Lewis Street and Knightsbridge Road and has a Main Street address. Further, the property at 2971 North Main Street fits within the aesthetic design and intention of family residency in the historic, residential district. Despite some opinions, Mr. Stewart explained the house is directly across the street from another residence and not Kennesaw First Baptist Church, which is angled away down Main Street. He is concerned about the fact that his property shares a driveway with this lot and that historic standards prevent any barrier between his home and 2971 North Main Street. As a father of two young children, he is worried about the traffic in this driveway should a business start there. In Mr. Stewart's opinion, the only distinction between 2971 North Main Street and his house is that it has been consistently vacant for a number of years. He is aware of two to four parties who have made serious inquiries to buy this house as a residential family home. The structure still has value to potential families as owners, but has not been listed as residential. The city has a Historic Preservation Commission in place to hold homeowners accountable for the structures, colors, and exterior features of their homes to keep them historically appropriate, but businesses will be held by different standards as they will need to have parking lots to accommodate customers, signage, railings, ADA compliant ramps, etc. Lastly, Mr. Stewart said once this property goes commercial, if the city approves it, it will most likely never go back to a residential lot again. There is no predicting what kind of business would be going inside that space. He asked the Council to deny the rezoning request and allow the property to remain residential.

KIMBERLY WATKINS [City Resident]: Ms. Watkins read a letter submitted to city staff regarding North Main Street's residents' opposition to the rezoning application for 2971 North Main Street (**See Exhibit A**).

6:43 p.m. Floor Closed for Public Comments

7. Old Business

8. New Business

9. Committee and Board Reports

10. Public Hearing(s)

- A. Consideration to approve a land use permit application for the property located at 1205 Mountain Springs Drive as submitted by applicant Ann Moormann.

Case # LU2023-01.

Assistant Zoning Administrator and Planner Albert Trevino presented a land use permit application for the property located at 1205 Mountain Springs Drive as submitted by applicant Ann Moormann. Ms. Moormann is looking to obtain a home occupational business license to make soaps and other bath-related products in her home. A list of materials and equipment was submitted as part of the agenda packet. Once the products are created, she intends to sell them at local farmers' markets, craft fairs, and on social media. She has assured the city that any sales made on social media will go directly to a carrier to be delivered. No customers will be allowed to pick up products at her house. Ms. Moormann has checked with the Kennesaw Springs Community Home Owners' Association President and confirmed that home-based businesses are allowed within the neighborhood. The Planning Commission reviewed this application and recommended approval with the conditions as outlined by staff.

Councilmember Ferris mentioned at the Planning Commission, Mr. Trevino mentioned this permit was only valid for 24 months. Mr. Trevino stated that was correct as the timeframe is mandated by our code. Councilmember Ferris would like to see the 24 months included in the motion.

Motion by Councilmember Jones to approve a land use permit application for the property located at 1205 Mountain Springs Drive as submitted by applicant Ann Moormann for a period of 24 months in accordance with the Unified Development Code with the following conditions: 1) the land use permit is limited to, exclusive to and only valid for the current applicant and the life of this particular business and use, and it is not transferrable. Any changes would require additional review and approval, and 2) there shall be no clients, customers or employees at this location. Nor shall there be any evidence of a home-based business visible from the public right-of-way. Seconded by Councilmember Sinclair.

6:46 p.m. Floor Open for Public Comments

No comments.

6:47 p.m. Floor Closed for Public Comments

Vote taken, motion unanimously approved 5-0. Motion passed.

- B. Approval of an ORDINANCE authorizing a rezoning request of property located at 0 Cobb Parkway or parcel number 20013900990 and owned by the City of Kennesaw. Case # RZ2023-02(A).

Assistant Zoning Administrator and Planner Albert Trevino provided brief context regarding items 10. B through 10. H, which are all rezoning items submitted by the City of Kennesaw. All items will be heard and voted on separately. Mr. Trevino stated the aforementioned items are considered phase two of the Central Business District (CBD) expansion project. The CBD was created in 2002 and laid the groundwork for a brand

new, comprehensive mixed use zoning district within our downtown core. This district allows for a mixture of uses which is appropriate for our city's downtown, but also allows for flexibility in design for building placement as well as standards for beautification. Phase one of this expansion project occurred in 2003 and 2005 when over 130 property owners agreed to sign on to this new zoning district. This year, staff mailed invitation letters to 25 property owners to see if they would like to be a part of the CBD zoning category. For all properties, there have been no talks about new development. Mr. Trevino explained this project is merely a zoning district change from the agreed properties' current zoning to our Central Business District. All current uses of the properties will remain and anything that is nonconforming to the CBD will also be grandfathered within the city's non-conforming ordinance in the Unified Development Code. Any new proposals for development must go through the city's three-step process: the Kennesaw Downtown Development Authority, the Historic Preservation Commission, and ultimately, the City Council.

Assistant Zoning Administrator and Planner Albert Trevino presented an ordinance authorizing a rezoning request for property located at 0 Cobb Parkway or parcel number 20013900990 and owned by the City of Kennesaw. This city-owned property is currently zoned Highway General Business, is located in Adams Park, and is a stormwater detention facility. The intention of this rezoning is to make Adams Park a contiguous zoning category. At their regularly scheduled meeting, the Planning Commission recommended approval of the rezoning request, and staff is recommending approval as well.

Motion by Councilmember Ferris to approve **ORDINANCE 2023-06, 2023** authorizing a rezoning request for property located at 0 Cobb Parkway, as presented. Seconded by Councilmember Sinclair.

6:51 p.m. Floor Open for Public Comments

No comments.

6:52 p.m. Floor Closed for Public Comments

Vote taken, motion unanimously approved 5-0. Motion passed.

- C. Approval of an ORDINANCE authorizing a rezoning request of property located at 2681 South Main Street or parcel number 20016700140 and owned by Old South Village, LLC c/o Kodiak Ventures. Case # RZ2023-02 (B).

Assistant Zoning Administrator and Planner Albert Trevino presented an ordinance authorizing a rezoning request of property located at 2681 South Main Street, or parcel number 20016700140, and owned by Old South Village, LLC c/o Kodiak Ventures. Mr. Trevino stated this property is currently a mobile home park with 3.5 acres and 25 manufactured homes. Rezoning to the CBD would allow the property to continue operating as a mobile home park. The property owner, Kodiak Ventures, owns all units

and leases the units to its tenants. The typical lease is one year with varying expiration dates. The property owner shared that in the event there are future changes in the use of the property, Kodiak Ventures would work with each tenant and provide adequate time for them to relocate. Executing a relocation plan would occur before and during the time that they would develop plans and seek out financing for construction. The property owner's preferred solution regarding a relocation plan would be to a different mobile home park for the tenants to relocate with their trailers. At their regularly scheduled meeting, the Planning Commission recommended approval and staff recommends approval as well.

Motion by Mayor Pro Tem Viars to approve **ORDINANCE NO. 2023-07, 2023** authorizing a rezoning request of property located at 2681 South Main Street, as presented. Seconded by Councilmember Burnette.

6:53 p.m. Floor Open for Public Comments

No comments.

6:54 p.m. Floor Closed for Public Comments

Vote taken, motion unanimously approved 5-0. Motion passed.

- D. Approval of an ORDINANCE authorizing a rezoning request of property located at 2716 South Main Street or parcel number 20013801750 and owned by Hugh E. Byrd. Case # RZ2023-02 (C).

Assistant Zoning Administrator and Planner Albert Trevino presented an ordinance authorizing a rezoning request for property located at 2716 South Main Street, or parcel number 20013801750, and owned by Hugh E. Byrd. Mr. Trevino stated this property is currently zoned R-15 and is privately owned by Reverend Byrd. On the property is a single-family detached ranch-style home with four-sided brick and two accessory structures in the rear. The total acreage of the property is around 1.7 acres and it is adjacent to the Enclave, which is an active-adult community. At their regularly scheduled meeting, the Planning Commission recommended approval of the request and staff recommends approval as well.

Motion by Councilmember Viars to approve an ordinance regarding the rezoning request for property located at 2716 South Main Street. Seconded by Councilmember Sinclair.

6:55 p.m. Floor Open for Public Comments

REVEREND HUGH E. BYRD [Property Owner]: Reverend Byrd decided to change his decision on opting in to the Central Business District for right now. He saw some problems moving forward and asked to withdraw his application.

Mr. Trevino shared that this was the first time staff had heard about a change in decision; however, staff was amenable to changing their recommendation to formally withdraw the application at the applicant's choosing.

6:58 p.m. Floor Closed for Public Comments

Substitute motion by Councilmember Ferris to accept the withdrawal of the rezoning request for property located at 2716 South Main Street. Seconded by Councilmember Sinclair.

Councilmember Ferris is concerned about the Council being consistent regarding motions to accept withdrawals. Ms. Collier requested to withdraw her request (item 10. G), and at the work session, staff recommended allowing withdrawal with prejudice. Councilmember Ferris stated if we are going to allow Reverend Byrd to withdraw without mention of prejudice, he believes Ms. Collier should be given the same opportunity.

Mr. Trevino explained the reasoning behind recommending accepting the withdrawal with prejudice for the Collier property is so staff can revisit the Future Land Use Map. By accepting with prejudice, the 12 months would allow staff to hold public engagement meetings and get more community input regarding whether the downtown activity center categories are appropriate for these select parcels, especially for the second phase of the CBD expansion project. Once staff gets that information, it would need to be submitted to the Atlanta Regional Commission and the Department of Community Affairs to review and provide recommendations. That process would take longer than six months, which is why they recommended it with prejudice.

Councilmember Ferris stated one could make the same argument for Reverend Byrd's property. He is looking for consistency. He doesn't think either applicant should be penalized for wanting to opt out of the CBD expansion project. He asked that the motions did not mention prejudice.

Vote taken, motion unanimously approved 5-0. Motion passed.

- E. Approval of an ORDINANCE authorizing a rezoning request of property located at 2753 Watts Drive or parcel number 20013900590 and owned by the City of Kennesaw. Case #RZ2023-02 (D).

Assistant Zoning Administrator and Planner Albert Trevino presented an ordinance authorizing a rezoning request for property located at 2753 Watts Drive, or parcel number 20013900590, and owned by the City of Kennesaw. Mr. Trevino stated this property is currently zoned Office Institutional and is the location of both the Ben Robertson Community Center and its parking lot. 2753 Watts Drive, and the detention pond, are the last two remaining parcels in Adams Park to create a contiguous CBD category. At their regularly scheduled meeting, the Planning Commission recommended approval of this rezoning and request, and staff recommends approval

as well.

Motion by Councilmember Ferris to approve **ORDINANCE NO. 2023-08, 2023** authorizing a rezoning request of property located at 2753 Watts Drive, as presented. Seconded by Councilmember Burnette.

7:04 p.m. Floor Open for Public Comments

No comments.

7:05 p.m. Floor Closed for Public Comments

Vote taken, motion unanimously approved 5-0. Motion passed.

- F. Approval of an ORDINANCE authorizing a rezoning request of property located at 2754 South Main Street or parcel number 20013801880 and owned by Bencivenga Gabriel Living Trust 7/9/02, Gabriel Bencivenga, LLC. Case #RZ2023-02 (E).

Assistant Zoning Administrator and Planner Albert Trevino presented an ordinance authorizing a rezoning request for property located at 2754 South Main Street, or parcel number 20013801880, and owned by Bencivenga Gabriel Living Trust 7/9/02, Gabriel Bencivenga, LLC. Mr. Trevino stated this private property has one commercial building that houses two restaurants: Fern Gully, which was established in 2017 and Kennesaw Thai, which was established in 2012. Restaurant use is encouraged in the CBD, and the property is completely surrounded by the CBD. At their regularly scheduled meeting, the Planning Commission recommended approval, and staff recommends approval as well.

Motion by Councilmember Sinclair to approve **ORDINANCE NO. 2023-09, 2023** authorizing a rezoning request for property located at 2754 South Main Street, as presented. Seconded by Mayor Pro Tem Viars.

7:05 p.m. Floor Open for Public Comments

No comments.

7:06 p.m. Floor Closed for Public Comments

Vote taken, motion unanimously approved 5-0. Motion passed.

- G. Approval of an ORDINANCE authorizing a rezoning request of property located at 2817 Sardis Street or parcel number 20013800770 and owned by the City of Kennesaw. Case #RZ2023-02 (F).

[Councilmember Ferris has a property adjacent to the rezoning request. He is

abstaining from discussing and voting on item X. G. The Assistant City Attorney confirmed Councilmember Ferris could remain in the Council Chambers].

Assistant Zoning Administrator and Planner Albert Trevino presented an ordinance authorizing a rezoning request for property located at 2817 Sardis Street, or parcel number 20013800770, and owned by the City of Kennesaw. Mr. Trevino stated this property is currently zoned R-15 and is the last remaining parcel in Depot Park not zoned CBD. The intent of this rezoning is to make Depot Park one contiguous zoning category. At their regularly scheduled meeting, the Planning Commission recommends approval, and staff recommends approval as well.

Motion by Councilmember Jones to approve **Ordinance No. 2023-10, 2023** authorizing a rezoning request for property located at 2817 Sardis Street, as presented. Seconded by Councilmember Sinclair.

7:07 p.m. Floor Open for Public Comments

No comments.

7:08 p.m. Floor Closed for Public Comments

Vote taken, motion unanimously approved 4-0-1 (Councilmember Ferris abstained).
Motion passed.

- H. Approval of an ORDINANCE authorizing a rezoning request of property located at 2971 North Main Street or parcel number 20013900200 and owned by David & Kathryn Collier. Case #RZ2023-02 (G).

[Mayor Pro Tem Viars abstained from discussing and voting on item X. H].

Assistant Zoning Administrator and Planner Albert Trevino presented a rezoning request for property located at 2971 North Main Street, or parcel number 20013900200, and owned by David and Kathryn Collier. Mr. Trevino stated this private property holds a historic, detached single-family home, which is currently zoned R-15, and located within the city's historic district. To the eye, this home is considered as one of the bookends to the beautiful historic homes on North Main Street. Historically, the home was known as the W.B. Adams' house. When looking at the property to the left, there is a multi-tenant, commercial retail establishment. If you are looking at the property to the right, there is an occupied, single-family detached home. The boundaries of the North Main Street historic district begin at Lewis Street and Dallas Street and extend down North Main Street until you reach 3015 North Main Street. Mr. Trevino explained that shortly after the public notification process, staff began receiving letters and emails in opposition to the rezoning request. Staff received an email from Dane Thomas on April 18, 2023; an email from Cindi Michael on May 2, 2023; a signed petition from the residents of North Main Street and supporting documentation on why the city should deny the request from Madelyn Orochena on May 2, 2023; more signatures from the

community provided by Dr. Kimberly Watkins on May 3, 2023; and a second letter of opposition from Cindi Michael on May 13, 2023. All letters and emails are included in the agenda packet. At their regularly scheduled meeting, the Planning Commission recommended denial of the application. On May 4, 2023, staff received an email from Kathryn Collier requesting to withdraw the application. Staff recommends withdrawing with no mention of prejudice as discussed earlier.

Motion by Councilmember Ferris to accept the withdrawal of the rezoning request for property located at 2971 North Main Street, as presented. Seconded by Councilmember Burnette.

7:12 p.m. Floor Open for Public Comments

No comments.

7:13 p.m. Floor Closed for Public Comments

Vote taken, motion unanimously approved 4-0-1 [Mayor Pro Tem Viars abstained].
Motion passed.

- I. Approval of ORDINANCE to amend the Unified Development Code, Appendix A, Chapter 5 "Standards for Accessory and Temporary Uses," Section 5.03.14 and Section 5.03.18 of said chapter regarding political campaign signage as submitted by the City of Kennesaw. Case #MISC2023-02.

Zoning Administrator Darryl Simmons presented an ordinance to amend the Unified Development Code, Appendix A, Chapter 5, "Standards for Accessory and Temporary Uses," Section 5.03.14 and Section 5.03.18 of said chapter regarding political campaign signage. The intent of this amendment is to bring the city's adopted sign ordinance into alignment with the State of Georgia's O.C.G.A 16-7-58(a)(2). The code section states, in part, "... no municipal, county, or consolidated government may restrict by regulation or other means the length of time a political campaign sign may be displayed or the number of signs which may be displayed on private property for which permission has been granted." Under this code, the city may not restrict political signs on private property. In addition, the language goes in to greater detail and provides clearer language regarding general sign location. At their regularly scheduled meeting, the Planning Commission recommended approval, and staff recommends approval as well.

Motion by Councilmember Ferris to approve **ORDINANCE NO. 2023-11, 2023** to amend the Unified Development Code, Appendix A, Chapter 5, "Standards for Accessory and Temporary Uses," Section 5.03.14 and Section 5.03.18 of said chapter regarding political campaign signage, as presented. Seconded by Councilmember Sinclair.

7:15 p.m. Floor Open for Public Comments

No comments.

7:16 p.m. Floor Closed for Public Comments

Councilmember Ferris shared he started this discussion surrounding political signs; however, he praised the Bentley Firm for expanding the language to cover other signs such as those posted on utility poles.

Vote taken, motion unanimously approved 5-0. Motion passed.

11. Consent Agenda

- A. Approval of the April 24, 2023 City Council work session minutes.
- B. Approval of the May 1, 2023 City Council regular meeting minutes.
- C. Approval of RESOLUTION authorizing the use of Parks and Recreation impact fee funds in the amount of \$89,825 for the design of New Chalker Park.

RESOLUTION NO. 2023-17, 2023

- D. Approval of RESOLUTION providing a Power Distribution Easement Agreement with Georgia Power.

RESOLUTION NO. 2023-18, 2023

- E. Approval of RESOLUTION authorizing the purchase of six crosswalk sign assemblies.

RESOLUTION NO. 2023-19, 2023

Motion by Councilmember Viars to approve the Consent Agenda engross. Seconded by Councilmember Sinclair.

Vote taken, motion unanimously approved 5-0. Motion passed.

12. General and Administrative

13. Public Safety

- A. Receipt of April 2023 Crime Statistics.

Police Captain Kevin Mitchell presented the April 2023 crime statistics.

Motion by Mayor Pro Tem Viars to receive the April 2023 crime statistics, as presented. Seconded by Councilmember Burnette.

Vote taken, motion unanimously approved 5-0. Motion passed.

14. Information Technology

15. Public Works

- A. Approval of RESOLUTION re-authorizing the condemnation of Parcel 15 – Cherokee Street Improvement Project, located at 3195 Travelers Trail, Kennesaw, Georgia, 30144, as required for the Special Purpose Local Option Sales Tax (SPLOST) Cherokee Street Project.

Public Works Director Ricky Stewart presented a resolution re-authorizing the condemnation of Project Parcel 15, which is a part of the Cherokee Street Improvement Project, located at 3195 Travelers Trail. Mr. Stewart stated the Council has heard and acted on this condemnation previously, but because of the time frame between the last approval and now, Legal has advised the Council to reauthorize and restate the condemnation of this property.

Mayor Easterling said there are five items, 15. A-D, which are reauthorizations. Item 15. E is a new condemnation.

Motion by Councilmember Jones to approve **RESOLUTION NO. 2023-20, 2023** re-authorizing the condemnation of Project Parcel 15, which is a part of the Cherokee Street Improvement Project, located at 3195 Travelers Trail, as presented. Seconded by Councilmember Sinclair.

Vote taken, motion unanimously approved 5-0. Motion passed.

- B. Approval of RESOLUTION re-authorizing the condemnation of Parcel 25 – Cherokee Street Improvement Project, located at 3248 Cherokee Street, Kennesaw, Georgia, 30144, as required for the Special Purpose Local Option Sales Tax (SPLOST) Cherokee Street Project.

Public Works Director Ricky Stewart presented a resolution re-authorizing the condemnation of Project Parcel 55, which is a part of the Cherokee Street Improvement Project, located at 3248 Cherokee Street. Mr. Stewart stated the Council has heard and acted on this condemnation previously, but because of the time frame between the last approval and now, Legal has advised the Council to reauthorize and restate the condemnation of this property.

Motion by Mayor Pro Tem Viars to approve **RESOLUTION NO. 2023-21, 2023** re-authorizing the condemnation of Project Parcel 25, which is a part of the Cherokee Street Improvement Project, located at 3248 Cherokee Street, as presented. Seconded by Councilmember Sinclair.

Vote taken, motion unanimously approved 5-0. Motion passed.

- C. Approval of RESOLUTION re-authorizing the condemnation of Parcel 55 –

Cherokee Street Improvement Project, located at 3461 Cherokee Street, Kennesaw, Georgia, 30144, as required for the Special Purpose Local Option Sales Tax (SPLOST) Cherokee Street Project.

Public Works Director Ricky Stewart presented a resolution re-authorizing the condemnation of Project Parcel 55, which is a part of the Cherokee Street Improvement Project, located at 3461 Cherokee Street. Mr. Stewart stated the Council has heard and acted on this condemnation previously, but because of the time frame between the last approval and now, Legal has advised the Council to reauthorize and restate the condemnation of this property.

Motion by Councilmember Jones to approve **RESOLUTION NO. 2023-22, 2023** re-authorizing the condemnation of Project Parcel 55, which is a part of the Cherokee Street Improvement Project, located at 3461 Cherokee Street, as presented. Seconded by Mayor Pro Tem Viars.

Vote taken, motion unanimously approved 5-0. Motion passed.

- D. Approval of RESOLUTION re-authorizing the condemnation of Parcel 59 – Cherokee Street Improvement Project, located at 3481 Cherokee Street, Kennesaw, Georgia, 30144, as required for the Special Purpose Local Option Sales Tax (SPLOST) Cherokee Street Project.

Public Works Director Ricky Stewart presented a resolution re-authorizing the condemnation of Project Parcel 59, which is a part of the Cherokee Street Improvement Project, located at 3481 Cherokee Street. Mr. Stewart stated the Council has heard and acted on this condemnation previously, but because of the time frame between the last approval and now, Legal has advised the Council to reauthorize and restate the condemnation of this property.

Motion by Councilmember Ferris to approve **RESOLUTION NO. 2023-23, 2023** re-authorizing the condemnation of Project Parcel 59, which is a part of the Cherokee Street Improvement Project, located at 3481 Cherokee Street, as presented. Seconded by Mayor Pro Tem Viars.

Vote taken, motion unanimously approved 5-0. Motion passed.

- E. Approval of RESOLUTION authorizing the condemnation of Parcel 35 – Cherokee Street Improvement Project, located at 3326 Cherokee Street, Kennesaw, Georgia, 30144, as required for the Special Purpose Local Option Sales Tax (SPLOST) Cherokee Street Project.

[Councilmember Jones abstained from discussion and voting on item 15. E].

Public Works Director Ricky Stewart presented a resolution authorizing the condemnation of Project Parcel 35, which is a part of the Cherokee Street Improvement Project, located at 3326 Cherokee Street. The city has been negotiating the acquisition

of needed right of way and temporary easements; however, negotiations have been unsuccessful, and staff is requesting the Council allow them to move to condemnation.

Motion by Mayor Pro Tem Viars to approve **RESOLUTION NO. 2023-24, 2023** re-authorizing the condemnation of Project Parcel 35, which is a part of the Cherokee Street Improvement Project, located at 3326 Cherokee Street, as presented. Seconded by Councilmember Burnette.

Vote taken, motion unanimously approved 4-0-1 [Councilmember Jones abstained].
Motion passed.

16. Recreation and Culture

17. Community Development

18. Public Comment/Business from the Floor

7:28 p.m. Floor Open for Public Comments

ANDREW BRAMLETT [City Resident]: Mr. Bramlett spoke about a bank robbery that occurred at the Kennesaw State Bank in 1921 (See **Exhibit B**).

7:29 p.m. Floor Closed for Public Comments

19. City Manager's Report

A. Reports, Discussions, and Updates

City Manager Jeff Drobney praised the Parks and Recreation Department for a job well done for the first race of the Kennesaw Grand Prix. It was the largest attended race since before COVID.

20. Mayor's Report

A. Accept the resignation of Dana Johnson from the Kennesaw Sister Cities Commission.

Motion by Mayor Pro Tem Viars to accept the resignation of Dana Johnson from the Kennesaw Sister Cities Commission. Seconded by Councilmember Sinclair.

Vote taken, motion unanimously approved 5-0. Motion passed.

21. Council Comments

Councilmember Jones had nothing new to add.

Councilmember Ferris felt he had spoken enough for one night.

Councilmember Burnette shared she had a beautiful Mother's Day weekend at Swift

Cantrell Park with her family.

Mayor Pro Tem Viars echoed Dr. Drobney praises to Parks and Recreation for a job well done with the Grand Prix Series.

Councilmember Sinclair wished everyone a belated happy Mother's Day.

22. Executive Session

Pursuant to the provisions of O.C.G.A 50-14-3, the City Council could, at any time during the meeting, vote to close the public meeting and move to executive session to discuss matters relating to litigation, legal actions and/or communications from the City Attorney; and/or personnel matters; and/or real estate matters.

23. Adjourn

Mayor Easterling adjourned the meeting at 7:30 p.m. The next regular meeting will be held on Monday, June 5, 2023 at 6:30 P.M. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.



Lea Alvarez, City Clerk

North Main Street Neighborhood
 Kennesaw, Georgia 30144
 April 27, 2023

Kennesaw Planning Commission
 RE: 2971 North Main Street rezoning application RZ2023-02

Dear Commission Members,

We, as residents of North Main Street, have no desire to see our neighborhood become commercial. We studied the city documents and information that we found available to us at this time. Based on that information, we have the following opinions to submit for your consideration.

The parcel in this application (2971 N Main St) is currently zoned R-15. The city map of this area shows all the North Main Street Historic District parcels located on North Main St are currently zoned single-family R-15/R-20. All but one of the remaining homes located on North Main St and in the historic district, are currently occupied or being renovated for occupation as single-family homes. It's our opinion that this is a viable single-family neighborhood that the city should acknowledge and protect.

We believe that changing the zoning for this parcel to CBD would put it into a commercial category of uses that would require renovation or remodeling to be driven by business needs that are not compatible with the character of this historic North Main St single-family residential neighborhood. For example:

1. Installation of an ADA compliant ramp
2. Installation of an appropriate hard surface marked parking area for commercial use
3. Installation of non-historic porch railings for public safety
4. Installation of business signs, and usage of banners, waving flags, etc.
5. The potential development as a multi-family parcel. Precedent for this has already been set at both the historic Stanley-Lewis House at 2891 Lewis Street, and the historic Galt House at 2985 Cherokee Street.

The city's application for this historic district describes the North Main Street Historic District in the following way: *"The houses are fairly evenly distributed along the street and vary in their setbacks. A large, two-story, country-style late-nineteenth-century house (Lot 23) and a one-story Victorian farmhouse with outbuildings (#11) anchor the southeast and northwest ends of the district."* The anchor house on Lot 23 is now buried inside the Dallas St project hidden from view and no longer has the appearance of a typical historic single-family residence. The application goes on to relate the significance of the district saying: *"The North Main Street Historic District is significant as an intact historic residential development along one of the principal highways leading to downtown Kennesaw."* This parcel, Lot 20, on the North Main Street Historic District Inventory, is also listed in the city Comp Plan as a Historic Structure in the North Main Street District. It is also identified as a contributing structure in the city's HPC's review that was done for this district. All this justifies keeping this parcel strictly residential maintaining the current R-15 zoning.

Cherokee St was a residential area many decades ago, but commercial uses came to Cherokee St and now its historic homes are predominately commercial with signage and paved parking lots in lieu of traditional yards. Summers St was also a residential area years ago, but again, now commercial with signage, banners, and limited grassy yards.

We believe that the end of Lewis St is the natural end point for the CBD. Bringing the CBD around the corner from Lewis St to North Main St brings the slow expansion of "business" and all its non-historic features to a "historic residential development". It will be the end of this thriving single-family neighborhood. Look at the 2015 LCI "Historic CBD" overlay map which shades half our district as CBD. Read its purpose and the plans for its development. Then drive by the Stanley-Lewis house, the Galt house, and up North Main St. There is a significant difference.

In closing we request:

- 1) The denial of the rezoning of this parcel from R-15 to CBD, as it would negatively impact the character of the North Main Street Historic District, that was described as an "intact historic residential development".
- 2) That the homes on North Main Street be recognized by the city as a single-family residential area and be protected as such.
- 3) That this parcel be removed from the Downtown Activity Center (DAC) and the North Main Street Historic District residential parcels that are currently included in the "Historic Central Business District" should be removed from those classifications as they should not fall under the impact of commercial guidelines in any way but be treated solely as single-family residential properties.
- 4) Should you decide not to deny this application, we request that the opportunity to add stipulations to any motion to approve.

Sincerely yours,

Residents of North Main Street Historic District

See attached signature sheet

Reference material attached:

Zoning Dashboard Map of North Main Street R-15/R-20 Parcels

City of Kennesaw 2022 Comprehensive Plan Update

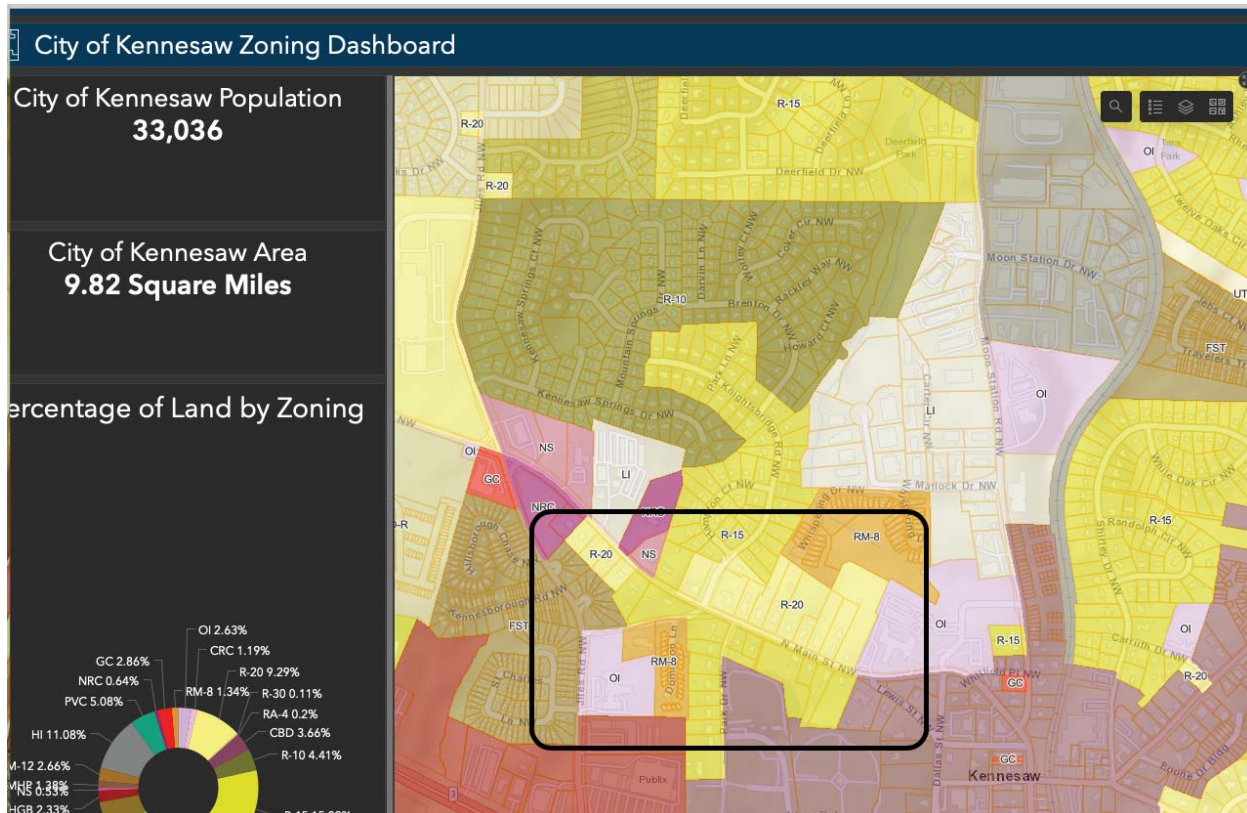
Downtown Kennesaw LCI Plan - July 2015

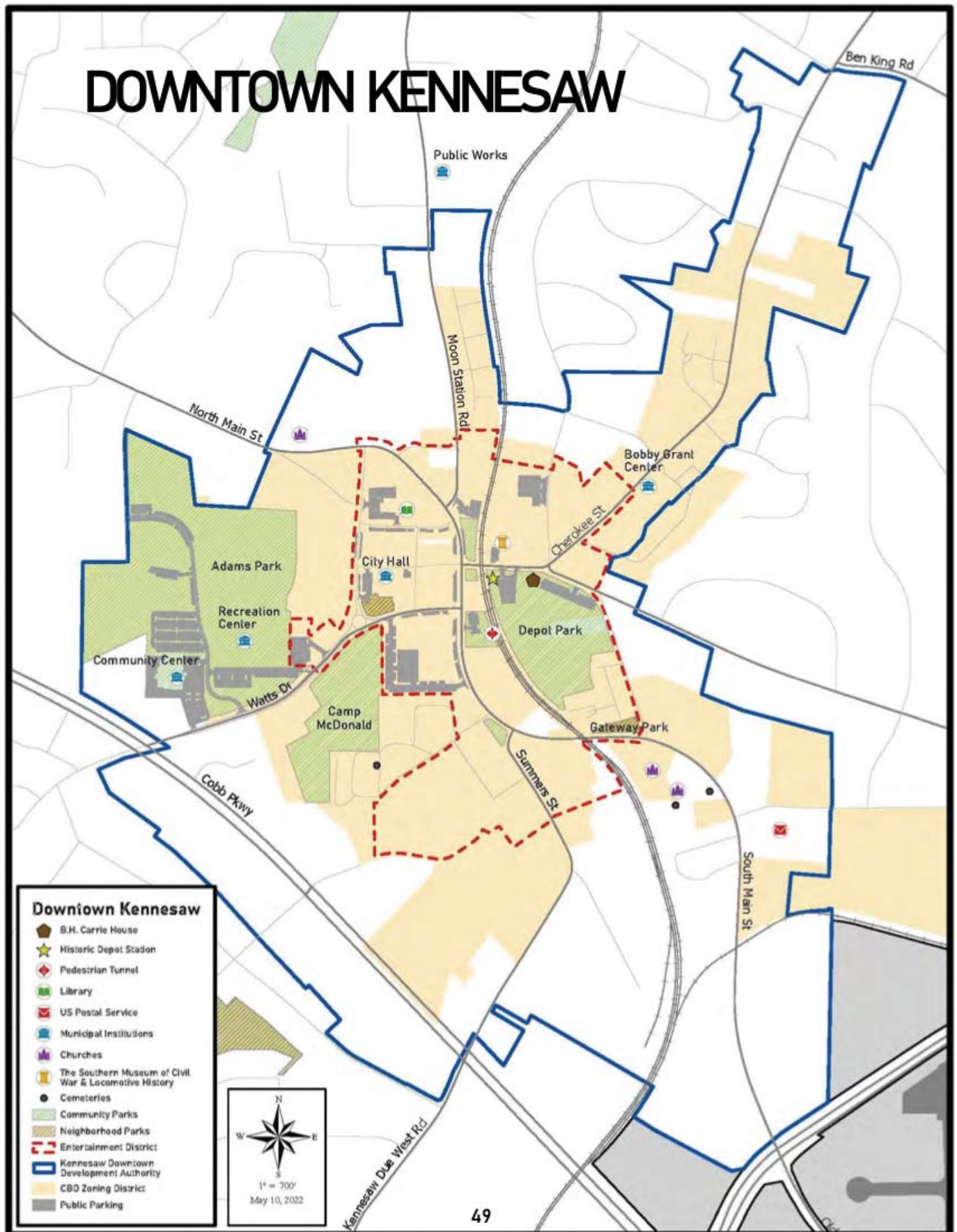
National Register of Historic Places Inventory - Nomination Form North Main Street Historic District

We, the undersigned residents of the North Main Street Historic District, agree with the attached letter regarding the rezoning 2917 N Main Street.

Street Number	Signature
2981	Marybeth Osherson + [Signature]
#2975	Dr. Kimberly Watkins + Randy Stewart
2976	Justin Thomas + Dane Thomas
2986	[Signature]
2982	Cathy Mackay
2990	Brittany Haugen + John Haugen
2995	Mary Klein + Dean Klein
2985	[Signature]
3000	[Signature]
3000	Wesley Oller
2998	Cindi Michael
2972	[Signature]
2996	[Signature] + Andrea A. Counts
3001	[Signature] + Helen Moore

Zoning Dashboard: North Main Street Parcels Currently Zoned R-15 & R-20





**United States Department of the Interior
Heritage Conservation and Recreation Service**

**National Register of Historic Places
Inventory—Nomination Form**



Continuation sheet NORTH MAIN STREET

Item number

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NORTH MAIN STREET HISTORIC DISTRICT

Name: North Main Street Historic District, Kennesaw, Cobb County, Georgia

Location:

Along either side of North Main Street for a distance of two-fifths of a mile northwest from Dallas Street.

Owner: Multiple ownership (see attached list)

Description:

The North Main Street Historic District consists of mid- to late-nineteenth-century and early-twentieth-century residences along either side of North Main Street. The houses, all modestly scaled, range from plantation plain to neoclassical, with a predominance of late-nineteenth-century hip- and gable-roofed Victorian cottages. The houses are fairly evenly distributed along the street and vary in their setbacks. A large, two-story, country-style late-nineteenth-century house (Lot 23) and a one-story Victorian farmhouse with outbuildings (#11) anchor the southeast and northwest ends of the district. There is only one non-contributing property in the district -- a small contemporary house at 13 North Main Street [see photographs 13-21].

Significance:

The North Main Street Historic District is significant as an intact historic residential development along one of the principal highways leading to downtown Kennesaw. In terms of transportation, the district has as its organizing element one of Kennesaw's principal nineteenth-century wagon roads, and one which follows to a large degree the alignment of the old Peachtree Trail. In terms of agriculture, the district includes a largely intact Victorian farmstead at the edge of town (Lot 11), which represents the type of relatively small-scale farming operations common to this part of Georgia. In terms of commerce, the district contains at its southeastern end the Stanley-Lewis House, ca. 1896 (Lot 23), one of the largest houses in town and the home of J.G. Lewis, the town banker, cotton-gin owner, mayor, and leading citizen during the early-twentieth century. In terms of architecture, the district includes a fine collection of modest, country-townhouses ranging from plantation

[continued]

**United States Department of the Interior
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Continuation sheet NORTH MAIN STREET

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plain to neoclassical with a concentration of Victorian cottages. In terms of community development, the district demonstrates the type of residential street development that took place between the middle of the nineteenth century and the early-twentieth century in small country towns of northwest Georgia.

Acreage: 27 acres

Verbal Boundary Description:

The boundary of the North Main Street Historic District is identified and described by a heavy black line on the attached map of the Kennesaw multiple-resource area. This boundary circumscribes the area of intact historic residential development. To the southeast is the downtown area; to the northwest are a few modern tract houses and the open countryside; to the north is generally open land and a small subdivision; and to the south is generally open land and a city park and recreation area.

UTM References:

A	Zone 16	E719310	N3767430
B	Zone 16	E719505	N3767610
C	Zone 16	E720040	N3767375
D	Zone 16	E720040	N3767190
E	Zone 16	E719680	N3767200

[continued]

**United States Department of the Interior
Heritage Conservation and Recreation Service**

**National Register of Historic Places
Inventory—Nomination Form**



Continuation sheet NORTH MAIN STREET

Item number

Page 3

Property Owners - North Main Street Historic District

<u>Streets and Lot Numbers</u>	<u>Owners and Mailing Addresses</u>
21	Ernest O. and Pauline S. Mabry, 2931 Lewis Street, Kennesaw, Ga. 30144
20	Same as above
19	Mrs. Eleanor S. Bozeman, 3011 N. Main Street, Kennesaw, Ga. 30144
18	Corinne Scott, 1427 Gordon Street, Atlanta, Ga. 30300
17	William P. Weeks, 2085 N. Main Street, Kennesaw, Ga. 30144
15	Lloyd Marlin Jones, 3002 N. Main Street, Kennesaw, Ga. 30144
14	Roy and Joyce Braket, 869 Worley Drive, Marietta, Ga. 30066
13	T.J. Eckstrom, 2997 N. Main Street, Kennesaw, Ga. 30144
12	Parks and Wanda Coker, 3001 Paulding Drive, Kennesaw, Ga. 30144
11	Harry L. Bozeman, 3007 N. Main Street, Kennesaw, Ga. 30144
22	Katy P. Hilderbrand, 2927 Lewis Street, Kennesaw, Ga. 30144
16	William P. Weeks, 2085 N. Main Street, Kennesaw, Ga. 30144
15	Same as above
10	Jimmy H. Moss, 2996 N. Main Street, Kennesaw, Ga. 30144
8	Mrs. Jewel Scroggs, 2986 N. Main Street, Kennesaw, Ga. 30144
9	Gordon L. Coker, 2990 N. Main Street, Kennesaw, Ga. 30144
7	Mrs. Savilla T. Ellis, 2982 N. Main Street, Kennesaw, Ga. 30144
6	Stephen L. and Brenda R. Shelton, 2976 N. Main Street, Kennesaw, Ga. 30144
5	R.J. Sherrill, 2972 N. Main Street, Kennesaw, Ga. 30144
4	L.L. Shelton, 2966 N. Main Street, Kennesaw, Ga. 30144

Lewis Street

22	Katy P. Hilderbrand, 2927 Lewis Street, Kennesaw, Ga. 30144
25	Doyle West, 2926 Lewis Street, Kennesaw, Ga. 30144
23	Inez Lewis, 2891 Lewis Street, Kennesaw, Ga. 30144

North Main Street District

2940 Dallas St. - Eldson House (1895)
2971 N Main St. - W.B. Adams House (1907)
2972 N Main St. - G.C. Scroggs House (1930)
2975 N Main St. - Thompson-Wooten House (1920)
2976 N Main St. - McRea House (1902)
2981 N Main St. - G.R. Skelton House (1908)
2982 N Main St. - J.V. Smith House (1907)
2985 N Main St. - W.H. Weeks House (1916)
2986 N Main St. - Mrs. M.V. Skelton House (1905)
2990 N Main St. - J.R. Skelton House (1909)
2996 N Main St. - E.M. Skelton House (1902)
3000 N Main St. - John E. Cagle House (1906)
3001 N Main St. - James Pyron House (1908)
3002 N Main St. - I.S. Morgan House (1903)
3007 N Main St. - Charles F. Morgan House (1895)
3031 N Main St. - Robertson House (1951)

Summers Street District

0 Cemetery St. - Kennesaw Cemetery (1863)
6997 Keene St. - Kennesaw School (1938)
2676 Summers St. - Hill Manor House (1900)
2689 Summers St. - Burrell House (1898-1908)
2695 Summers St. - C.S. Baldwin House (1908)
2701 Summers St. - E.E. Keen House (1949)
2731 Summers St. - H.M. Gatlin House (1886)
2741 Summers St. - Butler House (1908)

Legend

White = still standing (year built)

Yellow = demolished (year built)

Source: Fort Mountain Preservation Services (2004)



Protecting Our Cultural Resources

Investing in the past can produce financial benefits. Historic preservation is a developmental strategy, providing one of the best methods available to accomplish revitalization and development in cities and towns (Fogerty 1982).

During both open houses, people who participated in the historic preservation exercise showed overwhelming support in protecting Kennesaw's cultural and historic resources.

Real progress in revitalization begins when a community identifies with its historic architecture and with the concept of historic preservation as a developmental strategy (Fogerty 1982).

The City of Kennesaw and developers who wish to participate within the Historic Central Business District area should seek out preservation programs, projects and development strategies that tie its historic architecture with economic opportunities inherent in the historic building stock.

Any new development proposal or existing exterior improvements within the five historic districts must be reviewed by the Kennesaw Historic Preservation Commission using the Kennesaw Historic Design Standards as adopted in 2006.

What is Historic Preservation?

Historic preservation is place making through identification, evaluation and conservation of components of the built environment that convey historic significance for the enjoyment and education of the community now and in the future.

AREAS POLICY MATRIX



Policy	Kennesaw Areas													
	Cobb Parkway Commercial Corridor	Cherokee Street Commercial Corridor	Cobb International Industrial Corridor	Kennesaw Marketplace	Historic Central Business District	McCollum Industrial Corridor	Moon Station Industrial Corridor	Ridenour	Barrett and Old 41	Campus Living	East Pine Mountain Revitalization	In-Town Living	Jiles and Baker	Kennesaw Due West
Commercial & Industrial		Residential												
23. Locate lower intensity businesses towards the outer edges to provide a transitional buffer between higher-intensity uses and neighboring residential areas.			X		X		X		X					
24. Promote transitional buffering between all industrial/warehouse operations and surrounding neighborhoods.			X			X								
25. Promote open space and tree preservation.						X		X	X	X	X	X	X	X
26. Require truck parking along the sides or rear of the structures.	X	X	X	X		X	X							
27. Encourage retail operations to locate closer to Moon Station Road corridor.							X							
28. Encourage neighborhood-friendly, low-impact retail commercial to be located adjacent to and visible from Jiles Road and Moon Station Road.					X									
29. Concentrate traditional commercial development along Cherokee Street and Main Street between Dallas Street and the CSX Overpass.					X									
30. Require inter-parcel access (or rear alleys) to control access flow to Main Street.					X									
31. New development should be constructed at human scale.					X									X
32. Require the incorporation of CBD architectural elements and guidelines into new construction or redevelopment projects.					X									

DOWNTOWN KENNESAW

LCI Study

2.3 Land Use and Zoning

This section describes existing land use, future land use, zoning, character areas, and historic districts within the study area. Maps and information as found in the City of Kennesaw's Comprehensive Plan are the basis for this analysis. The information found within this section provides an understanding of land use conditions and the City's goals and aspirations for future development within the study area.

Existing Land Use

The City of Kennesaw Existing Land Use Map, per the 2006-2026 Comprehensive Plan, is provided in Figure 2.3a. Within the study area, the existing land uses, as based on the Georgia Department of Community Affairs "Standard Land Use Classification System", include Community Activity Center; Public Service/Institutional; Downtown Activity Center; Central Business District; Park/Recreation/Conservation; Industrial; Neighborhood Activity Center; and Residential Low/Medium.

Community Activity Center (CAC)

The Community Activity Center category aims to meet the immediate needs of several neighborhoods or communities. Encouraged land uses include low to medium intensity office, retail, and commercial services. Within the study area, parcels adjacent to Cobb Parkway and a portion of the Moon Station Road are considered Community Activity Center existing land uses. Cobb Parkway is home to retail and commercial uses, including strip mall retail centers, automobile services, restaurants and motels.

Public Service/Institutional

The purpose of this category is to illustrate public or semi-public land uses in the City, including public parks, cultural, community service, and institutional land uses. Within the study area's existing land uses, the Martha Moore School, the City Cemetery, and other city owned land is included in this category.

Downtown Activity Center (DAC)

The Downtown Activity Center's purpose is to reinforce the unique role and character of the downtown area. New development and redevelopment are encouraged to be compatible in use, scale, and appearance with the City's Downtown Activity Center. Within the existing land use map, the DAC includes much of the property along Main Street, Depot Park and surrounding parcels, Adams Park, and Camp McDonald Park.

Central Business District (CBD)

The Central Business District as identified in the existing land use map, is at the core of Downtown. Much of the CBD, as identified in Figure 2.3a, is being redeveloped into the Main Street Mixed Use Development, as described in Section 2.2.

Park/Recreation/Conservation

The purpose of this category is to illustrate the public or semi-public land uses in the City, focused on parks and recreation areas. Included in the Existing Land Use Map is the Ben Robertson Community Center.

Industrial

The purpose of the Industrial category is to provide for areas that can support light industrial, office/warehouse, and distribution uses as well as heavy industrial and manufacturing, providing regional-serving job centers. Industrial existing land uses, within the study area are focused at the southern end of Main Street, where it parallel's the railroad track, with additional industrial existing land use at Main Street and Moon Station Road, which is actually the current site of Kennesaw First Baptist Church.

Neighborhood Activity Center (NAC)

The purpose of the Neighborhood Activity Center category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail and grocery stores. Within the existing land use map areas defined as NAC include parcels along Cherokee Street and smaller retail parcels south on Main Street, near McCollum Parkway.

Residential Low/Medium

The purpose of the Low/Medium Density Residential category is to provide for areas that are suitable for low to moderate density housing between one (1) and four (4) dwelling units per acre. There are few residential low/medium parcels within the study area, although the majority of this existing land use is identified adjacent to Cherokee Street, where land uses, in general, become more residential.

DOWNTOWN KENNESAW

LCI Study

Future Land Use

The City of Kennesaw Future Land Use Map, per the 2006-2026 Comprehensive Plan, is provided in Figure 2.3b. Within the study area, the existing land uses as based on the Georgia Department of Community Affairs "Standard Land Use Classification System", include: Community Activity Center; Public Service/Institutional; Downtown Activity Center; Park/Recreation/Conservation; Industrial; Neighborhood Activity Center; and Residential Low/Medium.

Community Activity Center (CAC)

The Community Activity Center category aims to meet the immediate needs of several neighborhoods or communities. Encouraged land uses include low to medium intensity office, retail, and commercial services. Within the study area, identified parcels on the future land use map, align very closely with the existing land use map. CAC land uses are primarily located adjacent to Cobb Parkway with a portion of the Moon Station Road included.

Public Service/Institutional

The purpose of this category is to illustrate public or semi-public land uses in the City, including public parks, cultural, community service, and institutional land uses. Similar to existing land uses, future public service/institutional land uses include the Martha Moore School, the City Cemetery, and other city owned land is included in this category. City Hall's current location at Watts Drive and Dallas Street, is included in the future land use map.

Downtown Activity Center (DAC)

The Downtown Activity Center's purpose is to reinforce the unique role and character of the downtown area. New development and redevelopment are encouraged to be compatible in use, scale, and appearance with the City's Downtown Activity Center. The future land use map's DAC parcels align closely with the existing land use map, with much of the DAC including property along Main Street, including the existing land use map's Central Business District designation. Depot Park and surrounding parcels, Camp McDonald Park, and parcels adjacent to Adams Park are also included.

Park/Recreation/Conservation

The purpose of this category is to illustrate the public or semi-public land uses in the City, focused on parks and recreation areas. The Future Land Use map similar to the Existing Land Use map includes Ben Robertson Community Center and adds Adams Park.

Industrial

The purpose of the Industrial category is to provide for areas that can support light industrial, office/warehouse, and distribution uses as well as heavy industrial and manufacturing, providing regional-serving job centers. In the future land use map, fewer parcels are identified as Industrial compared to the Existing Land Use map. The only parcel identified is located near Summers Street and the railroad track, the current site of Pro-Build.

Neighborhood Activity Center (NAC)

The purpose of the Neighborhood Activity Center category is to provide for areas that serve neighborhood residents and businesses. Typical land uses for these areas include small offices, limited retail and grocery stores. Similar to the Existing Land Use map, the Future Land Use map defines NAC parcels mainly along Cherokee Street and south on Main Street, near McCollum Parkway.

Residential Low/Medium

The purpose of the Low/Medium Density Residential category is to provide for areas that are suitable for low to moderate density housing between one (1) and four (4) dwelling units per acre. Residential low/medium parcels in the Future Land Use map, similar to the Existing Land Use map, are few and confined to the northern boundaries of the study area, particularly adjacent to Cherokee Street and the northern portion of Main Street.

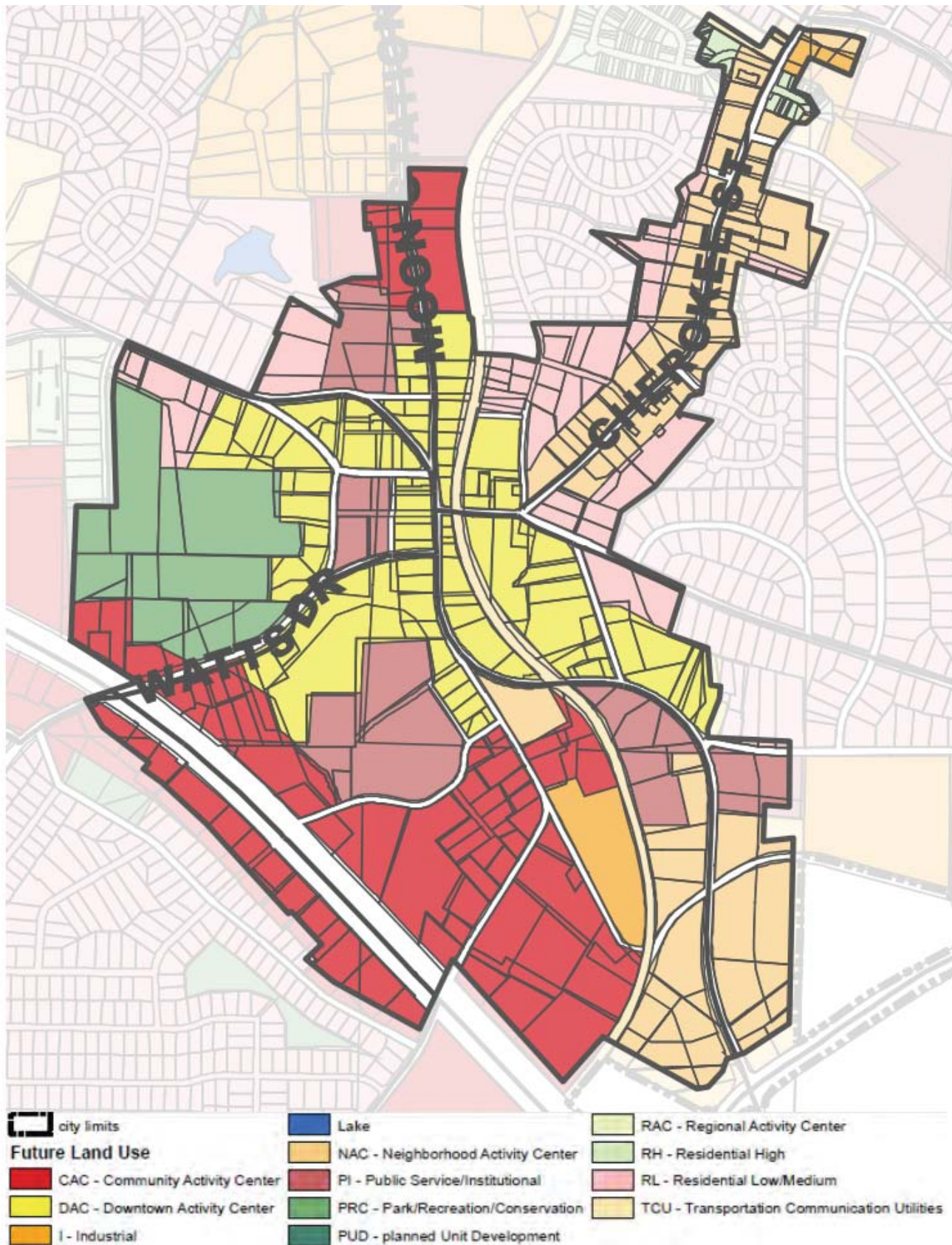


Figure 2.3b: Future Land Use Map

DOWNTOWN KENNESAW

LCI Study

Zoning

Existing Zoning is displayed in Figure 2.3c. Following is more information on each zoning district found in the study area.

The City of Kennesaw is currently undergoing zoning updates, focused on Downtown and Cherokee Street, via the City of Kennesaw Design Based Code. Once approved this new code document will supersede the existing zoning regulations.

Historic District Overlay (HIS)

The historical and architectural heritage of Kennesaw is among its most valued and important assets. The purpose of the Kennesaw Historic District (HIS) is to promote the cultural, economic and general welfare of the city, and the preservation and protection of the old, historic or architecturally worthy structures in quaint areas or neighborhoods which impact a distinct aspect of the city and which serve as visible reminders of the cultural, social, economic and architectural heritage of the city, the state, and the nation. A large portion of the study area is within the Historic District Overlay. Parcels within the historic district are overseen by the Kennesaw Historic Preservation Commission and guided by the Historic Preservation Commission's Design Standards.

Historic Preservation District Overlay

The HPV district is established to set aside certain properties for the purpose of providing an area that will be designed and used as a historic village. The classification is primarily intended for properties located within Land Lot 138, 20th District, 2nd Section, and is bounded on the North by Cherokee Street and Big Shanty Road, on the east by Sardis Street, on the South by Old Highway 41, and on the West by CSX Railroad. Parcels within this historic district are also overseen by the Kennesaw Historic Preservation Commission and guided by the Historic Preservation Commission's Design Standards.

Central Business District (CBD)

The CBD is established in order to preserve and protect the cultural and historic aspects of downtown Kennesaw and simultaneously provide for the stimulation and enhancement of the vitality and economic growth of this special area. The classification is primarily intended as a focal point for upscale retail trade, tourism, and financial and public uses. The intent of the CBD is to develop a compact core to encourage and facilitate pedestrian movement and provide convenient access to the ameni-

ties of Historic Downtown Kennesaw. Much of the study area is within the Central Business District zone. A mix of uses is encouraged in this district to create a live, work, meet, and play environment.

Highway General Business District (HGB)

The HGB district is established to provide locations for commercial and service uses which are oriented toward general and specialty service businesses and interstate and state highway travelers. This zoning district aligns Cobb Parkway.

General Commercial District (GC)

The GC district is established to provide locations for retail commercial and service uses which are oriented towards a diverse range of businesses that are service and product intensive with a need for major road access and visibility. Several GC parcels are found within the study area, mostly on the south edge, adjacent to Cobb Parkway and McCollum Parkway.

Office/Institutional district (OI)

The OI district is established to provide locations for non-retail commercial uses such as offices and financial institutions. The OI district is designed primarily to provide for four story and smaller office developments, office uses, motels, hotels, banking and professional offices that complement and provide step down nodal zoning away from more intensive commercial uses. There are several OI parcels through out the study area, particularly on the edges of the CBD.

Heavy Industrial District (HI)

The HI district is established to provide locations for heavy industrial uses such as intensive automobile repair and service, heavy manufacturing, chemical manufacturing and storage, petroleum and petrochemical storage, warehousing. When located on the perimeter of an industrial node, the HI district should provide for uses that are lower in intensity and scale such to ensure compatibility with surrounding properties. There are several HI parcels near Cobb Parkway and Kennesaw Due West Road, where ProBuild is currently located.

Light Industrial District (LI)

The LI district is established to provide locations for light industrial uses such as low intensity automobile repair and service, commercial greenhouses, distribution centers, warehouse and storage, transportation terminals. When located on the perimeter of an industrial node, the LI dis-

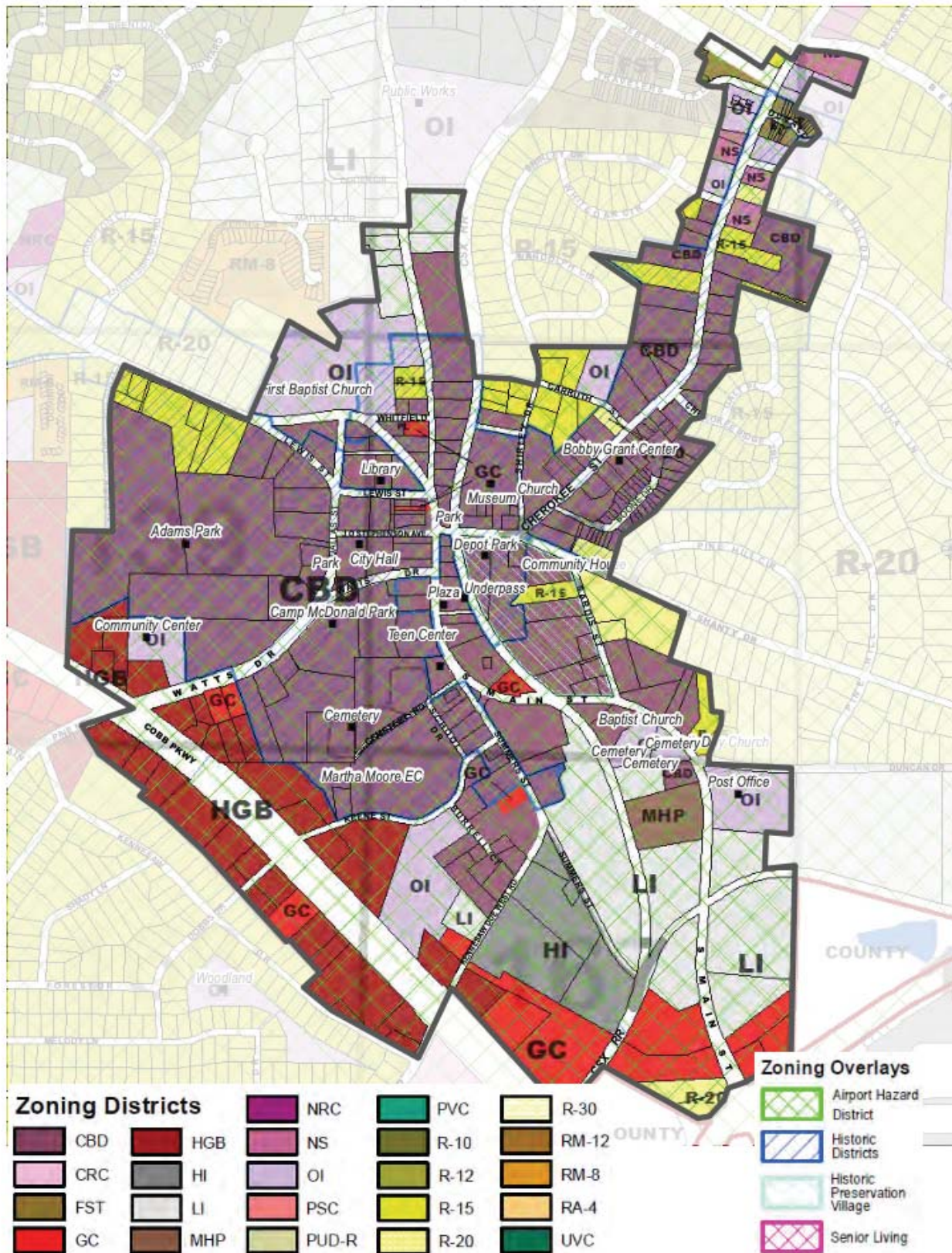


Figure 2.3c: Zoning Map

DOWNTOWN KENNESAW

LCI Study

tract should provide for uses that are low in intensity and scale such to ensure compatibility with surrounding properties. LI parcels, within the study area, are located in the south-east portion of the study area, near the railroad tracks and Main Street. There are also several LI parcels along Moon Station Road.

Mobile Home Park District (MHP)

This district is established to provide areas where mobile home parks may be appropriate. There is one MHP parcel within the study area, along Main Street, currently occupied by the Old South Village mobile home park.

Neighborhood Shopping District (NS)

The NS district is established to provide locations for specialized and/or limited low intensity shopping facilities which are on properties delineated within a neighborhood activity center, community activity center, or regional activity center as defined and shown on the City of Kennesaw Comprehensive Plan, and as may be amended from time to time. These convenience shopping facilities should have low intensity retail commercial uses that have a neighborhood-oriented market and which supply necessities that usually require purchasing with a minimum of consumer travel. There are several NS parcels along Cherokee Street, within the study area.

Single-Family residential district - 15,000 sf (R-15)

The R-15 single-family residential district is intended to provide suitable areas for single-family, detached dwellings at medium densities as defined by the City of Kennesaw Comprehensive Land Use Plan, with access to both public water and sewerage. There are several R-15 parcels on the periphery of the study area.

Character Areas

Character areas, as defined in the 2006-2026 Comprehensive Plan are shown in Figure 2.3d. Character area planning focuses on the way an area looks and how it functions. Applying development strategies to character areas in Kennesaw can preserve existing areas and help others function better and become more attractive. They help guide future development through policies and implementation strategies that are tailored to each situation. Following is more information on each character area found within the study area.

Historic Central Business District (CBD)

Currently, this area is composed of a mix of land uses, historical and cultural resources, businesses, homes and neighborhoods and architectural styles and elements. Overall, much of this area is in need of revitalization. Without a plan for growth, an unstructured commercial fabric with aging structures, vacant buildings, and an insufficient retail core, has evolved.

Cobb Parkway Commercial Corridor

The Cobb Parkway Commercial Corridor is the most significant commercial corridor in Kennesaw. The corridor's appearance and function has been affected by vacated structures or structures that are in disrepair. Generally, there are no unifying architectural features, gateways, or impressionable spaces or buildings that identify this corridor with a unique sense of place that is characteristic of Kennesaw; however, several segments of this corridor show promise.

In-Town Living

The In-Town Living character area is defined by neighborhoods that are located within a short distance of the Historic CBD- generally less than one mile from a boundary. In most cases In-Town Living houses and neighborhoods are within walking distance of the downtown area. With recreational, entertainment, retail and cultural opportunities located in the CBD, residents could benefit from these amenities without venturing far from home thus having the "In-Town Living" experience.

Future development in this area is limited as most of the parcels have all been developed for housing. However, given the tenure of the homes, redevelopment may become an option if homes fall into disrepair. Redevelopment should occur on multi-parcel levels to be most effective. If redevelopment occurs, the type of redevelopment should be closely affiliated and complementary

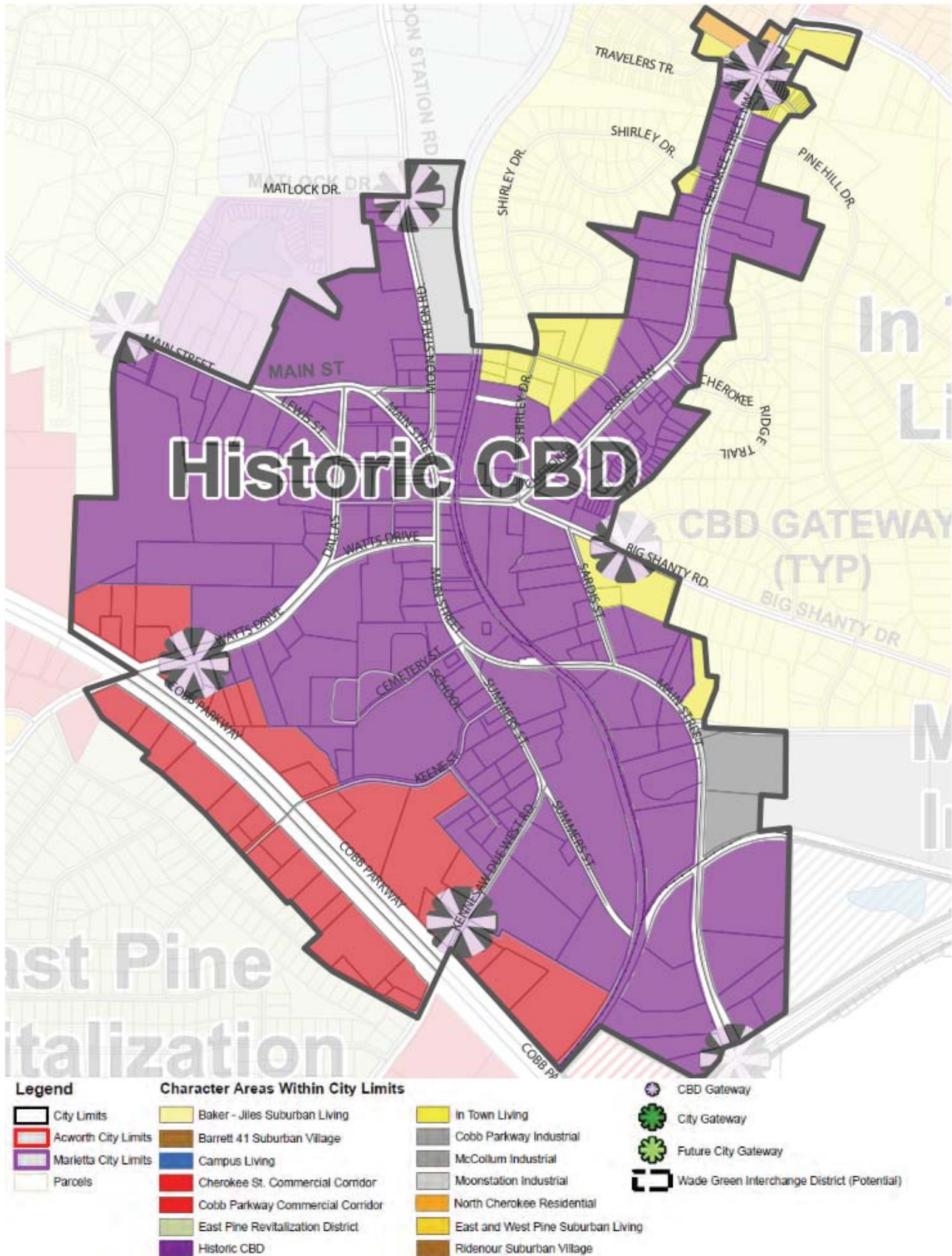


Figure 2.3d: Character Area Map

DOWNTOWN KENNESAW

LCI Study

with the redevelopment activities in the Historic CBD and surrounding homes and neighborhoods.

McCollum Parkway Industrial

The McCollum Parkway Industrial character area is located along a one mile section of McCollum Parkway from near Old Highway 41 east to Big Shanty Drive. There currently exists a broad mix of uses which are generally low to moderate in impact. Many of the structures have been built in the last ten to twenty years. Most of the structures are constructed metal buildings with brick or stones facades that face McCollum parkway. Access to McCollum Parkway is typically via individual driveways except for the small, light industrial operations located on Big Shanty Drive. The large, spacious parcels and lower impact businesses provide a transition buffer between McCollum Airport to the south and the In-Town Living character area directly to the north.

Future development in this area should maintain a low to moderate industrial land use and impact. Natural landscape buffers should be maintained between parcels, but more so between the In-Town Living character area to the north.

Moonstation Industrial

The Moonstation Industrial character area is a 1-1/2 mile segment of light industrial development located between Moonstation Road and the CSX rail line, directly north of the CBD. A portion of this area is also located along a short section of Jiles Road between Moonstation Road and Royal Drive near the Cherokee Street Commercial Corridor. This area is comprised primarily of small to medium sized, low impact manufacturing, distribution and office warehouse developments. Some neighborhood commercial uses are scattered within the character area.

Future development of this area should focus on filling the existing vacant office and warehouse space that is available. Signage and building appearance should become more standard with emphasis on improving overall aesthetics.

Historic Districts

The National Registry of Historic Places recognized four (4) Historic Districts and one (1) Historic Site within the study area. Refer to Figure 2.3e for the Historic Districts and Site Map.

The Historic Preservation Commission shall evaluate all properties as designated on the Official Historic Properties Map of the City of Kennesaw, and the Official Zoning Map of the City of Kennesaw. Historic District Design Standards are enforced within these districts.

The four (4) National Register Historic Districts in Downtown Kennesaw include:

North Main Street

The North Main Street Historic District is a predominantly historic residential district.

Cherokee Street

Cherokee Street Historic District is was the principle wagon trail into the City.

Big Shanty

Big Shanty Historic District is at the heart of the historic districts and the City's original name.

Summers Street

The Summers Street Historic District contains historic properties and structures along Summers Street.

Camp McDonald

The Camp McDonald Historic Site is the former Confederate army training camp. 7.5 acres of this site, east of Watts Drive, was purchased by Cobb County and with the help of Friends of Camp McDonald, a Master Plan for this park has been created to conserve the site while providing walking and hiking amenities.

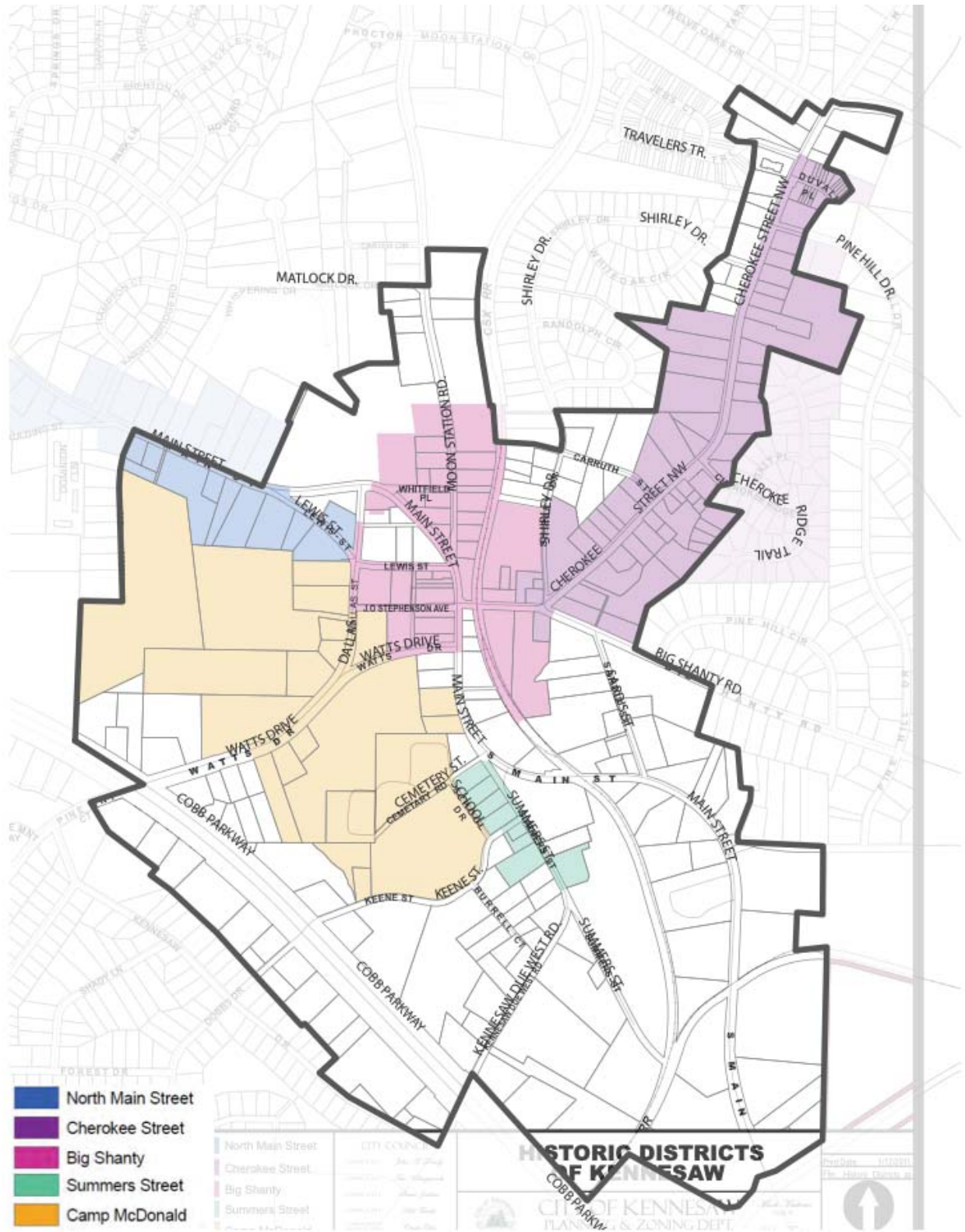


Figure 2.3e: Historic Districts Map

DOWNTOWN KENNESAW

LCI Study

4.2 Main Street Infill

Main Street has historically been the primary retail and restaurant corridor in Downtown Kennesaw. In recent years a few historic buildings have been renovated into new restaurant and retail uses, drawing more patrons to Main Street. Continued infill and redevelopment along this corridor, in a manner that aligns with the historic character, is vital to the economic prosperity and growth of Downtown. Examples of successful main streets, which are economically thriving and activated with a 24-hour population, are pictured in Figure 4.2a. These images showcase successful main streets with 2-3 story historic buildings, a sense of enclosure created by having buildings on both sides of the street, parallel parking, a mix of old and new buildings, wide and attractive sidewalks, and streets lined with trees.

Downtown Kennesaw's Main Street Infill is recommended to meet the following requirements, in accordance with the Kennesaw Design Based Code, currently being produced at the writing of this report:

Height: 3 stories, with potential height bonuses of up to a maximum of 4 stories;

Setbacks: 15' maximum front setbacks; 0' maximum side setback; 3' maximum rear setback;

Density: 10 units/acre minimum, 30 units/acre maximum, with potential density bonuses of up to 50 units/acre.

In order to accomplish the recommended Main Street infill, the following action steps are recommended. The following numbering, L1, L2, etc., references numbering in the Implementation Section 5.0.

- **L1: Design Based Code:** Adopt the Kennesaw Design Based Code, underway as of the writing of this report, for Downtown Kennesaw to support concepts, densities, and building heights to meet recommendations for Main Street infill development as identified in this report.
- **H1-H4: Housing Initiatives:** The City of Kennesaw has a diverse population with a wide range of ages from young families to college students to active seniors. In order to accommodate the different housing needs of this unique population, it is recommended that the City of Kennesaw incorporate Housing Initiatives into the Design Based Code. These initiatives aim to provide housing options that accommodate all incomes and space needs. Initiatives include:



Senoia, Georgia



New Britain, Connecticut

Figure 4.2a: Main Street Examples

KENNESAW HISTORY

Bank Robbery

A little over a century ago, Kennesaw was the site of a bank robbery. The incident took place at the Kennesaw State Bank, a local institution dating back to 1910. It was located on Main Street next to the old Whistle Stop Café.

On August 27, 1921, at around 1:30 AM thieves broke into the building through a rear window, and blew up a bank vault. They stole several safety deposit boxes and World War I bonds. On hearing a noise from Main Street they left through the back door. The robbers had not been able to reach the main safe where several thousand dollars were held.

A nearby neighbor, Dr. John W. Ellis, had heard the explosion and went towards Cherokee Street to find the railroad telegraph operator. It was their entering through the front door that caused the thieves to flee. Sadly it is not recorded if the bank robbers were ever caught.

ROBBERS BLOW OUTER VAULT DOOR OF BANK

Thieves Who Had Attempted to
Rob Kennesaw State Bank
Are Frightened Away.

THOUGHT "HOME TALENT" JOB

Thieves Secured Their Tools
By Breaking in And Rob-
bing Garage

Prompt action on the part of Dr. J. W. Ellis, of Kennesaw, early Saturday morning, served to rout burglars who had attempted to rob the vault of the Bank of Kennesaw.

According to reports, Dr. Ellis, who was in the Kennesaw hotel, which adjoins the Bank of Kennesaw, heard a loud explosion in the bank about 1:30 Saturday morning, followed almost immediately by a lighter one.

Dr. Ellis went across the street to the Western and Atlantic railroad station, and got C. D. Satterfield, night telegraph operator, and J. W. Carrie to go with him to the bank.

They tried the front door of the bank, and the burglars, hearing the disturbance, escaped through the rear of the building. The intruders had entered the bank by smashing the glass in a rear window.

Only one of the bank's outer vaults was damaged. A vault containing several thousand dollars was untouched.

While none of the vaults were entered that contained currency, the robbers did succeed in breaking open some of the safe deposit boxes and secured a few Liberty bonds and the like, but as these were registered, the owners will sustain no loss.

A garage, operated by S. M. Duncan, in Kennesaw, was burglarized late Friday night and several tools were taken. The tools were found later in the bank, leading to the theory that the same men did both jobs.

It is generally rumored that the "job" was the work of local talent and the county officers are working on several clues which may yield them the guilty parties.

August 30, 1921 *Cobb County Times*

Presented by Andrew J. Bramlett
at the May 15, 2023,
City of Kennesaw Mayor &
Council Meeting

KENNESAW
HISTORICAL
SOCIETY

Names and Addresses will be disclosed in the Permanent Minutes of the
City of Kennesaw

PLEASE MAKE SURE YOUR NAME IS LEGIBLE AND CLEAR

Mayor & Council Regular Meeting

5/15/2023

Public Comment Sign-in

	Name	Address	Topic
1	Andrew Brantlett	2990 Sommerfield Ct.	Local History
2	James Stewart	2975 N. MAINST NW	Rezone 2971
3	Kimberly Watkins	2975 N Main St NW	Rezone 2971
4	Hugh E. Byrd	2716 South	
5			
6			
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19			



Item Report

TO: The Honorable Mayor and City Council

FROM: Jennifer Gordy, Assistant Finance Director

DATE: June 5, 2023

TITLE: Approval of RESOLUTION and authorization for the Mayor to execute the Lease Supplement with Georgia Municipal Association (GMA) for the direct leasing program for two (2) 2022 Ford Interceptors for Police use.

Summary:

The total amount of the loan is \$111,339.78. Through GMA, the City will finance the vehicles for a five-year period with annual payments of \$25,256.35 at an annual interest rate of 4.35%. Funding will be through Magnolia Bank via GMA.

Recommendation:

Finance Director recommends approval.

Fiscal Impact:

100.8000.58.1200 Total principal \$111,339.78 over lease term
 100.8000.58.2200 Total interest \$14,941.98 over lease term

Attachments:

1. RESOLUTION - GMA Financial Lease 2022 Ford Interceptors
2. Kennesaw Police Vehicle Lease Supplement 05-12-23

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2023- ___, 2023

**RESOLUTION OF THE KENNESAW CITY COUNCIL AUTHORIZING
AND DIRECTING THE MAYOR TO EXECUTE ONE OR MORE LEASE
SUPPLEMENTS FOR A LEASE OR LEASES UNDER THE GEORGIA MUNICIPAL
ASSOCIATION (GMA) DIRECT LEASING PROGRAM; TO DESIGNATE SUCH
LEASES AS QUALIFIED TAX EXEMPT OBLIGATIONS; TO PROVIDE AN
EFFECTIVE DATE; AND FOR OTHER PURPOSES**

**BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF KENNESAW,
COBB COUNTY, GEORGIA, AS FOLLOWS:**

WHEREAS, the City has entered into a Master Lease (the “Master Lease”) dated as of February 21, 2001, with Georgia Municipal Association, Inc. (GMA) for the leasing from time to time of certain equipment, machinery or other personal property pursuant to Supplemental Leases.

NOW, THEREFORE, BE IT RESOLVED that the Kennesaw City Council:

1. The Mayor of the City of Kennesaw is hereby authorized and directed to execute and deliver a Lease Supplement pursuant to the Master Lease to put into effect one or more leases for two (2) 2022 Ford Interceptors (the “Leased Property”); said officer of the City is authorized and directed in the name and on behalf of the City to execute and deliver (i) one or more Lease Supplements for items of the Leased Property in substantially the form attached to the Master Lease, with such changes and additions as may be approved by said officer, and (ii) such other documents as may be deemed by such officer to be necessary or desirable to effect the purposes hereof or of the Master Lease, and such execution shall constitute conclusive evidence that the executed document has been authorized and approved hereby; the aforesaid officer is further authorized to do all things necessary or appropriate to effectuate the purposes hereof.
2. An appropriation in the City’s current operating budget has previously been made in the amount of \$25,256.35 which shall be sufficient to pay the “rentals” and the “termination payment” during the “starting term” under such Lease Supplements.
3. The lease or leases contemplated by the said Lease Supplements are hereby designated “Qualified Tax Exempt Obligations” within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, and said officer shall be authorized to confirm such designation by execution of appropriate documents in connection therewith.
4. This authorization shall be effective immediately.

PASSED AND ADOPTED by the Kennesaw City Council on this ___ day of June, 2023.

ATTEST:

CITY OF KENNESAW

Lea Alvarez, City Clerk

Derek Easterling, Mayor



President
Julie Smith
Mayor, Tifton

May 4, 2023

First Vice President
Randall Walker
Mayor, Perry

Ms. Gina Auld
Finance Director
City of Kennesaw
2529 JO Stephenson Ave NW
Kennesaw, Georgia 30144

Second Vice President
Fred Perriman
Mayor, Madison

Third Vice President
Bianca Motley Broom
Mayor, College Park

RE: Direct Installment Program

Immediate Past President
Vince Williams
Mayor, Union City

Dear Ms. Auld:

CEO & Executive Director
Larry H. Hanson

Please find enclosed the proposed lease supplement between your city and the Georgia Municipal Association. GMA will file all necessary forms including the state UCC-1 and federal 8038. **Please keep in mind the payment schedule (Schedule B) may change slightly depending on the closing date.**

Please return the documents and invoice to GMA by May 29, 2023 to guarantee the 4.35% interest rate. You may wish to send the documents by overnight courier to assure prompt delivery.

PLEASE PAY CAREFUL ATTENTION TO SIGNATURES AND SEALS. OUR LENDERS WILL NOT PROCESS INCOMPLETE PAPERWORK. IF YOU ARE UNSURE ABOUT A DATE FIELD, LEAVE IT BLANK.

If you have any questions, please contact me at (678) 686-6274.

Sincerely,

A handwritten signature in black ink that reads 'Philip Potter'. The signature is fluid and cursive, with the first and last names being clearly legible.

Philip Potter
Financial Services Manager

/PP
Enclosures

DOCUMENT NOTES

LEASE SUPPLEMENT

NOTE: ON ALL PROPERTIES REQUIRING TITLE, A COPY OF THE MV - 1 APPLICATION LISTING GMA AS LIENHOLDER MUST ACCOMPANY LEASE DOCUMENTS.

Exhibit E - Lease Supplement: Please complete requested information. Please also sign on the Lessee position, which is marked with the City's name. The City Clerk should attest this document.

Exhibit E - Schedule A: Please insert appropriate information as requested (i.e., add serial number, amount, or model number).

Exhibit E- Schedule B: No action is required for this schedule.

Exhibit E- Schedule C: Please date, sign, and have the City Clerk attest this document.

Exhibit E- Schedule D: IRS Form 8038: Please add the city's Tax I.D. number and sign at the bottom. GMA will complete this document at closing.

Exhibit E- Schedule F: Resolution/Ordinance for Supplemental Lease: Please add necessary information, date, and sign this document. The Resolution/Ordinance must be adopted at a regular council meeting at which the Mayor may designate the appropriate city officials to enter into subsequent leases for the appropriate amount. The City Clerk should sign and seal at the bottom of the page.

Please return the enclosed document and all attachments (i.e., clips, etc.) to:

Georgia Municipal Association
Attention: Financial Services Program Manager
P.O. Box 105377
Atlanta, Georgia 30348

IF YOU HAVE ANY QUESTIONS OR SHOULD NEED ANY ASSISTANCE, PLEASE DO NOT HESITATE TO CALL THE FINANCIAL SERVICES PROGRAM MANAGER AT (888) 488-4462. LEASE DOCUMENTS MUST BE EXECUTED COMPLETELY AND CORRECTLY BEFORE ANY CHECKS WILL BE ISSUED BY THE SERVICING BANK.

Note: GMA's Lienholder Code is 10288896

EXHIBIT "E"
LEASE SUPPLEMENT

THIS LEASE SUPPLEMENT (this "Lease Supplement") by and between GEORGIA MUNICIPAL ASSOCIATION, INC., a Georgia non-profit corporation ("Lessor") and the municipal corporation of the State of Georgia signing below ("Lessee"), is made and entered into the date of its execution by the Lessor.

RECITALS:

Lessor and Lessee have entered into a Master Lease (the "Master Lease") dated February 21, 2001, which provides for Lessor to lease to Lessee certain property (the "Property") to be specified in Lease Supplements to be executed and delivered by Lessor and Lessee from time to time; and

Lessor and Lessee are entering into this Lease Supplement pursuant to the Master Lease to specify the terms for the lease of certain Property.

LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:

1. Definitions. Unless a different meaning or intent is required by this Lease Supplement, the capitalized terms used in this Lease Supplement shall have the meanings set forth in the Master Lease.
2. Property. The Property described on the Property Schedule incorporated as Schedule A to this Lease Supplement is specified as the Property that initially is the subject hereof.
3. Lease Payments. The Rental Schedule, incorporated as Schedule B to this Lease Supplement describes the initial amounts and payment dates of the Rentals for the Lease, and the Purchase Price for the Property. The Termination Payment may become due and payable upon the circumstances described in Section 4.2 of the Master Lease.
4. Term of Lease. The Starting Term of the Lease of the Property shall begin on the date hereof (the "Starting Date") and end on December 31 of the same year. The Lease will be renewed for successive calendar year Renewal Terms (the "Renewal Terms"), and an Ending Term (the "Ending Term") commencing January 1 of the last calendar year appearing on the Rental Schedule, and ending on the date of the final payment shown on the Rental Schedule (the "Ending Date"), unless Lessee gives a Nonrenewal Notice or there occurs an Event of Nonappropriation, as provided in the Master Lease. The "Lease Term" is the period from the Starting Date to the Ending Date, subject to the earlier expiration or termination of the Lease as provided in the Master Lease.
5. Agreements, Representations and Warranties. Lessee represents, warrants and agrees as follows:
 - (a) Lessee's representations, warranties and agreements contained in the Master Lease are true, accurate, complete and effective as of the date hereof;
 - (b) *(this clause (b) applies only if this Lease is designated as a Bank-Qualified Lease below)* in order to enable Lessor to offer the interest rate contained in this Lease, Lessee represents and warrants that it has not issued, nor does it (taken together with the entities with which it must be aggregate pursuant to Section 265(b)(3)(E) of the Code) reasonably expect to issue (taking into account the Leases) more than \$10 million of tax-exempt obligations (other than private activity bonds) for the calendar year during which the Lease becomes effective; as provided in Code Section 265(b)(3)(B)(II), Lessee specifically designates the Lease as a "qualified tax-exempt obligation" as provided by Code Section 265(b)(3);
 - (c) Lessee will take no action that will directly or indirectly affects the deductibility of that portion of Lessor's interest expense allocable to this Lease;
 - (d) Lessee has made an available appropriation of and included in its current operating budget all Rentals for the Starting Term and the Termination Payment applicable to this Lease;
 - (e) Unless Property funds are escrowed, Lessee has received, tested, and finally accepted the Property;

- (f) The portion of the Rentals representing principal, when taken together with the principal portion outstanding under any other contract entered into by Lessee pursuant to the authority of O.C.G.A. § 36-60-13, together with the amount of debt outstanding incurred by Lessee pursuant to Article IX, Section V, Paragraph I of the Constitution of Georgia of 1983, as amended, does not exceed 10% of the assessed value of all taxable property within the jurisdictional limits of Lessee;
 - (g) The Property that is the subject hereof has not been the subject of a referendum that failed to receive the approval of the voters of Lessee within the calendar year in which this Lease is entered into for any of the four immediately preceding calendar years;
 - (h) If the Property subject to this Lease is real property: and unless the Property has been approved in the most recent referendum calling for the levy of a special county 1% sales and use tax pursuant to O.C.G.A. Tit. 48, Chapt. 8, Art. 3, Pt. 1, neither of the following has occurred:
 - (i) the average annual payments on the aggregate of all outstanding contracts entered into by Lessee for real property pursuant to the authority of O.C.G.A. § 36-60-13, including this Lease, do not exceed 7.5% of the governmental fund revenues of Lessee for the last calendar year preceding the date of delivery of this Lease (provided, however, that there may be added to such governmental fund revenues any special county 1% sales and use tax proceeds collected pursuant to O.C.G.A. § 48-8-111 legally available to pay amounts on this Lease or such other contracts); and
 - (ii) the outstanding principal balance on the aggregate of all outstanding contracts entered into by Lessee for real property pursuant to the authority of O.C.G.A. § 36-60-13, including this Lease does not exceed \$25,000,000.00
 - (i) If the property subject to this Lease is real property, Lessee held a public hearing with respect to this Lease prior to the delivery of this Lease, notice of which hearing was published at least once in each of the two weeks preceding the week of the hearing in a newspaper of general circulation in the jurisdiction of Lessee.
 - (j) No Event of Default or Event of Nonappropriation has occurred with respect to any Lease entered into under the Master Lease.
6. Non-Arbitrage Certificate. The Property that is subject to the Lease has not been and is not expected to be sold or otherwise disposed of in whole or in part prior to the Ending Date. Monies appropriated for the payment of amounts under the Lease will be paid from Lessee's general fund and will not be pledged for the Lease or be otherwise separately identified or accounted for (unless the Lease is to be paid from sales tax receipts). Lessee has not been notified of any listing of it by the Internal Revenue Service as an issuer that may not certify its obligations. No proceeds or "gross proceeds" of the Lease are expected to be invested prior to an allocation for governmental use, unless an Escrow Agreement has been entered into in connection with this Lease. The proceeds of the Lease will not be used in a manner and no other action will be taken or omitted that would cause the Lease to be an "arbitrage bond" under Section 148 or a "private activity bond" under Section 141 of the Internal Revenue Code of 1986, as amended and the regulations promulgated under that Section.
7. Quitclaim. At the outset of this Lease, the Lessee does hereby assign, transfer, convey and quitclaim to Georgia Municipal Association, Inc. ("Lessor") such ownership interests as it may possess, if any, in and to the "Property," as is necessary to permit the Property to be leased by Lessor to Lessee pursuant to the terms of this Lease Supplement and the Master Lease in accordance with their terms. Pursuant to Section 2.2 of the Master Lease, Lessor further transfers title to Lessee to the extent provided therein, and Lessee accepts such transfer in accordance with such Section 2.2. This quitclaim is given in consideration of the advance by or on behalf of the Lessor of the purchase price of the Property and the undertaking of the Lessor represented by this Lease Supplement.
8. Active Municipality. The Lessee certifies that it does, and expects to continue (a) providing at least three of the following services, either directly or by contract: law enforcement; fire protection (which may be furnished by a volunteer fire force) and fire safety; road and street construction or maintenance; solid waste management; water supply or distribution or both; waste-water treatment; storm-water collection and disposal; electric or gas utility services; enforcement of building, housing, plumbing, and electrical codes and other similar codes; planning and zoning; recreational facilities; (b) holding at least six regular, monthly or bimonthly, officially recorded public meetings each year; and (c) qualifying for and holds a regular municipal election as provided by law.

9. Effect of Lease Supplement. This Lease Supplement is intended as a separate Lease of the items of Property described in this Lease Supplement pursuant to the Master Lease. The terms, conditions and provisions of the Master Lease are hereby incorporated in this Lease Supplement to the same extent as if fully set forth in this Lease Supplement in this place, except to the extent expressly amended or modified by this Lease Supplement. The owner of Lessor's interest in this Lease shall have all rights, powers and remedies of Lessor with respect to this Lease under the Master Lease. This Lease Supplement may be executed in multiple counterparts, each of which shall constitute an original. This Lease Supplement shall be effective only upon the due completion and execution of the Schedules listed below and the delivery thereof to the Servicer.

10. Bank-Qualified or Non-Bank-Qualified.

☐ The Lease under this Lease Supplement is a Non-Bank-Qualified Lease;

OR: (Check 1 box)

☒ The Lease under this Lease Supplement is a Bank-Qualified Lease and Lessee has designated the Lease under the Lease Supplement as a "qualified tax-exempt obligation" under Section 265(b)(3) of the Code. The Lessee and its subordinate entities, and the entities that issue obligations on behalf of Lessee have not issued other tax-exempt obligations (other than private activity bonds, except Qualified 501(c)(3) Bonds) in the current calendar year, and Lessee does not expect that it and such other entities will issue such tax-exempt obligations such that all of such obligations, taken together with the Lease Amount under the Lease Supplement, would exceed \$10,000,000 in such calendar year. The only tax-exempt obligations issued or expected to be issued in the current calendar year by such parties are as follows (type title, date and amount):

	TITLE	DATE	AMOUNT
(1)	_____	_____	_____
(2)	_____	_____	_____

11. Payments Direction. Lessee authorizes and directs the Servicer under this Lease Supplement to pay the vendors of the Property as indicated below:

<u>NAME AND ADDRESS OF VENDOR</u>	<u>INVOICE #</u> (attach invoices)	<u>AMOUNT</u>
City of Kennesaw 2529 JO Stephenson Ave NW Kennesaw, GA 30144 Attn: Finance Director 770-424-8274	Enclosed	\$111,339.78

(Should Lessee have previously paid vendor, or require another means of payment to the Vendor, it should attach a request for an alternate payment method with a full explanation and, if applicable, proof of payment to the vendor.)

12. Assignee and Servicer. Lessor has assigned its rights and interests in the Lease to Magnolia Bank, which shall serve as Servicer for the Lease, and Lessee shall make payments to such Servicer.

13. Schedules. Lessee hereby delivers to Lessor and its assigns the completed, executed and effective Schedules C, D, and F, described below.

This Lease Supplement is dated: _____.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Supplement to be duly executed.

LESSEE:
(SEAL)

City of Kennesaw

Signed By: _____
City Manager or Mayor

Print Name: _____

Attested By: _____
City Clerk

Print Name: _____

Date: _____

LESSOR:
(SEAL)

GEORGIA MUNICIPAL ASSOCIATION, INC.

Signed By: _____
Executive Director

Attested By: _____
Financial Services Program Manager

Date of Execution: _____

Schedules Hereto:

- A. Property Schedule**
- B. Rental Schedule**
- C. Appropriation Certificate Form**
- D. Form 8038G or 8038GC**
- E. Form UCC-1 (If included)**
- F. Ordinance/Resolution for Lease Supplement**
- G. Assignment and Transfer of Lease Supplement
(Schedule G will be completed by GMA)**

SCHEDULE A

PROPERTY SCHEDULE

<u>DESCRIPTION OF PROPERTY</u>	<u>IDENTIFICATION OR VIN NUMBER</u>	<u>AMOUNT FINANCED</u>
2 Ford Interceptors w/ Equipment		\$111,339.78

SAMPLE
Payment Amortization Report

Customer: City of Kennesaw

Interest Rate:

4.3500% (Annual)

<u>Per</u>	<u>Date</u>	<u>Payment</u>	<u>Principal</u>	<u>Interest</u>	<u>Principal Balance</u>	<u>Accrued Interest</u>	<u>Accrued Int Bal</u>	<u>Net Balance</u>
0	5/23	0.00	0.00	0.00	111,339.78	0.00	0.00	111,339.78
12	5/24	25,256.35	20,413.07	4,843.28	90,926.71	4,843.28	0.00	90,926.71
24	5/25	25,256.35	21,301.04	3,955.31	69,625.67	3,955.31	0.00	69,625.67
36	5/26	25,256.35	22,227.63	3,028.72	47,398.04	3,028.72	0.00	47,398.04
48	5/27	25,256.35	23,194.54	2,061.81	24,203.50	2,061.81	0.00	24,203.50
60	5/28	25,256.35	24,203.50	1,052.85	0.00	1,052.85	0.00	0.00
Totals:		126,281.76	111,339.78	14,941.98		14,941.98		

SCHEDULE C

APPROPRIATION CERTIFICATE

Re: Master Lease dated February, 21, 2001 and Lease Supplement (the "Lease Supplement") dated _____, between Lessee and Georgia Municipal Association, Inc.

The undersigned officers of the City of Kennesaw (the "Lessee") hereby certify that all Rentals and the Termination Payment under the referenced Lease Supplement, for the current fiscal year are within such Lessee's operating budget or budgets for such year and an appropriation of funds for such year has been made for such purpose and is available therefore.

Dated: _____

City of Kennesaw

Signed by: _____

Print Name: _____

Title: _____

Attested By: _____

Print Name: _____

Title: _____

(SEAL)

INSTRUCTIONS:

1. To be given at the time of signing a Lease Supplement and within 30 days of the adoption of each annual budget.
2. Complete a separate certificate for each Lease Supplement in effect.

SCHEDULE D
Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)
► See separate instructions.
Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

Part I Reporting Authority

If Amended Return, check here ☐

1 Issuer's name City of Kennesaw		2 Issuer's employer identification number (EIN) 58-6010582
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) 2529 JO Stephenson Ave NW	Room/suite	5 Report number (For IRS Use Only) 3
6 City, town, or post office, state, and ZIP code Kennesaw, GA 30144		7 Date of issue
8 Name of issue City of Kennesaw / GMA Essential Equipment Lease-Purchase		9 CUSIP number None
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) Ms. Gina Auld, Finance Director		10b Telephone number of officer or other employee shown on 10a (770) 424-8274

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.

11 Education	11	
12 Health and hospital	12	
13 Transportation	13	
14 Public safety	14	\$111,339.78
15 Environment (including sewage bonds)	15	
16 Housing	16	
17 Utilities	17	
18 Other. Describe ► 2 Ford Interceptors w/ Equipment	18	
19 If obligations are TANs or RANs, check only box 19a ► ☐		
If obligations are BANs, check only box 19b ► ☐		
20 If obligations are in the form of a lease or installment sale, check box ► ☒		

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21		\$ 111,339.78	\$ N/A	years	%

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22	
23 Issue price of entire issue (enter amount from line 21, column (b))	23	\$111,339.78
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	0 00
25 Proceeds used for credit enhancement	25	
26 Proceeds allocated to reasonably required reserve or replacement fund	26	
27 Proceeds used to currently refund prior issues	27	
28 Proceeds used to advance refund prior issues	28	
29 Total (add lines 24 through 28)	29	0 00
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	\$111,339.78

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

31 Enter the remaining weighted average maturity of the bonds to be currently refunded ►	years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded ►	years
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) ►	
34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)	

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 63773S

Form **8038-G** (Rev. 9-2011)

Part VI Miscellaneous

- | | | |
|------------|--|--|
| 35 | | |
| 36a | | |
| 37 | | |
- 35** Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)
- 36a** Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)
- b** Enter the final maturity date of the GIC ▶ _____
- c** Enter the name of the GIC provider ▶ _____
- 37** Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units
- 38a** If this issue is a loan made from the proceeds of another tax-exempt issue, check box ☐ and enter the following information:
- b** Enter the date of the master pool obligation ▶ _____
- c** Enter the EIN of the issuer of the master pool obligation ▶ _____
- d** Enter the name of the issuer of the master pool obligation ▶ _____
- 39** If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ☒
- 40** If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ☐
- 41a** If the issuer has identified a hedge, check here ☐ and enter the following information:
- b** Name of hedge provider ▶ _____
- c** Type of hedge ▶ _____
- d** Term of hedge ▶ _____
- 42** If the issuer has superintegrated the hedge, check box ☐
- 43** If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ☐
- 44** If the issuer has established written procedures to monitor the requirements of section 148, check box ☐
- 45a** If some portion of the proceeds was used to reimburse expenditures, check here ☐ and enter the amount of reimbursement ▶ _____
- b** Enter the date the official intent was adopted ▶ _____

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

▶ _____ Signature of issuer's authorized representative Date ▶ _____ Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN
Firm's name ▶ _____			Firm's EIN ▶ _____	
Firm's address ▶ _____			Phone no. _____	

Form **8038-G** (Rev. 9-2011)

SCHEDULE F

ORDINANCE/RESOLUTION FOR SUPPLEMENTAL LEASES

A RESOLUTION OR ORDINANCE TO AUTHORIZE AND
DIRECT AN OFFICER OF THE CITY
TO EXECUTE ONE OR MORE LEASE SUPPLEMENTS FOR A LEASE
OR LEASES UNDER THE GMA DIRECT LEASING PROGRAM; TO DESIGNATE
SUCH LEASES AS QUALIFIED TAX-EXEMPT OBLIGATIONS;
TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City has entered into a Master Lease (the "Master Lease") dated as of February, 21, 2001, with Georgia Municipal Association, Inc. for the leasing from time to time of certain equipment, machinery or other personal property pursuant to Supplemental Leases;

NOW THEREFORE, BE IT RESOLVED OR ORDAINED AS FOLLOWS BY THE GOVERNING BODY OF THE CITY:

1. The _____ of the City is hereby authorized and directed to execute and deliver a Lease Supplement pursuant to the Master Lease to put into effect one or more leases for 2 Ford Interceptors w/ Equipment (the "Leased Property"); said officer of the City is authorized and directed in the name and on behalf of the City to execute and deliver (i) one or more Lease Supplements for items of the Leased Property in substantially the form attached to the Master Lease, with such changes and additions as may be approved by said officer, and (ii) such other documents as may be deemed by such officer to be necessary or desirable to effect the purposes hereof or of the Master Lease, and such execution shall constitute conclusive evidence that the executed document has been authorized and approved hereby; the aforesaid officer is further authorized to do all things necessary or appropriate to effectuate the purposes hereof.

2. ☐ An appropriation in the City's current operating budget has previously been made, which shall be sufficient to pay the "Rentals" and the "Termination Payment" during the "Starting Term" under such Lease Supplements; or

(check box if applicable)

☐ An appropriation from unappropriated and unreserved funds in the City's current operating budget is hereby made for the "Rentals" and the "Termination Payment" during the "Starting Term" under such Lease Supplements, and the budget of the City is hereby amended to reflect such appropriation to the extent necessary.

3. The lease or leases contemplated by the said Lease Supplements are hereby designated "Qualified Tax-Exempt Obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, and said officer shall be authorized to confirm such designation by execution of appropriate documents in connection therewith.

4. This authorization shall be effective immediately.

CLERK'S CERTIFICATE

The undersigned hereby certifies that he or she is the Clerk of the City of Kennesaw, Georgia (the "City"), and that the foregoing is a true copy of the ☐ Resolution or, ☐ Ordinance [Check One] adopted by the governing body of the City at a meeting duly held on the _____, 20____, at which a quorum was present and acting throughout, and that the same has not been rescinded or modified and is now in full force and effect. Given under the seal of the City, this _____, 20____.

(SEAL)

City Clerk



Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: June 5, 2023

TITLE: Parcel Combination plat application submitted by Surina Narine and Avery Richardson for 0 Live Oak Drive (20017701170) and 0 Live Oak Drive (20017701180). Case number PC2023-05.

Summary:

This plat combines 2 vacant parcels into 1 parcel. The intent is to build a single family home on the property. Lot 31 is 0.44 acres and Lot 32 is 0.73 acres, with a combined acreage of 1.17 acres. The new address for the combined parcels is 2640 Due West Circle. The Plan Review Committee has reviewed said plat for compliance and recommends approval.

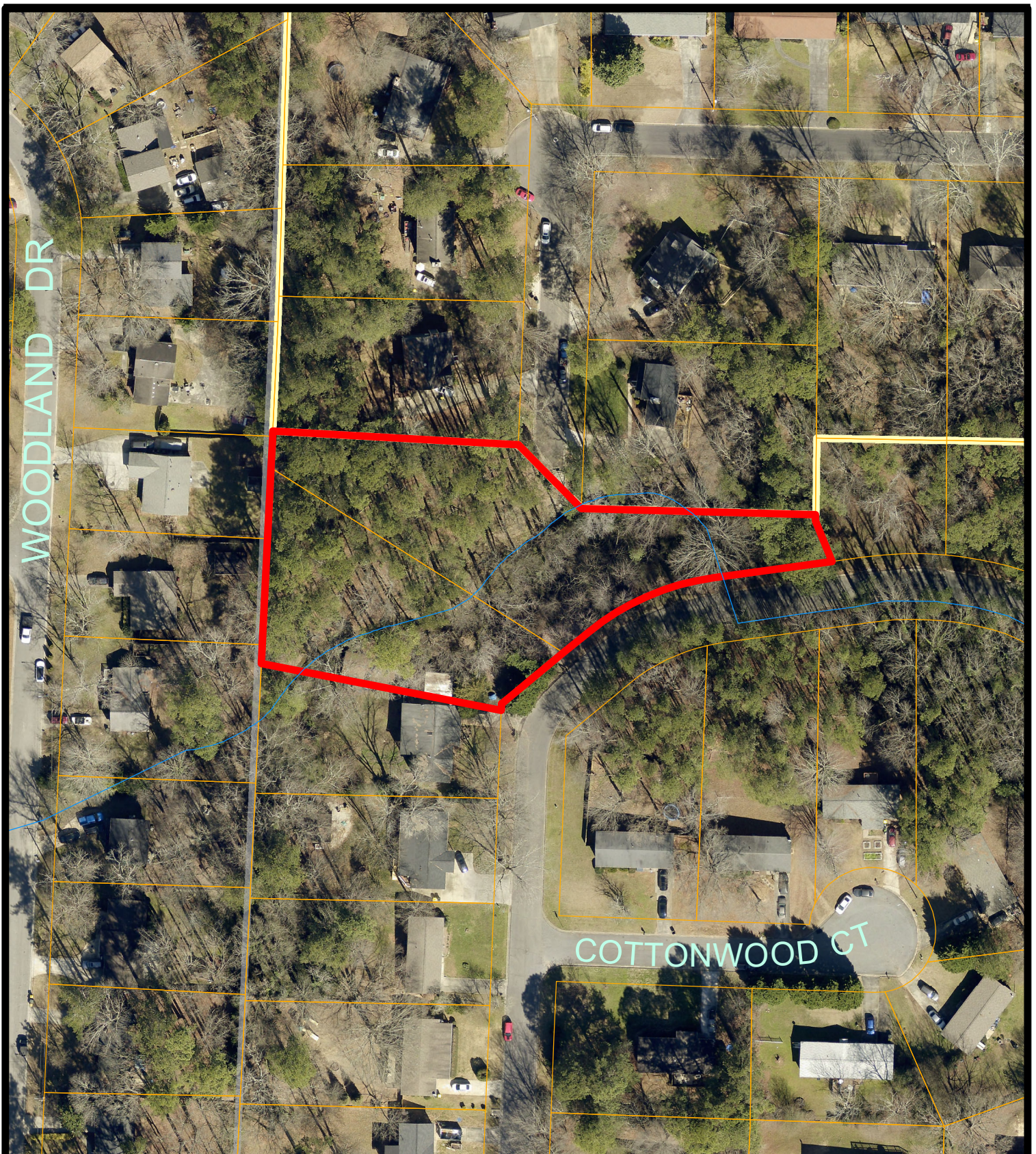
Recommendation:

Zoning Administrator recommends approval of the parcel combination plat application.

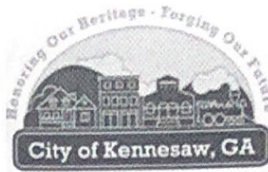
Fiscal Impact:

Attachments:

1. Aerial Map
2. Final Plat Application-0 Live Oak Drive
3. PRC Approval Letter signed-0 Live Oak Drive
4. 0 Live Oak Drive- Approved plat



LAND CASES		LAND USE OR ZONING		0 Live Oak Dr Land Lot 177, Tax Parcels 117 & 118		
		FROM	TO	Subject Property		
AV	PC2023-05 AV – Administrative Variance AX – Annexation DX – De-annexation HBR – Historic Board Review LU – Land Use RZ – Re-zoning SLUP – Special Land Use ZV – Variance			ZONING KENNESAW CITY LIMITS COBB COUNTY LAND LOT		 CITY OF KENNESAW PLANNING & ZONING DEPT. 770-590-8268 <i>Deirdre Easterting</i> MAYOR <i>Lisa Murray</i> CITY CLERK
AX						
DX						
HBR						
SLUP						
ZV				Scale: 1" = 100' Print Date: 5/25/2023 PC2023-05_Aerial Map		



Date Received 04/17/23
Staff's Initials IA

PRELIMINARY, FINAL AND REVISE PLAT APPLICATION
Required Fee \$250.00

Preliminary Plat _____ Final Plat ☒ Revised Plat _____ Parcel Combination _____ Parcel Split _____

Is this property located within the Kennesaw Historic District (yes) _____ (no) ☒

A MINIMUM OF ONE CONSULTATION WITH PLANNING AND ZONING ADMINISTRATOR AND PLAN REVIEW STAFF PRIOR TO THE SUBMISSION OF THE APPLICATION IS MANDATORY.

Date of Consultation 4/16/23 Staff Initials _____

DEVELOPMENT NAME Lot 31 and lot 32 Construction Number of Units _____

PURPOSE OF DEVELOPMENT Building House

WHAT IS THE REVISION BEING MADE Line removal between lots 31 & 32

ADDRESS OF PROPERTY Olive Oak Drs Kennesaw GA, 30152

Parcel ID 20017701170 Lot Size 1.17 acres Present Zoning R-15

Current Use Vacant land Proposed Use Residential House

APPLICANT Surina Narine

Applicant address 4966 Day Lily Way, Acworth GA 30102

(Phone #) [REDACTED] Email Address [REDACTED]

Applicant Signature [Signature]

Signed, sealed and delivered in presence of: Henry Wing Notary Date 4/6/23



REPRESENTATIVE _____ (Phone #) _____ Email Address _____

Representative Signature _____

Signed, sealed and delivered in presence of: _____

TITLEHOLDER Surina Narine and Avery Richardson (Phone #) [REDACTED]

Titleholder Signature [Signature] Address 4966 Day Lily Way, Acworth GA 30102

Signed, sealed and delivered in presence of Notary Henry Wing Date 4/6/23





CAMPAIGN DISCLOSURE REPORT ¹ BY APPLICANT²

A separate form must be completed by each applicant

Has the applicant made, within two (2) years immediately preceding the filing of this application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of the Mayor and Council or Planning Commission who will consider the application? No

If "Yes," the applicant and the attorney representing the applicant must file a disclosure report with the Mayor and Council of the City of Kennesaw within ten (10) days after this application is first filed.

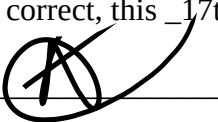
Please supply the following information that will be considered as the required disclosure:

The name of the member(s) of the Mayor and Council or Planning Commission to whom the campaign contribution or gift was made:

The dollar amount of each campaign contribution made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application and the date of each such contribution:

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the applicant to the member(s) of the Mayor and Council or Planning Commission during the two (2) years immediately preceding the filing of this application:

I certify that the foregoing information is true and correct, this 17th day of March 2023


Applicants Signature 

¹ If the answer to any of the above is "Yes," then the member of the Mayor and Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the Mayor and Council of the City of Kennesaw, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours. ² Applicant means any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action

Meredith Shearer & Associates, LLC
 1225 Johnson Ferry Road
 Ste 100
 Marietta, GA 30068
 (678) 560-5050

ALTA Combined Settlement Statement

File #:	23-129	Property	Lots 31 & 32 of Oakhill	Settlement Date	03/29/2023
Prepared:	03/29/2023		Kennesaw, GA 30114	Disbursement Date	03/29/2023
Attorney:	Amanda Campbell	Buyer	Surina Medha Narine and Avery Tobin Troy Richardson		
		Seller	April D. Rogers of The Estate of Lillian M. Jarrells		
		Lender			

Seller			Buyer	
Debit	Credit		Debit	Credit
		Primary Charges & Credits		
	\$30,000.00	Sales Price of Property	\$30,000.00	
		Deposit		\$5,000.00
		Prorations/Adjustments		
\$1.99		City/Town Taxes 01/01/2023 to 03/29/2023		\$1.99
\$6.37		County Taxes 01/01/2023 to 03/29/2023		\$6.37
		Loan Charges		
		E-Recording Fee to Meredith Shearer and Assoc	\$4.75	
		Probate from Bartow to Traditional Title Services	\$53.00	
		Government Recording and Transfer Charges		
		Recording Fees	\$25.00	
		---Deed: \$25.00		
		Real Estate Transfer Tax (State Deed Taxes) to Cobb County Recording Office	\$30.00	
		Commissions		
\$900.00		Listing Agent Commission to Asher Realty		
\$900.00		Selling Agent Commission to DRAKE REALTY OF GA, INC.		
		Title Charges		
		Title - Settlement or Closing Fee to Meredith Shearer & Associates, LLC	\$650.00	
		Title Exam Fee to Traditional Title Services	\$175.00	
		Title - Owner's Title Policy to Old Republic National Title Insurance Company	\$200.00	
Seller			Buyer	
Debit	Credit		Debit	Credit
\$1,808.36	\$30,000.00	Subtotals	\$31,137.75	\$5,008.36
		Due from Buyer		\$26,129.39
\$28,191.64		Due to Seller		
\$30,000.00	\$30,000.00	Totals	\$31,137.75	\$31,137.75

ACKNOWLEDGEMENT AND RECEIPT OF SETTLEMENT STATEMENT

DATE: March 29, 2023

PURCHASER: Surina Medha Narine and Avery Tobin Troy Richardson

SELLER: April D. Rogers as Executrix of The Estate of Lillian M. Jarrells

PROPERTY ADDRESS: Lots 31 & 32 of Oakhill, Kennesaw, GA 30114

Purchaser and Seller acknowledge that each has received, reviewed, and approved the entries appearing on the Alta Settlement Statement, and to the best of their knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on their account or by them in this transaction and each further certify that they have received a copy of the Alta Settlement Statement. Purchaser further acknowledges receipt and disbursement on his behalf of the proceeds in full. Seller acknowledges receipt and payment in full of the proceeds due Seller from the settlement.

If the proration of taxes and assessments was made based on estimated amounts prior to receipt of current actual bills, Purchaser and Seller agree to adjust the prorations shown on the Settlement Statement between themselves when current actual bills are received. The Payment of outstanding taxes and assessments of not paid at Settlement will be paid thereafter by the appropriate party. Seller shall pay any reassessments of prior years taxes, and Seller's portion of additional taxes issued for the current year. Purchaser and Seller hereby release Meredith Shearer & Associates, LLC from any liability or obligation relating thereto.

Purchaser and Seller acknowledge that settlement agent makes no representations as to the status of any outstanding or past due water, sewerage or other utility bills applicable to the property. The status of such items shall be determined by and are the responsibility of the Purchaser and Seller.

Certain costs in real estate closings are difficult to precisely ascertain, so the amount charged for recording Section 1200 and for courier and express mail services may be more or less than the costs which will actually be paid. For these costs, any shortages will be paid by this firm; any overages will be retained by the firm to cover administrative costs of providing these services.

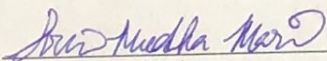
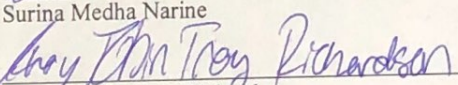
Purchaser and Seller agree that in the event any creditor and receiving a payoff as set forth the Settlement Statement refuses to accept the amount tendered, the party who is obligated to make such payoffs shall immediately after demand pay to the settlement agent sufficient additional funds to satisfy the creditor.

Purchaser and Seller agree that should any inadvertent errors or omissions later be discovered in any documents executed at settlement, they shall promptly execute such corrective documents and remit such sums as may be required to adjust or correct such errors or omissions.

Purchaser hereby acknowledges that a real property tax return and application for homestead exemption is required by law and is to be filed with the county tax collector in which the property lies, by March 1 of the year immediately following settlement and that such filings are the sole responsibility of the Purchaser for the current tax year. Seller warrants that all required tax returns and applicable exemption applications have been filed for the current tax year. Seller further agrees to reimburse Purchaser for any penalties caused by Seller's failure to file a proper and timely tax return.

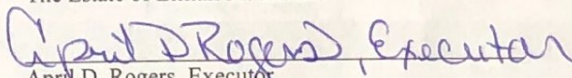
Purchaser acknowledges that Purchaser is hereby purchasing owner's title insurance coverage, or declining coverage at his own risk.

PURCHASER(S):


Surina Medha Narine

Avery Tobin Troy Richardson

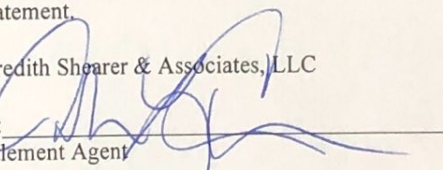
SELLER(S):

The Estate of Lillian M. Jarrells


April D. Rogers, Executor

The Alta Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

Meredith Shearer & Associates, LLC

BY: 

Settlement Agent

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1010.

Parcel ID: 20017701170 and 20017701180

Meredith Shearer & Associates, LLC
1225 Johnson Ferry Road, Ste 100
Marietta, GA 30068
File No.: 23-129

**EXECUTOR'S DEED
JOINT TENANTS WITH THE RIGHT OF SURVIVORSHIP**

State of Georgia

County of Cobb

THIS INDENTURE, Made this 29th day of March, 2023 between April D. Rogers, as Executor(s) of the Estate of Lillian M. Jarrells, late of the County of Bartow and State of Georgia, deceased, hereinafter called Grantor, and Surina Medha Narine and Avery Tobin Troy Richardson, as joint tenants with survivorship and not as tenants in common as party or parties of the second part, hereinafter called Grantees (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, (acting under and by virtue of the power and authority contained in the said will, the same having been duly probated and recorded in the Court of Probate of **Bartow** County, State of Georgia, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt if which is hereby acknowledged, has granted, bargained, sold, and conveyed and by these presents does grant, bargain, sell and convey unto the said Grantee.

All that tract or parcel of land lying and being in Land lot 177, 20th District, Second Section, Cobb County, Georgia, being in the City of Kennesaw and being Lots 31 and 32 of Oakhill Subdivision, as shown on a plat make for Welbilt Homes, Inc. by Frank Lamar Boyd, dated November, 1970, said plat being recorded in Plat Book 51, Page 119, Cobb County Records.

This being the same property conveyed to the Deceased Lavon Jarrells in Limited Warranty Deed dated July 28, 1978 and recorded in the records of the Clerk of the Superior Court of Cobb County, Georgia at Deed Book 1928 and Page no. 170. This instrument conveys all interest of the undersigned acquired by operation of law or conveyance from the estate of their father, Lavon Jarrells who passes away intestate on 7-22-95.

LESS AND EXCEPT:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 177 of the 20th District, 2nd Section, Cobb County, Georgia, being Lot 30 and part of Lot 31, Oakhill Subdivision, and being more particularly described as follows:

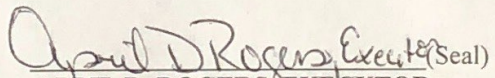
Begin at an iron pin which is located at the southwest corner of the said Lot 30, which is on the common line of Land Lots 177 & 178, and which may be definitely located by reference to the subdivision plat for Oakhill Subdivision which is recorded in Plat Book 51, Page 119, Cobb County, Georgia records, and which plat by reference is incorporated herein and made a part hereof; thence North 00 degrees 21 minutes East and along the common line of Land Lots 177 & 178 a distance of 99.77 feet to an iron pin which is located at the northwest corner of the said Lot 30; thence North 84 degrees 49 minutes 57 seconds East a distance of 65.35 feet to an iron pin; thence South 79 degrees 47 minutes 46 seconds East a distance of 123.10 feet to an iron pin which is located on the west right of way of Live Oak Drive (50' right of way); thence South 00 degrees 47 minutes 41 seconds West and along said right of way a distance of 85.00 feet to an iron pin; thence North 89 degrees 38 minutes 53 seconds West a distance of 185.67 feet to an iron pin and the point of beginning.

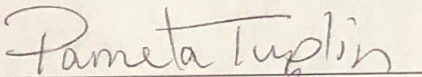
TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said Grantees, as joint tenants and not as tenants in common, for and during their joint lives, and upon the death of either of them, then to the survivor of them in FEE SIMPLE together with every contingent remainder and right of reversion, and to the heirs and assigns of said survivor in as full and ample a manner as the same was held, possessed and enjoyed, or might have been held, possessed and enjoyed by the deceased.

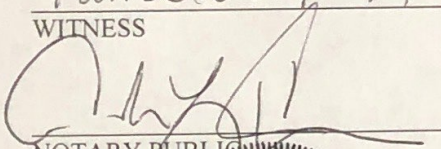
IN WITNESS WHEREOF, each Grantor has signed and sealed this deed, the day and year above written.

Signed, sealed, and delivered in the presence of:

THE ESTATE OF LILLIAN M.
JARRELLS


APRIL D. ROGERS, EXECUTOR


WITNESS


NOTARY PUBLIC



**AGREEMENT FOR TRANSFER OF LIABILITY FOR AD VALOREM
TAXES PURSUANT TO O.C.G.A. § 48-3-3 (d)**

State of Georgia
County of Cobb

Date: March 29, 2023

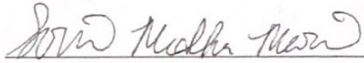
Property Address: Lots 31 & 32 of Oakhill, Kennesaw, GA 30114

As a material part of the sale price and for value received, Seller assigns, transfers and conveys without recourse the liability for the payment of ad valorem taxes to Buyer, the vested transferee, and Buyer accepts the assignment and agrees to be responsible and to pay the ad valorem taxes concerning the property for the current tax year and for all future years as contemplated in O.C.G.A. § 48-3-3 (d).

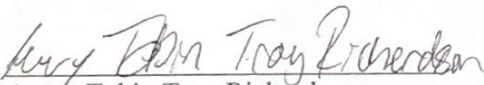
Nothing herein shall relieve either party from any obligation to re-prorate property taxes based on actual tax bills differing from the estimated figures used to calculate property tax prorations on the closing statement.

Dated March 29, 2023

Buyer(s):



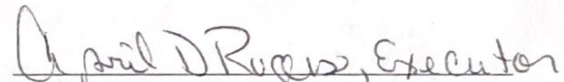
Surina Medha Narine



Avery Tobin Troy Richardson

Seller(s):

The Estate of Lillian M. Jarrells



April D. Rogers, Executor

LEGAL SERVICES STATEMENT

AGREEMENT OF LEGAL SERVICES PERFORMED BY Meredith Shearer & Associates, LLC (hereinafter referred to as "Law Firm"), In connection with the closing of property located at Lots 31 & 32 of Oakhill, Kennesaw, GA 30114 being purchased by Surina Medha Narine and Avery Tobin Troy Richardson ("Buyer") and sold by April D. Rogers of The Estate of Lillian M. Jarrells ("Seller")

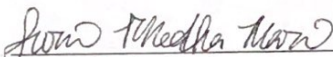
This Agreement sets forth the scope of representation by the Law Firm to the Buyer. Irrespective of which party pays attorney's fees for this transaction, the Law Firm represents the Buyer. The Buyer acknowledges and agrees that the Law Firm has been retained to perform limited services as set forth below. Any legal services not stated herein are specifically as disclaimed.

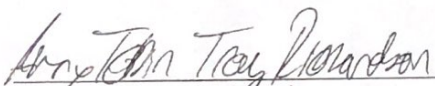
1. Examination of deed records in the appropriate courthouse which form the basis of title to the property being offered for the sale, and title examination of other records such as the general execution docket, the federal tax lien Docket, the suits docket, probate court records, the lis pendens docket, and the examination in the appropriate courthouse and/or city hall of the status of the ad valorem tax records including street improvement assessment records;
2. The preparation, where required by the title insurance underwriter if in conjunction with the issuance of a title insurance policy, of documents in order to satisfy defects found in the title through such examination;
3. The preparation of documents necessary or appropriate to consummate the loan, including the transfer of title to the Buyer;
4. The recording of the appropriate documents on the official public records to insure record title in the Buyer;
5. Acceptance of certified or wired funds into the law firms escrow account and disbursements from the escrow account in accordance with all items detailed on the closing statement.

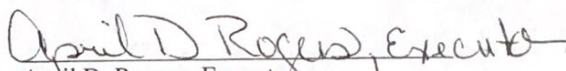
The above services are performed by this Law Firm on behalf of Buyer in connection with the closing. This Firm does not represent the Seller and the Seller is entitled to retain counsel of Sellers choice if Seller desires to do so. Seller acknowledges that the Law Firm represents the Buyer, notwithstanding the payment of attorney's fees by Seller.

The Law Firm recommends that every Buyer purchases an Owner's Title Insurance policy at closing to protect the Buyers interest in the property. Buyer acknowledges that a portion of the Owner's Title Insurance premium is paid to the Law Firm for issuance of the policy.

Agreed to on March 29, 2023


Surina Medha Narine


Avery Tobin Troy Richardson

The Estate of Lillian M. Jarrells

April D. Rogers, Executor

CARLA JACKSON, Tax Commissioner

HEATHER WALKER, Deputy Tax Commissioner

**COBB COUNTY DUPLICATE TAX STATEMENT
FOR TAX YEAR 2022**

BILL NUMBER

PLEASE WRITE PARCEL
NUMBER BELOW
ON YOUR CHECK

MAKE CHECK PAYABLE TO: "Cobb County Tax Commissioner"
MAIL REMITTANCE TO: P.O. BOX 100127
MARIETTA, GA 30061-7027

PROPERTY DESCRIPTION LIVE OAK DR								
Parcel	Lot	BLK	Unit	Acres	Homestead	Dist	Gross Value	Gross Assessment
20-0177-0-117-0	0031			0.44		3	1100	440



JARRELLS LILLIAN M
37 DOBSON DR SW
CARTERSVILLE GA 30120

TOTAL TAX 13.36
LESS AMT. PREV. PAID -13.36

Total Due \$0.00

DETACH AND RETURN WITH CHECK

REMITTANCE COPY

**COBB COUNTY DUPLICATE TAX STATEMENT
FOR TAX YEAR 2022**

TAXPAYER COPY

BILL NUMBER

PROPERTY DESCRIPTION LIVE OAK DR								
Parcel	Lot	BLK	Unit	Acres	Homestead	Dist	Gross Value	Gross Assessment
20-0177-0-117-0	0031			0.44		3	1100	440

JARRELLS LILLIAN M
37 DOBSON DR SW
CARTERSVILLE GA 30120

	GROSS ASSESSMENT -	EXEMPTION	= NET ASSESSMENT	X MILLAGE	= CALCULATED TAX	-	= TOTAL TAX
STATE	440		440	0.000000			
COUNTY GENERAL	440		440	0.008460	3.72		3.72
COUNTY BOND	440		440	0.000000			
COUNTY FIRE	440		440	0.002990	1.32		1.32
SCHOOL GENERAL	440		440	0.018900	8.32		8.32
SCHOOL BOND	440		440	0.000000			
10% PENALTY FOR NOT FILING A TAX R							
TOTAL					13.36		13.36
					LESS AMT. PREV. PAID		-13.36

Total Due \$0.00

This is the duplicate tax bill for the above said property, calculated from information supplied by the Cobb County Board of Tax Assessors.

You must send a copy of this bill to your mortgage company if they are responsible for payment.

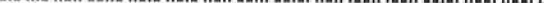
CARLA JACKSON, Tax Commissioner
HEATHER WALKER, Deputy Tax Commissioner

Phone 770-528-8600
Fax 770-528-8679
E-mail: tax@cobbtax.org
tags@cobbtax.org
Web: www.cobbtax.org

HEATHER WALKER, Deputy Tax Commissioner

COBB COUNTY DUPLICATE TAX STATEMENT
FOR TAX YEAR 2022

MAKE CHECK PAYABLE TO: "Cobb County Tax Commissioner"
MAIL REMITTANCE TO: P.O. BOX 100127
MARIETTA, GA 30061-7027



TOTAL TAX	13.36
LESS AMT. PREV. PAID	-13.36

Total Due	\$0.00
-----------	--------

DETACH AND RETURN WITH CHECK

REMITTANCE COPY

TAXPAYER COPY

JARRELLS LILLIAN M
37 DOBSON DR SW
CARTERSVILLE GA 30120

	GROSS ASSESSMENT -	EXEMPTION	=NET ASSESSMENT	X MILLAGE	=CALCULATED TAX -	= TOTAL TAX
STATE	440		440	0.000000		
COUNTY GENERAL	440		440	0.008460	3.72	3.72
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10% PENALTY FOR NOT FILING A TAX R						
TOTAL					13.36	13.36
					LESS AMT. PREV. PAID	-13.36

Total Due	\$0.00
-----------	--------

Phone 770-528-8600
Fax 770-528-8679
E-mail: tax@cobbtax.org
tags@cobbtax.org
Web: www.cobbtax.org



City of Kennesaw
PROPERTY TAX DIVISION
2529 J. O. STEPHENSON AVE
KENNESAW, GA 30144-2780
(770) 429-4542

2022 Property Tax Bill

Parcel ID	Tax District	Bill #							
20017701170	3/3-BOND - KENNESAW CITY	238310							
Property Owner/Location/Description		Fair Market Value	Taxable Value						
JARRELLS LILLIAM M LIVE OAK DR		1,100	440						
Levies	Taxable Value	-	Exemptions	=	Net Assessment	x	Tax Rate	=	Net Tax
BOND	440		0		440		1.5000000000		\$0.66
CITY OF KENNESAW	440		0		440		8.0000000000		\$3.52

Exemptions:

Per House Bill 960, to arrive at the property tax interest rate, divide 10.5% by 12, which equals .875%. This interest rate will continue to accrue on a monthly basis, based on an annual calculation of Federal Prime Rate (7.5%) plus 3%. Penalty will accrue at 5% after 120 days with an additional 5% assessed after each successive 120 days to a maximum of 20% of the principle amount due (House Bill 960). Payments can be made online at www.municipalonlinepayments.com/kennesawga, in person, by mail or via our dropbox. Tax bills are mailed annually on October 1, with a due date of December 1. Any questions concerning ownership changes or change of address should be directed to Cobb County Tax Commissioner's Office. For all other questions or concerns regarding this statement, give us a call at 770-429-4542.	Current Year Tax	\$4.18
	Interest	\$0.00
	Penalty	\$0.00
	Other Fees	\$0.00
	Payments Received	\$4.18
	Other Amounts Due	\$0.00
	Total Due	\$0.00
	Due Date	12/01/2022



City of Kennesaw
PROPERTY TAX DIVISION
2529 J. O. STEPHENSON AVE
KENNESAW, GA 30144-2780

Please make check or Money Order Payable to :
City of Kennesaw Property Tax Division and
include the Parcel ID on your check.

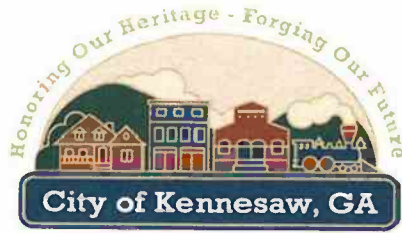
For your convenience, you may pay by check,
money order, Discover, Mastercard, AMEX, VISA.
3% fee and \$3.50 per transaction fee added to
debit/credit card payments. \$1.25 fee per ECheck
transaction paid online.

Parcel ID: 20017701170
Amount Due: \$0.00
Bill#: 238310
Due Date: 12/01/2022

AMOUNT PAID

JARRELLS LILLIAM M
37 DOBSON DR SW
CARTERSVILLE, GA 30120

City of Kennesaw
PROPERTY TAX DIVISION
2529 J. O. STEPHENSON AVE
KENNESAW, GA 30144-2780



**Community Development Department
Plan Review Committee**

Plan Review Coordinator
Scott Banks, Building Official

Darryl Simmons, Zoning Administrator
Ricky Stewart, Public Works Director
Luke Howe, Economic Development Director

To: Mayor and Council

From: Plan Review Committee

Date: Thursday, May 25, 2023

The combination parcel was submitted by Surina Narine and Avery Richardson for: 0 Live Oak Drive (20017701170) and 0 Live Oak Drive (20017701180) and it was received and reviewed by the Plan Review Committee. This plat combines 2 vacant parcels into 1 parcel. The intent is to build a single family home on the property. Lot 31 is 0.44 acre and Lot 32 is 0.73 acre, with a combined acreage of 1.17. Both parcels are zoned R-15. All members of the Plan Review Committee have verified said plat and all comments were addressed. The combination parcel is in compliance and ready for your consideration and approval.



Scott Banks, Building Official



THIS BLOCK RESERVED FOR THE
CLERK OF THE SUPERIOR COURT

CURRENT ZONING
ZONED: R-15 (CITY OF KENNESAW DISTRICT)

MIN. YARD ADJACENT TO PUBLIC STREET
FRONT YARD: 35 FEET
MAJOR SIDE YARD: 25 FEET
MINOR SIDE YARD: 10 FEET
REAR YARD: 30 FEET
HEIGHT SETBACK: 35 FEET
MAX. IMPERVIOUS COVERAGE: 35%

LEGEND

- POWER POLE
- FIRE HYDRANT
- WATER VALVE
- WATER METER
- JUNCTION BOX
- SANITARY SEWER MANHOLE
- DROP INLET
- R/W MONUMENT
- SINGLE WING CATCH BASIN
- DOUBLE WING CATCH BASIN
- CURB INLET
- HEADWALL
- GAS METER
- GAS VALVE
- ELECTRIC TRANSFORMER
- TELEPHONE PEDESTAL
- LIGHT POST
- 1/2 IRON PIN SET (IPS)
- REBAR FOUND (RBF)
- CONC. MONUMENT FOUND (CMF)
- CALCULATED POINT
- CHAIN LINK FENCE
- CRIMP TOP PIPE FOUND
- OPEN TOP PIPE FOUND
- IRON PIN OR OR ROD FOUND

C.L.F.
CTF
OTF
IPF

NOTE: TO ENSURE COMPLIANCE WITH
WATER/SEWER EASEMENT SETBACKS,
INDIVIDUAL SITE PLANS MUST BE SUBMITTED
TO AND APPROVED BY THE COBB COUNTY
WATER SYSTEM FOR THE FOLLOWING LOTS
PRIOR TO ISSUANCE OF BUILDING PERMIT:
LOTS 31 & 32

- SURVEY NOTES
- EQUIPMENT USED : TOPCON ROBOTIC D2 TOTAL STATION - TOPCON RTK GPS ROVER.
 - THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 10,000 FEET AN ANGULAR ERROR OF 02" PER ANGLE POINT AND WAS ADJUSTED USING COMPASS RULE.
 - THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 147,668 FEET.
 - THIS PROPERTY IS SUBJECT TO ALL ZONING ORDINANCES, SETBACK LINES AND EASEMENTS OF RECORD LYING WITHIN.
 - AS SHOWN ON FLOOD INSURANCE RATE MAPS OF COBB COUNTY, GEORGIA COMMUNITY PANEL NUMBER 13067C0019H THIS PROPERTY IS NOT LOCATED WITHIN A 100 YEAR FLOOD ZONE.
 - THIS SURVEY IS REFERENCED TO HORIZONTAL DATUM SPC NAD 83 AND VERTICAL DATUM NAVD 1988 PER THE VIRTUAL REFERENCE SYSTEM CORRECTIONS PROVIDED BY eGPS SOLUTIONS.

THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS, OR ENTITY NAMED IN THE CERTIFICATE HEREON. SAID CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS RE-CERTIFICATION BY THE SURVEYOR NAMING SAID PERSON.

CITY SIGNATURE BLOCK

THIS PLAT HAS BEEN APPROVED BY:

PLANNING & ZONING DEPARTMENT	DATE
BUILDING & CONSTRUCTION DEPARTMENT	DATE
PUBLIC WORKS DEPARTMENT	DATE
CITY OF KENNESAW ENGINEER	DATE
CITY OF KENNESAW MAYOR & CITY COUNCIL	DATE

NOTHING HEREIN SHALL BE CONSTRUED TO MEANT THAT THE CITY OF KENNESAW HAS ACCEPTED THE DEDICATION OF ANY RIGHTS-OF-WAY, EASEMENTS OR OTHER AREA AS BEING DEDICATED TO PUBLIC USE.

FIRE DEPARTMENT REQUIREMENTS

FIRE APPARATUS ACCESS SHALL MEET THE FOLLOWING:

- DRIVEWAY MUST HAVE A MIN. 12' DRIVING SURFACE WIDTH (CCDS 402.07.01) WITH MIN. 25' TURNING RADIUS.
- SHOW DRIVEWAY OF EACH PARCEL. (CCDS 103.31.4)
- FULLY DEVELOPED LANDSCAPING SHALL BE AT LEAST 7'0" FROM CENTER OF DRIVE (14' CLEAR WIDTH) AND 13'6" VERTICAL CLEARANCE.
- MAX. GRADE SHALL NOT EXCEED 18% AND THE ANGLE OF DEPARTURE SHALL NOT EXCEED 8.5%.
- DRIVEWAY MUST EXTEND TO WITHIN 150' OF THE STRUCTURE.
- DRIVEWAY IS LIMITED TO 1000' MAXIMUM FROM ROADWAY UNLESS AN APPROVED TURN-AROUND IS PROVIDED.
- HAMMERHEAD TURN-AROUND: TOTAL OF 102 FEET NEEDED (45'x12' DRIVE+45') WITH THE TURN-AROUND LEG TO BE A MIN. OF 20' WIDE.
- DRIVEWAY MUST SUPPORT 25 TONS (50,000 lbs.)
- PROVIDE EMERGENCY ACCESS THROUGH ALL GATES SECURING FIRE DEPT. ACCESS WITH A MIN. 12'-0" CLEAR WIDTH AND APPROVED MEANS OF OPERATION. (www.knoxbox.com)

FIRE HYDRANT ACCESS AND FLOW SHALL MEET THE FOLLOWING:

- HYDRANT MUST BE LOCATED WITHIN 500' OF ALL SINGLE FAMILY HOMES (CD 4103.5.2)
- FIRE FLOW TEST FROM CLOSEST EXISTING HYDRANT SHALL BE PROVIDED MEETING THE MIN., 1000 GPM @ 20 PSI (CD 410.5.2)

*AN ALTERNATE EQUIVALENCY FOR THE ABOVE REQUIREMENTS, SUBJECT TO APPROVAL BY THE COBB COUNTY FIRE MARSHAL'S OFFICE IS ONE OF THE FOLLOWING:
1. NFPA 13D SPRINKLER SYSTEM

LOT COMBINATION SURVEY PREPARED FOR:
APRIL ROGERS

LOTS 31 & 32, OAK HILL SUBDIVISION
2640 DUE WEST CIRCLE, KENNESAW, GA 30152
LAND LOTS 177, 20TH DISTRICT, 2ND DISTRICT, COBB COUNTY, GEORGIA

LOT 32 AREA 29,501 sq.ft. 0.68 acres	PART OF LOT 31 AREA 21,441 sq.ft. 0.49 acres
TOTAL AREA 50,943 sq.ft. 1.17 acres	

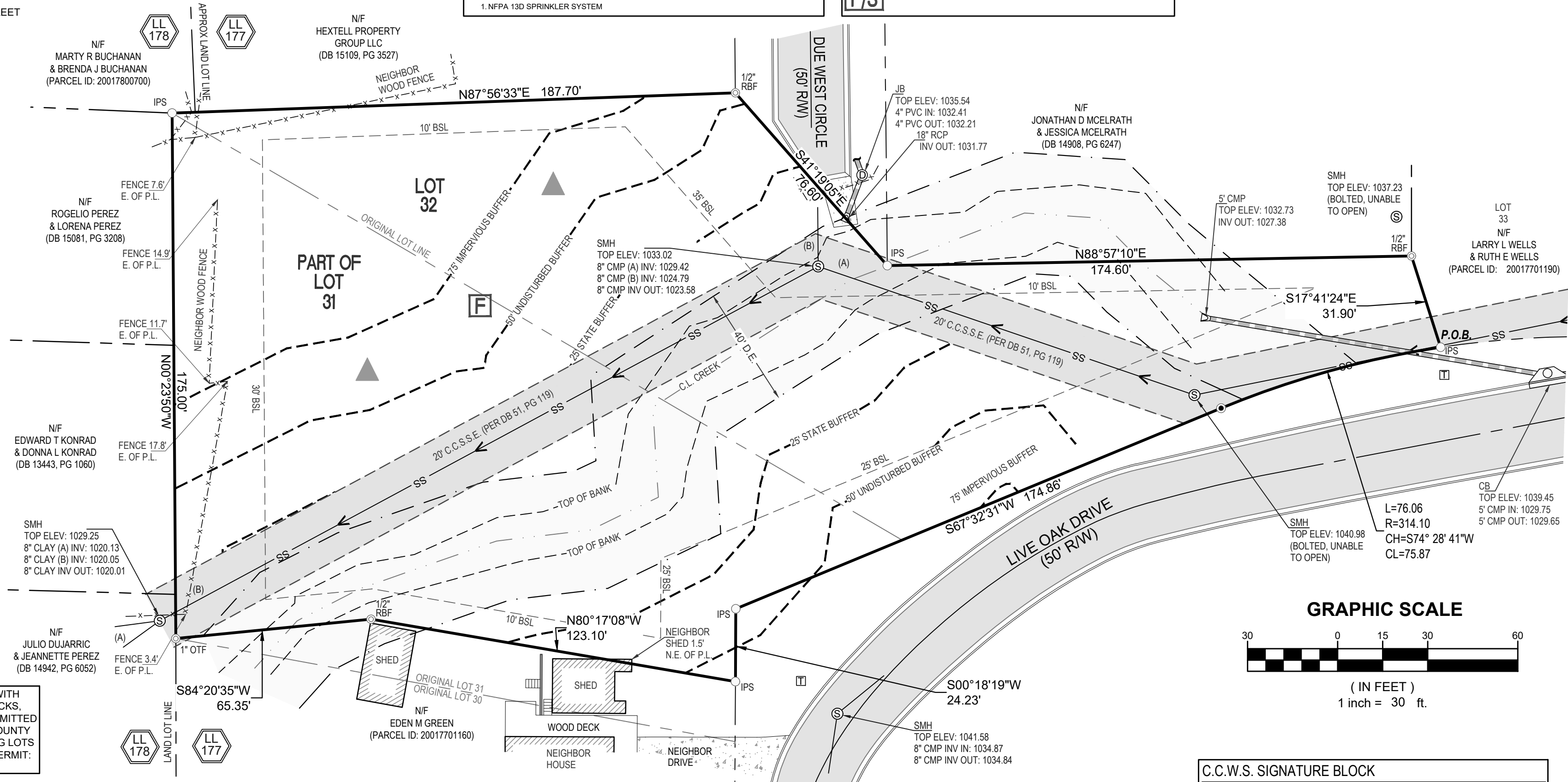
FIRE DEPARTMENT REQUIREMENTS CONTINUED

ADD THIS SYMBOL AND LEGEND WHERE FIRE SPRINKLERS ARE ADDED:

F/S

VICINITY MAP

N.T.S.



OWNER'S ACKNOWLEDGEMENT

THE OWNER OF THE LAND SHOWN ON THIS PLAT AND WHOSE NAME IS SUBSCRIBED THERETO, AND IN PERSON OR THROUGH DULY AUTHORIZED AGENTS, ACKNOWLEDGES THAT THIS PLAT WAS MADE FROM AN ACTUAL SURVEY AND DEDICATES TO THE USE OF THE PUBLIC FOREVER ALL STREETS, PARKS, DRAINS, EASEMENTS AND PUBLIC GROUNDS THEREON SHOWN, WHICH COMPRISES A TOTAL OF 0 ACRES, FOR THE PURPOSES THEREIN EXPRESSED. PROVIDED, HOWEVER, THAT NOTHING HEREIN NOR ACCEPTANCE SHALL CREATE LIABILITY ON THE PART OF THE CITY OF KENNESAW, ITS OFFICERS, AGENTS OR EMPLOYEES FOR FLOODING FROM HIGH WATER OF NATURAL CREEKS OR RIVERS, AND THE CITY OF KENNESAW IS HEREBY SPECIFICALLY RELEASED OR MAINTENANCE OF ALL DRAINAGE STRUCTURES, ROADS, SEDIMENT CONTROL FACILITIES AND ALL OTHER WORK PERFORMED BY THE OWNER OR DEVELOPER OF THE PROPERTY, THEIR AGENT, SERVANTS, EMPLOYEES OR CONTRACTORS.

(SUBDIVIDER) PRINT NAME	(OWNER) PRINT NAME
SIGNATURE	SIGNATURE
DATE	DATE

C.C.W.S. SIGNATURE BLOCK

THIS PLAT, HAVING BEEN SUBMITTED TO THE COBB COUNTY WATER SYSTEM AND BEEN FOUND TO COMPLY WITH THE COBB COUNTY DEVELOPMENT STANDARDS, IS APPROVED FOR RECORDING.

COBB COUNTY WATER SYSTEM

DATE

SURVEYOR'S ACKNOWLEDGEMENT

IT IS HEREBY CERTIFIED THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE BY ME OR UNDER MY SUPERVISION; THAT ALL MONUMENTS SHOWN HEREON ACTUALLY EXIST OR ARE MARKED AS "FUTURE," AND THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE CORRECTLY SHOWN; AND THAT ALL ENGINEERING REQUIREMENTS OF THE KENNESAW SUBDIVISION REGULATIONS HAVE BEEN FULLY COMPLIED WITH.

CULLEN PRESTON HARDEE PRINT NAME	Cullen Preston Hardee SIGNATURE
#3144 REGISTERED C.E. NO.	05/24/2023 DATE

UNITED LAND SURVEYING
COA NO. LSF 001321

VISIT US ON OUR WEBSITE:
WWW.UNITED-LS.com

1254 GUNPOWDER ROAD, SUITE 103
SAVANNAH, GEORGIA 31406
PH: (770) 293-5323

LOT COMBINATION SURVEY
APRIL ROGERS
LOTS 31 & 32
OAK HILLS SUBDIVISION
LAND LOT 177, 20TH DISTRICT
2ND SECTION, COBB COUNTY
GEORGIA

REVISIONS

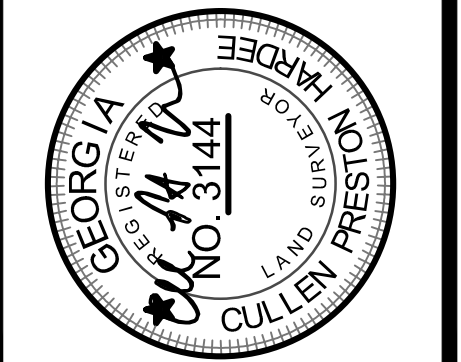
1.	2.	3.	4.
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LEGAL REFERENCE:

DEED BOOK: 12167	PAGE: 262
PLAT BOOK: 51	PAGE: 119

SHEET 1 OF 1

PLAT DATE: 05/24/2023
FIELD DATE: 7/13/2022
SCALE: 1" = 30'
DRAWN BY: J.A.M.
REVIEWED BY: C.P.H.



JOB NUMBER:
23-167

UNITED LAND SURVEYING, LLC. ALL RIGHTS ARE RESERVED. ANY POSSESSION, REPRODUCTION OR OTHER USE OF THIS DOCUMENT WITHOUT PRIOR WRITTEN PERMISSION FROM UNITED LAND SURVEYING, LLC. IS EXPRESSLY PROHIBITED.



Item Report

TO: The Honorable Mayor and City Council

FROM: Derek Cox, Business License Manager

DATE: June 5, 2023

TITLE: Consideration for approval of an Alcohol License for Beer and Sunday Sales for Lukes of Kennesaw LLC d/b/a Buffalo Lukes located at 2768 Cobb Pkwy, Kennesaw, GA 30152. Applicant: Robert Stoll.

Summary:

The applicant has completed the required alcohol workshop per Sec. 6-69. Signs have been posted and it has been properly advertised per Sec. 6-36. The current application, background check, and fingerprint results are on file. Sec. 6-43 refers to all locations within 600 feet of a public building or a public park. This location is within 600 feet of a public building and a public park. Sec. 6-43 states that the Mayor and Council may waive the distance requirement if satisfactory evidence shall be produced that no adverse effect on property values or the use of the facilities for the aforesaid purposes would occur if a license was granted.

Recommendation:

The Finance Director recommends approval.

Fiscal Impact:

100-0000-32-1100 Application Fee \$350.00

Attachments:

1. Buffalo Lukes Alcohol Application_Redacted 1



Business License
2529 J.O. Stephenson Ave.
Kennesaw, GA 30144

Contact Information:
Phone: (770) 424-8274
Fax: (770) 429-4559
www.kennesaw-ga.gov

License Application:
Alcoholic Beverage

APPLICATION

Applying For (Check All That Apply):

- ☐ Liquor
- ☒ Beer
- ☐ Wine
- ☐ Growler
- ☒ Sunday Sales

License Type (Choose one):

- ☐ Manufacturer
- ☐ Wholesaler
- ☐ Retail Package
- ☒ Retail Pouring

Type of Establishment (Choose one):

- | | |
|--|--|
| ☒ Restaurant | ☐ Bottle House |
| ☐ Night Club | ☐ Convenience Store |
| ☐ Grocery Store | ☐ Indoor Entertainment Hall |
| ☐ Lounge | ☐ Hotel/Motel |
| ☐ Private Club | ☐ Package Store |

Business Type (Choose one):

- ☐ Sole Proprietor
- ☐ Corporation
- ☒ LLC
- ☐ Partnership
- ☐ LLP

Please fill out the below information:

1. Full name of business: Lukes of Kennesaw LLC
Doing Business As (DBA): Buffalo Lukes
Anticipated start date of business: 4/24/23

2. Business location: 2768 Cobb Parkway
Email address: sue@cheeseburgerbobbys.com
Phone Number: 770-218-9962
Mailing address: 1690 Roberts Blvd, Suite 121, Kennesaw GA

30152

3. Do you have a certified survey of the location of the property? Yes

Does the certified survey indicate that the business is within the designated distance of the following:

- | | | | |
|-------------------------------------|-----------------|---|--|
| a. Private residence | 300 feet radius | ☐ Yes | ☒ No |
| b. School or college | 600 feet radius | ☐ Yes | ☒ No |
| c. Church | 600 feet radius | ☐ Yes | ☒ No |
| d. Public building | 600 feet radius | ☒ Yes | ☐ No |
| e. Hospital | 600 feet radius | ☐ Yes | ☒ No |
| f. Public park | 600 feet radius | ☒ Yes | ☐ No |
| g. Day care center* | 600 feet radius | ☐ Yes | ☒ No |
| h. Alcohol or drug treatment center | 600 feet radius | ☐ Yes | ☒ No |

Package Sales have additional distance limitations as follows:

Package Sales Only (Liquor): N/A

- | | | | | | |
|-------------------------------------|------------------|--------------------------|-----|--------------------------|----|
| a. School or college | 300 feet radius | ☐ | Yes | ☐ | No |
| b. Retail Liquor Package | 1500 feet radius | ☐ | Yes | ☐ | No |
| c. Church | 300 feet radius | ☐ | Yes | ☐ | No |
| d. Day care center* | 300 feet radius | ☐ | Yes | ☐ | No |
| e. Alcohol or drug treatment center | 300 feet radius | ☐ | Yes | ☐ | No |

Package Sales Only (Beer or Wine): N/A

- | | | | | | |
|-------------------------------------|-----------------|--------------------------|-----|--------------------------|----|
| a. School or college | 300 feet radius | ☐ | Yes | ☐ | No |
| b. Alcohol or drug treatment center | 300 feet radius | ☐ | Yes | ☐ | No |

* Must accept GA Pre-K or HOPE Scholarship Monies

* Must follow a prescribed state curriculum

See Code Sections 6-1, 6-42 and 6-43 for distance measurement definition and limitations.

4. For Retail Pouring license, please indicate the following:

Number of pool tables:

0

Number of video game machines:

0

Size of dance floor:

0

Amount of cover charge:

0

Will the location have a DJ, and if so, number of times per week:

N/A

5. How many square feet are the following:

a. Dining area:

1000 sq ft

b. Bar area:

None

c. % of total dining space that is a bar area:

N/A

Is this location new construction or pre-existing? pre-existing

How is the proposed location zoned? Commercial Highway General Business

This section is to be completed and signed by the City of Kennesaw Zoning staff:

Zoning verified by City of Kennesaw Zoning Division staff member



If this is an application for a new establishment, attach proof of adequate parking facilities of one (1) off street parking space for each (200) square feet of total floor area within the building in conformity with the zoning ordinance and regulations of the City of Kennesaw.

If new establishment, parking verified by the Zoning Division staff member _____

If Partnership or LLP:

6. Partnership of LLP Name: _____

Partner/Member: _____
Position: _____
Email Address: _____
Phone Number: _____

Social Security #: _____
Date of Birth: _____
% of Ownership: _____

Home Address: _____

City: _____
State: _____
ZIP: _____

Partner/Member: _____
Position: _____
Email Address: _____
Phone Number: _____

Social Security #: _____
Date of Birth: _____
% of Ownership: _____

Home Address: _____

City: _____
State: _____
ZIP: _____

****Attach additional sheets if needed****

If Corporation or LLC:

7. Corporation or LLC Name: Luke's of Kennesaw LLC

President/Member: Robert Stoll
Email Address: bob@cheeseburgerbobbys.com
Phone Number: 770-218-9962

Social Security #: [REDACTED]
Date of Birth: [REDACTED] 1961
% of Ownership: 100

Home Address: 885 Village Greene

City: Marietta
State: GA
ZIP: 30064

VP/Member: _____
Email Address: _____
Phone Number: _____

Social Security #: _____
Date of Birth: _____
% of Ownership: _____

Home Address: _____

City: _____
State: _____
ZIP: _____

Secretary/Member: _____
Email Address: _____
Phone Number: _____

Social Security #: _____
Date of Birth: _____
% of Ownership: _____

Home Address: _____

City: _____
State: _____
ZIP: _____

Treasurer/Member: _____
Email Address: _____
Phone Number: _____

Social Security #: _____
Date of Birth: _____
% of Ownership: _____

Home Address: _____

City: _____
State: _____
ZIP: _____

****Attach additional sheets if needed****

If the business listed in questions 6 or 7 is owned by another firm or corporation, provide the information requested in questions 8 and 9.

8. List corporate name, business name, and % of business owned by the corporation *N/A*

Corporate Name	Business Name	% Owned

9. List name, position, social security number, address, and % owned for each board member of the corporation listed in question 8. *N/A*

Name	Position	SSN	Home Address	% Owned

10. Is the licensee or any owner listed in questions 6 – 9 currently holding an interest or ever been associated with any alcoholic beverage establishment? If yes, list below.

Licensee/Owner Name	Business Name	Address
Robert Stoll	Buffalo Luke's Jasper	61 Melissa Pkwy, Jasper GA 30143
Robert Stoll	Huey Luey's Hiram	5460 Wendy Bagwell Pkwy, Hiram, GA 30141

11. List full name and other required information of relatives of the licensee or owners who have or have had any license or any financial or ownership interest in any alcoholic beverage business.

Name/Relationship	Home Address	Business Name/Address
Richard Stoll/Brother	205 Carl Sanders Drive, Acworth, GA 30101	Huey Luey's Acworth/3338 Cobb Pkwy, Acworth GA
Richard Stoll/Brother	205 Carl Sanders Drive, Acworth, GA 30101	Huey Luey's Hiram/5460 Wendy Bagwell Pkwy, Hiram GA

12. List the full name and address of the property owner on which the business is to be conducted.

Property Owner: RCS Cobb Parkway LLC
 Address: 1690 Roberts Blvd, Suite 121 Kennesaw GA 30144

13. State the total amount of capital funds to be invested in this business.

\$ [REDACTED]

14. State the amount of personal funds invested by the following:

Licensee/Owner \$ [REDACTED]
 Other Owners \$ [REDACTED]

15. If capital is borrowed, provide the following and attach a copy of the note (s) or evidence of indebtedness, with all attachments, to this application. N/A

Name of Lender	Address	Amount	Date	Interest Rate
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

16. Name the person (s) that will be the manager of this business and provide the following information.

Name	Address	Compensation
<u>Drew Zamudio</u>	<u>4178 Heritage Way SE Acworth GA 30102</u>	<u>[REDACTED] Annual</u>

17. Provide the name and address of your CPA or accounting firm:

Name	Address
<u>Carr Riggs & Ingram</u>	<u>4004 Summit Blvd NE, Suite 800 Atlanta GA 30319</u>

18. Has the *business or any business associated with this business* been cited, charged, indicted, have a pending charge or been convicted at any time for any violation of Georgia Law, Federal Law or any rule or regulation of the State revenue commissioner or any rule, regulation or ordinance of the City of Kennesaw, Cobb County or other governmental unit? Yes ☐ No ☒

If yes, give full details.

19. Has the licensee, the licensee's spouse or any person having ownership interest in this business or their spouse been:

Arrested	___ Yes	<u>x</u> No	Convicted	___ Yes	<u>x</u> No
Detained	___ Yes	<u>x</u> No	Indicted	___ Yes	<u>x</u> No
Pled Guilty	___ Yes	<u>x</u> No	Pled Nolo Contender	___ Yes	<u>x</u> No
On Probation	___ Yes	<u>x</u> No	Any Pending Criminal Charge	___ Yes	<u>x</u> No

If you answered "YES" to any of these questions, list below in complete detail the name, dates, charges, places of arrest and disposition of charge (s). Failure to make a full disclosure in response to this question will result in denial of the application or a revocation of the license if information requested was not provided.

20. Has the licensee, the licensee's spouse or any person having ownership interest in this business or their spouse ever had any interest in any business, ever been a licensee or ever been an officer in any business that was cited, had an employee of any business cited, detained, arrested, indicted or convicted for any offense by any federal, state, county or city government or has any business been warned or had any license placed on probation, denied, suspended or revoked by any federal, state, county or city government? Failure to make a full disclosure in response to this question will result in denial of the application or a revocation of the license if information requested was not provided.

No

21. Indicate the type of alcohol awareness training and the number of hours of training that is required of owners and employees selling alcoholic beverages for the business. Also, indicate if training is required annually and the number of hours required.

Owner and Management - R.A.S.S. Course - 3 hours
Permit Holders - Georgia Alcohol Sellar Service Course - 2 hours
Training is not required annually

22. What types of materials (written materials, signs, badges, etc.) are provided with the training of the employees?

Signage - No alcohol served to minors and we I.D. will be displayed
to all customers. I.D. Checking guide will be at the restaurant
to aid servers on proper I.D. specifications. Age of purchase
calendar will be at the register for cashiers.

23. Have you read and do you understand all the provisions of the City of Kennesaw and State of Georgia Alcoholic Beverage requirements as stated in Chapter Six (6) of the City of Kennesaw Code of Ordinances and Title III of the Official Code of Georgia.

Yes ☒ No ☐

24. Are you aware that the sale of alcoholic beverages to an underage person (s) by you or your employees may result in the suspension or revocation of the alcoholic beverage license?

Yes ☒ No ☐

25. What procedures do you have in place to ensure that alcoholic beverages are not sold to underage person (s) or any other violation of the City of Kennesaw Code of Ordinances and State Law? Please attach all documentation relating to such procedures and include an explanation as their usage.

Alcohol Policy Contract is to be signed by all permit holders
We will check I.D. for anyone ordering beer, regardless of age.

26. What technology, equipment and products have been or will be implemented in the location to ensure compliance with the City of Kennesaw, Cobb County and State Law? Examples include cash registers that require the date of birth to be entered, cameras, signs and calendars). Describe below:

Register prompts cashier to check I.D.
Sign posted that we check I.D. and we do not serve minors
21 and over calendar will be available to cashiers to verify someone is over 21

27. Estimated gross receipts from this location for the remaining calendar year: \$ [REDACTED]

28. List occupations for the past ten years. Include dates of employment and positions.

From/To Month/Year	Company	City	State	Position/Salary
2008-Current	Cheeseburger Bobby's	Marietta	GA	Owner/ [REDACTED]
2013-Current	Cheeseburger Bobby's	Woodstock	GA	Owner/ [REDACTED]
2013-Current	Buffalo Luke's	Jasper	GA	Owner/ [REDACTED]

29. List previous residences of the licensee for the past ten years.

From/To Month/Year	Address	City	State
2001-current	885 Village Greene	Marietta	GA

KENNESAW, GEORGIA
COBB COUNTY

I, Robert Stoll being duly sworn according to law, do swear that the facts and things stated by me in the above and foregoing answers to questions are true and no false or fraudulent statement is made herein and such answers were made in order to procure the granting of such a license.

I have received a copy of the City of Kennesaw Alcoholic Beverage Code and I am aware that all licenses must be obtained and fees paid no later than two weeks from the date of approval of this application by the Mayor and Council.

[Signature]
Signature of Applicant

Signature of Spouse of Applicant

Sworn to and subscribed before me this
15 day of March, 2023

[Signature]
Notary Public

Susan Saltamacchio
NOTARY PUBLIC
Cobb County
State of Georgia
My Comm. Expires March 25, 2025

Signature and title of person other than applicant filing out this application

Phone Number

Application received in Kennesaw City Hall by:
3/31/23

Application to be heard by Mayor & Council
Date & Time: 6-05-23

A REPRESENTATIVE MUST BE PRESENT AT THE MAYOR & COUNCIL MEETING



Business License
2529 J.O. Stephenson Ave.
Kennesaw, GA 30144

Contact Information:
Phone: (770) 424-8274
Fax: (770) 429-4559
www.kennesaw-ga.gov

License Application:
Alcoholic Beverage

FOOD SALES AND ALCOHOLIC BEVERAGE SALES AFFIDAVIT TO BE COMPLETE BY RETAIL POURING APPLICANTS ONLY

NAME OF ESTABLISHMENT:
ADDRESS OF ESTABLISHMENT:
LICENSEE'S NAME:

Buffalo Luke's
2768 Cobb Parkway, Kennesaw, GA 30152
Luke's of Kennesaw LLC

FOOD SALES AND ALCOHOLIC BEVERAGE SALES: Financial reports must be attached to support the reported total or CPA certification must be completed attesting to the reported sales. This information must be provided from the financial records of the above establishment on a calendar year basis or such period during which the establishment has been open.

PERIOD FOR WHICH INFORMATION IS PROVIDED: Estimate (IF EXISTING BUSINESS, MUST BE A 12 MONTH PERIOD. IF NEW BUSINESS, MUST BE 12 MONTH ESTIMATE.)

Gross Receipts from Food sales this period: \$ [REDACTED] (95%)
Gross Receipts from Alcoholic Beverage sales this period: \$ [REDACTED] (5%)
Total Food sales and Alcoholic Beverage sales this period: \$ [REDACTED] (100%)

Briefly describe the method by which receipts are segregated daily into food sales and alcohol sales:

P.O.S. System will separate sales by food and alcohol.

I certify that I have a working knowledge of the books and records of the establishment whose name appears above, and that to the best of my knowledge the figures presented above represent accurate sale totals for the period specified.

CPA NAME (PRINTED)

NAME OF CPA FIRM

PHONE

CPA SIGNATURE

BUSINESS ADDRESS

CITY/STATE

ZIP

SWORN UNDER: OATH THIS

DAY OF

, 20

SIGNATURE OF NOTARY PUBLIC

I hereby affirm and understand that the privilege of selling alcoholic beverages on Sunday from 12:30 p.m. until Monday 2:55 p.m. requires valid alcoholic beverage pouring license, valid Sunday Sales pouring license and that at least 50% of the licensed establishment's annual gross food and alcoholic beverage sales must be derived from the sale of prepared meals and food.

I hereby affirm that I understand that records of food sales and alcoholic beverage sales must be prepared and maintained. Failure to prepare and maintain records of food sales and alcoholic beverage sales is cause for denial or revocation of the alcoholic beverage pouring license, including the Sunday Sales pouring license. I further affirm that I understand that the City of Kennesaw Business License Division may audit our records to verify same at its discretion.

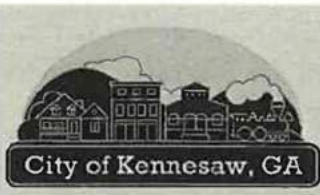
Signature of Licensee/Owner

Susan Saltalamacchio
NOTARY PUBLIC
Cobb County
State of Georgia
My Comm. Expires March 25, 2025

Sworn under oath this 15 day of March, 20 23.

Susan Saltalamacchio Notary Public

We are not open yet and do not have actual data for our CPA to certify.



Business License
2529 J.O. Stephenson Ave.
Kennesaw, GA 30144

Contact Information:
Phone: (770) 424-8274
Fax: (770) 429-4559
www.kennesaw-ga.gov

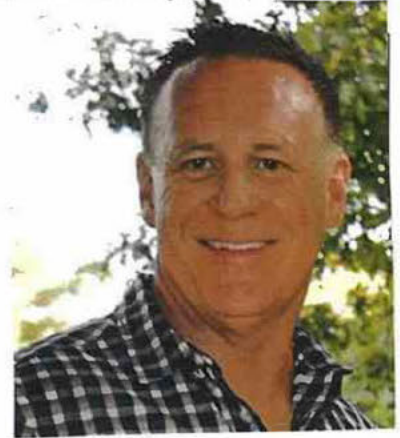
License Application:
Alcoholic Beverage

OWNER/LICENSEE PERSONAL STATEMENT INFORMATION

1. Full name of licensee (No initials): Robert Stoll
(Include maiden names and alias names if any)

2. Phone Numbers:
a. Business: 770-218-9962
b. Cell: [REDACTED]
c. Home: [REDACTED]

3. Home Address: 885 Village Greene, Marietta, GA 30064
4. Business Address: 1690 Roberts Blvd, Suite 121, Kennesaw, GA 30144



5. Please fill out the following:
Age: 61 Sex: m Height: 5'10" Color of Hair: brown
Race: w Weight: 195 Color of Eyes: Blue

6. Social Security #: [REDACTED]

7. Place of Birth: Camden, New Jersey Date of Birth: [REDACTED] 1961
U.S. Citizen: Yes ☒ By Birth ☐ Naturalized

If a naturalized citizen, provide certificate #: _____
and submit original naturalization certificate or U. S. Passport

If a legal permanent resident, provide alien registration #: _____
and submit copy of I-551 card

Derived Parents Certificate #'s: _____

Date & Port of Entry: _____

8. How long have you resided in the City of Kennesaw or Cobb County? 25 Years
9. Number of years at this present address? 22

10. Are you (Choose one): ☒ Single ☐ Married ☐ Widowed ☐ Divorced

11. If married, complete the following information on spouse.

Full Name of Spouse: _____

Social Security #: _____

Place of Birth: _____

Place of Marriage: _____

Spouse's Maiden Name: _____

Date of Birth: _____

Date of Marriage: _____

Name of spouse's employer: _____
 Address of employer: _____
 U.S. Citizen: _____ ☐ By Birth ☐ Naturalized
 If a naturalized citizen, provide certificate #: _____
 and submit original naturalization certificate or U. S. Passport
 If a legal permanent resident, provide alien registration #: _____
 and submit copy of I-551 card
 Derived Parents Certificate #'s: _____
 Date & Port of Entry: _____

12. Give names and addresses of all children and stepchildren (regardless of age). *N/A*

Full Name	Address	Age	Birth Place
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

13. Give names and addresses of all immediate living relatives.

	Full Name	Address
Parents:	Delores Stoll	3165 Dallas Highway #5010, Marietta, GA 30064
	<i>Robert Stoll Sr.</i>	<i>Deceased</i>
Siblings:	Richard Stoll	205 Carl Sanders Drive, Acworth, GA 30101
	Carol Lucker	5624 Mountain Oak Dr. Braselton, GA. 30517
In-Laws:	_____	_____
	_____	_____

14. Do you or your spouse have financial interest in any bar, lounge, tavern, restaurant, or other place of business where alcoholic beverage are sold and consumed on the premises? If yes, give details:

Huey Luey's Hiram (RCS Foods LLC) *restaurant*
 Buffalo Luke's Jasper (Luke's 1 LLC) *restaurant*

15. Are you or your spouse related to anyone who has ownership or is employed by any wholesale or retail alcoholic beverage business? If so, give name, relationship to licensee or licensee's spouse, business name and the amount of interest, and/or type of employment in each.

No

16. Education: List name of schools attended, address, dates of attendance and degrees earned.

M/YR	to	M/YR	School	Address	City	State	Degree
<u>1976</u>		<u>1980</u>	<u>Dunwoody High Sch.</u>	<u>5035 Vermack Rd</u>	<u>Dunwoody</u>	<u>GA</u>	<u>12 year</u>
_____		_____	_____	_____	_____	_____	_____
_____		_____	_____	_____	_____	_____	_____

**Business License**2529 J.O. Stephenson Ave.
Kennesaw, GA 30144**Contact Information:**

Phone: (770) 424-8274

Fax: (770) 429-4559

www.kennesaw-ga.gov

License Application:

Alcoholic Beverage

OWNER/LICENSEE PERSONAL FINANCIAL STATEMENT

Name: Robert Stoll
Social Security #: [REDACTED]
Residence Address: 885 Village Greene
City/State/Zip: Kennesaw, GA 30144
Residence Phone: [REDACTED]

Date of Birth: [REDACTED] 1961
Name of Spouse: [REDACTED]
Business/Organization: Luke's of Kennesaw, LLC
Business Phone: 770-218-9962
Partner/Officer in any other business? ☐ Yes ☒ No

Assets

Cash on hand in banks
Accounts Receivable
Stocks & Bonds
Real Estate
Cash value of Life Insurance
Automobiles
Deposit Accounts
Credit w/ Financial Institutions
Other Assets (Itemize)

Total Assets**Liabilities**

Notes payable to banks - Secured
Notes payable to banks - Unsecured
Accounts Payable
Unpaid Taxes
Mortgage on Real Estate
Other Debts (itemize)
Total Liabilities
Net Worth

Total Liabilities & Net Worth

Source of Annual Income Restaurants
Bonus & Commissions _____
Alimony, Child Support, or Separate Income _____
Itemize all loan sources & Interest _____
Other Income (Itemize) _____
Total Income

Salary
Dividends

Unsatisfied judgments or lawsuits pending?

☐ Yes ☒ No

Are any income tax returns made by you for prior years being contested?

☐ Yes ☒ No

If so, what do you estimate as the additional amount you may be required to pay?

Are any assets pledged or joint names other than as described above?

☐ Yes ☒ No

Have you ever been declared bankrupt?

☐ Yes ☒ No

Do you have a will?

☒ Yes ☐ No

Who is named as your executor?

Beneficiary: Delores Stoll

Executor: Richard Stoll

As of January 31, 2023



City of Kennesaw

Alcohol License

Permit No.

A- 90

Renewal? Yes or **No**

Name-Based Criminal History Record Information Consent/Inquiry Form

I hereby authorize City of Kennesaw to conduct an inquiry for the purpose listed below and receive any Georgia and/or national criminal history record information as authorized by the state and federal law. City Ordinance 22-121 Solicitation Licensing.

Full Name (print)	Robert Stoll		
Address	885 Village Greene, Marietta, GA 30064		
Sex	Race	Date of Birth	Social Security Number
Male	White	1961	

☒ This authorization is valid for 364 days from date of signature.

3/15/23

Purpose Code Used: (check one)

NON-CRIMINAL JUSTICE PURPOSES	
☒	A- Alcohol License X
☐	B- Bail Bonds
☐	E- Adult Entertainment
☐	M- Massage Therapy
☐	P- Pawn & Precious Metal
☐	S- Solicitation Permit

The inquiry resulted in the following: (check all that apply)

☐	No Criminal Record Available
☐	Criminal Record (Attached/Released)
☐	No NCIC/GCIC Warrant
☐	Possible NCIC/GCIC Warrant (List Wanting Agency Below)

Wanting Agency Name: _____
 Wanting Agency Telephone: _____

Have you ever been **arrested, charged and/or convicted** of a crime in this Country or any other Country for any offense **in the last five (5) years**? Yes ☐ No ☒

If yes, please list:

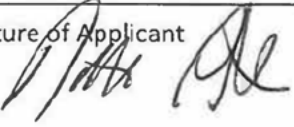
Note: Please list all arrests within the last five years regardless of the disposition of the case

Offense/Charge	Arresting Agency	Date	Disposition

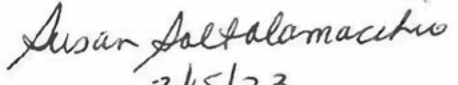
Are you **currently** on probation or parole for a drug or alcohol offense? Yes ☐ No ☒

I have received and read a copy of the Kennesaw Ordinance pertaining to obtaining a solicitation permit.
Yes ☒ No ☐

I hereby certify that all information given by me on this application is complete and true to the best of my knowledge. I further understand that **any falsification or intentional omission of requested information will result in denial of my application for a solicitation license.**

Signature of Applicant 

Susan Saltalamacchio
NOTARY PUBLIC
Cobb County
State of Georgia
My Comm. Expires March 25, 2025


3/15/23

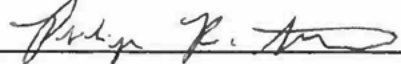
For Department Use Only:

GCIC Operator #:

Reviewed by Chief of Police or designee

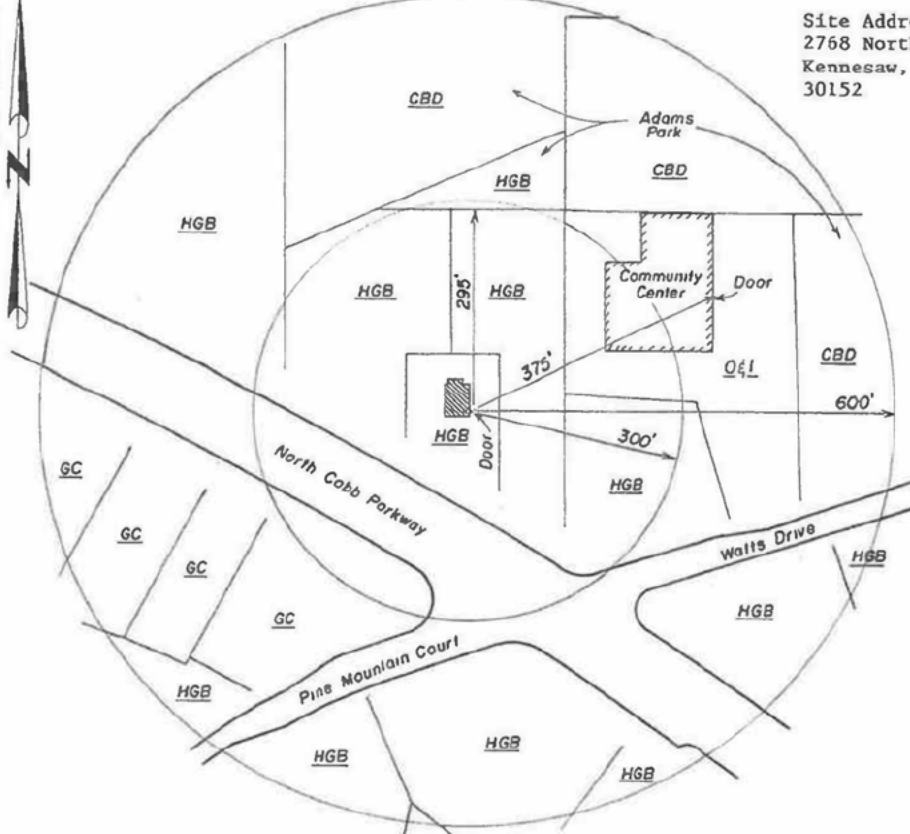
Approved ☒ Denied ☐

Reviewed by Business License Clerk or designee:



City Signature

MAGNETIC NORTH



Site Address-
2768 North Cobb Parkway
Kennesaw, Georgia
30152

The following distances were measured according to City of Kennesaw code:

- CHURCH- 1940' to Kennesaw First Baptist Church, @ 2958 North Main Street.
- SCHOOL- 1800' to Kennesaw First Baptist Christian School, @ 2958 North Main St.
- PARK- 295' to Adams Park, @ 2600 Park Drive.
- RESIDENCE- 785' to house @ 6100 Pine Mountain Court.
- PUBLIC BUILDING- 375' to Ben Robertson Community Center, @ 2753 Watts Drive.
- ALCOHOL TREATMENT- 37080' to G W Hartman Center, @ 729 Lawrence Street.

There are no hospitals, housing authority properties, nor day care centers offering Ga pre-K instruction within 600' of this site.

City of Kennesaw Alcoholic Beverage On Premises Consumption License Survey for:
Luke's of Kennesaw LLC d/b/a Buffalo Luke's



DATE: 3/8/2023	SCALE: 1" = 200'	0 100 200 400 GRAPHIC SCALE IN FEET
DRAWN BY: GD		
LAND LOT 139	20th DISTRICT	2nd SECTION
COBB	COUNTY	GEORGIA
GEORGIA LAND SURVEYING CO. 155 CLIFTWOOD DRIVE, ATLANTA, GA 30328 PHONE (404) 255-4671 FAX (404) 255-6607 WWW.GEORGIALANDSURVEYING.COM		204276

STATE OF GEORGIA

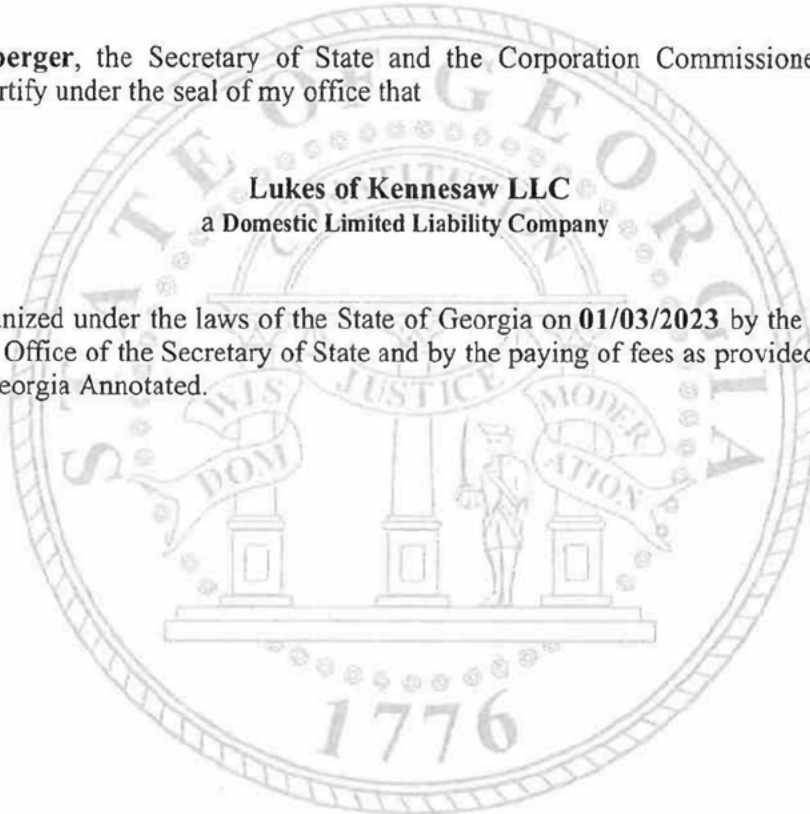
Secretary of State
Corporations Division
313 West Tower
2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

CERTIFICATE OF ORGANIZATION

I, **Brad Raffensperger**, the Secretary of State and the Corporation Commissioner of the State of Georgia, hereby certify under the seal of my office that

Lukes of Kennesaw LLC
a Domestic Limited Liability Company

has been duly organized under the laws of the State of Georgia on **01/03/2023** by the filing of articles of organization in the Office of the Secretary of State and by the paying of fees as provided by Title 14 of the Official Code of Georgia Annotated.



WITNESS my hand and official seal in the City of Atlanta
and the State of Georgia on **01/09/2023**.



Brad Raffensperger

Brad Raffensperger
Secretary of State

ARTICLES OF ORGANIZATION

Electronically Filed
Secretary of State
Filing Date: 1/3/2023 2:43:50 PM

BUSINESS INFORMATION

CONTROL NUMBER 23005388
BUSINESS NAME Lukes of Kennesaw LLC
BUSINESS TYPE Domestic Limited Liability Company
EFFECTIVE DATE 01/03/2023

PRINCIPAL OFFICE ADDRESS

ADDRESS 1690 Roberts Blvd., Suite 121, Kennesaw, GA, 30144, USA

REGISTERED AGENT

NAME	ADDRESS	COUNTY
Susan Saltamacchio	2871 Watchtower Approach, Marietta, GA, 30064, USA	Cobb

ORGANIZER(S)

NAME	TITLE	ADDRESS
Robert Stoll	ORGANIZER	1690 Roberts Blvd, Suite 121, Kennesaw, GA, 30144, USA

OPTIONAL PROVISIONS

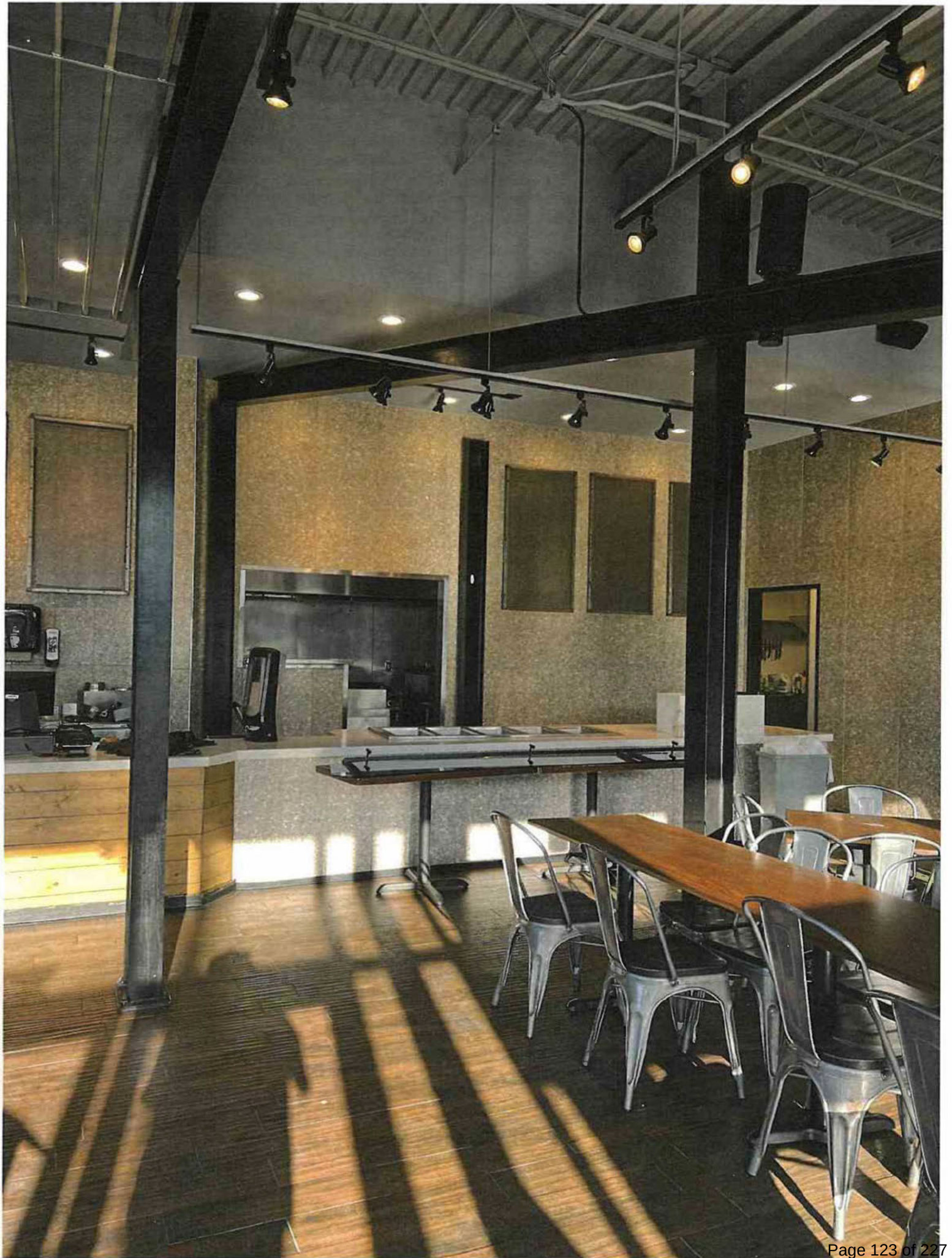
N/A

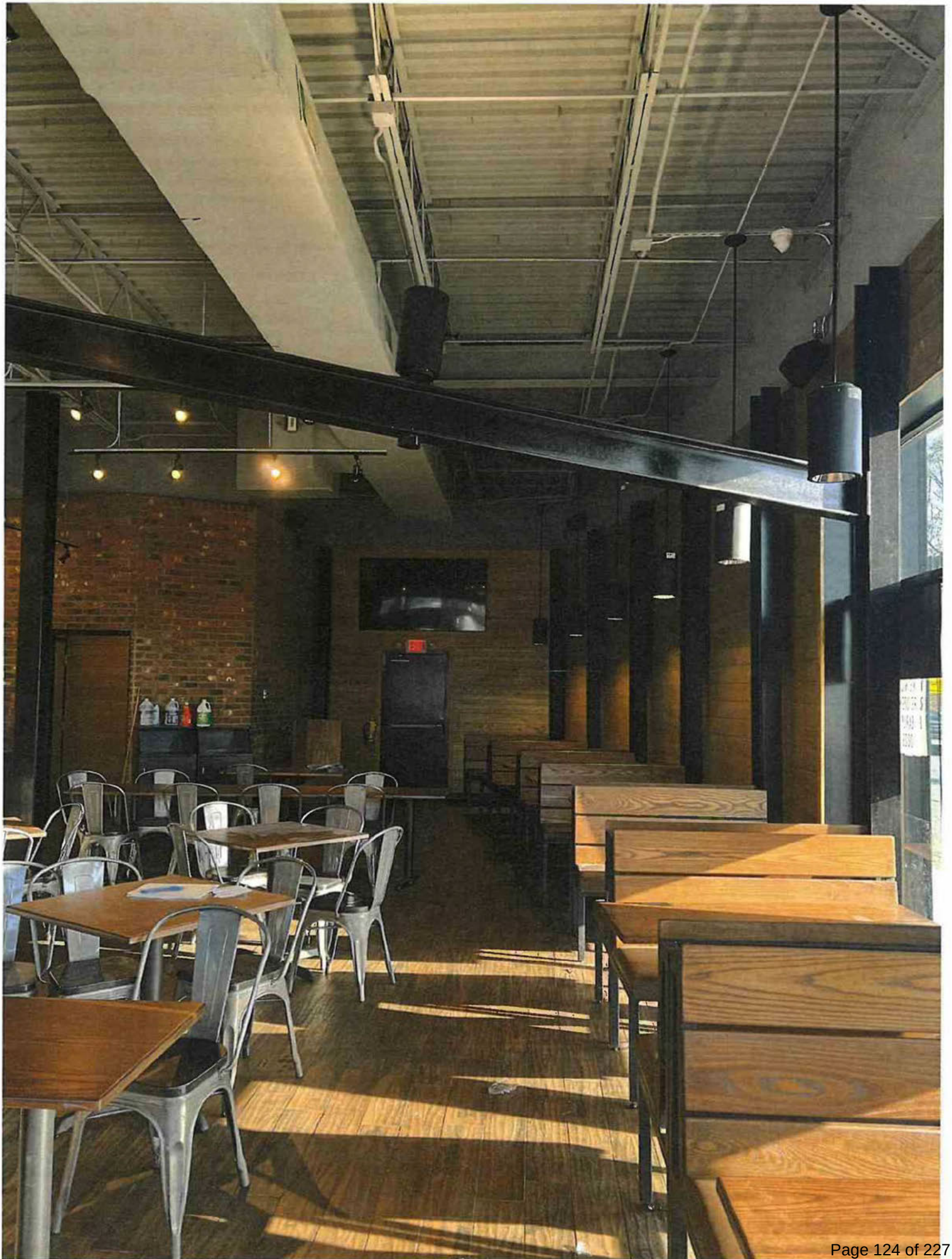
AUTHORIZER INFORMATION

AUTHORIZER SIGNATURE Robert Stoll
AUTHORIZER TITLE Member









BURGERS

1/3 lb. of 100% Angus meat, grilled all the way through. Topped with lettuce, tomato, pickles & onion. Served on a toasted bun with fries.



LUKE'S AMERICAN CHEESEBURGER *	9.49
LUKE'S AMERICAN BACON CHEESEBURGER *	10.49
SMOKEHOUSE BURGER *	11.49

CHEESESTEAKS

Freshly grilled, full of white American cheese and grilled onions. Served with fries. Add bell peppers and mushrooms +99¢

PHILLY STEAK *	10.99
PHILLY CHICKEN	10.99

SALADS

DRESSING: Ranch, Bleu Cheese, Vinaigrette, Honey Mustard, Thousand Island

GRILLED/FRIED CHICKEN HOUSE SALAD	9.99
Our sizable salad comes with grilled or fried chicken, field greens, tomatoes, cucumber, shredded cheese and garlic toast.	

BLACK & BLEU SALAD	9.99
Blackened grilled chicken, field greens, tomatoes, cucumber, bleu cheese crumbles and garlic toast.	

SIDE SALAD	3.49
Field greens, tomatoes, cucumber, shredded cheese and garlic toast.	

NOTICE: *HAMBURGERS AND EGGS CAN BE COOKED TO ORDER. CONSUMING RAW OR UNDER COOKED MEATS, POULTRY, SEAFOOD, SHELLFISH OR EGGS MAY INCREASE YOUR RISK OF FOOD BORNE ILLNESS, ESPECIALLY IF YOU HAVE CERTAIN MEDICAL CONDITIONS.



→ WINGS AND BONELESS WINGS

Crispy, fresh wings tossed in the sauce of your choice. Served with ranch or bleu cheese. Celery served upon request.

	Boneless	Traditional
6 WINGS	8.99	11.99
10 WINGS	10.99	14.99
20 WINGS	21.99	28.99
30 WINGS	32.99	41.99
50 WINGS	54.99	68.99

ADD FRIES & DRINK \$4

MILD	MEDIUM🔥	HOT🔥🔥	ATOMIC HOT🔥🔥🔥
SWEET CHILI		TERIYAKI	
BBQ		CHIPOTLE BBQ	
GARLIC PARMESAN		HOT HONEY	
			Extra Sauce 35¢ each

DRY RUBS LEMON PEPPER • NASHVILLE HOT • CAJUN

CHICKEN TENDER MEALS

Fresh, lightly breaded chicken tenders. Comes with fries, coleslaw, garlic toast, Luke's Signature Sauce & drink.



4 PIECE MEAL	9.69
5 PIECE MEAL	10.79
6 PIECE MEAL	11.79

LUKE'S FRIED CHICKEN SANDWICH

Juicy fried chicken breast, marinated and seasoned. Served with fries 9.99



LUKE'S GRILLED CHICKEN SANDWICH

Juicy grilled chicken breast, marinated and seasoned. Served with fries 9.99

LITTLE LUKE'S

For kids 10 and under. All kids' plates come with fries and drink.

CHEESEBURGER * 5.49

TWO CHICKEN TENDERS 5.49

THREE MOZZARELLA STICKS 5.49

SIDES

FRENCH FRIES 3.49

FRIED PICKLES 6.49

ONION RINGS 5.99

MOZZARELLA STICKS 6.99



BEVERAGES

SWEET TEA 2.49

UNSWEET TEA 2.49

Coca-Cola 2.49

Products

For franchise
information visit
BUFFALOLUKES.COM

BEER

DOMESTIC \$3

- ☒ BUDWEISER
- ☒ BUD LIGHT
- ☒ COORS LIGHT
- ☒ MICHELOB ULTRA
- ☒ MILLER LITE

PREMIUM \$4

- ☒ SWEET WATER 420
- ☒ DOS EQUIS XX

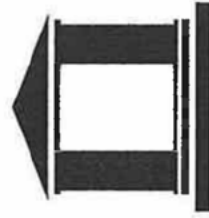
Training Institute for Responsible Vendors, Inc.

certifies that

Robert Stoll

has successfully completed training in our RASS Workshop thus
entitling them to all the rights and privileges appertaining thereto .

In witness thereof the undersigned have affixed their names
this 23rd day of March, 2023



Seal

A handwritten signature in black ink, appearing to read "Robert Stoll".

President



Item Report

TO: The Honorable Mayor and City Council
FROM: Ricky Stewart, Public Works Director
DATE: June 5, 2023
TITLE: Approval of RESOLUTION to award bid and authorize the Mayor to sign the attached contract to F. S. Scarbrough, LLC for resurfacing of various streets - 2023 LMIG

Summary:

Staff solicited bids from qualified contractors for resurfacing of three (3) streets of various lengths. Seven companies submitted bids, with F. S. Scarbrough, LLC being the lowest bid in the amount of \$147,402.00.

The roads that were bid for resurfacing are:

<u>Street Name</u>	<u>From</u>	<u>To</u>
Morningside Trail	Somerset Ridge	Greensward View
Park Trace	Brandywine Rd	End
Winterthur Main	Legacy Park Cir	Somerset Ridge

Recommendation:

The Public Works Director recommends approval of bid and award of contract to F. S. Scarbrough, LLC for an amount not to exceed \$147,402.00 and requests Council approve a Resolution authorizing the Mayor to sign attached Contract.

Fiscal Impact:

100.1050.54.141000.00000: Street Construction and Improvement

Attachments:

1. RESOLUTION - F.S. Scarbrough 2023 LMIG RESURFACING CONTRACT

2. CONTRACTOR AGREEMENT - FS Scarborough - 2023 LMIG
3. Bid Log- LMIG
4. Scarborough Bid

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2023-____, 2023

**RESOLUTION TO APPROVE A CONTRACT WITH
F. S. SCARBROUGH, LLC FOR RESURFACING OF VARIOUS STREETS**

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF KENNESAW, COBB COUNTY, GEORGIA, AS FOLLOWS:

WHEREAS, the City of Kennesaw Public Works Department is responsible for street maintenance and repair within the City; and

WHEREAS, F. S. Scarbrough, LLC was the lowest bidder and has offered to assist the City by contracting for milling and resurfacing of three (3) streets of various lengths in the amount of \$147,402.00; and

WHEREAS, the City has 2023 Local Maintenance and Improvement Grant (LMIG) from Georgia Department of Transportation to fund the project.

BE IT RESOLVED the Kennesaw City Council authorizes the Mayor to execute a contract with F. S. Scarbrough, LLC to perform described work as shown as Attachment A with a budget not to exceed \$147,402.00.

BE IT FURTHER RESOLVED this Resolution shall become effective from and after its adoption and execution by the mayor.

PASSED AND ADOPTED by the Kennesaw City Council on this ____ day of June, 2023.

ATTEST:

CITY OF KENNESAW

Lily Smith, Deputy City Clerk

Derek Easterling, Mayor

CONTRACTOR AGREEMENT
CITY OF KENNESAW
STREET RESURFACING PROJECT

This Agreement is executed this ____ day of June 2023, by and between the City of Kennesaw, a political subdivision of the State of Georgia, hereinafter referred to as the “City”, and F. S. Scarbrough LLC, hereinafter designated as the “Contractor.” The Contractor hereby agrees to deliver to and perform for the City, and the City agrees to pay for those items and services described in the special provisions to this Agreement, which are attached hereto as Exhibits “A” and by this reference made a part hereof. The parties hereby agree to each and every general condition and special provision contained herein as follows:

1. Adequate Personnel; Conditions.

The Contractor hereby warrants that it possesses adequate personnel, equipment, and financial strength to perform each and every obligation contained in the Agreement documents. The Contractor further warrants that it does not have preexisting business commitments, which would prevent it from successfully completing each and every term of this Agreement. Contractor warrants that it is professionally and fully qualified to act as the general contractor for the work designated herein and is and will remain licensed to practice engineering and architecture and general contracting by all public entities having jurisdiction over Contractor or the work designated herein.

2. Duration.

This Agreement shall be deemed in effect on the date of execution. Contractor shall commence performing the services herein described upon receipt of the letter to proceed delivered by the City. Contractor shall complete the services herein described within 60 days of issuance of Notice To Proceed, unless sooner terminated pursuant to the provisions contained herein.

3. Price.

The parties have stated the Contract Price in the special provisions attached hereto as Exhibit “A” and by this reference made a part hereof. The Contract Price for Exhibit “A” is one hundred forty-seven thousand, four hundred two dollars (\$147,402.00).

4. Time of Essence.

Time is of the essence for the completion of all work pursuant to this Agreement. It is hereby understood and mutually agreed by the parties that the beginning date, rate of progress, and time for completion of the work designated herein are essential conditions of this Agreement. The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterrupted at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood that the time for completion of the work described herein is a reasonable time for the completion of the same.

5. Governing Law.

Each and every provision of this Agreement shall be construed in accordance with and governed by Georgia law. The parties acknowledge that this Agreement is executed in Cobb County, Georgia and that the Agreement is to be performed in the City of Kennesaw, Georgia. Each party hereby consents to the Cobb Superior Court's sole jurisdiction over any dispute, which arises as a result of the execution or performance of this Agreement, and each party hereto waives any and all objections to venue in the Cobb Superior Court.

6. Assignments.

The Contractor shall not assign or subcontract, in whole or on part, its rights, or obligations pursuant to this Agreement, or any moneys due or to become due hereunder, without the prior written consent of the City.

7. Modification.

This Agreement shall not be modified verbally. Any modification of the terms of this Agreement shall be reduced to writing and signed by the duly authorized representative of each party hereto.

8. Due Diligence.

The Contractor shall perform all authorized work pursuant to this Agreement promptly and diligently in a good, proper, and workmanlike manner in accordance with the terms of this Agreement.

9. Risk of Loss.

The Contractor shall be responsible for, and bear the expense of, any damage to or destruction of the goods and supplies furnished pursuant to this Agreement until such goods or supplies are delivered to, and accepted by, the City at 2529 J.O. Stephenson Avenue, Kennesaw, Cobb County, Georgia or such other destination as is indicated in the special provisions attached hereto.

10. Invoices.

The City shall have no obligation to pay for the materials furnished pursuant to this Agreement until the Contractor has submitted proper invoices or vouchers describing with specificity the nature of the supplies furnished, the quantity of supplies furnished, and a statement that the supplies are furnished free from any lien or encumbrance.

11. Taxes.

The Contractor shall pay all applicable taxes assessed against the supplies, which form the subject of this Agreement.

12. Permits and Licenses; Inspection; Tests.

The Contractor shall procure all permits and licenses or other authorization necessary, pay all charges and fees, and give all notices necessary and incidental to

the performance of the terms of this Agreement. Contractor has visited and inspected the work site and local conditions under which the work is to be performed and Contractor has performed such tests, if any, as are necessary to determine the conditions under which the work will be performed, and Contractor accepts the conditions of the work site and taken those conditions into account in entering into this Agreement.

13. Termination for Cause.

If the Contractor shall be adjudged as bankrupt, or if it shall make a general assignment for the benefit of its creditors, or if a receiver shall be appointed for the Contractor, or if it shall consistently or repeatedly refuse or fail to supply the products designated herein, or if it should refuse or fail to make payment to persons supplying labor or materials for the products pursuant to the Agreement, or if the Contractor fails to observe or perform the provisions of this Agreement or is guilty of a substantial violation of any provision of the Contract Documents, then the City, after serving at least ten (10) days prior written notice to the Contractor of its intent to terminate this Agreement pursuant to such default, may terminate this Agreement without prejudice to any other rights or remedies provided by law and may take possession of the supplies delivered to the City prior to such termination. The Contractor shall be liable to the City for any damage resulting from the Contractor's default.

14. Inspection.

The Contractor shall make the materials or supplies, which are the subject of this Agreement available to the City for inspection and testing by the City at the Contractor's expense prior to the Contractor's delivery of the materials or supplies to the City.

15. Liquidated Damages.

In the event that the materials which form the subject of this Agreement are not delivered as set forth in the special provisions to this Agreement, the City may terminate this Agreement and recover liquidated damages in an amount set forth in the special provisions to this Agreement. The liquidated damages enumerated herein are not intended to penalize the Contractor, but the parties agree that due to each party's difficulty in specifically quantifying the damages which would be occasioned due to the breach of this Agreement, the parties deem it advisable to stipulate a specific sum per day as damages as a result of the Contractor's failure to deliver the supplies which form the subject of this Agreement in a timely manner. The Contractor shall not be liable for liquidated damages due to a delay occasioned by unforeseeable causes beyond the control of the Contractor if such causes do not result from the default or negligence of the Contractor. The Contractor shall not be liable for damages due to delay in the performance of this Agreement if such delay is caused by acts of God or of the public enemy, acts of the government, fires, epidemics, quarantine restrictions, strikes or freight embargoes. Such liquidated damages enumerated herein shall be in addition to and not in preclusion of the recovery of actual damages resulting from other defects on Contractors

performance hereunder for other matters other than delays in completion. When the City believes that completion may be delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due Contractor and amount then believed by City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving completion, or any part thereof, for which City has withheld payment, the City shall promptly release to Contractor those funds withheld, but no longer applicable as liquidated damages.

16. Contract Documents.

The Contract Documents are composed of those documents listed in Exhibit A, Special Stipulations. Copies of the Contractor's proposal to furnish the labor, materials, and supplies which form the subject of this Agreement and all drawings and specifications submitted during the bidding process are attached hereto as Exhibit A and incorporated herein by reference. The Contractor shall list each such document and describe each original document's location as a part of the special provisions to this Agreement. In the event of conflicting terms or ambiguity between this Agreement and the Contractor's proposal, the Contractor's proposal shall control.

17. Additional Security.

The Contractor shall provide additional bond security in the event that the City deems additional security necessary to insure performance of the Agreement.

18. Accounting and Records Retention.

Contractor shall maintain accounts and records, including books, records, documents, personal property, financial records and other evidence adequate to identify and account for all costs and expenses pertaining to this Agreement and such other records as may be requested by the City to assure proper accounting for all funds, both public and private. Said records shall be made available for audit purposes to the City or its representative(s) upon request and without additional charge to the City, and shall be retained for at least six (6) years after expiration of this Agreement, termination or completion of this project unless permission to destroy them is granted by the City. Contractor's records and accounts shall at all times meet or exceed the applicable requirements of Federal, State and City law, rules and regulations.

19. Indemnification.

To the fullest extent permitted by law, the Contractor shall, at his sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless the City, its elected officials, department heads, agents, attorneys, and employees from and against all claims, damages, actions, judgments, costs, penalties, liabilities, losses and expenses including, but not limited to, attorneys fees arising out of or resulting from the performance of this Agreement, provided that any such claim, damage, action, judgment, cost, penalty, liability, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property

including the loss of use resulting there from, and is caused in whole or in part by any act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether such injury is caused in whole or in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any of the rights or obligations of indemnity which would otherwise exist as to any party or person described herein.

20. Severability.

In the event that any provision of this Agreement is determined to be invalid or unenforceable by a Court of competent jurisdiction, such provision shall be deemed severed from this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect.

21. New Materials.

The Contractor hereby represents and warrants to the City that any and all materials will be new unless otherwise specified, and the Contractor further represents that all work will be of good and workmanlike quality and free from defects in accordance with the specifications.

22. Set-off.

In the event that the City accepts supplies with minor defects, the Contractor shall deduct the proportionate cost of such defects from its invoice to the City concerning such supplies.

23. Defective Materials.

The Contractor agrees to remedy promptly, and without cost to the City, any defective materials or workmanship which appear within the warranty period stated in the special provisions attached to this Agreement.

24. Defective Materials-Liability.

No provision contained in this Agreement shall be held to limit the Contractor's liability to the City for defects in the supplies furnished to an amount less than the legal limit of liability in accordance with law.

25. Manufacturer's Warranties.

No provision contained in this Agreement shall be construed to limit the terms and conditions of any manufacturer's warranty concerning the supplies furnished pursuant to this Agreement.

26. Notices.

Any and all notices pursuant to this Agreement shall be deemed to have been properly delivered when deposited in the United States mail for delivery to the Contractor at the address provided on the Contractor's proposal. Notices to the City shall be deemed to have been properly delivered when mailed to the City Manager, City of Kennesaw, 2529 J.O. Stephenson Avenue, Kennesaw, Georgia 30144-2797.

27. Bid Bond.

If a bid bond is required pursuant to the City's specifications, such bond must be in an amount of not less than five percent of the bid submitted by the Contractor. The bid bond will be forfeited if the Contractor fails to execute an Agreement with the City substantially similar to this Agreement within fifteen days after notification of the award of the contract.

29. Performance and Payment Bonds.

The Contractor shall furnish the City a performance bond in the form enclosed in the City's request for bids in an amount of one hundred percent (100%) of the lump sum amount bid for the full and complete performance of this Agreement. The Contractor shall also furnish a payment bond on the form enclosed in the City's request for bids insuring the payment of all persons performing labor and furnishing materials or equipment in connection with this Agreement. Accordingly, the Contractor warrants and agrees that, for any Change Order increasing the Contract Sum by five percent or more or when the total cost of the work has increased by five percent (5%) or more, it shall obtain a written amendment to the payment bond and the performance bond increasing the penal amounts of both bonds to one hundred and ten (110%) and one hundred percent (100%) respectively of the new Contract Sum, effective as of the date of the Change Order. The premium increase, if any, may be properly included in the cost of the Change Order. The City shall approve no payment for the work provided by the Change Order until the Contractor has provided the written amendment to the City.

The Contractor shall furnish in writing both a performance bond and a payment bond executed by a duly authorized representative within (30) days of the execution of this Agreement. The Contractor's failure to provide said bonds shall authorize the City to terminate this Agreement and pursue all remedies available to the City at law or in equity. All bonds at the time of issuance must be issued by a company authorized by the Georgia Insurance Commissioner to transact the business of suretyship in the State of Georgia, and shall have a Best Policyholders Rating of "A-" or better and with a financial size rating of Class V or larger.

30. Change Orders.

The City may at any time, by written order, and without notice to the sureties, make changes, within the general scope of this Agreement, in any one or more of, but not limited to, the following: (a) drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the City in accordance therewith; (b) method of shipment or packing; (c) construction materials; (d) construction design; (e) construction specifications; and (f) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of this Agreement, an equitable adjustment shall be made in the Contract Price of delivery schedule, or both, and the Agreement shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt

by the Contractor of the notification of change; provided, however, that the City, if it decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment pursuant to this Agreement. Where the cost of property made obsolete or rendered unnecessary as a result of a change is included in the Contractor's claim for adjustment, the City shall have the right to prescribe the manner of disposition of such property. However, nothing in this clause shall excuse the Contractor from proceeding with the Agreement as changed.

31. Variation in Quantity.

No variation in the quantity of any item or materials called for by this Agreement shall be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in the manufacturing or construction processes, and then only to the extent, if any, specified elsewhere in this Agreement.

32. Testing.

All supplies (which term throughout this Agreement includes without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and testing by the City, to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance.

33. Rejection of Nonconforming Materials.

In case any supplies or lots of supplies are defective in material or workmanship or otherwise not in conformity with the requirements of this Agreement, the City shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed, or, if permitted or required by the City, corrected in place by and at the expense of the Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If the Contractor fails promptly to remove such supplies/materials or lots of supplies/materials which are required to be removed, or promptly to replace or correct such supplies or lots of supplies, the City either: (i) may by contract or otherwise replace or correct such supplies and charge to the Contractor the cost occasioned to the City thereby, or (ii) may terminate this Agreement for default. Unless the Contractor corrects or replaces such supplies within the delivery schedule, the City may require the delivery of such supplies at a reduction in price, which is equitable under the circumstances.

34. Inspection Facilities.

If any inspection or test is made by the City on the premises of the Contractor or a subcontractor, the Contractor without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the City inspectors in the performance of their duties. If City inspections or tests are made at a point other than the premises of the Contractor or a subcontractor, said inspections or tests shall

be at the expense of the City except as otherwise provided in this Agreement; provided that in case of rejection, the City shall not be liable for any reduction in value of samples used in connection with such inspections or tests. All inspections and tests by the City shall be performed in such a manner as not to unduly delay the work. The City reserves the right to charge to the Contractor any additional costs of City inspections and tests when supplies are not ready at the time such inspections and tests are requested by the Contractor or when reinspection or retest is necessitated by prior rejection. Acceptance or rejection of supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this Agreement; but failure to inspect and accept or reject the supplies shall neither relieve the Contractor from responsibility for such supplies which are not in accordance with the contract requirements nor impose liability on the City therefore.

35. Testing-Liability.

The inspection and testing by the City of any supplies or lots thereof does not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Except as otherwise provided in this Agreement, acceptance shall be conclusive except as regards to latent defects, fraud, or such gross mistake as amounts to fraud.

36. Inspections-Records.

The Contractor shall provide and maintain an inspection system acceptable to the City covering the supplies/materials and construction hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the City during the performance of this Agreement and for such longer period as may be specified elsewhere in this Agreement.

37. Payments.

The Contractor shall be paid, upon the submission of proper invoices or vouchers, the prices stipulated herein for supplies/materials delivered and accepted or services or labor rendered and accepted, less deductions, if any, as herein provided.

(a) The Contractor shall submit to the City an itemized Invoice for Payment in an AIA format. The invoice shall include backup material including, but not limited to, receipts or other vouchers, showing its payments for materials and labor, including payments previously made to Subcontractors.

(b) The City may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any certificate to such extent as may be necessary to protect the City from loss because of the following conditions:

- (i) Defective work not remedied;
- (ii) Claims or liens filed;
- (iii) Failure of the Contractor to make payments properly to Subcontractor or Supplier for materials or labor;
- (iv) A reasonable doubt that the Agreement can be completed for the balance then unpaid;
- (v) Damage to a Separate Contractor or to the City or a third party;

(vi) Failure to maintain a rate of progress consistent with the schedule;
or

(vii) Failure to supply enough skilled workers or proper materials.

When the above grounds are removed, payment shall be made for amounts withheld because of them. With regard to cases (ii) and (iii) above, the City may agree to payment upon receipt of a satisfactory Bond to Discharge Claim in the amount of double the claim. At the option of the City, adherence to the Overall Project Schedule shall be a condition precedent to the right of the Contractor to demand payment of an application for payment or certificate. No omission on the part of the City to exercise the aforesaid option shall be construed to be a waiver of breach of the Overall Project Schedule or acquiescence therein, and the City may exercise its option from time to time and as often as may be expedient.

38. Termination for Cause.

The City may, in addition to the provisions of Paragraph 13 herein, and subject to the provisions of Paragraph 42, by written notice of default to the Contractor, terminate the whole or any part of this Agreement in any one of the following circumstances:

- (i) If the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or
- (ii) If the Contractor fails to perform any of the other provisions of this Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the City may authorize in writing) after receipt of notice from the City specifying such failure.

39. Costs to Cure.

In the event the City terminates this Agreement in whole or in part as provided in Paragraph 13, 38, or Paragraph 46, the City may procure, upon such terms and in such manner as the City may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the City for any excess costs for such similar supplies or services; provided, that the Contractor shall continue the performance of this Agreement to the extent not terminated pursuant to the provisions of Paragraph 13, 38, and/or Paragraph 46.

40. Force Majeure.

Except with respect to defaults of subcontractor, the Contractor shall not be liable for any excess costs if the failure to perform the Agreement arises out of causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or to the public enemy, acts of the City, acts of the City, fires, flood, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather exceeding the average climatic conditions in the area of the Work. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the

Contractor shall not be liable for any excess costs for failure to perform unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule. The Contractor shall, within seven (7) days from the beginning of such delay, notify the City, in writing, of the causes of the delay, who shall ascertain the facts and the extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

41. Title to Materials Upon Termination.

If this Agreement is terminated as provided in Paragraph 13, 38, and/or Paragraph 46, the City, in addition to any other rights provided in this Agreement, may require the Contractor to transfer title and deliver to the City: (i) any completed supplies, and (ii) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and Agreement rights (hereinafter called “construction materials”) as the Contractor has specifically produced or specifically acquired for the performance of such part of this Agreement as has been terminated. The Contractor shall, upon direction of the City, protect and preserve property in possession of the Contractor in which the City has an interest. Payment for completed supplies delivered to and accepted by the City shall be at the Contract Price. Payment for construction materials delivered to and accepted by the City and for the protection and preservation of property shall be in an amount agreed upon by the Contractor and the City. The City may withhold from amounts otherwise due the Contractor for such completed supplies, construction services, or construction materials such sum as the City determines to be necessary to protect the City against loss because of outstanding liens or claims of former lien holders.

42. Review of Termination.

If, after notice of termination of this Agreement, it is determined for any reason that the Contractor was not in default under the provisions of this Agreement, or that the default was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued for the convenience of the City.

43. Additional Remedies.

The rights and remedies of the City provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

44. Subcontractors.

As used in this Agreement, the terms “subcontractor” and “subcontractors” mean subcontractor(s) at any tier. Contractor assumes full responsibility for the improper acts and omissions of its subcontractors or others employed or retained by Contractor in connection with the work designated herein.

45. Solicitation of Contract.

The Contractor, in accordance with Title 13 of the Code of Georgia, warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an Agreement or understanding for a commission, percentage,

brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

46. Termination for Convenience.

The performance of work under this Agreement may be terminated by the City in accordance with this clause in whole, or in part, whenever the City shall determine that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the Agreement is terminated, and the date upon which such termination becomes effective. Upon termination for convenience by the City, the provisions of Paragraphs 13, 38, 40, 41, 43 herein shall apply to the extent applicable.

47. Contractor's Duties upon Termination.

After receipt of a Notice of Termination pursuant to any of the applicable Paragraphs herein, and except as otherwise directed by the City, the Contractor shall:

- (a) Stop work under the Agreement on the date and to the extent specified in the Notice of Termination;
- (b) Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
- (c) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
- (d) Assign to the City, in the manner, at the time, and to the extent directed by the City, all of the right, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the City shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- (e) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the City, to the extent it may require, which approval or ratification shall be final for all the purposes of this clause;
- (f) Transfer title to the City and deliver in the manner, at the times, and to the extent, if any, directed by the City:
 - (i) the fabricated or unfabricated parts, work in process, completed work, supplies and other materials produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination, and
 - (ii) The completed or partially completed plans, drawings, information, and other property, which, if the Agreement had been completed, would have been required to be furnished to the City.

- (g) Use its best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the City, any property of the types referred to in (f), above; provided, however, that the City:
 - (i) Shall not be required to extend credit to any purchaser, and
 - (ii) May acquire any such property under the conditions prescribed by and at a price or prices approved by the City; provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the City to the Contractor under this Agreement or shall otherwise be credited to the price or cost of the work covered by this Agreement or paid in such other manner as the City may direct;
- (h) Complete performance of such part of the work as shall not have been terminated by the Notices of Termination; and
- (i) Take such action as may be necessary, or as the City may direct, for the protection and preservation of the property related to this Agreement, which is in the possession of the Contractor, and in which the City has or may acquire an interest.

48. Termination-Claims.

After receipt of a Notice of Termination pursuant to any of the applicable Paragraphs herein, the Contractor shall submit to the City his termination claim, in the form and with the certification prescribed by the City. Such claim shall be submitted promptly but in no event later than one (1) month from the effective date of termination, unless one or more extensions in writing are granted by the City upon request of the Contractor made in writing within such one-month period or authorized extension thereof. However, if the City determines that the facts justify such action it may receive and act upon any termination claim at any time after such one-month period of any extensions thereof. Upon failure of the Contractor to submit his termination claim within the time allowed, the City may, subject to any review required by the City's procedures in effect as of the date of execution of this Agreement, determine, on the basis of information available to it, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

49. Settlement of Claims.

Subject to the provisions of Paragraph 50, the Contractor and the City may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work, which amount or amounts may include a reasonable allowance for profit on work done; provided, however, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract Price as reduced by the amount of payments otherwise made and as further reduced by the Contract Price of work not terminated. The Agreement shall be amended accordingly, and the Contractor shall be paid the agreed amount. Nothing in Paragraph 50 prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the City to agree upon the whole amount to be paid to the Contractor by reason of the termination of work shall be deemed to

limit, restrict, or otherwise determine or affect the amount which may be agreed upon to be paid to the Contractor.

50. Payment of Claims.

In the event of the failure of the Contractor and the City to agree upon the amount to be paid to the Contractor by reason of the termination of work, the City shall determine, on the basis of information available to it, the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amounts determined as follows:

- (a) For completed work, services, or materials accepted by the City (or sold or acquired as provided above) and not previously paid for, a sum equivalent to the aggregate price for such supplies computed in accordance with the price specified in the Agreement, appropriately adjusted for any saving of freight or other charges;
- (b) The total of:
 - (1) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but exclusive of any costs attributable to supplies/materials paid or to be paid for under Subparagraph (a) hereof;
 - (2) The cost of settling and paying claims arising out of the termination of work under subcontracts or orders, which are properly chargeable to the terminated portion of the Agreement (exclusive of amounts paid or payable on account of supplies or materials delivered or services furnished by subcontractors or vendors prior to the effective date of the Notice of Termination, which amounts shall be included in the costs payable above).

The total sum to be paid to the Contractor under (a) and (b) of this Paragraph shall not exceed the total Contract Price as reduced by the amount of payments otherwise made and as further reduced by the Contract Price of work not terminated. Except for normal spoilage, and except to the extent that the City shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor, the fair market value, as determined by the City, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the City or to a buyer.

51. Set-Offs from Payment.

In arriving at the amount due the Contractor there shall be deducted:

- (a) all unliquidated advance or other payments on account heretofore made to the Contractor, applicable to the terminated portion of this Agreement;
- (b) any claim which the City may have against the Contractor in connection with this Agreement; and
- (c) the agreed price for, or the proceeds for, any work, services, materials, supplies or other things not provided or performed by the Contractor or sold pursuant to the provisions of this Agreement, and not otherwise recovered by or credited to the City.

52. Partial Termination.

If the termination hereunder is partial, prior to the settlement of the terminated portion of this Agreement, the Contractor may file with the City a request in writing for an equitable adjustment of the price or prices specified in the Agreement relating to the continued portion of the Agreement (the portion not terminated by the Notice of Termination), and such equitable adjustment as may be agreed upon shall be made in such price.

53. Partial Price.

The City may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this Agreement whenever in the opinion of the City the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due such excess shall be payable by the Contractor to the City upon demand, together with interest computed at the rate of seven (7) percent per annum for the period from the date such excess payment is received by the Contractor to the date on which such excess is repaid to the City; provided, however, that no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until ten (10) days after the date of such retention or disposition, or such later date as determined by the City by reason of the circumstances.

54. Records Inspection.

Unless otherwise provided for in this Agreement, or by applicable statute, the Contractor, from the effective date of termination and for a period of six (6) years after final settlement under this Agreement, shall preserve and make available to the City at all reasonable times at the office of the Contractor but without direct charge to the City, all his books, records, documents and other evidence bearing on the costs and expenses of the Contractor under this Agreement and relating to the work terminated hereunder, or, to the extent approved by the City, photographs, microphotographs or other authentic reproductions thereof.

55. Compliance

This Agreement shall be governed by the law of Georgia. The Contractor shall comply with all laws, rules, regulations, ordinances, and orders of any government agency having jurisdiction in the performance of the Work and shall ensure the compliance of its Subcontractors. Without limiting the generality of the foregoing Paragraph, the following laws are specifically referenced:

- (a) Contractor agrees that any payments made by it to any subcontractor, agent or representative in performance of the obligations hereunder shall fully comply with the terms and requirements of the Federal Davis-Bacon Act as applicable.
- (b) Contractor agrees to comply with Federal Buy America regulations as applicable.
- (c) Contractor agrees to comply with Department of Transportation Seismic Safety Regulations as applicable.

- (d) Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act as applicable.
- (e) Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act.
- (f) Contractor agrees to comply with all applicable standards, orders or regulations related to lobbying, including the Byrd Anti-Lobbying Amendment. The undersigned Contractor certifies, to the best of his or her knowledge and belief that:
 - (ii) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Agreement and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Agreement.
 - (ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, grant, loan or cooperative Agreement, the undersigned shall complete and submit Standard Form—LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions [as amended by “Government wide Guidance for New Restrictions on Lobbying,” 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]
 - (iii) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative Agreements) and that all subrecipients shall certify and disclose accordingly.
 - (iv) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- (g) Contractor agrees to comply with all applicable standards, orders or regulations related to access to records and reports under state and federal law.
- (h) Contractor agrees to comply with all applicable standards, orders or regulations related to Federal Changes.
- (i) Contractor agrees to comply with all applicable standards, orders or regulations related to bonding requirements.

- (j) Contractor agrees to comply with all applicable standards, orders or regulations related to the Clean Air Act.
- (k) The City and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligation or liabilities to the City, Contractor, or any other party pertaining to any matter resulting from the underlying Agreement.
- (l) Contractor agrees to comply with all applicable standards, orders or regulations related to Program Fraud and False or Fraudulent Statements and Related Acts.
- (m) Contractor agrees to comply with all applicable standards, orders or regulations related to Civil Rights, including Nondiscrimination, Equal Employment Opportunity, Race, Color, Creed, National Origin, Sex, Age or Disabilities.
- (n) Contractor agrees to comply with all applicable standards, orders or regulations related to Disadvantaged Business Enterprise.
- (o) Contractor agrees to comply with all applicable standards, orders, or regulations related to Georgia Department of Transportation Local Maintenance & Improvement Grant (LMIG) Program and assist the City with reporting requirements, if any.

56. Insurance.

The Contractor shall be responsible to the City from the time of the signing of the Agreement or the beginning of the first work, whichever shall be earlier, for all injury or damage of any kind resulting from any negligent act or omission or breach, failure or other default regarding the Work by the Contractor, or any of its Subcontractors, its agents, employees or others working at the direction of the Contractor or on its behalf. The Contractor shall procure the insurance coverage identified below at the Contractor's expense and shall furnish the City an insurance certificate listing the City of Kennesaw as the certificate holder and as an additional insured and should read "The City of Kennesaw, Georgia, 2529 J.O. Stephenson Ave., Kennesaw, GA 30144". Occurrence coverage is required. Claims-made coverage is not acceptable. The insurance certificate must provide the following:

- (a) Name and address of authorized agent;
- (b) Name and address of insured;
- (c) Name of insurance company(ies);
- (d) Description of policies;
- (e) Policy Number(s);
- (f) Policy Period(s);
- (g) Limits of liability;
- (h) Name and address of City as certificate holder;
- (i) Project Name and Number;
- (j) Signature of authorized agent;
- (k) Telephone number of authorized agent; and
- (l) Mandatory sixty-day notice of cancellation or non-renewal

The insurance coverage required below shall be issued by a company licensed by the Georgia Insurance Commissioner to transact the business of insurance in the State of Georgia for the applicable line of insurance and shall be an insurer with a Best Policyholders Rating of "A-" or better and with a financial size rating of Class V or larger. Each such policy shall contain the following provisions:

- (a) The insurance company agrees that the policy shall not be canceled, changed, allowed to lapse or allowed to expire until sixty (60) days after the City has received written notice thereof, as evidenced by return receipt of certified mail or statutory mail, or until such time as other insurance coverage providing protection equal to protection called for in this Agreement shall have been received, accepted and acknowledged by the City.
- (b) The policy shall not be subject to invalidation as to any insured by reason of any act or omission of another insured or any of its officers, employees, agents or other representatives.
- (c) All deductibles shall be paid for by the Contractor.
- (d) These policies shall be primary, noncontributing with any applicable insurance carried by the City of Kennesaw and shall contain a severability of interests clause in respect to cross liability, protecting each additional insured as though a separate policy had been issued to each.
- (e) Certification of each policy shall be furnished, in duplicate, to the City, at least fifteen (15) days prior to commencement of services under the signed Agreement.

The Contractor also agrees to purchase insurance and have the authorized agent state on the insurance certificate that the Contractor has purchased the following types of insurance coverage, consistent with the policies and requirements of O.C.G.A. §50-21-37. The minimum required coverage and liability limits are as follows:

- (a) The Contractor agrees to provide Workers' Compensation coverage in accordance with the statutory limits as established by the General Assembly of the State of Georgia. A group insurer must submit a certificate of authority from the Insurance Commissioner approving the group insurance plan. The Contractor shall require all Subcontractors performing work under this Contract to obtain an insurance certificate showing proof of Workers' Compensation Coverage and shall submit a certificate on the letterhead of the Contractor in the following language: *This is to certify that all Subcontractors performing work on this Project are covered by their own workers' compensation insurance or are covered by the Contractor's workers' compensation insurance.*

State of Georgia statutory limits required:

- (i) \$1,000.000;
 - (ii) \$1,000.000 each accident;
 - (iii) \$1,000.000 disease policy limit; and
 - (iv) \$1,000.000 disease each employee.
- (b) The Contractor shall provide Commercial General Liability Insurance that shall include, but need not be limited to, coverage for bodily injury and property

damage arising from premises and operations liability, products and completed operations liability, blasting and explosion, collapse of structures, underground damage, personal injury liability and contractual liability. The CGL policy must include separate aggregate limits per Project and shall provide at a minimum the following limits:

- (i) Premises and Operations \$ 1,000,000.00 per Occurrence;
 - (ii) Products and Completed Operations \$ 1,000,000.00 per Occurrence;
 - (iii) Personal Injury \$ 1,000,000.00 per Occurrence;
 - (iv) Contractual \$ 1,000,000.00 per Occurrence; and
 - (v) General Aggregate \$ 2,000,000.00.
- (c) The Contractor shall provide Commercial Business Automobile Liability Insurance that shall include coverage for bodily injury and property damage arising from the operation of any owned, non-owned, or hired automobile. The Commercial Business Automobile Liability Insurance Policy shall provide not less than \$1,000,000 Combined Single Limit Bodily Injury, Property Damage for each Occurrence.

57. Georgia Security and Immigration Compliance Act Requirements.

The Contractor hereby certifies its compliance with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act OCGA 13-10-90 *et seq.*, by registering and verifying information of all new employees; and by executing any affidavits required by the rules and regulations issued by the Georgia Department of Labor set forth at Rule 300-10-1-.01 *et seq.* Contractor warrants that Contractor has included or will include a similar provision in all written agreements with any subcontractors engaged to perform services under this Contract.

58. Dispute Resolution.

- (a) If a dispute arises out of or relates to this Contract or its breach, the parties shall endeavor to settle the dispute first through direct discussions between the parties' representatives who have the authority to settle the dispute. If the parties' representatives are not able to promptly settle the dispute, they shall refer the dispute to the City Manager who shall have the authority to settle the dispute. If the dispute is not settled by the City Manager, the parties may submit the dispute to mediation.
- (b) If the dispute cannot be settled pursuant to Section (a) above, the parties may elect to submit the dispute to mediation. The parties agree to conclude such mediation within sixty (60) days of electing mediation. The parties shall select a mutually agreeable mediator and shall share the cost of the mediator equally. Either party may terminate the mediation at any time after the first session, but the decision to terminate shall be communicated in writing directly by the party's representative to the other party's representative and the mediator.
- (c) No litigation may be commenced without first following the process in this Section. Litigation may be filed in the Superior Court of Cobb County, Georgia, after the filing party provides thirty (30) days written notice to the opposing party.

The parties hereby agree that the Superior Court of Cobb County, Georgia shall have exclusive jurisdiction and venue in all matters concerning this Contract.

(d) Unless otherwise directed by the City, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

59. Waiver.

A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power, or privilege.

60. LIEN.

Neither the final payment nor any part of the retained percentage will become due until the Contractor, if required, shall furnish the City a complete release from any liens which may arise out of this Agreement, or receipts in full in lieu thereof, and if required in either case, an affidavit that insofar as he they have s knowledge or information, the release and receipts include all materials, for which a lien might be filed. The Contractor may, if any Subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the City to indemnify it against any lien. If a lien shall remain unsatisfied after all payments are made, then the Contractor shall refund to the City all monies which the latter may be compelled to pay in discharging such lien, including all incidental costs and attorney's fees.

61. PROVISIONS REQUIRED BY LAW DEEMED INSERTED.

Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Agreement shall forthwith be physically amended to make such insertion or correction.

62. ACCEPTANCE OF FINAL PAYMENT.

The acceptance by the Contractor of final payment shall be and shall operate as a release to the City of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the City and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or their sureties from any obligations under this Agreement or the Performance and Payment Bond.

63. AMENDMENT.

This Agreement may be amended only by written agreement duly executed by an authorized representative of each party.

64. ENTIRE AGREEMENT.

The Contract Documents, and any accompanying appendices, duplicates, or copies, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement, and supersedes all prior negotiations, agreements, representations, and understandings of any kind, whether written or oral, between the parties, preceding the date of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date first above written.

CITY OF KENNESAW, GEORGIA

Derek Easterling, Mayor
City of Kennesaw

ATTEST:

City Clerk

CONTRACTOR: _____

By: _____

Title: _____

ATTEST:

Corporate Secretary (Seal)

Sworn and subscribed before me this
____ day of _____, 2023.

WITNESS

Notary Public
Commission Expires:

EXHIBIT "A"
SPECIAL STIPULATIONS

- a) The Contractor shall provide materials and labor necessary to mill and resurface the following roads in accordance with the Street Resurfacing Project bid "Specifications".

Street Name	From	To
Morningside Trail	Somerset Ridge	Greensward View
Park Trace	Brandywine Rd	End
Winterthur Main	Legacy Park Cir	Somerset Ridge

- b) The Contract Price for such materials and construction services shall not exceed the amount of \$147,402.00.
- c) Pursuant to Paragraph 16 of this Agreement, the Contractor shall provide copies of its proposal and all drawings and specifications submitted during the bidding process. Each such document and the location of the original is listed as follows:

- 1) Description of Specifications
- 2) Proposal and Contract
- 3) Bid quotation
- 4) E-Verify Forms for All Contracts
- 5)
- 6) _____
- 7) _____
- 8) _____
- 9) _____
- 10) _____

- d) Pursuant to Paragraph 23 of this Agreement, the Contractor agrees to remedy promptly, and without cost to the City, any defective materials or workmanship which appear within two (2) years of the date of completion of the services outlined in this Agreement.
- e) Pursuant to Paragraph 15 of this Agreement, the Contractor agrees to pay liquidated damages in the amount of \$250.00 per day for each day the Contractor fails to complete its duties and obligations under this Agreement beyond the time period set forth within.

PRIME CONTRACTOR'S WORK AUTHORIZATION CERTIFICATION

Pursuant to O.C.G.A. § 13-10-91, all qualifying contractors and sub-contractors performing work within the State of Georgia on a contract with a public employer must register and participate in a federal work authorization program. Prime contractors may participate in any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent Federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 ("IRCA").

Certify compliance with O.C.G.A. § 13-10-91 by checking the appropriate line below:

_____ The undersigned has registered for and is participating in a qualifying federal work authorization program.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services within this state pursuant to this contract with a public employer, the undersigned will secure from such subcontractor(s) a verification of compliance with O.C.G.A. § 13-10-91 using the form "Subcontractor's Work Authorization Certification" or a substantially similar form. The undersigned will maintain records of compliance and provide a copy of each subcontractor's verification to the public employer at the time the sub-contractor is retained to perform such service.

By: Authorized Officer or Agent

Date

Title of Authorized Officer or Agent of Contractor

Basic Pilot User Identification Number
(if applicable)

Printed Name of Authorized Officer or Agent

With express authority on behalf of:

Printed Name of Prime Contractor

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

_____ DAY OF _____, 20__

Notary Public

My Commission Expires: _____

SUBCONTRACTOR'S WORK AUTHORIZATION CERTIFICATION

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services under a contract with the City of Kennesaw has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the City of Kennesaw, contractor will secure from each subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Kennesaw at the time the subcontractor(s) is retained to perform such service.

EEV/Basic Pilot Program* User Identification Number

By: Authorized Officer or Agent
(Subcontractor Name)

Date

Title of Authorized Officer or Agent of Subcontractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

_____ DAY OF _____, 20____

Notary Public

My Commission Expires: _____

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

SUBMITTAL REQUIREMENTS

Specific Requirements

Georgia Security and Immigration Compliance Act

Complete Section I. Contractor Affidavit

Contractor agrees to comply with all of the contractor requirements of the: “Georgia Security and Immigration Compliance Act of 2006,” as codified on O.C.G.A. sections 13-10-90 and 13-10-91 and regulated and regulated in chapter 300-10-1 of the Rules and Regulations of the State of Georgia, “Public Employers, Their Contractor and Sub-Contractors Required to Verify New Employee Work Eligibility Through a Federal Work Authorization Program,” Accessed at <http://www.dol.state.ga.us> as further set forth below.

- A. Contractor Agreement to Verify the Work Eligibility of its New Hires through the U. S. Department of Homeland Security’s “Employment Eligibility Verification(EEV)/Basic Pilot Program.”
 - **Contractor** agrees to verify the work eligibility of all of **Contractor’s** newly hired employees through the U. S. Department of Homeland Security’s **Employment Eligibility Verification(EEV)/Basic Pilot Program**, accessed through the Internet at <https://www.vis-dhs.com/EmployerRegistration>, in accordance with the provisions and timeline found in O.C.G.A. 13-10-91 and Rule 300-10-1-02 of the Rules and Regulations of the State of Georgia.
- B. Contracts Affected by the “Georgia Security and Immigration Compliance Act.”
 - **Contractor** agrees that the contractor and subcontractor requirements of the “Georgia Security and Immigration Compliance Act of 2006” apply to contracts for, or in connection with, the physical performance of services within the State of Georgia.
- C. Contractor’s Agreement to Require “Georgia Security Immigration Compliance Act” Compliance of its Subcontractors connected with this Contract.
 - 1. **Contractor** agrees to require O.C.G.A. Sections 13-10-90 and 13-10-91 compliance in all written Agreements with any subcontractor employed by **Contractor** to provide services connected with this contract, as required pursuant to O.C.G.A. 13-10-91.

2. **Contractor** agrees to obtain from any subcontractor that is employed by **Contractor** to provide services connected with this contract, the subcontractor's indication of the employee-number category applicable to the subcontractor.
3. **Contractor** agrees to secure from any subcontractor engaged to perform services under this Contract an executed "Subcontractor Affidavit," as required pursuant to O.C.G.A. 13-10-91 and Rule 300-10-1-.08 of the Rules and Regulations of the State of Georgia, which rule can be accessed at <http://www.dol.state.ga.us>.
4. **Contractor** agrees to maintain all records of the subcontractor's compliance with O.C.G.A. 13-10-91 and Rule 300-10-1 of the Rules and Regulations of the State of Georgia.
5. **Contractor** must have and maintain telephone, fax and email contacts for all subcontractors.

Receptionists: Please enter all bid packages delivered and give to City Clerk's office.

City Bid Log / Results

Project: LMIG Resurfacing Bid

Deadline: April 28, 2023 at 3:00 pm

Date Rec'd.	Time	Company	Bid Amounts (to be filled out by Clerk at opening)	Awarded Bid	Comments
04/27/23	9:35 am	East Coast Grading, Inc.	183,931.04		
04/28/23	9:00 am	Summit Construction & Development	264,387.78		
04/28/23	10:40 am	Shepco Paving , Inc	166,715.62		
04/28/23	1:32 pm	C.W. Matthews	250,514.45		
04/28/23	2:11 pm	Bartow Paving Co.	190,557.40		
04/28/23	2:44 pm	Magnum Paving	184,356.60		
04/28/2023	2:50 pm	F.S. Scarbrough, LLC	147,402.00		

CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR BIDS

BID FORM

Street Resurfacing

TO: CITY OF KENNESAW

FROM: F.S. Scarbrough, LLC

(Vendor)

THE UNDERSIGNED PROPOSER, having familiarized themselves with the work required by the bid documents, the site where the work is to be performed, all laws, regulations, and other factors affecting performance of the work, and having satisfied itself/himself/herself of the expense and difficulties attending performance of the work;

HEREBY agrees if selected to enter into a contract and perform all work necessary to the successful completion of the contract as indicated and specified in the RFB for the total contract price of:

\$ 147,402⁰⁰

Bidder must also complete the unit price information in the Specification section.

Name of Firm: F.S. Scarbrough, LLC

Firm Address: PO Box 2613, Peachtree City, GA 30269

Federal Identification No: 47-1335479

Email: estimating@fsscاربrough.com

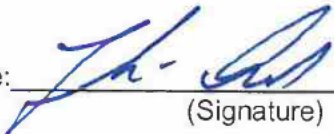
Telephone No: 770-486-4905

Fax No: 770-828-0669

By: Franklin Scarbrough

(Typed or Printed)

04/28/2023
(Date)

Signature: 

(Signature)

President

(Title)

CITY OF KENNESAW
PUBLIC WORKS DEPARTMENT
REQUEST FOR BIDS
PRICE LIST

<u>Street</u>	<u>Length</u>	<u>Width</u>	<u>Asphalt Mix</u>	<u>Lump Sum Price</u>
Morningside Trail	0.35 mi.	22 ft.	<u>9.5 mm,</u> <u>Type II</u>	\$ <u>70,346.00</u>
Park Trace	0.10 mi.	22 ft.	<u>9.5 mm,</u> <u>Type II</u>	\$ <u>24,080.00</u>
Winterthur Main	0.25 mi.	22 ft.	<u>9.5 mm,</u> <u>Type II</u>	\$ <u>43,926.00</u>
Mobilization				\$ <u>6,350.00</u>
Traffic Control				\$ <u>2,700.00</u>
TOTAL LUMP SUM PRICE				\$ <u>147,402.00</u>

Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)

F.S. Scarbrough
500 West Lanier Avenue, Ste 911
Fayetteville, GA 30215

SURETY:

(Name, legal status and principal place of business)

Amerisure Mutual Insurance Company
P.O. Box 9098
Farmington Hills, MI 48333-9098
Mailing Address for Notices
26777 Halsted Road
Farmington Hills, MI 48331

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:

(Name, legal status and address)

City of Kennesaw
2529 J.O. Stephenson Avenue
Kennesaw, GA 30144

BOND AMOUNT: 5% Five Percent of Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

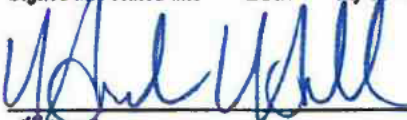
Street Resurfacing

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 28th day of April, 2023.


(Witness)

F.S. Scarbrough

(Principal)

(Seal)

By: 

(Title)

Amerisure Mutual Insurance Company

(Surety)

(Seal)

By: 

(Title) Edward Mooney

Attorney-in-Fact


(Witness) Rebecca Howard



POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Amerisure Mutual Insurance Company, Amerisure Insurance Company and Amerisure Partners Insurance Company are corporations duly organized under the laws of the State of Michigan (herein collectively the "Companies"), and that the Companies do hereby make, constitute and appoint:

EDWARD MOONEY and REBECCA E. HOWARD

its true and lawful Attorney(s)-in Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge, for and on its behalf and as its act and deed, bonds or others writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts or suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

ONE HUNDRED MILLION (\$100,000,000.00) DOLLARS

This Power of Attorney is granted and signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of Amerisure Mutual Insurance Company, Amerisure Insurance Company and Amerisure Partners Insurance Company at meetings duly called and held on February 17, 2022.

"RESOLVED, that any two of the President & Chief Executive Officer, the Chief Financial Officer & Treasurer, the Senior Vice President Surety, the Vice President Surety, or the General Counsel & Corporate Secretary be, and each or any of them hereby is authorized to execute, a Power of Attorney qualifying the attorney-in-fact named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that President & Chief Executive Officer, Chief Financial Officer & Treasurer or General Counsel & Corporate Secretary each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company;

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto electronically/digitally or by facsimile, and any such Power of Attorney or certificate bearing such electronic/digital or facsimile signatures or electronic/digital or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached;

FURTHER RESOLVED, that any work carried out by the attorney-in-fact pursuant to this resolution shall be valid and binding upon the Company."



By:

Michael A. Ito, Senior Vice President

By:

Aaron Green, Vice President



IN WITNESS WHEREOF, Amerisure Mutual Insurance Company, Amerisure Insurance Company and Amerisure Partners Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 4th day of January, 2023.

Amerisure Mutual Insurance Company
Amerisure Insurance Company
Amerisure Partners Insurance Company

State of Illinois
County of Kane

On this 4th day of January, 2023, before me, a Notary Public personally appeared Michael A. Ito, of Amerisure Mutual Insurance Company, Amerisure Insurance Company and Amerisure Partners Insurance Company and Aaron Green of Amerisure Mutual Insurance Company, Amerisure Insurance Company and Amerisure Partners Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



M. Kenny, Notary Public

I, Shannon K. Anderson, the duly elected Vice President, General Counsel & Corporate Secretary of Amerisure Mutual Insurance Company, Amerisure Insurance Company and Amerisure Partners Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by said Companies, which remains in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 28th day of April, 2023.

Shannon K. Anderson, Vice President, General Counsel & Corporate Secretary



CITY OF KENNESAW
REQUEST FOR BIDS

ATTACHMENT 3
E-VERIFY FORM REQUIREMENTS

FEDERAL WORK AUTHORIZATION PROGRAM

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual firm, or corporation which is contracting with the City of Kennesaw, has registered with and is participating in a federal work authorization program[any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), in P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the City of Kennesaw, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Kennesaw at the time the subcontractor(s) is retained to perform such service.

1198755

EEV/Basic Pilot Program* User Identification Number



BY: Authorized Officer or Agent

04/28/23

Date

President

Title of Authorized Officer or Agent of Contractor

Franklin Scarbrough

Printed Name of Authorized Officer Agent

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA)

CITY OF KENNESAW
REQUEST FOR BIDS

ATTACHMENT 3
E-VERIFY FORM REQUIREMENTS

PRIME CONTRACTOR'S WORK AUTHORIZATION CERTIFICATION

Pursuant to O.C.G.A. § 13-10-91, all qualifying contractors and sub-contractors performing work within the State of Georgia on a contract with a public employer must register and participate in a federal work authorization program. Prime contractors may participate in any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent Federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 ("IRCA").

Certify compliance with O.C.G.A. § 13-10-91 by checking the appropriate line below:

 X The undersigned has registered for and is participating in a qualifying federal work authorization program.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services within this state pursuant to this contract with a public employer, the undersigned will secure from such subcontractor(s) a verification of compliance with O.C.G.A. § 13-10-91 using the form "Subcontractor's Work Authorization Certification" or a substantially similar form. The undersigned will maintain records of compliance and provide a copy of each subcontractor's verification to the public employer at the time the sub-contractor is retained to perform such service.

[Signature]
By: Authorized Officer or Agent

04/28/23
Date

President
Title of Authorized Officer or Agent of Contractor

1198755
Basic Pilot User Identification Number
(if applicable)

Franklin Scarbrough
Printed Name of Authorized Officer or Agent

With express authority on behalf of:

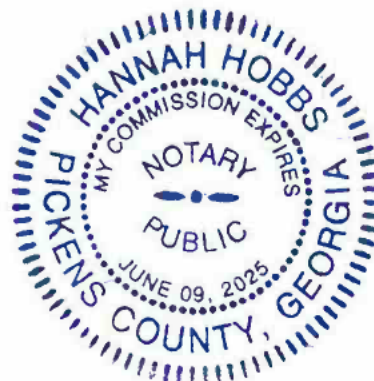
F.S. Scarbrough, LLC
Printed Name of Prime Contractor

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

28 DAY OF April, 2023

[Signature]
Notary Public

My Commission Expires: 6/9/25



CITY OF KENNESAW
REQUEST FOR BIDS

ATTACHMENT 3
E-VERIFY FORM REQUIREMENTS

**300-10-1-.08 Subcontractor Affidavit (Georgia Administrative Code)
O.C.G.A. § 13-10-91 (2007), TITLE 13. CONTRACTS**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services under a contract with the City of Kennesaw has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the City of Kennesaw, contractor will secure from each subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Kennesaw at the time the subcontractor(s) is retained to perform such service.

N/A

EEV/Basic Pilot Program* User Identification Number

By: _____
(Subcontractor Name)

Date

Title of Authorized Officer or Agent of Subcontractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

_____ DAY OF _____, 20____

Notary Public

My Commission Expires: _____

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

Authority O.C.G.A. Sec., 13-10-91. History. Original Rule entitle "Contractor Affidavit and Agreement" adopted. F. May 25, 2007; eff. June 18, 2007, as specified by the Agency.

Project without building template IWD to 12.31.24
The Filter Applied: All Tasks
The View Shown: Gantt Chart
The Group Shown: No Group
PSD: Wed 4/26/23 Duration: 28 d PFD: Fri 7/14/23

PROJECT NAME

FSS's Project Manager:
Updated By:
Status Date: Wed 4/26/23
Finish Variance: 0 d
Printed On: Fri 4/28/23 At: 11:30 AM

ID	Task Name	Dur Wdays Cdays	Current Start Date	Current Finish Date	Qtr 3, 2023
0	STREET RESURFACING-CITY OF KENNESAW	28 d	Thu 6/1/23	Fri 7/14/23	July 7/3 7/10 7/17 7/24
1	ADMINISTRATIVE > {ADMIN >}	3 d	Thu 6/1/23	Sat 6/3/23	STREET RESURFACING-CITY OF KENNESAW Thu 6/1/23 Sat 6/3/23
2	ADMIN > NOTICE OF AWARD-Best Guesstimated date *	1 d	Thu 6/1/23	Thu 6/1/23	ADMIN > NOTICE OF AWARD-Best Guesstimated date * Thu 6/1/23 Thu 6/1/23
3	ADMIN > Contract Execution *	2 d	Fri 6/2/23	Sat 6/3/23	ADMIN > Contract Execution * Fri 6/2/23 Sat 6/3/23
4	ADMIN > Preconstruction meeting and provide NTP *	0 d	Sat 6/3/23	Sat 6/3/23	ADMIN > Preconstruction meeting and provide NTP * Sat 6/3/23 Sat 6/3/23
5	PREPARE & SUBMIT MATERIALS TO A&E > {PREP & SUB > } *	1 d	Sun 6/4/23	Mon 6/5/23	PREPARE & SUBMIT MATERIALS TO A&E > {PREP & SUB > } * Sun 6/4/23 Mon 6/5/23
6	PREP & SUB > Asphalt Mix Design *	2 d	Sun 6/4/23	Mon 6/5/23	PREP & SUB > Asphalt Mix Design * Sun 6/4/23 Mon 6/5/23
7	REVIEW & APPROVE MATERIALS by A&E > {REV & APP> }	3 d	Tue 6/6/23	Thu 6/8/23	REVIEW & APPROVE MATERIALS by A&E > {REV & APP> } Tue 6/6/23 Thu 6/8/23
8	REV & APP> Asphalt Mix Design *	3 d	Tue 6/6/23	Thu 6/8/23	REV & APP> Asphalt Mix Design * Tue 6/6/23 Thu 6/8/23
9	NOTICE >	3 d	Tue 6/6/23	Thu 6/8/23	NOTICE > Tue 6/6/23 Thu 6/8/23
10	NOTICE > Advance notice to residents (Morningside Trail) *	3 d	Tue 6/6/23	Thu 6/8/23	NOTICE > Advance notice to residents (Morningside Trail) * Tue 6/6/23 Thu 6/8/23
11	NOTICE > Advance notice to residents (Park Trace) *	3 d	Tue 6/6/23	Thu 6/8/23	NOTICE > Advance notice to residents (Park Trace) * Tue 6/6/23 Thu 6/8/23
12	NOTICE > Advance notice to residents (Winterthur main) *	3 d	Tue 6/6/23	Thu 6/8/23	NOTICE > Advance notice to residents (Winterthur main) * Tue 6/6/23 Thu 6/8/23
13	MILESTONES > (MI)	1 d	Mon 6/12/23	Mon 6/12/23	MILESTONES > (MI) Mon 6/12/23 Mon 6/12/23
14	MI > Mobilization *	1 d	Mon 6/12/23	Mon 6/12/23	MI > Mobilization * Mon 6/12/23 Mon 6/12/23
15	MILLING & PAVING >	10 d	Tue 6/13/23	Fri 6/16/23	MILLING & PAVING > Tue 6/13/23 Fri 6/16/23
16	MILLING & PAVING > Morningside Trail (Somerset Ridge to Greensward View) 0.35 MI *	4 d	Tue 6/13/23	Fri 6/16/23	MILLING & PAVING > Morningside Trail (Somerset Ridge to Greensward View) 0.35 MI * Tue 6/13/23 Fri 6/16/23
17	MILLING & PAVING > Park Trace (Brandywine Rd to End) 0.10 MI *	2 d	Mon 6/19/23	Wed 6/21/23	MILLING & PAVING > Park Trace (Brandywine Rd to End) 0.10 MI * Mon 6/19/23 Wed 6/21/23



ID	Task Name	Dur Wdays Cdays	Current Start Date	Current Finish Date	Qtr 3, 2023																	
					4/17	4/24	May	5/1	5/8	5/15	5/22	5/29	June	6/5	6/12	6/19	6/26	July	7/3	7/10	7/17	7/24
18	MILLING & PAVING > Winterthur Main (Legacy Park Cit to Somerset Ridge) 0.25 MI*	4 d	Thu 6/22/23	Thu 6/29/23														MILLING & PAVING > Winterthur Main (Legacy Park Cit to Somerset Ridge) Thu 6/22/23				
19	CLOSEOUT ISSUES > {CLOSEOUT > } *	9 d	Mon 7/3/23	Fri 7/14/23														CLOSEOUT ISSUES > {CLOSEOUT > } * Mon 7/3/23				
20	CLOSEOUT > Substantial Completion *	1 d	Mon 7/3/23	Mon 7/3/23														CLOSEOUT > Substantial Completion * Mon 7/3/23				
21	CLOSEOUT > Receive Owner's Punch List *	1 d	Wed 7/5/23	Wed 7/5/23														CLOSEOUT > Receive Owner's Punch List * Wed 7/5/23				
22	CLOSEOUT > Complete Owner's Punch List *	5 d	Thu 7/6/23	Wed 7/12/23														CLOSEOUT > Complete Owner's Punch List * Thu 7/6/23				
23	CLOSEOUT > Coordinate Final Inspections *	1 d	Thu 7/13/23	Thu 7/13/23														CLOSEOUT > Coordinate Final Inspections * Thu 7/13/23				
24	CLOSEOUT > Prepare & Submit Closeout Docs	1 d	Fri 7/14/23	Fri 7/14/23														CLOSEOUT > Prepare & Submit Closeout Docs Fri 7/14/23				
25	CLOSEOUT > Final Completion of Project *	0 d	Fri 7/14/23	Fri 7/14/23														CLOSEOUT > Final Completion of Project * Fri 7/14/23				



Russell R. McMurry, P.E., Commissioner
One Georgia Center
600 West Peachtree Street, NW
Atlanta, GA 30308
(404) 631-1000 Main Office

January 3, 2023

CERTIFICATE OF QUALIFICATION
Vendor ID: 15402

F.S. Scarbrough, LLC
P.O. Box 2613
Peachtree City, GA 30269

In accordance with The Rules and Regulations Governing the Prequalification of Prospective Bidders, you are hereby notified that the Georgia Department of Transportation has assigned the following Rating. This Certificate is effective on the date of issue stated above and cancels and supersedes all Certificate(s) previously issued:

MAXIMUM CAPACITY RATING: \$99,700,000.00
CERTIFICATE EXPIRES: November 30, 2024
PRIMARY WORK CLASS/CODE: 205
SECONDARY WORK CLASS(ES)/CODE(S): 149, 150, 163, 201, 205A, 206A, 208, 209, 301, 310, 310A, 400, 400A, 424, 431, 432, 432A, 439, 441, 500A, 511, 513, 525, 550, 603A, 615, 622, 626, 660, 668, 670, 700, 800A and 820.

The total amount of incomplete work, regardless of its location and with whom it is contracted, whether in progress or awarded but not yet begun, shall not exceed the Maximum Capacity Rating. If dissatisfied with the Rating, we direct you to the Appeals Procedures in §672-5-.08 (1) & (2) and §672-1-.05, Rules of the State Department of Transportation.

A Prequalified Contractor may request an extension of its current prequalification prior to the expiration date of the prequalification by providing the Department with the following information: the amount of time requested for the extension (either 30, 60 or 90 days), the reason for the extension request and the original expiration date of the prequalification. The Department in its discretion will determine whether the extension should be granted and will notify the Contractor of its determination.

Allowing approved prequalification to lapse will leave the Contractors without the ability to bid work until such time as the standing returns to an approved status. If you desire to apply at some intermediate period before the expiration date, your Rating will be reviewed based on the new application.

This Prequalification Certificate is issued for contractors to be eligible for work with the Georgia Department of Transportation (GDOT) only. GDOT does not certify contractors as eligible to do business with entities other than GDOT. *Work class codes are for reference only and do not represent a certification to be provided in support of contractor ability or NAICS code determinations. NAICS Codes are assigned by the office of Equal Employment Opportunity.*

Sincerely, Marc Mastronardi, P.E.



Marc Mastronardi, P.E.
Chairman, Prequalification Committee/Contractors

MM:TKA



PROFESSIONAL LICENSING

GEORGIA SECRETARY OF STATE BRAD RAFFENSPERGER

CORPORATIONS • ELECTIONS • LICENSING • CHARITIES

Licensee Details

Licensee Information

Name: David George Brown

Address:

jackson GA 30233

Primary Source License Information

Lic #:	GCQA005714	Profession:	Residential/General Contractor	Type:	General Contractor Qualifying Agent
Secondary:		Method:	Application/Prior Approval	Status:	Active
Issued:	10/5/2017	Expires:	6/30/2024	Last Renewal Date:	6/30/2022

Associated Licenses

Relationship: Supervisor

Licensee: F.S. Scarbrough LLC

License
Type: General Contractor Company

License #: GCCO005717

License
Status: Active

Established: 10/5/2017

Association
Date: 10/4/2017

Expiry:

Type: Prerequisite

Public Board Orders

Please see Documents section below for any Public Board Orders

Other Documents

No Other Documents

Data current as of: September 27, 2022 13:51:6

This website is to be used as a primary source verification for licenses issued by the Professional Licensing Boards. Paper verifications are available for a fee. Please contact the Professional Licensing Boards at 844-753-7825.



PROFESSIONAL LICENSING

GEORGIA SECRETARY OF STATE BRAD RAFFENSPERGER

CORPORATIONS • ELECTIONS • LICENSING • CHARITIES

Licensee Details

Licensee Information

Name: F S Scarbrough LLC

Owner: Franklin Samuel Searbrough

Address: P O Box 2613

Peachtree City GA 30269

Primary Source License Information

Lic #:	UC302310	Profession:	Utility	Type:	Utility Contractor
Secondary:		Method:	Application	Status:	Active
Issued:	10/22/2014	Expires:	4/30/2025	Last Renewal Date:	4/12/2023

Associated Licenses

Relationship: Supervisor

Licensee: Peppers, Jason Kyle

License Type: Utility Manager

License #: UM102398

License Status: Active

Established:

Association Date: 1/31/2017

Expiry:

Type: Prerequisite User

Relationship: Supervisor

Licensee: Turpin, Ashley David

License Type: Utility Manager

License #: UM001182

License Status: Active

Established: 10/22/2014

Association Date: 10/22/2014

Expiry: 1/31/2017

Type: Prerequisite User

Public Board Orders

Please see Documents section below for any Public Board Orders

Other Documents

No Other Documents

Data current as of: April 12, 2023 12:49:49

This website is to be used as a primary source verification for licenses issued by the Professional Licensing Boards. Paper verifications are available for a fee. Please contact the Professional Licensing Boards at 844-753-7825.



City of Fayetteville
210 Stonewall Avenue West
Fayetteville, Georgia 30214
Occupational Tax Certificate

F.S. SCARBROUGH, LLC
500 LANIER AVE W STE 911
FAYETTEVILLE, GA 30214

License Type: General
License #: 4280
Applicant/Owner: F. S. SCARBROUGH LLC

Effective Date: 1/1/2023

Expiration Date: 12/31/2023

In consideration of which the City of Fayetteville, Georgia has granted a Certificate for carrying on the business of: CIVIL CONTRACTOR

Witness my hand and seal with day and year above written

Phyllis Brown
Occupational Tax Division

This Certificate is not transferable as to owner or location and is subject to be revoked if abused.

INVOICE FOR BUSINESS LICENSE

REMIT TO:
City of Fayetteville
210 Stonewall Avenue West
Fayetteville, Georgia 30214
770-719-4165

ONLINE PAYMENTS
www.fayetteville-ga.gov

License Number: 4280
Type: General

Amount Due: \$0.00

BASED ON:

[REDACTED]

F.S. SCARBROUGH, LLC
P O BOX 2613
PEACHTREE CITY, GA 30269

RENEWALS DUE DECEMBER 31ST
PENALTIES APPLIED APRIL 1ST
RETURN THIS STUB WITH PAYMENT

STATE OF GEORGIA

Secretary of State

Corporations Division

313 West Tower

2 Martin Luther King, Jr. Dr.

Atlanta, Georgia 30334-1530

ANNUAL REGISTRATION

Electronically Filed

Secretary of State

Filing Date: 3/6/2020 3:35:36 PM

BUSINESS INFORMATION

CONTROL NUMBER 14068694
BUSINESS NAME F.S.Scarbrough, LLC
BUSINESS TYPE Domestic Limited Liability Company
EFFECTIVE DATE 03/06/2020
ANNUAL REGISTRATION PERIOD 2020, 2021, 2022

PRINCIPAL OFFICE ADDRESS

ADDRESS P.O. Box 2613, P.O. Box 2613, Peachtree City, GA, 30269, USA

REGISTERED AGENT

NAME	ADDRESS	COUNTY
Franklin Scarbrough	500 Lanier Ave W Ste 911, Fayetteville, GA, 30214, USA	Fayette

AUTHORIZER INFORMATION

AUTHORIZER SIGNATURE franklin scarbrough
AUTHORIZER TITLE Organizer

INDIVIDUAL'S NAME	PRESENT POSITION OR TITLE	YEARS OF CONSTRUCTION EXPERIENCE	MAGNITUDE AND TYPE OF WORK
Franklin Scarbrough	President	22 + Years	Utility Contractor, Grading, Hauling, Landscape, Concrete, Asphalt, Construction Layout, Traffic Control, Misc. Erosion Control Items, Clearing & Grubbing Right of Way, Clearing & Grubbing, Roadway Excavation, Hauling Soil within the Project, Blasting, Crushing, Hauling Soil to the Project, Embankments, Subgrade Construction, Soil-Cement Construction, Graded Aggregate Construction, Hauling GAB, Hot Mix Asphaltic Concrete Construction, Hauling Asphaltic Concrete Mix, Surface Treatment, Grind Concrete Pavement, Mill Asphalt, Hauling Millings, PCC Pavement, Misc. Concrete, Concrete Structures, Bridges and Culverts, Retaining Walls, Reinforcement Steel, Precast Rein Concrete Box Culverts, Cofferdams, Storm Drain Pipe, Hauling Rip Rap To Project of all size, Jacking or Boring Pipe, Precast Concrete Barrier, Mech Stabilized Retaining Walls, Sanitary Sewers, Misc. Drainage Structures, Water Distribution, Grassing Hauling Aggregate, Asphalt Cement, Buildings Value Range: \$100,000.00-\$10,000,000.00
Edward Brewer	Vice-President	47+ Years	DOT and Private Sector Grading, Utility Work and Bridges To Include: Construction Layout, Traffic Control, Misc. Erosion Control Items, Clearing & Grubbing Right of Way, Clearing & Grubbing, Roadway Excavation, Hauling Soil within the Project, Blasting, Crushing, Hauling Soil to the Project, Embankments, Subgrade Construction, Soil-Cement Construction, Graded Aggregate Construction, Hauling GAB, Hot Mix Asphaltic Concrete Construction, Hauling Asphaltic Concrete Mix, Surface Treatment, Grind Concrete Pavement, Mill Asphalt, Hauling Millings, PCC Pavement, Misc. Concrete, Concrete Structures, Bridges and Culverts, Retaining Walls, Reinforcement Steel, Precast Rein Concrete Box Culverts, Cofferdams, Storm Drain Pipe, Hauling Rip Rap To Project of all size, Jacking or Boring Pipe, Precast Concrete Barrier, Mech Stabilized Retaining Walls, Sanitary Sewers, Misc. Drainage Structures, Water Distribution, Grassing Hauling Aggregate, Asphalt Cement, Buildings Value Range: \$100,000.00 - \$100M
Edward Shipley	VP of Utility Construction	45+ Years	Oversee Large Public and Private Utility Projects Work Included: Construction Layout, Traffic Control, Misc. Erosion Control Items, Clearing & Grubbing Right of Way, Clearing & Grubbing, Roadway Excavation, Hauling Soil within the Project, Blasting, Crushing, Hauling Soil to the Project, Embankments, Subgrade Construction, Soil-Cement Construction, Graded Aggregate Construction, Hauling GAB, Hot Mix Asphaltic Concrete Construction, Hauling Asphaltic Concrete Mix, Surface Treatment, Grind Concrete Pavement, Mill Asphalt, Hauling Millings, PCC Pavement, Misc. Concrete, Concrete Structures, Bridges and Culverts, Retaining Walls, Reinforcement

			Steel, Precast Rein Concrete Box Culverts, Cofferdams, Storm Drain Pipe, Hauling Rip Rap To Project of all size, Jacking or Boring Pipe, Precast Concrete Barrier, Mech Stabilized Retaining Walls, Sanitary Sewers, Misc. Drainage Structures, Water Distribution, Grassing Hauling Aggregate, Asphalt Cement Value Range: \$100,000 - \$15,000,000.00
Allen Eison	Executive Vice President	30+ Years	DOT and Private Sector Grading, Utility Work, Bridges and Buildings Work Included: Construction Layout, Traffic Control, Misc. Erosion Control Items, Clearing & Grubbing Right of Way, Clearing & Grubbing, Roadway Excavation, Hauling Soil within the Project, Blasting, Crushing, Hauling Soil to the Project, Embankments, Subgrade Construction, Soil-Cement Construction, Graded Aggregate Construction, Hauling GAB, Hot Mix Asphaltic Concrete Construction, Hauling Asphaltic Concrete Mix, Surface Treatment, Grind Concrete Pavement, Mill Asphalt, Hauling Millings, PCC Pavement, Misc. Concrete, Concrete Structures, Bridges and Culverts, Retaining Walls, Reinforcement Steel, Precast Rein Concrete Box Culverts, Cofferdams, Storm Drain Pipe, Hauling Rip Rap To Project of all size, Jacking or Boring Pipe, Precast Concrete Barrier, Mech Stabilized Retaining Walls, Sanitary Sewers, Misc. Drainage Structures, Water Distribution, Grassing Hauling Aggregate, Asphalt Cement, Buildings Value Range: \$100,000 - \$100M
Jason Garrett	Utility Manager	20+ Years	Road and Utility Work Work Included: Construction Layout, Traffic Control, Misc. Erosion Control Items, Clearing & Grubbing Right of Way, Clearing & Grubbing, Roadway Excavation, Hauling Soil within the Project, Blasting, Crushing, Hauling Soil to the Project, Embankments, Subgrade Construction, Soil-Cement Construction, Graded Aggregate Construction, Hauling GAB, Hot Mix Asphaltic Concrete Construction, Hauling Asphaltic Concrete Mix, Surface Treatment, Grind Concrete Pavement, Mill Asphalt, Hauling Millings, PCC Pavement, Misc. Concrete, Concrete Structures, Bridges and Culverts, Retaining Walls, Reinforcement Steel, Precast Rein Concrete Box Culverts, Cofferdams, Storm Drain Pipe, Hauling Rip Rap To Project of all size, Jacking or Boring Pipe, Precast Concrete Barrier, Mech Stabilized Retaining Walls, Sanitary Sewers, Misc. Drainage Structures, Water Distribution, Grassing Hauling Aggregate, Asphalt Cement Value Range: \$50,000.00 - \$8M
Sean Murphy	Vice-President of Technology	30+ Years	Architect Work Included: Construction Layout, Misc. Erosion Control Items, Grassing, Landscape, Irrigation Value Range: \$10k - \$8M
Samir Patel	Project Manager	20+ Years	DOT and Private Sector Grading, Utility Work, Bridges and Buildings Work Included: Construction Layout, Traffic Control, Misc. Erosion Control Items, Clearing & Grubbing Right of Way, Clearing & Grubbing, Roadway Excavation, Hauling Soil within the Project, Blasting,

			Crushing, Hauling Soil to the Project, Embankments, Subgrade Construction, Soil-Cement Construction, Graded Aggregate Construction, Hauling GAB, Hot Mix Asphaltic Concrete Construction, Hauling Asphaltic Concrete Mix, Surface Treatment, Grind Concrete Pavement, Mill Asphalt, Hauling Millings, PCC Pavement, Misc. Concrete, Concrete Structures, Bridges and Culverts, Retaining Walls, Reinforcement Steel, Precast Rein Concrete Box Culverts, Cofferdams, Storm Drain Pipe, Hauling Rip Rap To Project of all size, Jacking or Boring Pipe, Precast Concrete Barrier, Mech Stabilized Retaining Walls, Sanitary Sewers, Misc. Drainage Structures, Water Distribution, Grassing Hauling Aggregate, Asphalt Cement, Buildings Value Range: \$100,000 - \$50M
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F.S. Scarbrough, LLC
Equipment List

Quantity	Description & Capacity of Items	Age of Items	Owned/Leased
1	Trench Box	3.5 years	Owned
1	Pipe Laser	3.5 years	Owned
1	Komatsu D51	3.5 years	Owned
1	Komatsu PC36	3.5 years	Owned
1	Komatsu PC21	3.5 years	Owned
1	Traffic Control	3.5 years	Owned
1	CAT D6K	3.5 years	Owned
1	Kenworth W900L Lowboy Truck	3.5 years	Owned
1	CAT 926M	3.5 years	Owned
1	CAT 314	3.5 years	Owned
1	CAT 229D	3.5 years	Owned
1	HAMM h11ixP	3.5 years	Owned
1	HAMM h11 ixp	3.5 years	Owned
1	Trailer	3.5 years	Owned
1	CAT Trencher Roller	3.5 years	Owned
1	Sweeper	3.5 years	Owned
1	Komatsu D61	3.5 years	Owned
1	Carry on 6X12	3.5 years	Owned
1	Komatsu HM400-5	5 years	Owned
1	Komatsu HM400-5	5 years	Owned
1	Bomag BW177 D-5	5 years	Owned
1	Bomag BW145	5 years	Owned
1	Caterpillar 305E	5 years	Owned
1	Caterpillar	5 years	Owned
1	Catepillar	5 years	Owned
1	Komatsu PC290	5 years	Owned
1	Komatsu PC490	5 years	Owned
1	Komatsu D51PX	5 years	Owned
1	Komatsu PC360	5 years	Owned
1	Komatsu PC360	4 years	Owned
1	Komatsu WA32	4 years	Owned
1	Komatsu H10IP	4 years	Owned
1	Horton Trailer	4 years	Owned
1	John Deere Tractor	4 years	Owned
1	Horton Trailer	4 years	Owned
1	Laser Stand	4 years	Owned
1	Wacker Packer	4 years	Owned
1	Pipe Laser	4 years	Owned
1	Golf Cart	4 years	Owned
1	Kubota MG-141	3 years	Owned
1	Kubota SVL95-2	3 years	Owned
1	Western Star WS4700S Dump Truck	3 years	Owned
1	Western Star WS4700S Dump Truck	3 years	Owned
1	Dumpster	3 years	Owned
1	Trailers	3 years	Owned
1	KenWorth T880 Dump Truck	3 years	Owned
1	Kubota SLV95	4 years	Owned
1	Kenworth Roll Off Truck	4 years	Owned



Item Report

TO: The Honorable Mayor and City Council
FROM:
DATE: June 5, 2023
TITLE: Reports, Discussions, and Updates

Summary:

Recommendation:

Fiscal Impact:

Attachments:
None



Item Report

TO: The Honorable Mayor and City Council

FROM: Jeff Drobney, City Manager

DATE: June 5, 2023

TITLE: Approval of the Amended and Restated Galleria Convention Funding and Operating Agreements with the Cobb-Marietta Coliseum and Exhibit Hall Authority.

Summary:

The City of Kennesaw along with the other Cobb cities and Cobb County has had an agreement in place since 1992 with the Cobb-Marietta Coliseum & Exhibit Hall Authority with respect to hotel/motel monies and collections. The Authority is requesting an amendment and restatement to the operational and funding agreements between the cities, the County and the Authority. The Authority has amended and restated agreements in place with Cobb County and the other cities, including Acworth, Smyrna, Austell, Power Springs, and Marietta in which similar agreements have been brought forward by the Authority for execution.

There are no proposed changes in the amended & restated agreements as the collection rate and distribution rate is unchanged. The agreements are needed as a means to demonstrate the entities involved in the agreements are continuing to pledge the same hotel/motel rates to the Authority for purposes of their future bonding of projects, which will likely include expansions to the ballroom space, along with general cosmetic updates for the convention center and parking decks.

The changes included in the proposed proposal pertain to the frequency of the collection fees (paid monthly vs. annually) as well as a share of excess tax payment distribution. The City Manager recommends approval of the amended and restated Galleria Convention Funding and Operating Agreements with the Cobb-Marietta Coliseum and Exhibit Hall Authority as they maintain the same funding and operating formulas which have been in place since 1991 and provide for additional payments to the city if there are any excess tax payments. Legal has reviewed.

Recommendation:

City Manager recommends approval.

Fiscal Impact:**Attachments:**

1. Amended and Restated Galleria Funding Agreement -City of Kennesaw
2. Amended and Restated Galleria Operating Agreement - City of Kennesaw

4.28.23 Draft

AMENDED AND RESTATED GALLERIA CONVENTION FUNDING AGREEMENT

between

COBB-MARIETTA COLISEUM AND EXHIBIT HALL AUTHORITY

and

CITY OF KENNESAW, GEORGIA

DATED AS OF [•] 1, 2023

[Original Convention Funding Agreement dated as of December 1, 1991
and Amended as of October 1, 1996]

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AMENDED AND RESTATED GALLERIA CONVENTION FUNDING AGREEMENT

THIS AMENDED AND RESTATED GALLERIA CONVENTION FUNDING AGREEMENT (this “**Agreement**”) is dated as of [•] 1, 2023 by and between the **COBB-MARIETTA COLISEUM AND EXHIBIT HALL AUTHORITY** (the “**Authority**”), a body corporate and politic created and existing under the laws of the State of Georgia (the “**State**”), and **CITY OF KENNESAW, GEORGIA** (the “**City**”), a municipal corporation created under the laws of the State, and amends and restates in its entirety that certain Convention Funding Agreement, dated as of December 1, 1991, as amended by the Amendment No. One to Convention Funding Agreement, dated as of October 1, 1996, between the Authority and the City.

WHEREAS, the Authority has heretofore been created pursuant to the Cobb-Marietta Coliseum and Exhibit Hall Authority Act (Georgia Laws 1980 p. 4091 et seq., as amended, the “**Authority Act**”), and the Authority is now existing and operating and its members have been duly appointed and entered into their duties;

WHEREAS, the Authority was created for the general purpose of “. . . developing and promoting for the public good in this state the cultural growth, public welfare, education and recreation of the people of this state, including the erection and construction of a building or buildings which shall be public buildings to be used for amusement purposes or educational purposes or a combination of the two, and for fairs, expositions, or exhibitions in connection therewith, and the purchase of lands, easements, rights and lands and franchises for construction of such facility or facilities and for use in connection therewith . . .”;

WHEREAS, pursuant to the authority granted in the Authority Act, the Authority is empowered to undertake, without limitation, “. . . the acquisition, construction, equipping, maintenance and operation of multi-use coliseum and civic center type facilities to be used for athletic contests, games, meetings, trade fairs, expositions, political conventions, agricultural events, theatrical and musical performances, conventions and other public entertainments, which facilities if acquired or constructed after May 8, 2018 must be managed and operated directly by the Authority for its own use, and the usual facilities related thereto, including, without limitation, refreshment stands and restaurants, and facilities for the purveying of foods, beverages, publications, souvenirs, novelties, and goods of all kinds, whether operated or purveyed directly or indirectly through concessions, licenses, leases or otherwise, parking facilities or parking areas in connection therewith, recreational centers and areas including, but not limited to, gymnasium and athletic facilities and related buildings, and the usual and convenient facilities appertaining to such undertakings and the extension and improvements of such facilities, acquiring the necessary property therefor, both real and personal and the lease, sale and licensing of any part or all of such facilities, including real and personal property, to any persons, firms or corporations whether public or private so as to assure the efficient and proper development, maintenance, and operation of such facilities and areas, deemed by the Authority to be necessary, convenient, or desirable . . .”;

WHEREAS, the City is a municipal corporation organized and existing under the laws of the State;

WHEREAS, Article IX, Section II, Paragraph III of the State Constitution authorizes the expenditure of public funds by counties and municipal corporations for parks, recreational areas, programs and facilities;

WHEREAS, Article IX, Section III, Paragraph I of the State Constitution (the “**Intergovernmental Contracts Clause**”) authorizes intergovernmental contracts between any “. . . county, municipality, school district or political subdivision of the state . . . with each other or any other public agency, public corporation, or public authority for joint services, for the provision of services or for joint or separate use of facilities or equipment. . .”;

WHEREAS, pursuant to the Authority Act, the Intergovernmental Contracts Clause of the State Constitution and other applicable provisions of State law, the Authority and the City entered into the Original Funding Agreement as an intergovernmental contract for the provision of services and facilities in connection with the Galleria Project (defined below);

WHEREAS, in connection with this Agreement, the Authority and the City also are entering into that certain Amended and Restated Galleria Operating Agreement, dated as of [•] 1, 2023 (the “**Operating Agreement**”), amending and restating in its entirety the Prior Funding Agreement;

WHEREAS, O.C.G.A. 36-82-60 et seq. (the “**Revenue Bond Law**”) and in particular O.C.G.A. § 36-82-61(4)(e) authorizes the issuance of revenue bonds by governmental bodies for “. . . buildings to be constructed and used for the housing of exhibits for fairs and educational purposes; buildings to be used for the housing of livestock, horses, cattle, swine, poultry and agricultural exhibits for exhibition purposes; the erection and construction of buildings to be used for amusement or educational purposes or a combination of the two; and such buildings to be used for fairs, expositions, or exhibitions in connection therewith . . .”;

WHEREAS, the City is authorized to levy and collect within its boundaries an excise tax upon the furnishing for value of public accommodations (the “**Hotel/Motel Tax**”) pursuant to O.C.G.A. § 48-13-51, as amended (the “**Hotel/Motel Tax Law**”), including in particular, without limitation, O.C.G.A. § 48-13-51(a)(5.1), which Hotel/Motel Tax on the Effective Date hereof is at the rate of eight percent (8%) of the amount of the lodging charges actually collected;

WHEREAS, on December 17, 1991, the Authority issued \$48,200,000 original aggregate principal amount of its Revenue Bonds, Series 1991 (the “**Series 1991 Bonds**”) pursuant to the Senior Lien Indenture (as defined hereinafter) in order to finance the acquisition and construction of that certain multi-use civic center, exhibit hall and meeting facilities known as “Cobb Galleria Centre” (together with any improvements, expansions, additions and replacements of such Cobb Galleria Centre, the “**Galleria Project**”) as a public facility to be owned and operated by the Authority, all for the benefit of the residents of Cobb County, Georgia (the “**County**”);

WHEREAS, in order to secure payment of the Series 1991 Bonds and any additional bonds issued under the Senior Lien Indenture, the Authority pledged all revenues derived under the Original Funding Agreement to the payment of principal of and interest on the Senior Lien Bonds, including, without limitation, the City’s payments of 62.5% of its Hotel/Motel Tax revenues (the “**Hotel/Motel Tax Payments**”);

WHEREAS, in connection with the Original Funding Agreement and the issuance of the Series 1991 Bonds issued to finance the acquisition and construction of the Galleria Project, the Authority and the City entered into the Operating Agreement, dated as of December 1, 1991, between the Authority and the City (the “**Original Operating Agreement**”), with respect to the original Galleria Project;

WHEREAS, on May 18, 1993, the Authority issued \$47,965,000 original aggregate principal amount of its Revenue Refunding Bonds, Series 1993 (the “**Series 1993 Bonds**”) in order to refund a portion of the Series 1991 Bonds;

WHEREAS, the City and the Authority entered into the Amendment No. One to Convention Funding Agreement, dated as of October 1, 1996, between the Authority and the City, amending the Original Funding Agreement, and the Amendment No. One to Operating Agreement, dated as of October 1, 1996, between the Authority and the City, amending the Original Operating Agreement (the Original Operating Agreement, as so amended, the “**Prior Operating Agreement**”), and on October 15, 1996, the

Authority issued \$22,300,000 original aggregate principal amount of its Junior Lien Revenue Bonds, Series 1996A (the “**1996 Junior Lien Bonds**”), in order to finance certain additions to the Galleria Project;

WHEREAS, on October 19, 1999, the Authority issued \$23,950,000 original aggregate principal amount of its Revenue Bonds, Series 1999 (the “**Series 1999 Bonds**”) in order to finance the construction of an expansion of the Galleria Project;

WHEREAS, on March 15, 2005, the Authority issued \$15,375,000 original aggregate principal amount of its Revenue Refunding Bonds, Series 2005 (the “**Series 2005 Bonds**”) in order to refund a portion of the outstanding Series 1999 Bonds;

WHEREAS, on December 3, 2009, the Authority issued \$14,335,000 original aggregate principal amount of its Junior Lien Revenue Refunding Bonds, Series 2009 (the “**Series 2009 Junior Lien Bonds**”) in order to refund all of the Authority’s then outstanding 1996 Junior Lien Bonds;

WHEREAS, the Authority’s outstanding \$12,720,000 aggregate principal amount of Series 1993 Senior Lien Bonds and its outstanding \$6,175,000 aggregate principal amount of Series 2005 Senior Lien Bonds, which together total \$18,895,000 (collectively, the “**Existing Senior Lien Bonds**”), are the Authority’s only outstanding bonds having a senior lien on the Hotel/Motel Tax Payments, and have a final maturity date of October 1, 2026;

WHEREAS, the Authority’s outstanding \$4,265,000 aggregate principal amount of Series 2009 Junior Lien Bonds are the Authority’s only outstanding Junior Lien Bonds under this Agreement (the “**Existing Junior Lien Bonds**”), and after July 1, 2023, the Existing Junior Lien Bonds will be outstanding in the aggregate principal amount of \$3,260,000 with a final maturity date of July 1, 2026;

WHEREAS, pursuant to its terms, the Prior Funding Agreement will expire on October 2, 2028, or if on such date all Bonds secured thereby have not been paid in full, then on the date all Bonds secured thereby have been paid in full, but in no event in excess of fifty years after December 1, 1991;

WHEREAS, pursuant to House Bill 658 of the 2017-2018 General Session of the State General Assembly (“**HB 658**”), which became effective as of July 1, 2018, the expiration of the period of time during which the Hotel/Motel Tax may be levied and collected in the City was extended from not later than December 31, 2028 to not later than December 31, 2053;

WHEREAS, pursuant to Senate Bill 489 of the 2017-2018 General Session of the State General Assembly (“**SB 489**”), which became effective as of May 8, 2018, the Authority Act was amended to limit the types of facilities to be financed by the Authority’s revenue bonds after May 8, 2018 to those facilities that are operated and managed directly by the Authority for its own use;

WHEREAS, the Authority desires to issue additional bonds in the future to be secured in whole or in part by the pledge of Hotel/Motel Tax revenues pursuant to this Agreement;

WHEREAS, the Senior Lien Indenture and the Junior Lien Indenture each require the consent of the respective Trustee to an amendment of the Prior Funding Agreement and each allow the respective Trustee to consent to any amendment, change or modification, among other purposes, as may be required in connection with additional bonds in accordance with the terms thereof or in connection with any other change therein that does not prejudice the interests of the Trustee or the bondholders;

WHEREAS, the Senior Lien Trustee and the Junior Lien Trustee each have consented to this Agreement;

NOW, THEREFORE, the Authority and the City have agreed to enter this Agreement in order to amend and restate the Prior Funding Agreement in its entirety and have agreed to contemporaneously enter into the Amended and Restated Galleria Operating Agreement (the “**Operating Agreement**”) in order to amend and restate the Prior Operating Agreement in its entirety.

IN CONSIDERATION OF Ten Dollars in hand paid, the respective covenants, representations and agreements hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, the Authority and the City agree as follows, including, without limitation, that the foregoing premises and Whereas paragraphs shall be, and are hereby declared to be, substantive provisions of this Agreement:

ARTICLE I

DEFINITIONS

In addition to the words and terms defined elsewhere in this Amended and Restated Galleria Convention Funding Agreement, the following words and terms as used in this Agreement shall have the following meanings unless the context or use indicates another or different meaning or intent, and such definitions shall be equally applicable to both the singular and plural forms of the words and terms herein defined:

“Additional Senior Lien Bonds” means Senior Lien Bonds or any other form of senior lien financing or refinancing or refunding payable from or secured by, in whole or in part, directly or indirectly, any Hotel/Motel Tax Payments or funds derived directly or indirectly from Hotel/Motel Tax Payments or funds derived directly or indirectly from Hotel/Motel Tax Payments or in connection with Hotel/Motel Tax Payments payable under or in connection with this Agreement (including, without limitation, any such financing pursuant to a financing plan not involving bonds per se), issued or entered into by the Authority after the Effective Date.

“Authority” means the Cobb-Marietta Coliseum and Exhibit Hall Authority, its successors and assigns.

“Authority Act” means Georgia Laws 1980, p. 4091 et seq., as amended.

“Authority Bond Documents” means, collectively, this Agreement, the Indentures and all other Bond Financing Documents to which the Authority is or will be a party or is or will be bound or subject, and all amendments or supplements to any such document.

“Bond Financing Documents” means, collectively, this Agreement, the Indentures and any other document evidencing, governing or securing repayment of Bonds or necessary or appropriate in connection with the issuance and sale of Additional Senior Lien Bonds, including, but not limited to, disclosure documents, validation documents and any bond insurance policy.

“Bondholder” and **“bondholder”** means the registered owner of any outstanding Bonds.

“Bonds” means, collectively, the Senior Lien Bonds outstanding on the applicable date and the Junior Lien Bonds outstanding on the applicable date (if any).

“City” and **“Cities”** means, each respectively and all collectively, (i) the cities of Acworth, Austell, Kennesaw, Marietta, Powder Springs and Smyrna and (ii) each other city located in the County that enters into a City Funding Agreement, unless otherwise expressly provided herein.

“City Funding Agreement” means, each respectively and all collectively, this Agreement and the convention funding agreements by and between the Authority and each of the Cities of Acworth, Austell, Marietta, Powder Springs and Smyrna, together with each similar convention funding agreement between the Authority and a city located in the County entered into after the Effective Date, as the same may be supplemented or amended from time to time.

“County Funding Agreement” means the Amended and Restated Galleria Convention Funding Agreement, dated as of [•] 1, 2023, between the Authority and Cobb County, Georgia, as the same may be supplemented or amended from time to time.

“Debt Service Reserve Account” means the Debt Service Reserve Account within the Sinking Fund established under the Senior Lien Indenture and held and administered by the Senior Lien Trustee in accordance with the Senior Lien Indenture or any comparable debt service reserve fund under any successor to the Senior Lien Indenture pursuant to which Additional Senior Lien Bonds are issued after the Effective Date.

“Effective Date” means the date on which this Agreement is executed and delivered.

“Existing Bonds” means collectively the Existing Senior Lien Bonds and the Existing Junior Lien Bonds.

“Existing Junior Lien Bonds” or **“Junior Lien Bonds”** means all bonds issued under the Junior Lien Indenture prior to the Effective Date and outstanding on the Effective Date, which consist of the Series 2009 Junior Lien Bonds outstanding on the Effective Date in the aggregate principal amount of \$4,265,000, which (a) will be outstanding in the aggregate principal amount of \$3,260,000 after July 1, 2023.

“Existing Senior Lien Bonds” means all bonds issued under the Senior Lien Indenture prior to the Effective Date and outstanding on the Effective Date, which consist of the Series 1993 Senior Lien Bonds outstanding on the Effective Date in the aggregate principal amount of \$12,720,000 and the Series 2005 Senior Lien Bonds outstanding on the Effective Date in the aggregate principal amount of \$6,175,000, which together total \$18,895,000 on the Effective Date, which are the Authority’s only outstanding Senior Lien Bonds on the Effective Date, the final maturity date of which is October 1, 2026.

“Fiscal Year” means the fiscal year for the Authority ending September 30 of each year or such fiscal year as may be changed by appropriate proceedings of the Authority.

“Galleria Project” means the multipurpose convention, exhibit hall and meeting facilities commonly referred to as the Cobb Galleria Centre, any associated parking areas or improvements thereto and all other facilities and improvements determined by the Authority to be necessary or convenient in connection with the Cobb Galleria Centre, which may include, without limitation, related lands, air space, buildings, structures, fixtures, equipment and personalty appurtenant or convenient to such facilities (any and all of the aforesaid are referred to herein as “facilities” as a broadly construed all-inclusive term), any improvements of, additions to or expansions of such facilities as they currently exist.

“Hotel/Motel Tax” means an excise tax levied and collected by the City upon the furnishing of public accommodations pursuant the Hotel/Motel Tax Law, which excise tax on the Effective Date hereof is levied by the City at the rate of eight percent (8%) of the amount of the lodging charges actually collected.

“Hotel/Motel Tax Law” means O.C.G.A. Title 48, Chapter 13, Article 3 *et seq.*, as amended, including in particular, without limitation, O.C.G.A. § 48-13-51(a)(5.1), authorizing the governing authority of each county within the State of Georgia, within the territorial limits of the special district

(created under O.C.G.A. Section 48-13-51) and each municipality in the State of Georgia located within the special district, to levy and collect an excise tax upon the furnishing of public accommodations at the applicable rate or rates specified therein.

“Hotel/Motel Tax Payments” means the City’s payments of Hotel/Motel Tax required pursuant to Section 4.4(a) hereof with respect to the Existing Bonds and the Additional Senior Lien Bonds prior to the Transition Date or required pursuant to Section 4.4(b) hereof with respect to the Additional Senior Lien Bonds on and after the Transition Date.

“Indenture” or “Indentures” means, each respectively and collectively, the Senior Lien Indenture and (so long as the Existing Junior Lien Bonds remain outstanding) the Junior Lien Indenture.

“Junior Lien Indenture” means the Trust Indenture dated as of October 1, 2009, by and between the Authority and U.S. Bank Trust Company, National Association, as trustee, pursuant to which the Series 2009 Junior Lien Bonds were issued as the same may be amended or supplemented.

“Junior Lien Trustee” means U.S. Bank Trust Company, National Association, successor to First Union National Bank of Georgia, as trustee, or any successor trustee appointed pursuant to the terms of the Junior Lien Indenture.

“O.C.G.A.” means the Official Code of Georgia Annotated, as amended.

“Operating Agreement” means the Amended and Restated Galleria Operating Agreement, dated as of [•] 1, 2022, by and between the Authority and the City, as the same may be supplemented or amended from time to time.

“Original Funding Agreement” means the Convention Funding Agreement, dated as of December 1, 1991, between the Authority and the City, with respect to the original Galleria Project.

“Original Operating Agreement” means the Operating Agreement, dated as of December 1, 1991, between the Authority and the City, with respect to the original Galleria Project.

“Prior Funding Agreement” means the Original Funding Agreement, as amended by the Amendment No. One to Convention Funding Agreement, dated as of October 1, 1996, between the Authority and the City, with respect to the Project and the issuance of the Series 1996A Junior Lien Bonds.

“Prior Operating Agreement” means the Original Operating Agreement, as amended by the Amendment No. One to Operating Agreement, dated as of October 1, 1996, between the Authority and the City, with respect to the Project and the issuance of the Series 1996A Junior Lien Bonds.

“Project” or “Projects” means individually and collectively (i) the Galleria Project, (ii) any improvements of, additions to or expansions of the Galleria Project, and (iii) any other projects financed with the proceeds of Bonds.

“Project Fund” means the Cobb-Marietta Coliseum and Exhibit Hall Authority Project Fund created under and governed by the Senior Lien Indenture.

“Revenue Bond Law” means the Revenue Bond Law, Title 36, Chapter 82, Article 3 of the Official Code of Georgia Annotated, as amended, and as same may hereafter be amended from time to time.

“Revenue Fund” means the Cobb-Marietta Coliseum and Exhibit Hall Authority Revenue Fund created under and governed by the Senior Lien Indenture.

“Senior Lien Bonds” means, collectively, the Existing Senior Lien Bonds and any Additional Senior Lien Bonds, which are secured by a senior priority pledge of and lien on the Tax Payments

“Senior Lien Indenture” means the Trust Indenture dated as of November 1, 1991, by and between the Authority and U.S. Bank Trust Company, National Association, successor to U.S. Bank National Association, as trustee, and as successor to First Union National Bank of Georgia, as trustee, pursuant to which the Senior Lien Bonds have been issued, as supplemented and amended by the First Supplemental Indenture, dated as of April 1, 1993, the Second Supplemental Indenture, dated as of October 1, 1999, and the Third Supplemental Indenture, dated as of February 1, 2005, as the same may be further amended or supplemented or replaced by a successor document from time to time hereafter.

“Senior Lien Trustee” means U.S. Bank Trust Company, National Association, successor to U.S. Bank National Association and First Union National Bank of Georgia, each respectively, as trustee, or any successor trustee appointed pursuant to the terms of the Senior Lien Indenture.

“Tax Payments” means, collectively, the City’s Hotel/Motel Tax Payments required pursuant to Section 4.4(a) or 4.4(b) hereof, the payments of Hotel/Motel Tax by each other City required by its respective City Funding Agreement, and the payments of Hotel/Motel Tax funds and Liquor-by-the-Drink Tax funds by the County required by the County Funding Agreement.

“Term” means the term of this Amended and Restated Galleria Convention Funding Agreement set forth in Section 4.1 hereof.

“Transition Date” means the first date on which no Existing Senior Lien Bonds and no Existing Junior Lien Bonds hereof remain outstanding, which date as of the Effective Date is expected to be October 2, 2026.

“Trustees” means, collectively, the Senior Lien Trustee and, while the Existing Junior Lien Bonds remain outstanding, the Junior Lien Trustee.

ARTICLE II

REPRESENTATIONS

Section 2.1 Representations by the Authority. The Authority makes the following representations and agreements as the basis for the undertakings on its part herein contained:

(i) The Authority is a body corporate and politic created and existing under the laws of the State, including in particular the Authority Act and will do or cause to be done all things necessary to preserve and keep in full force and effect its status and existence; the Authority is permitted under the Intergovernmental Contracts Clause of the State Constitution to contract for any period not exceeding fifty years with the City for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided such contracts deal with activities, services or facilities the contracting parties are authorized by law to undertake or provide;

(ii) The Authority has the power to enter into this Agreement and to perform all obligations contained herein, is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder, by proper action has duly authorized the execution, delivery and performance

of this Agreement, and no approval or other action by any governmental authority, agency, or other person is required in connection with the delivery and performance of this Agreement by it except as shall have been obtained prior to or as of the Effective Date hereof;

(iii) The Authority is empowered specifically (a) to borrow money and to issue its revenue bonds and to use the proceeds thereof for the purpose of paying all or part of the cost of any “project” as defined in the Authority Act as of the time of such issuance or for the purpose of refunding any such bonds of the Authority theretofore issued, and to otherwise carry out its purposes, and to pay all costs of the Authority incident to or necessary and appropriate to such purposes, (b) to make and execute contracts and other instruments necessary to exercise the powers of the Authority, including, without limitation, contracts with the City, and (c) to pledge or assign any properties, revenues, income, tolls, charges, or fees owned or received by the Authority;

(iv) The Authority is not subject to any bylaw or contractual or other limitation or provision of any nature whatsoever which in any way limits, restricts, or prevents it from entering into this Agreement and performing its obligations hereunder;

(v) The issuance and sale of the Bonds, the execution and delivery of this Agreement, the Indentures and all other Authority Bond Documents, and the performance of all covenants and agreements of the Authority contained in this Agreement and the other Authority Bond Documents and of all other acts and things required under the Constitution and laws of the State to make this Agreement and each other Authority Bond Document a valid and binding obligation of the Authority in accordance with its respective terms are authorized by law and have been or will be duly authorized by proceedings of the Authority adopted at public meetings thereof duly and lawfully called and held;

(vi) This Agreement, the Indentures and the other Authority Bond Documents have been or will be duly executed and delivered by the Authority and do or will constitute its legal, valid, and binding obligation enforceable in accordance with their respective terms, except as enforcement may be limited by the application of equitable principles and matters of public policy;

(vii) The authorization, execution, delivery, and performance by the Authority of this Agreement, the Indentures and the other Authority Bond Documents and compliance by the Authority with the respective provisions hereof and thereof do not and will not violate the Constitution or the laws of the State or constitute a breach of or a default under, any other law, court order, administrative regulation or legal decree, or any agreement or other instrument to which it is a party or by which it is bound or subject; and

(viii) There is no litigation or proceeding pending, or to the knowledge of the Authority threatened, against the Authority or against any person having a material adverse effect on the right of the Authority to execute this Agreement, the Indentures or the other Authority Bond Documents or the ability of the Authority to comply with any of its obligations under this Agreement, the Indentures or the other Authority Bond Documents.

Section 2.2 Representations and Agreements by the City. The City makes the following representations and agreements:

(i) The City is a municipal corporation of the State duly created and existing under the laws of the State; the City is permitted under the State Constitution’s Intergovernmental Contracts Clause to contract for any period not exceeding fifty years with the Authority for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided such contracts deal with activities, services or facilities the contracting parties are authorized by law to undertake or provide;

(ii) The City has the power and authority to enter into and execute and deliver this Agreement, and, by proper action of its governing body, has authorized the execution and delivery of this Agreement and the taking of any and all such actions as may be required on its part to carry out, give effect to, and consummate the transactions contemplated by this Agreement, and no approval or other action by any governmental authority, agency, or other person is required in connection with the delivery and performance of this Agreement by it except as shall have been obtained as of the Effective Date hereof;

(iii) This Agreement has been duly executed and delivered by the City and constitutes its legal, valid, and binding obligation enforceable in accordance with its terms, except as enforcement may be limited by the application of equitable principles and matters of public policy;

(iv) The authorization, execution, delivery, and performance by the City of this Agreement and compliance by the City with the provisions thereof do not violate the Constitution or the laws of the State relating to the City or constitute a breach of or a default under, any other law, court order, administrative regulation or legal decree, or any agreement or other instrument to which it is a party or by which it is bound;

(v) There is no litigation or proceeding pending, or to the knowledge of the City threatened, against the City or any other person having a material adverse effect on the right of the City to execute this Agreement or its ability to comply with any of its obligations under this Agreement; and

(vi) The City has, pursuant to resolutions and ordinances duly adopted by its governing body, authorized the levy and collection of the Hotel/Motel Tax, and the money derived from each such levy shall be used and applied as provided in this Agreement during the Term of this Agreement.

ARTICLE III

ISSUANCE OF BONDS; CONSTRUCTION AND OPERATION OF PROJECTS

Section 3.1 Compliance with the Indentures and Other Authority Bond Documents. The Authority hereby represents that the proceeds from the sale of each issue of Bonds deposited into the Project Fund under the Senior Lien Indenture or the Junior Lien Indenture, as applicable, prior to the Effective Date were disbursed for the purposes and in accordance with the terms and conditions set forth therein and that the Authority has and will continue to comply with the terms of all of the Authority Bond Documents. In the event the Authority issues “new money” Additional Senior Lien Bonds after the Effective Date, the Authority shall deposit the applicable net proceeds derived from the sale of each such issue of Additional Senior Lien Bonds into a separate account of the Project Fund created under the Senior Lien Indenture and shall disburse such Bond proceeds in accordance with the terms and conditions set forth therein, and the Authority shall comply with the terms of all Authority Bond Documents entered into in connection with each such issue of Additional Senior Lien Bonds.

Section 3.2 Construction and Operation of the Project. The Authority hereby agrees during the Term hereof to design, construct, operate and maintain the Project for the purpose of developing and promoting for the public good, cultural growth, public welfare, education and recreation of the citizens of the County, including the erection and construction of the Project and the purchase of lands, easements, rights and lands, and franchises for the construction of the Project, all for the benefit of the citizens of Cobb County. The Authority hereby agrees to acquire, construct, operate and maintain the Project, and to operate and manage any Project undertaken after the Effective Date directly for its own use, for the benefit of the citizens of the County and in accordance with the provisions of this Agreement and the Operating Agreement.

Section 3.3 Additional Bonds Proposed after the Effective Date.

The City agrees that the Authority may issue Additional Senior Lien Bonds in accordance with the Senior Lien Indenture after the Effective Date without any further approval of the City and that such Additional Senior Lien Bonds shall be secured by the Tax Payments to the same extent and in the same manner as the Bonds outstanding on the Effective Date; provided, however, no such Additional Senior Lien Bonds may mature later than October 1, 2053.

Section 3.4 Validation of Bonds. The City hereby agrees to be a party defendant in connection with any validation proceeding conducted in connection with the issuance of such Additional Senior Lien Bonds proposed to be issued by the Authority after the Effective Date and agrees that it will execute, acknowledge and deliver any certificates, instruments, sworn answers and acknowledgments as may be reasonably required in connection with any such validation hearing.

ARTICLE IV

**EFFECTIVE DATE; TERM; IMPOSITION OF TAX; TAX
PAYMENT PROVISIONS; OBLIGATIONS ABSOLUTE AND UNCONDITIONAL**

Section 4.1 Effective Date and Term of Agreement. This Agreement shall be effective as of the Effective Date hereof. The Term of this Agreement shall commence on the Effective Date and shall expire and terminate on the first to occur of the following: (i) the first date on which no Existing Senior Lien Bonds and no Existing Junior Lien Bonds remain outstanding in the event no Additional Senior Lien Bonds have been issued in accordance with this Agreement and the Operating Agreement by September 30, 2026 or (ii) the first date on which no Additional Senior Lien Bonds remain outstanding, whether by full and final payment or by defeasance in accordance with the Senior Lien Indenture, which date shall be no later than the final maturity date of any Additional Senior Lien Bonds issued after the Effective Date hereof; provided, however, in no event shall the Term of this Agreement extend beyond October 1, 2053; and provided further, however, notwithstanding the foregoing, so long as any Bonds remain outstanding, the City shall not cease to levy the Hotel/Motel Tax in any manner that will impair the interest and rights of the holders of any Bonds.

Section 4.2 Imposition of Hotel/Motel Tax. Pursuant to the provisions of § 48-13-51(a)(5.1) of the Official Code of Georgia Annotated, as amended, the City has duly authorized the levy and collection of the Hotel/Motel Tax at the current rate of eight percent (8%) for the Term of this Agreement.

Section 4.3 No Impairment of Tax.

So long as any Existing Senior Lien Bonds, any Existing Junior Lien Bonds or any Additional Senior Lien Bonds issued in accordance with this Agreement remain outstanding, the City shall not cease to levy and collect, or reduce the rate of, the Hotel/Motel Tax in any manner that will impair the interest and rights of the owners of any Bonds then outstanding. Without limiting the generality of the foregoing, the City shall not impose, levy or collect any taxes within its corporate limits which would cause the thirteen percent (13%) limit contained in the Hotel/Motel Tax Law in O.C.G.A. § 48-13-51(a)(5.1)(C) to cause a reduction in the rate of the Hotel/Motel Tax. Additionally, in the event corporate limits of the City are hereafter expanded, the Hotel/Motel Tax attributable to such additional area included within the City shall be payable to the Authority on the same terms and conditions provided in Section 4.4 hereof, except that the amount payable due to the collection of the Hotel/Motel Tax within the additional areas included in the City shall equal 100 percent of such collections. The agreements by the City contained in this Section 4.3 shall be for the benefit of the Authority and for the benefit of the owners of the Existing Senior Lien Bonds,

the owners of the Existing Junior Lien Bonds and the owners of the Additional Senior Lien Bonds and shall constitute a contract with the owners of such Bonds.

Section 4.4 Hotel/Motel Tax Payments.

(a) Hotel/Motel Tax Payments with Respect to Outstanding Existing Bonds and Additional Senior Lien Bonds Prior to the Transition Date. Notwithstanding any provision of this Agreement or any Bond Financing Document to the contrary, commencing on the Effective Date and ending on the Transition Date, this Section 4.4(a) shall apply to the outstanding Existing Bonds and any Additional Senior Lien Bonds issued after the Effective Date, and this Section 4.4(a) shall be of no force and effect after the Transition Date.

(i) The City hereby covenants and agrees to pay to or for the account of the Authority by the 20th day of each calendar month until the principal of and interest on the Existing Senior Lien Bonds and the Existing Junior Lien Bonds shall have been paid in full or provision duly made therefor, a sum equal to sixty-two and one-half percent (62.5%) of the Hotel/Motel Tax collected by the City (or to the extent that the corporate limits of the City are expanded, then one hundred percent (100%) of the Hotel/Motel Tax collected by the City within the expanded area as provided in Section 4.3) since the next preceding payment under this Section 4.4(a).

(ii) The Hotel/Motel Tax Payments to be made by the City pursuant to the provisions of this Section 4.4(a) shall be made by the City directly to the Senior Lien Trustee for the account of the Authority under the Senior Lien Indenture so long as any Existing Bonds are outstanding under the Senior Lien Indenture or the Junior Lien Indenture. Such payments shall be in lawful money of the United States of America, shall be forthwith deposited into the Revenue Fund created under the Senior Lien Indenture, shall be applied to the extent and in the manner provided in the Indentures, including, but not limited to, the payment of principal and interest on any Bonds and at least 50 percent of the total Hotel-Motel Tax collected at the rate of 8 percent shall be expended for the purposes specified in O.C.G.A. § 48-13-51(a)(5.1(B) including, but not limited to, the payment of principal and interest on any Bonds.

(iii) The Hotel/Motel Tax Payments to be made by the City under this Section 4.4(a) shall be pledged to the payment of principal and interest on the Senior Lien Bonds pursuant to the Senior Lien Indenture and, on a subordinate basis, to the payment of the principal and interest on the Junior Lien Bonds pursuant to the Junior Lien Indenture.

(iv) It is further expressly provided that the City or the Authority also may make additional payments from time to time from any lawfully available funds as determined by such party in its sole discretion to be necessary or desirable in connection with the Project.

(b) Hotel/Motel Tax Payments with Respect to Additional Senior Lien Bonds on and after the Transaction Date. Notwithstanding any provision of this Agreement or any Bond Financing Document to the contrary, this Section 4.4(b) shall apply on and after the Transition Date to all Additional Senior Lien Bonds issued after the Effective Date.

(i) The City hereby covenants to pay to the Senior Lien Trustee for the account of the Authority under the Senior Lien Indenture by the 20th day of each calendar month until the principal of and interest on the Additional Senior Lien Bonds issued after the Effective Date hereof shall have been paid in full or provision duly made therefor, a sum equal to sixty-two and one-half percent (62.5%) of the Hotel/Motel Tax collected by the City (or to the extent that the corporate limits of the City are expanded, then one hundred percent (100%) of the Hotel/Motel Tax collected

by the City within the expanded area as provided in Section 4.3) since the next preceding payment under this Section 4.4(b).

(ii) The Hotel/Motel Tax Payments to be made by the City pursuant to the provisions of this Section 4.4(b) shall be made by the City to the Senior Lien Trustee for the account of the Authority under the Senior Lien Indenture so long as any Additional Senior Lien Bonds are outstanding under the Senior Lien Indenture. Such payments shall be in lawful money of the United States of America, shall be forthwith deposited into the Revenue Fund under the Senior Lien Indenture and promptly each month (1) on a first priority basis the applicable monthly installment amount of principal and interest shall be applied or held by the Senior Lien Trustee for application when due to the payment of principal of and interest on the Additional Senior Lien Bonds pursuant to the Senior Lien Indenture and the applicable monthly installment amount to replenish any deficiency in the Debt Service Reserve Account below the Debt Service Reserve Fund Requirement under the Senior Lien Indenture and (2) any Hotel/Motel Tax Payments in excess of amounts needed for the aforesaid purposes of clause (1) shall be returned to the Authority promptly each month to be applied by the Authority strictly as provided in the Operating Agreement.

(iii) The Hotel/Motel Tax Payments to be made by the City under this Section shall be pledged on a first priority basis to the payment of principal of and interest on the Additional Senior Lien Bonds pursuant to the Senior Lien Indenture and to replenish any deficiency in the Debt Service Reserve Account below the Debt Service Reserve Fund Requirement under the Senior Lien Indenture.

(iv) It is further expressly provided that the City or the Authority also may make additional payments from time to time from any legally and contractually available funds as determined by such party to be necessary or desirable in connection with the applicable Additional Senior Lien Bonds or the applicable Project.

Section 4.5 **Obligations of City Hereunder Absolute and Unconditional.** The obligations of the City to make the payments required in Section 4.4 hereof and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment, or counterclaim it may otherwise have against the Authority. Until such time as the principal of and interest on the Bonds outstanding under the Indentures shall have been paid in full or provision for the payment thereof shall have been made in accordance with the applicable Indenture, the City (i) will not suspend, abate, reduce, abrogate, diminish, postpone, modify or discontinue the Hotel/Motel Tax Payments provided for herein, (ii) will perform and observe all of its other agreements contained in this Agreement, and (iii) will not terminate the Term of this Agreement or its obligations hereunder for any contingency, act of God, event, or cause whatsoever, including, without limiting the generality of the foregoing, failure of the Authority's title in and to a Project or any part thereof, any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to a Project, the taking by eminent domain of title to or the use of all or any part of a Project, commercial frustration of purpose, any change in the tax or other laws of the United States of America or of the State or any political subdivision of either, any declaration or finding that any of the Bonds are unenforceable or invalid, the invalidity of any provision of this Agreement, or any failure of the Authority to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Agreement or the Indentures.

Nothing contained in this Section 4.5, however, shall be construed to release the Authority from the performance of any of the agreements on its part contained in this Agreement, in the Senior Lien Indenture or in the Junior Lien Indenture; and if the Authority should fail to perform any such agreement, the City may institute such action against the Authority as the City may deem necessary to compel

performance or recover its damages for nonperformance as long as such action shall not do violence to or adversely affect the agreements on the part of the City contained in this Agreement and to make the Hotel/Motel Tax Payments specified herein; *provided, however*, any liability of the Authority commencing on the Effective Date hereof shall be payable solely from rents, revenues and receipts arising from the Authority's interest in the Projects. The City may, however, at its own cost and expense and in its own name, prosecute or defend any action or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure or protect its rights hereunder, and in such event the Authority hereby agrees to cooperate to the full extent required so long as the Authority's interests in a Project would not be adversely affected.

Section 4.6 Pledge of Hotel/Motel Tax.

(a) With respect to Existing Bonds outstanding on the Effective Date hereof, the City has pledged and hereby pledges the Hotel/Motel Tax Payments required by Section 4.4(a) hereof to the payment of principal of and interest on the Existing Senior Lien Bonds pursuant to the Senior Lien Indenture and to replenish any deficiency in the Debt Service Reserve Account below the Debt Service Reserve Fund Requirement under the Senior Lien Indenture for the benefit of the owners of the Existing Senior Lien Bonds on a first priority basis and to the payment of principal of and interest on the Existing Junior Lien Bonds pursuant to the Junior Lien Indenture for the benefit of the owners of the Existing Junior Lien Bonds on a subordinate basis. The Hotel/Motel Tax Payments so pledged shall immediately be subject to the lien of such pledge without physical delivery thereof and the lien of this pledge shall be a first or prior lien superior to any and all other claims, whether such claims arise in contract, tort or otherwise and shall be superior to any lien or pledge that may hereafter be created.

(b) With respect to Additional Senior Lien Bonds issued after the Effective Date hereof in accordance with this Agreement, the City hereby pledges the Hotel/Motel Tax Payments required to be paid pursuant to Section 4.4(a) prior to the Transition Date and Section 4.4(b) hereof on and after the Transition Date to the payment of principal of and interest on the Additional Senior Lien Bonds pursuant to the Senior Lien Indenture and to replenish any deficiency in the Debt Service Reserve Account below the Debt Service Reserve Fund Requirement under the Senior Lien Indenture for the benefit of the owners of the applicable Additional Senior Lien Bonds issued after the Effective Date hereof. The Hotel/Motel Tax Payments so pledged shall immediately be subject to the lien of such pledge without physical delivery thereof and the lien of this pledge shall be a first or prior lien superior to any and all other claims, whether such claims arise in contract, tort or otherwise and shall be superior to any lien or pledge that may hereafter be created.

Section 4.7 Enforcement of Obligations. The obligation of the City to make Hotel/Motel Tax Payments under this Article may be enforced by (i) the Authority, (ii) the Senior Lien Trustee or (so long as the Existing Junior Lien Bonds remain outstanding) the Junior Lien Trustee under the respective Indenture or owners of any respective Bonds, in accordance with the applicable provisions of each respective Indenture and independently of the Authority or, (iii) such receiver or receivers as may be appointed pursuant to an applicable Indenture or applicable law. The covenants and agreements hereunder including specifically the obligation to make the Hotel/Motel Tax Payments shall be enforceable by specific performance; it being acknowledged and agreed by the Authority and the City that no other remedy at law is adequate to protect the interests of the parties hereto.

Section 4.8 Assignment of this Agreement. The City hereby consents to the assignment of the Authority's right, title, and interest in and to this Agreement to the Senior Lien Trustee pursuant to the Senior Lien Indenture to secure the Existing Bonds outstanding on the Effective Date hereof and Additional Senior Lien Bonds issued after the Effective Date hereof and hereby agrees that any notice to the Authority required under this Agreement with respect to such Existing Bonds and Additional Senior Lien Bonds shall be given in addition to the Senior Lien Trustee at the address then applicable for the Senior Lien Trustee

under the Senior Lien Indenture and that any consent of the Authority required under this Agreement with respect to such Existing Bonds and Additional Senior Lien Bonds shall not be deemed to have been given unless such consent is obtained in writing from the Senior Lien Trustee and the Authority. The Senior Lien Trustee shall have all rights and remedies herein accorded to the Authority with respect to Existing Bonds outstanding on the Effective Date hereof and Additional Senior Lien Bonds issued after the Effective Date hereof, and any reference herein to the Authority with respect to such Existing Bonds and Additional Senior Lien Bonds shall be deemed, with the necessary changes in detail, to include the Senior Lien Trustee. On a first priority basis the Senior Lien Trustee and the owners of the Senior Lien Existing Bonds outstanding on the Effective Date hereof and Additional Senior Lien Bonds issued after the Effective Date hereof are deemed to be and are third party beneficiaries of the representations, covenants and agreements of the City contained in this Agreement with respect to such Existing Senior Lien Bonds and Additional Senior Lien Bonds. On a subordinate basis for so long as the Junior Lien Existing Bonds remain outstanding, the Junior Lien Trustee and the owners of the Junior Lien Existing Bonds outstanding on the Effective Date hereof are deemed to be and are third party beneficiaries of the representations, covenants and agreements of the City contained in this Agreement with respect to such Existing Junior Lien Bonds.

Section 4.9 No Set-Off. No breach, default or failure by the Authority to comply with the provisions of this Agreement shall permit an abatement or reduction in or set-off against the Hotel/Motel Tax Payments due from the City. Nothing in this Agreement shall otherwise impair, diminish or affect any other right or remedy available to the City (i) as a result of the Authority's breach, default or failure under this Agreement, or (ii) to enforce the obligations of the Authority under this Agreement. No dispute or litigation between the Authority and the City with respect to this Agreement shall affect any party's duties to perform its obligations or its rights or remedies while such dispute or litigation is pending.

ARTICLE V

SPECIAL COVENANTS OF CITY AND AUTHORITY

The City and the Authority each hereby covenants and agrees with each other and for the benefit of the owners of the Bonds as follows:

Section 5.1 Collection of Taxes. The City hereby covenants and agrees that during the Term of this Agreement it shall levy and collect the Hotel/Motel Tax within its corporate limits at the rate authorized by the Hotel/Motel Tax Law at the time of such levy, provided such rate during the Term of this Agreement shall be at least eight percent (8%), and from the proceeds derived therefrom make the Hotel/Motel Tax Payments required pursuant to the applicable subsection of Section 4.4 hereof throughout the Term of this Agreement. This covenant shall be for the benefit of the owners of the Existing Bonds outstanding on the Effective Date hereof and Additional Senior Lien Bonds issued after the Effective Date in accordance with this Agreement and shall constitute a contract with the owners of such Existing Bonds and Additional Senior Lien Bonds and may be enforced by the Senior Lien Trustee with respect thereto.

Section 5.2 Records Regarding Hotel/Motel Tax Payments. The City shall provide to the Authority and the Senior Lien Trustee monthly a written statement on or before the date when the Hotel/Motel Tax Payments are due hereunder of the amount of each Tax Payment. Upon the prior written request of the Authority, the City shall make available for inspection during normal business hours the books and records of the City pertaining to the levy and collection of the Hotel/Motel Tax and related Hotel/Motel Tax Payments by the City.

Section 5.3 Further Assurances and Corrective Instrument. The City and the Authority, as applicable, each respectively, hereby covenants and agrees that it will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments,

certificates and acknowledgments as may be reasonably requested under this Agreement, including, without limitation, to perfect the pledge of revenues payable hereunder securing payment of the principal of and interest on the Bonds and to replenish any deficiency in the Senior Lien Debt Service Reserve Account below the Senior Lien Debt Service Reserve Fund Requirement under the Senior Lien Indenture or for carrying out the intention of or facilitating the performance of this Agreement.

Section 5.4 Confirming Documents. In connection with the issuance of any Additional Senior Lien Bonds after the Effective Date, the City and the Authority, each respectively, hereby covenants and agrees, upon reasonable prior written request, to authorize, execute and deliver any reasonably requested certificates, letters or other documents in form and substance reasonably acceptable to the executing party confirming the agreed upon obligations and covenants of the applicable party under this Agreement in the event:

(i) such certificates, letters or other documents are reasonably required by, as applicable, any rating agency, bond purchaser or other appropriate party or a legal requirement as a condition of issuance of the Additional Senior Lien Bonds and are in form and substance acceptable to the City or the Authority, as applicable; and

(ii) the Authority shall pay the costs and expenses incurred by the City in connection with the authorization, execution and delivery of such certificates, letters or other documents, including, but not limited to, the reasonable fees and expenses of attorneys representing the City.

Section 5.5 Reports to Department of Community Affairs.

The City shall annually file with the Department of Community Affairs a report specifying the rate of taxation and amounts collected and expended pursuant to the Hotel/Motel Tax Law and any other information which may be required by the Department of Community Affairs pursuant to the Hotel/Motel Tax Law.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Termination of this Agreement.

The Term of this Agreement shall expire and terminate in accordance with Section 4.1(b) hereof.

Section 6.2 Independent Contractor. In performing this Agreement, the Authority is acting as an independent contractor. The City shall not have any power to control the means, methods or techniques by which the Authority undertakes the activities or projects contemplated by this Agreement, except as may be otherwise expressly provided in this Agreement.

Section 6.3 Financial Liability.

(a) The financial liability of the Authority for failure to perform any of its obligations under this Agreement after the Effective Date hereof shall be limited to the Authority's interests in the Projects and in the operating revenues of the Projects.

(b) The financial liability of the City for failure to perform any of its obligations under this Agreement shall be limited to the interest of the City in the Hotel/Motel Tax payable by the City under Section 4.4(a) or 4.4(b) of this Agreement.

Section 6.4 No Interest for City. By virtue of this Agreement, the City shall not have or hereafter acquire any legal or equitable interest of any nature in, under or to (i) any part of the property, real or personal, tangible or intangible, comprising or used in the Projects, (ii) the leases, licenses, contracts, accounts or other intangible rights or obligations acquired or incurred by the Authority in connection with the acquisition, construction, improvement, equipping or operation of the Projects, or (iii) the operating revenues of the Projects except as otherwise explicitly provided herein or in the Operating Agreement or as otherwise agreed in writing between the City and the Authority.

Section 6.5 No Third Party Beneficiaries. Nothing in this Agreement is intended or shall be deemed to confer any interest in this Agreement or benefit on persons not parties to this Agreement, except as provided in Section 4.3, Section 4.7 and Section 5.1 of this Agreement with respect to the Senior Lien Trustee, the Junior Lien Trustee and owners of the Bonds and as may be otherwise expressly provided in this Agreement. No obligation imposed on any party under this Agreement is imposed for the benefit or with the intent to permit enforcement by another, not a party to this Agreement, except as may be otherwise expressly provided in this Agreement with respect to the Senior Lien Trustee, the Junior Lien Trustee and owners of the Bonds.

Section 6.6 Entire Agreement; Amendments.

(a) This Agreement contains the entire agreement of the City and the Authority relating to the specific matters covered by this Agreement. No representation, promise or understanding has been made, and no collateral agreement, stipulation or undertaking exists, which will have any force and effect with respect to the specific matters covered by this Agreement except as set forth in this Agreement.

(b) No amendment, modification, supplement, release, discharge or waiver of the provisions of this Agreement shall be of any force, value or effect unless it is in writing and is duly executed on behalf of the Authority and the City and, if required by the Senior Lien Indenture, is accomplished in accordance with the Senior Lien Indenture with the prior written consent of the Senior Lien Trustee.

Section 6.7 Agreement to Pay Attorneys' Fees and Expenses.

(a) In the event the City is determined to have defaulted under any of the provisions of this Agreement and the Authority employs attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the City herein contained, the City agrees that it shall on demand therefor pay to the Authority the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Authority.

(b) In the event the Authority is determined to have defaulted under any of the provisions of this Agreement and the City employs attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Authority herein contained, the Authority agrees that it shall on demand therefor pay to the City the reasonable fees of such attorneys and such other reasonable expenses so incurred by the City.

Section 6.8 No Additional Waiver Implied by One Waiver. If any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 6.9 Notices. All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when delivered in person or when sent by registered courier or registered over-night delivery service or when mailed by registered or certified

mail, return receipt requested, in each case with postage or other charges prepaid, to the parties hereto at the following addresses or such other address designated by such party in writing:

Authority: Cobb-Marietta Coliseum and Exhibit Hall Authority
Two Galleria Parkway
Atlanta, Georgia 30339
Attention: CEO/General Manager

City: City of Kennesaw, Georgia
2529 J.O. Stephenson Ave.
Kennesaw, Georgia 30144
Attention: City Manager

A copy of any notices, certificates or other communications given hereunder also shall be provided to the Senior Lien Trustee at the following address:

U.S. Bank Trust Company, National Association,
as Senior Lien Trustee
Global Corporate Trust
2 Concourse Parkway, Suite 800
Atlanta, Georgia 30328-5588
Attention: _____

Section 6.10 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Authority, the City and their respective successors and assigns.

Section 6.11 Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 6.12 Execution Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which, shall be an original and all of which shall constitute but one and the same instrument.

Section 6.13 Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

Section 6.14 Law Governing this Agreement. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Georgia. Jurisdiction and venue over any claim or dispute arising under this Agreement shall lie exclusively in the Superior Court of Cobb County, Georgia.

Section 6.15 Prior Funding Agreements. Any and all prior agreements, leases, operating contracts, management contracts, or any other agreements or parts thereof in effect on or after the date of the Original Funding Agreement between the Authority and the City with respect to the Hotel/Motel Tax and the Project be and the same are hereby repealed and terminated and same shall be of no force and effect upon the execution, delivery and effectiveness of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Authority and the City have caused this Amended and Restated Galleria Convention Funding Agreement to be executed by their duly authorized officers, and their respective seals to be hereunto affixed and attested by their duly authorized officers, all to be effective as of the Effective Date set forth hereinabove.

(AUTHORITY SEAL)

Attest:

Secretary-Treasurer

THE AUTHORITY:
**COBB-MARIETTA COLISEUM AND
EXHIBIT HALL AUTHORITY**

By: _____
Chairman

(CITY SEAL)

Attest:

City Clerk

THE CITY:
CITY OF KENNESAW, GEORGIA

By: _____
Mayor

[CONSENTS OF TRUSTEES TO BE
OBTAINED PRIOR TO THE EXECUTION BY
THE PARTIES**]**

[The undersigned Senior Lien Trustee hereby
consents to this Amended and Restated Galleria
Convention Funding Agreement **]**

[U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, successor to U.S. Bank National
Association and successor to First Union National
Bank of Georgia, as Senior Lien Trustee**]**

By: _____
Name:
Title:

[The undersigned Junior Lien Trustee hereby
consents to this Amended and Restated Galleria
Convention Funding Agreement **]**

[U.S. BANK TRUST COMPANY, NATIONAL
ASSOCIATION, successor to U.S. Bank National
Association, as Junior Lien Trustee**]**

By: _____
Name:
Title:

4.28.23 DRAFT

AMENDED AND RESTATED GALLERIA OPERATING AGREEMENT

between

COBB-MARIETTA COLISEUM AND EXHIBIT HALL AUTHORITY

and

CITY OF KENNESAW, GEORGIA

DATED AS OF [•] 1, 2023

[Original Operating Agreement dated as of December 1, 1991,
And Amended as of October 1, 1996]

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EXHIBIT A - ANNUAL EXCESS TAX PAYMENTS CALCULATION SPREADSHEET

AMENDED AND RESTATED GALLERIA OPERATING AGREEMENT

THIS AMENDED AND RESTATED GALLERIA OPERATING AGREEMENT (this “**Agreement**”) is dated as of [•] 1, 2023, by and between the **COBB-MARIETTA COLISEUM AND EXHIBIT HALL AUTHORITY** (the “**Authority**”), a body corporate and politic created and existing under the laws of the State of Georgia (the “**State**”), and **CITY OF KENNESAW, GEORGIA** (the “**City**”), a municipal corporation created under the laws of the State, and amends and restates in its entirety that certain Operating Agreement, dated as of December 1, 1991 as amended by the Amendment No. One to Operating Agreement, dated as of October 1, 1996.

WHEREAS, the Authority has heretofore been created pursuant to the Cobb-Marietta Coliseum and Exhibit Hall Authority Act (Georgia Laws 1980 p. 4091 *et seq.*, as amended, the “**Authority Act**”) and the Authority is now existing and operating and its members have been duly appointed and entered into their duties;

WHEREAS, the Authority was created for the general purpose of “. . . developing and promoting for the public good in this state the cultural growth, public welfare, education and recreation of the people of this state, including the erection and construction of a building or buildings which shall be public buildings to be used for amusement purposes or educational purposes or a combination of the two, and for fairs, expositions, or exhibitions in connection therewith, and the purchase of lands, easements, rights and lands and franchises for construction of such facility or facilities and for use in connection therewith . . .”;

WHEREAS, pursuant to the authority granted in the Authority Act, the Authority is empowered to undertake, without limitation, “. . . the acquisition, construction, equipping, maintenance and operation of multi-use coliseum and civic center type facilities to be used for athletic contests, games, meetings, trade fairs, expositions, political conventions, agricultural events, theatrical and musical performances, conventions and other public entertainments, which facilities if acquired or constructed after May 8, 2018 must be managed and operated directly by the authority for its own use and the usual facilities related thereto, including, without limitation, refreshment stands and restaurants, and facilities for the purveying of foods, beverages, publications, souvenirs, novelties, and goods of all kinds, whether operated or purveyed directly or indirectly through concessions, licenses, leases or otherwise, parking facilities or parking areas in connection therewith, recreational centers and areas including, but not limited to, gymnasium and athletic facilities and related buildings, and the usual and convenient facilities appertaining to such undertakings and the extension and improvements of such facilities, acquiring the necessary property therefor, both real and personal and the lease, sale and licensing of any part or all of such facilities, including real and personal property, to any persons, firms or corporations whether public or private so as to assure the efficient and proper development, maintenance, and operation of such facilities and areas, deemed by the Authority to be necessary, convenient, or desirable . . .”;

WHEREAS, the City is a municipal corporation organized and existing under the laws of the State;

WHEREAS, Article IX, Section II, Paragraph III of the State Constitution authorizes the expenditure of public funds by counties and municipal corporations for parks, recreational areas, programs and facilities;

WHEREAS, Article IX, Section III, Paragraph I of the State Constitution (the “**Intergovernmental Contracts Clause**”) authorizes intergovernmental contracts between any “. . . county, municipality, school district or political subdivision of the state . . . with each other or any other public agency, public corporation, or public authority for joint services, for the provision of services or for joint or separate use of facilities or equipment. . .”;

WHEREAS, pursuant to the Authority Act, the Intergovernmental Contracts Clause of the State Constitution and other applicable provisions of State law, in connection with the Original Operating Agreement, the Authority and the City also entered into that certain Convention Funding Agreement, dated as of December 1, 1991 (the “**Original Funding Agreement**”), as amended as of October 1, 1996 (the “**1996 Funding Agreement Amendment**”, and the Original Operating Agreement as so amended thereby, the “**Prior Funding Agreement**”), as an intergovernmental contract for the provision of services and facilities in connection with the hereinafter identified Galleria Project;

WHEREAS, in connection with this Agreement, the Authority and the City also are entering into that certain Amended and Restated Galleria Convention Funding Agreement, dated as of [•] 1, 2023 (the “**Funding Agreement**”), amending and restating in its entirety the Prior Funding Agreement;

WHEREAS, the City is authorized to levy and collect within its boundaries an excise tax upon the furnishing for value of public accommodations (the “**Hotel/Motel Tax**”) pursuant to O.C.G.A. § 48-13-51, as amended (the “**Hotel/Motel Tax Law**”), including in particular, without limitation, O.C.G.A. § 48-13-51(a)(5.1), which Hotel/Motel Tax on the Effective Date hereof is at the rate of eight percent (8%) of the amount of the lodging charges actually collected;

WHEREAS, O.C.G.A. 36-82-60 et seq. (the “**Revenue Bond Law**”) and in particular O.C.G.A. § 36-82-61(4)(e) authorizes the issuance of revenue bonds by governmental bodies for “. . . buildings to be constructed and used for the housing of exhibits for fairs and educational purposes; buildings to be used for the housing of livestock, horses, cattle, swine, poultry and agricultural exhibits for exhibition purposes; the erection and construction of buildings to be used for amusement or educational purposes or a combination of the two; and such buildings to be used for fairs, expositions, or exhibitions in connection therewith . . .”;

WHEREAS, on December 17, 1991, the Authority issued \$48,200,000 original aggregate principal amount of its Revenue Bonds, Series 1991 (the “**Series 1991 Bonds**”) pursuant to the Senior Lien Indenture (as defined hereinafter) in order to finance the acquisition and construction of that certain multi-use civic center, exhibit hall and meeting facilities known as “Cobb Galleria Centre” (together with any improvements, expansions, additions and replacements of such Cobb Galleria Centre, the “**Galleria Project**”) as a public facility to be owned and operated by the Authority, all for the benefit of the residents of Cobb County, Georgia (the “**County**”);

WHEREAS, in order to secure payment of the Series 1991 Bonds and any additional bonds issued under the Senior Lien Indenture, the Authority pledged all revenues derived under the Original Funding Agreement to the payment of principal of and interest on the Senior Lien Bonds, including, without limitation, the City’s payments of 62.5% of its Hotel/Motel Tax revenues (the “**Hotel/Motel Tax Payments**”);

WHEREAS, in connection with the Original Funding Agreement and the issuance of the Series 1991 Bonds issued to finance the acquisition and construction of the Galleria Project, the Authority and the City entered into the Operating Agreement, dated as of December 1, 1991, between the Authority and the City (the “**Original Operating Agreement**”), with respect to the original Galleria Project;

WHEREAS, on May 18, 1993, the Authority issued \$47,965,000 original aggregate principal amount of its Revenue Refunding Bonds, Series 1993 (the “**Series 1993 Bonds**”) in order to refund a portion of the Series 1991 Bonds;

WHEREAS, the City and the Authority entered into the Amendment No. One to Convention Funding Agreement, dated as of October 1, 1996, between the Authority and the City, amending the Original Funding Agreement, and the Amendment No. One to Operating Agreement, dated as of October

1, 1996, between the Authority and the City, amending the Original Operating Agreement (the Original Operating Agreement, as so amended, the “**Prior Operating Agreement**”), and on October 15, 1996, the Authority issued \$22,300,000 original aggregate principal amount of its Junior Lien Revenue Bonds, Series 1996A (the “**1996 Junior Lien Bonds**”), in order to finance certain additions to the Galleria Project;

WHEREAS, on October 19, 1999, the Authority issued \$23,950,000 original aggregate principal amount of its Revenue Bonds, Series 1999 (the “**Series 1999 Bonds**”) in order to finance the construction of an expansion of the Galleria Project;

WHEREAS, on March 15, 2005, the Authority issued \$15,375,000 original aggregate principal amount of its Revenue Refunding Bonds, Series 2005 (the “**Series 2005 Bonds**”) in order to refund a portion of the outstanding Series 1999 Bonds;

WHEREAS, on December 3, 2009, the Authority issued \$14,335,000 original aggregate principal amount of its Junior Lien Revenue Refunding Bonds, Series 2009 (the “**Series 2009 Junior Lien Bonds**”) in order to refund all of the Authority’s then outstanding 1996 Junior Lien Bonds;

WHEREAS, the Authority’s outstanding \$12,720,000 aggregate principal amount of Series 1993 Senior Lien Bonds and its outstanding \$6,175,000 aggregate principal amount of Series 2005 Senior Lien Bonds, which together total \$18,895,000 (collectively, the “**Existing Senior Lien Bonds**”), are the Authority’s only outstanding bonds having a senior lien on the Hotel/Motel Tax Payments, and have a final maturity date of October 1, 2026;

WHEREAS, the Authority’s outstanding \$4,265,000 aggregate principal amount of Series 2009 Junior Lien Bonds are the Authority’s only outstanding Junior Lien Bonds under this Agreement (the “**Existing Junior Lien Bonds**”), and after July 1, 2023, the Existing Junior Lien Bonds will be outstanding in the aggregate principal amount of \$3,260,000 with a final maturity date of July 1, 2026;

WHEREAS, pursuant to House Bill 658 of the 2017-2018 General Session of the State General Assembly (“**HB 658**”), which became effective as of July 1, 2018, the expiration of the period of time during which the Hotel/Motel Tax may be levied and collected in the City was extended from not later than December 31, 2028 to not later than December 31, 2053;

WHEREAS, pursuant to Senate Bill 489 of the 2017-2018 General Session of the State General Assembly (“**SB 489**”), which became effective as of May 8, 2018, the Authority Act was amended to limit the types of facilities to be financed by the Authority’s revenue bonds after May 8, 2018 to those facilities that are operated and managed directly by the Authority for its own use;

WHEREAS, the Authority desires to issue additional bonds in the future to be secured in whole or in part by the pledge of Hotel/Motel Tax revenues pursuant to this Agreement;

NOW, THEREFORE, the Authority and the City have agreed to enter this Agreement in order to amend and restate the Prior Operating Agreement in its entirety and have agreed to contemporaneously enter into the Funding Agreement in order to amend and restate the Prior Funding Agreement in its entirety.

IN CONSIDERATION OF Ten Dollars in hand paid, the respective covenants, representations and agreements hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, the Authority and the City agree as follows, including, without limitation, that the foregoing premises and Whereas paragraphs shall be, and are hereby declared to be, substantive provisions of this Agreement:

ARTICLE I

DEFINITIONS

In addition to the words and terms elsewhere defined in this Agreement, (a) the following words and terms as used in this Agreement shall have the following meanings unless the context or use indicates another or different meaning or intent and such definitions shall be equally applicable to both the singular and plural forms of the words and terms herein defined and (b) all capitalized terms and phrases used herein, but not defined herein, shall have the meanings assigned thereto under the Funding Agreement:

“Annual Excess Tax Payments” means with respect to each Fiscal Year commencing with Fiscal Year 2024, the remaining balance amount that would have remained in the Tax Payments Fund at the end of such Fiscal Year after deducting all amounts paid pursuant to subparts (i) through and including (v) of Section 4.2(b) of this Agreement during such Fiscal Year if no other amounts had been withdrawn from the Tax Payments Fund, as determined at the end of each Fiscal Year in accordance with Section 4.2(b)(vi) hereof.

“Annual Excess Tax Payments Above the Cap” means with respect to each Fiscal Year commencing with Fiscal Year 2024, the amount by which the total Annual Excess Tax Payments amount exceeds the amount of the Cap on Authority’s Excess Portion for such Fiscal Year.

“Authority’s Excess Portion” means with respect to each Fiscal Year commencing with Fiscal Year 2024, an amount equal to 62.5% of the Annual Excess Tax Payments for such Fiscal Year, subject to the Cap on Authority’s Excess Portion, provided, such amount shall be subject to the Cap on Authority’s Excess Portion.

“Cap on Authority’s Excess Portion” means with respect to each Fiscal Year commencing with Fiscal Year 2024, the amount equaling 1.25 multiplied by the highest Fiscal Year total Hotel/Motel Tax Payments and Liquor-by-the-Drink Tax payments paid to the Authority by the County and the Cities in the five most recent Fiscal Years.

“City” and “Cities” means, each respectively and all collectively, (i) the cities of Acworth, Austell, Kennesaw, Marietta, Powder Springs and Smyrna and (ii) each other city located in the County that enters into a City Operating Agreement, unless otherwise expressly provided herein.

“City Operating Agreement” and “City Operating Agreements” means, each respectively and all collectively, this Agreement, the operating agreements by and between the Authority and each the cities of Acworth, Austell, Marietta, Powder Springs and Smyrna and each similar convention funding agreement between the Authority and a city located in the County entered into after the Effective Date hereof.

“City’s Excess Portion” means with respect to each Fiscal Year commencing with Fiscal Year 2024, an amount equal to the City’s Pro-Rata Share Per H/MT Contributions of 37.5% of the Annual Excess Tax Payments for such Fiscal Year.

“Collection Fee” means the collection fee payable to the City in accordance with Section 4.5 of this Agreement for costs incurred by the City in connection with levying, collecting and administering the Hotel/Motel Tax, which collection fee shall be calculated in accordance with Section 4.5 hereof.

“County” means Cobb County, Georgia, a political subdivision of the State.

“County Operating Agreement” means the Amended and Restated Galleria Operating Agreement, dated as of [•] 1, 2023, between the County and the Authority, as the same may be supplemented or amended from time to time.

“CT&T” means Cobb Travel & Tourism, Inc., a Georgia nonprofit corporation, or any successor nonprofit corporation or alternative nonprofit corporation approved by the County and the Authority and satisfying the requirements of the Hotel/Motel Tax Statute with respect to such nonprofit corporation’s expenditure of Hotel/Motel Tax revenues pursuant to a contract with the County or the Authority as a qualified expenditure under the Hotel/Motel Tax Statute.

“Liquor-by-the-Drink Tax” means the excise tax levied and collected by the County upon the sale of distilled spirits by-the drink pursuant to the O.C.G.A. Title 3, Chapter 4, Article 5, Part 3, *et seq.*, as amended.

“Monthly Contract Payments” means the payments due to the City monthly in accordance with Sections 4.4 of this Agreement.

“Operating Agreements” means, collectively, the City Operating Agreements and the County Operating Agreement.

“Operating Revenue Fund” means the Cobb-Marietta Coliseum and Exhibit Hall Authority - Galleria Operating Revenue Fund created pursuant to and governed by Section 4.1 of this Agreement.

“Project Operating Revenues” means in the aggregate with respect to all Projects under this Agreement any and all gross revenues, receipts, income, rent, concessions and other money of any nature or in any form whatsoever received by or on behalf of the Authority or accruing to the benefit of the Authority from or in connection with the Galleria Project or any other Financed Project, including, without limitation, revenues from any ground lease, rental agreement, user or occupancy agreement, operating agreement, license or concession agreement, franchise agreement, or any similar or comparable type agreement or arrangement, lease or sale of air rights, any sale, lease or other disposition of naming rights and/or signage rights, or any other lease, sale or disposition of property or assets or any kind, but excluding all Tax Payments from the County or any City.

“Project Working Capital Reserve” means funds in an amount equal to the sum of 2.0 multiplied by the monthly average amount of the Authority’s then current Fiscal Year’s estimated operating and maintenance expenses of the Project, which amount the Authority may retain in the Operating Revenue Fund in accordance with Section 4.1(b) hereof.

“Pro-Rata Share Per H/MT Contributions” means a pro-rata share of the amount of Hotel/Motel Tax Payments made by the County and all Cities with respect to, as applicable in the context, a calendar month or a Fiscal Year; for example, during Fiscal Year 2022 the City’s Pro-Rata Share Per H/MT Contributions was 0.2% because the City’s total Hotel/Motel Tax Payments with respect to Fiscal Year 2022 equaled \$25,252, which was 0.2% of the total \$13,037,517 of Hotel/Motel Tax Payments made by the County and all Cities to the Authority with respect to such Fiscal Year 2022.

“R&E Minimum Balance Requirement” shall have the meaning set forth in Section 4.3(c) hereof.

“Renewal and Expansion Fund” or **“R&E Fund”** means the Renewal and Expansion Fund created pursuant to and governed by Section 4.3 of this Agreement, together with any other reserve funds established by the Authority during the Term of this Agreement serving a comparable purpose as the R&E

Fund regardless of how such other reserve fund is labeled or characterized (excluding any debt service reserve funds for Bonds held by a Trustee under an Indenture or under a similar Bond Financing Document, excluding the Project Working Capital Reserve and excluding the reserve funds and renewal and expansion funds established exclusively for other Authority projects such as the Performing Arts Center).

“**Tax Payments**” means, collectively, the City’s Hotel/Motel Tax Payments required pursuant to Section 4.4(a) or 4.4(b) of the Funding Agreement, the payments of Hotel/Motel Tax by each other City required by its respective City Funding Agreement, and the payments of Hotel/Motel Tax funds and Liquor-by-the-Drink Tax funds by the County required by the County Funding Agreement.

“**Tax Payments Fund**” means the Cobb-Marietta Coliseum and Exhibit Hall Authority - Galleria Tax Payments Fund created pursuant to and governed by Section 4.2 of this Agreement.

“**Term**” means the term of this Agreement set forth in Section 7.1 hereof.

ARTICLE II

REPRESENTATIONS

Section 2.1 **Representations and Agreements by the Authority.** The Authority makes the following representations and agreements as the basis for the undertakings on its part herein contained:

(i) The Authority is a body corporate and politic created and existing under the laws of the State, including in particular the Authority Act and will do or cause to be done all things necessary to preserve and keep in full force and effect its status and existence; the Authority is permitted under the Intergovernmental Contracts Clause of the State Constitution to contract for any period not exceeding fifty years with the City for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided such contracts deal with activities, services or facilities the contracting parties are authorized by law to undertake or provide;

(ii) The Authority has the power to enter into this Agreement and to perform all obligations contained herein, is authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder, by proper action has duly authorized the execution, delivery and performance of this Agreement, and no approval or other action by any governmental authority, agency, or other person is required in connection with the delivery and performance of this Agreement by it except as shall have been obtained prior to or as of the Effective Date hereof;

(iii) The Authority is empowered specifically (a) to borrow money and to issue its revenue bonds and to use the proceeds thereof for the purpose of paying all or part of the cost of any “project” as defined in the Authority Act as of the time of such issuance or for the purpose of refunding any such bonds of the Authority theretofore issued, and to otherwise carry out its purposes, and to pay all costs of the Authority incident to or necessary and appropriate to such purposes, (b) to make and execute contracts and other instruments necessary to exercise the powers of the Authority, including, without limitation, contracts with the City, and (c) to pledge or assign any properties, revenues, income, tolls, charges, or fees owned or received by the Authority;

(iv) The Authority is not subject to any bylaw or contractual or other limitation or provision of any nature whatsoever which in any way limits, restricts, or prevents it from entering into this Agreement and performing its obligations hereunder;

(v) The issuance and sale of the Bonds, the execution and delivery of this Agreement, the Indentures and any other Authority Bond Document (as defined in the Funding Agreement), and the performance of all covenants and agreements of the Authority contained in this Agreement and the other Authority Bond Documents and of all other acts and things required under the Constitution and laws of the State to make this Agreement and each other Authority Bond Document a valid and binding obligation of the Authority in accordance with its respective terms are authorized by law and have been or will be duly authorized by proceedings of the Authority adopted at public meetings thereof duly and lawfully called and held;

(vi) This Agreement, the Indentures and the other Authority Bond Documents have been or will be duly executed and delivered by the Authority and do or will constitute its legal, valid, and binding obligation enforceable in accordance with their respective terms, except as enforcement may be limited by the application of equitable principles and matters of public policy;

(vii) The authorization, execution, delivery, and performance by the Authority of this Agreement, the Indentures and the other Authority Bond Documents and compliance by the Authority with the respective provisions hereof and thereof do not and will not violate the Constitution or the laws of the State or constitute a breach of or a default under, any other law, court order, administrative regulation or legal decree, or any agreement or other instrument to which it is a party or by which it is bound or subject;

(viii) There is no litigation or proceeding pending, or to the knowledge of the Authority threatened, against the Authority or against any person having a material adverse effect on the right of the Authority to execute this Agreement, the Funding Agreement, the Indentures or the other Authority Bond Documents or the ability of the Authority to comply with any of its obligations under this Agreement, the Funding Agreement, the Indentures or the other Authority Bond Documents; and

(ix) The Authority shall make the payments required pursuant to the Funding Agreement or this Agreement, included, without limitation, the payments to the City required under Sections 4.1, 4.2, 4.3, 4.4 and 4.5 hereof, all at the times and in the amounts provided in this Agreement.

Section 2.2 Representations and Agreements by the City. The City makes the following representations and agreements:

(i) The City is a municipal corporation duly created and existing under the laws of the State; the City is permitted under the Intergovernmental Contracts Clause of the State Constitution to contract for any period not exceeding fifty years with the Authority for joint services, for the provision of services, or for the joint or separate use of facilities or equipment, provided such contracts deal with activities, services or facilities the contracting parties are authorized by law to undertake or provide;

(ii) The City has the power and authority to enter into and execute and deliver this Agreement, and, by proper action of its governing body, has authorized the execution and delivery of this Agreement and the taking of any and all such actions as may be required on its part to carry out, give effect to, and consummate the transactions contemplated by this Agreement, and no approval or other action by any governmental authority, agency, or other person is required in connection with the delivery and performance of this Agreement by it except as shall have been obtained as of the Effective Date hereof;

(iii) This Agreement has been duly executed and delivered by the City and constitutes its legal, valid, and binding obligation enforceable in accordance with its terms, except as enforcement may be limited by the application of equitable principles and matters of public policy;

(iv) The authorization, execution, delivery, and performance by the City of this Agreement and compliance by the City with the provisions thereof do not violate the Constitution or the laws of the State relating to the City or constitute a breach of or a default under, any other law, court order, administrative regulation or legal decree, or any agreement or other instrument to which it is a party or by which it is bound;

(v) There is no litigation or proceeding pending, or to the knowledge of the City threatened, against the City or any other person having a material adverse effect on the right of the City to execute this Agreement or the Funding Agreement, or its ability to comply with any of its obligations under this Agreement or the Funding Agreement; and

(vi) The City has, pursuant to resolutions and ordinances duly adopted by its governing body, authorized the levy and collection of the Hotel/Motel Tax, and the money derived from such levy shall be used and applied as provided in the Funding Agreement and this Agreement during the Term of this Agreement.

ARTICLE III

ISSUANCE OF BONDS; CONSTRUCTION AND OPERATION OF FINANCED PROJECTS

Section 3.1 Additional Bonds Proposed after the Effective Date.

The City agrees that the Authority may issue Additional Senior Lien Bonds in accordance with the Senior Lien Indenture after the Effective Date without any further approval of the City and that such Additional Senior Lien Bonds shall be secured by the Tax Payments to the same extent and in the same manner as the Bonds outstanding on the Effective Date; provided, however, no such Additional Senior Lien Bonds may mature later than October 1, 2053.

Section 3.2 Operation of Project; Payment of Operating Expenses; Rate Covenant.

(a) The Authority at all times (i) shall operate the Project economically, efficiently and consistent with good business practices and in compliance with the terms of the Authority Act, (ii) shall maintain the Project in good condition and shall promptly repair, replace and restore any damage to or destruction of the Project or any portion thereof, (iii) shall maintain adequate insurance with respect to all Projects and all operations of the Authority in accordance with Section 6.9 hereof, and (iv) shall cause all Projects to be maintained and operated so as to make the benefits thereof generally available to the residents of the County.

(b) The Authority shall pay or cause to be paid from Project Operating Revenues all reasonable and necessary costs of operating, maintaining and repairing the Project including salaries, wages, employee benefits, the payment of any contractual obligations incurred pertaining to the operation of the Project, cost of materials and supplies, rentals of leased property, real or personal, insurance premiums, audit fees, any incidental expenses of the Authority and such other charges as may properly be made for the purpose of operating, maintaining and repairing the Project in accordance with sound business practice.

(c) The Authority shall cause the Project to be operated and maintained economically, efficiently and consistent with good business practices and in compliance with the terms of the Authority Act. The Authority shall at all times maintain the Project in good condition and repair and shall promptly repair, replace or restore any damage or destruction to the Project or cause the proceeds from insurance from such damage or destruction to be applied in accordance with the terms hereof. It shall also cause the Project to be maintained and operated so as to make its benefits generally available to the residents of the

County, and it shall establish and maintain, or cause to be established and maintained, a schedule of rates, fees and charges for the use of the facilities constituting the Project in accordance with the terms hereof; provided, however, this subsection (c) shall not preclude the Authority from deviating from such schedule and/or negotiating specific rates, fees and charges for specific events and uses.

ARTICLE IV

CREATION OF FUNDS; FLOW OF FUNDS

Section 4.1 Operating Revenue Fund.

(a) The Authority shall create and maintain a special fund designated as the “Cobb-Marietta Coliseum and Exhibit Hall Authority – Galleria Operating Revenue Fund” (the “**Operating Revenue Fund**”) separate and apart from other funds and accounts of the Authority.

(b) The Authority promptly shall collect and deposit into the Operating Revenue Fund and shall use and apply in accordance with this Section 4.1(b) all revenues of any kind derived from or in connection with the ownership or operation of the Project; provided, however, in no event shall Tax Payments or funds received by or on behalf of the Authority derived from or in connection with Tax Payments, including, without limitation, payments received by the Authority from the Trustee under the Senior Lien Indenture or the Junior Lien Trustee, be deposited into the Operating Revenue Fund, and instead such funds shall be deposited into the Tax Payments Fund in accordance with Section 4.2 hereof; provided, however, in accordance with Section 4.2(b) hereof certain specified Authority Excess Portion funds may be transferred from the Tax Payment Fund to the Operating Revenue Fund in accordance with such Section 4.2(b), and further provided, however, in accordance with Section 4.3 hereof certain specified Authority Excess Portion funds may be transferred from the Renewal and Expansion Fund to the Operating Revenue Fund in accordance with Section 4.3(d)(v) hereof. The Authority shall apply money deposited into the Operating Revenue Fund only for the following purposes in the following order of priority:

(i) First, to the payment of operating and maintenance expenses of the Project in accordance with Section 3.2 hereof and payment of all administrative expenditures related to the Bonds such as Trustee’s fees, rating agency fees, rebate analyst’s fees and arbitrage rebate payments;

(ii) Second, to the payment of any amounts for the promotion of tourism, convention or trade shows in the County, including, without limitation, any such amounts required under agreements with CT&T, the State of Georgia, a department of the State of Georgia, a convention and visitor’s bureau created by local act of the Georgia General Assembly for a municipality or county, a private sector non-profit organization or some combination of the foregoing;

(iii) Third, the Authority may retain in the Operating Revenue Fund an amount not to exceed the Project Working Capital Reserve permitted amount; and

(iv) Fourth, all remaining funds in the Operating Revenue Fund shall be transferred monthly to the Renewal and Expansion Fund.

Section 4.2 Tax Payments Fund.

(a) The Authority shall create and maintain a special fund designated as the “Cobb-Marietta Coliseum and Exhibit Hall Authority–Galleria Tax Payments Fund” separate and apart from other funds

and accounts of the Authority, and the depository bank's records thereof shall be available for inspection on behalf of the City during normal business hours.

(b) The Authority shall deposit into the Tax Payments Fund all Tax Payments and all payments received by the Authority from the Senior Lien Trustee under the Senior Lien Indenture or from the Junior Lien Trustee under the Junior Lien Indenture derived from or in connection with Tax Payments. The Authority shall apply money deposited into the Tax Payments Fund for the following purposes in the following order of priority applying the following specified funds at the following times:

(i) First, monthly on or before the 21st day of each calendar month, payment to the Senior Lien Trustee for deposit into the Debt Service Account or the Debt Service Reserve Account of the Senior Lien Sinking Fund under the Senior Lien Indenture (as such Fund and Accounts or functionally equivalent funds and accounts are identified in the Senior Lien Indenture) in the event that in any month there is a deficiency in the amount required to be on deposit in the Debt Service Account or the Debt Service Reserve Account of the Senior Lien Sinking Fund under the Senior Lien Indenture, applying first all available Hotel/Motel Tax funds, and only if such funds are insufficient, then apply available Liquor-by-the-Drink Tax funds paid to the Authority by the County;

(ii) Second, for so long as the Junior Lien Bonds remain outstanding, monthly on or before the 21st day of each calendar month, payment to the Junior Lien Trustee for deposit into the Tax Payments Account of the Junior Lien Sinking Fund under the Junior Lien Indenture (as such Fund and Account or functionally equivalent funds and accounts are identified in the Junior Lien Indenture) in the event that in any month there is a deficiency in the amount required to be on deposit in the Tax Payments Account of the Junior Lien Sinking Fund under the Junior Lien Indenture, applying first all available Hotel/Motel Tax funds, and only if such funds are insufficient, then apply available Liquor-by-the-Drink Tax funds paid to the Authority by the County;

(iii) Third, monthly on or before the 22nd day of each calendar month, payment to the County and the Cities based on the amount due the County and due each of such Cities (A) the Monthly Contract Payments due the City pursuant to Section 4.4 hereof, (B) the monthly contract payments (if any) due the other Cities pursuant to their respective City Operating Agreements and (C) the monthly contract payment due the County under the County Operating Agreement, applying first all available Hotel/Motel Tax funds, and only if such funds are insufficient, then apply available Liquor-by-the-Drink Tax funds paid to the Authority by the County, and any deficiency in the amount of such Monthly Contract Payments shall remain due and payable, shall accumulate and shall be added to the next succeeding Monthly Contract Payments until paid in full;

(iv) Fourth, monthly on or before the 22nd day of each calendar month, payment pro-rata (A) to the City its Collection Fee pursuant to Section 4.5 hereof, (B) to the other Cities the collection fee (if any) due to such Cities pursuant to the respective City Operating Agreements, and (C) to the County, the collection fee due to the County pursuant to the County Operating Agreement; in the event the amount of specified funds on deposit in the Tax Payments Fund is not sufficient to pay in full when due such Collection Fee, payment of such amounts shall be made pro-rata to the County and the applicable Cities based on the amount due the County and due each of such Cities (if any), and any deficiency in the amount of such Collection Fee payments shall remain due and payable, shall accumulate and shall be added to the next succeeding Collection Fee payments until paid in full;

(v) Fifth, to cash amounts payable monthly by the Authority to CT&T pursuant to a contract between the Authority and CT&T or other amounts required under agreements for the promotion of tourism, convention or trade shows in the County in accordance with the Hotel/Motel Tax Statute, with State of Georgia, a department of the State of Georgia, a convention and visitor's bureau created by local act of the Georgia General Assembly for a municipality or county, a private sector non-profit organization or some combination of the foregoing, provided, however, no money derived from the Liquor-by-the-Drink Tax shall be used for this purpose, and further provided, however, no funds shall be applied to pay or reimburse the Authority for the value of any non-cash in-kind consideration granted by the Authority to CT&T or any other entity such as the value of free or complimentary office space, and the value of any such non-cash in-kind consideration shall not be included in any calculation under this Agreement or the Funding Agreement; and

(vi) Sixth, provided all amounts payable in accordance with subparts (i) through and including (v) of this Section 4.2(b) have been paid in full, monthly no earlier than the 23rd day of each calendar month, (A) for Fiscal Year 2023, transfer to the R&E Fund, the balance in the Tax Payments Fund, and (B) beginning upon the commencement of Fiscal Year 2024 and continuing throughout the Term of this Agreement, (B) transfer to the R&E Fund no more than 62.5% of the balance remaining in the Tax Payments Fund after the payments pursuant to subparts (i) through and including (v) of this Section 4.2(b), provided, however, each such monthly transfer shall be subject to an annual accounting at the end of each Fiscal Year to determine the amount that would have remained in the Tax Payments Fund at the end of each Fiscal Year after deducting all amounts paid pursuant to subparts (i) through and including (v) of this Section 4.2(b) if no other amounts had been withdrawn (such Fiscal Year end remaining balance amount for each respective Fiscal Year is referred to herein as the "Annual Excess Tax Payments"), which calculation shall be done consistent with the example set forth in the Annual Excess Tax Payments Calculation Spreadsheet attached hereto as **Exhibit A**; and the Authority shall be entitled to transfer to the R&E Fund with respect to each Fiscal Year no more than 62.5% of the Annual Excess Tax Payments (such 62.5% amount for each respective Fiscal Year is referred to herein as the "Authority's Excess Portion"), provided further, however, in each Fiscal Year commencing with respect to Fiscal Year 2024, the amount the Authority may transfer to the R&E Fund shall be further restricted by and shall not exceed the amount equal to 1.25 multiplied by the highest Fiscal Year total Hotel/Motel Tax Payments and Liquor-by-the-Drink Tax Payments paid to the Authority by the County and the Cities in the five most recent Fiscal Years (the "Cap on Authority's Excess Portion"); and

(vii) Seventh, commencing with respect to Fiscal Year 2024 and continuing throughout the Term of this Agreement, annually no later than 60 days after the end of each such Fiscal Year, (w) payment to the City of the City's Pro-Rata Share Per H/MT Contributions of 37.5% of the Annual Excess Tax Payments (the amount of the City's Pro-Rata Share Per H/MT Contributions of 37.5% of the Annual Excess Tax Payments for each respective Fiscal Year is referred to herein as the "City's Excess Portion"), (x) payment to the County of its Pro-Rata Share Per H/MT Contributions of the Annual Excess Tax Payments due under the County Operating Agreement and to each of the other Cities their respective Pro-Rata Share Per H/MT Contributions of the Annual Excess Tax Payments, if due under the respective City Operating Agreement, (y) payment to the City of its Pro-Rata Share Per H/MT Contributions of the Annual Excess Tax Payments Above the Cap in such Fiscal Year, and (z) payment to the County of its Pro-Rata Share Per H/MT Contributions of the Annual Excess Tax Payments Above the Cap and, if and to the extent applicable under the respective City Operating Agreement, payment to each other City of its respective Pro-Rata Share Per H/MT Contributions of the Annual Excess Tax Payments Above the Cap; and provided further, no portion of the Annual Excess Tax Payments shall be paid to the County or to any of the Cities to the extent such payment would result in the balance in the

Renewal and Expansion Fund being less than the R&E Minimum Balance Requirement determined in accordance with the limitations set forth in Section 4.3(d)(vii) hereof.

(a) Attached hereto as **Exhibit A** is the Annual Excess Tax Payments Calculation Spreadsheet.

(b) In no event shall funds in the Tax Payments Fund be applied except as explicitly set forth in this Section 4.2.

Section 4.3 Renewal and Expansion Fund

(a) The Authority shall create and maintain a special fund designated as “Cobb-Marietta Coliseum and Exhibit Hall Authority–Galleria Renewal and Expansion Fund” (the “**Renewal and Expansion Fund**”) separate and apart from other funds of the Authority.

(b) Pursuant to Section 4.1(b)(iv) hereof, the Authority shall transfer to the Renewal and Expansion Fund monthly all money remaining in the Operating Revenue Fund (except the Project Working Capital Reserve amount and except revenues received but not earned during the respective period).

(c) No withdrawal shall be made from the Renewal and Expansion Fund except as permitted under this Section 4.3(c) unless the remaining balance in the Renewal and Expansion Fund will equal no less than \$4,000,000 (the “R&E Minimum Balance Requirement”). In the event any withdrawal from the Renewal and Expansion Fund would cause the balance in the Renewal and Expansion Fund to be less than the R&E Minimum Balance Requirement, then withdrawals shall be made only for the purposes set forth in subparts (i) through and including (iv) of Section 4.3(d) hereof and transfers to the Operating Revenues Fund shall be made only to pay specific operating expenses expressly determined by the Authority to be necessary for required operations after depletion of the Project Working Capital Reserve and only to pay specific capital expenditures expressly determined by the Authority to be necessary for required emergency capital improvements or emergency repairs. In the event the R&E Minimum Balance Requirement is satisfied and will remain satisfied following proposed withdrawals, then the Authority shall disburse funds from the Renewal and Expansion Fund in accordance with all subparts of Section 4.3(d) hereof.

(d) The Authority shall disburse funds from the Renewal and Expansion Fund for the purposes set forth in subparts (i), (ii), (iii) and (iv) when provided hereinafter in the stated order of priority; and to the extent of available money in the Renewal and Expansion Fund and subject to and in accordance with Section 4.3(c) hereof, the Authority may disburse funds from the Renewal and Expansion Fund for any purpose set forth hereinafter:

(i) First, payment to the Senior Lien Trustee for deposit into the Debt Service Account or the Debt Service Reserve Account of the Senior Lien Sinking Fund under the Senior Lien Indenture in the event that in any month there is a deficiency in the amount required to be on deposit in the Debt Service Account or the Debt Service Reserve Account of the Senior Lien Sinking Fund under the Senior Lien Indenture;

(ii) Second, for so long as the Junior Lien Bonds remain outstanding, monthly on or before the 21st day of each calendar month, payment to the Junior Lien Trustee for deposit into the Tax Payments Account of the Junior Lien Sinking Fund under the Junior Lien Indenture in the event that in any month there is a deficiency in the amount required to be on deposit in the Tax Payments Account of the Junior Lien Sinking Fund under the Junior Lien Indenture;

(iii) Third, to the payment of any City Monthly Contract Payment payable in accordance with Section 4.4 hereof that has not been paid in full when due;

(iv) Fourth, to the payment of any City Collection Fee payable in accordance with Section 4.5 hereof that has not been paid in full when due;

(v) Fifth, transfer to the Operating Revenue Fund amounts required to pay operating and maintenance expenses of the Galleria Project and any other Financed Project to the extent money in the Operating Revenue Fund are not sufficient for such purpose;

(vi) Sixth, in case of an emergency having a major effect upon a Financed Project caused by some extraordinary occurrence that makes it necessary to use such funds for the alleviation or removal of such effects and insufficient money is available in the Operating Revenue Fund to meet such emergency; and

(vii) Seventh, payment of the costs of capital improvements, replacements, additions, expansions, renovations and improvements and acquiring equipment and paying the cost of any architectural or engineering studies, surveys or plans and specifications pertaining to the future development or expansion of the Project, provided, however, such expenditures shall not reduce the balance in the R&E Fund to less than R&E Minimum Balance Requirement and provided further, however, no payment shall be made under this subsection (vii) if the making of such payment would jeopardize the ability of the Authority to make the payment in full of (w) the County's Excess Portion of the Annual Excess Tax Payments, (x) each City's respective Pro-Rata Share Per H/MT Contributions of the Annual Excess Tax Payments, (y) the County's Pro-Rata Share Per H/MT Contributions of the Annual Excess Tax Payments Above the Cap, and (z) each City's respective Pro-Rata Share Per H/MT Contributions of the Annual Excess Tax Payments Above the Cap, all in accordance with Section 4.2(b)(vii) hereof, and provided further, however, specific capital expenditures expressly determined by the Authority to be necessary for required emergency capital improvements or emergency repairs shall be an exception to the provisions of preceding provisos in this subsection (vii).

Section 4.4 Payment of City's Monthly Contract Payments. The Authority shall repay to the City monthly an amount equal to 40 percent of the Hotel/Motel Tax paid by the City pursuant to Section 4.4(a) or 4.4(b) of the Funding Agreement (such 40% being the "Monthly Contract Payment"). In the event that an increase in Hotel/Motel Tax is payable due to an expansion of the corporate limits of the City as provided in Section 4.3 of the Funding Agreement, the amount payable to City as the Monthly Contract Payment shall be increased to an amount equal to 62.5 percent of the Hotel/Motel Tax paid which is attributable solely to the Hotel/Motel Tax collected within the additional area included within the City. The Authority shall make such payment to the City from money on deposit in the Tax Payments Fund in accordance with Section 4.2(b)(iii) hereof promptly following the Authority's payment to the Senior Lien Trustee in accordance with Section 4.2(b)(i) and, so long as applicable, to the Junior Lien Trustee pursuant to Section 4.2(b)(ii), or if necessary from money on deposit in the Project Operating Fund in accordance with Section 4.1(b)(ii) hereof or from money on deposit in the Renewal and Expansion Fund in accordance with Section 4.3(c)(iii) hereof. Any deficiency in the amount of the Monthly Contract Payment to the City required under this Section 4.4 shall remain due to the City, shall accumulate and shall be added to the next succeeding payment due to the City under this Section 4.4 until paid in full.

Section 4.5 Payment of City's Collection Fee. The Authority shall pay to the City monthly a Collection Fee for costs incurred by the City in connection with levying, collecting and administering the Hotel/Motel Tax. The Authority shall make the payment from money on deposit in the Tax Payments Fund in accordance with Section 4.2(b)(iv) hereof promptly following the Authority's payment to the Senior Lien Trustee in accordance with Section 4.2(b)(i) and, so long as applicable, to the Junior Lien Trustee pursuant to Section 4.2(b)(ii), or if necessary from money on deposit in the Project Operating Fund in accordance with Section 4.1(b)(ii) hereof or from money on deposit in the Renewal and Expansion Fund in accordance

with Section 4.3(c)(iii) hereof. The Collection Fee payable to the City hereunder shall be in an amount equal to the product of all Tax Payments made by the City during each applicable calendar month, less amounts paid to the City pursuant to Section 4.4 hereof during such month, multiplied by five percent (5%). Any deficiency in the amount of the payment to the City required under this Section 4.5 shall remain due to the City, shall accumulate and shall be added to the next succeeding payment due to the City under this Section 4.5 until paid in full.

ARTICLE V

SPECIAL COVENANTS OF THE CITY AND THE AUTHORITY

Section 5.1 Hotel/Motel Tax Budget Plan, and Quarterly and Annual Accounting.

(a) In accordance with O.C.G.A. 48-13-51(a)(9)(A), prior to the commencement of each Fiscal Year during the Term of this Agreement, pursuant to the Hotel/Motel Tax Law the City shall adopt a Hotel/Motel Tax Budget Plan specifying how the City's anticipated Hotel/Motel Tax receipts will be expended in accordance with the expenditure requirements of O.C.G.A. 48-13-51(a)(5.1) during the upcoming Fiscal Year. Prior to adoption of the budget plan, the City shall obtain and the Authority shall provide a budget for expenditures to be made by the Authority and such budget shall be a part of the City's budget plan.

(b) In accordance with O.C.G.A. 48-13-51(a)(9)(B)(i), the City's determination of whether the expenditure requirement under O.C.G.A. 48-13-51(a)(5.1) was satisfied for each Fiscal Year shall be prominently reflected in the audit report of the City. The calculation for determining whether the expenditure requirements have been met shall be determined by (i) calculating the amount of funds expended or contractually committed for expenditure during the Fiscal Year and (ii) expressing such amount as a percentage of Hotel/Motel Tax receipts during the Fiscal Year.

Section 5.2 Reports to Department of Community Affairs. The City shall file annually with the State Department of Community Affairs a report specifying the rate of taxation and amounts collected and expended pursuant to the Hotel/Motel Tax Law and any other information which may be required by the Department of Community Affairs pursuant to the Hotel/Motel Tax Law.

ARTICLE VI

SPECIAL COVENANTS AND AGREEMENTS OF THE AUTHORITY

Section 6.1 Release Covenant. The Authority covenants and agrees with the City that the City shall not be liable for, and to the full extent permitted by law the Authority shall hold the City harmless from, any and all claims by or on behalf of any person arising from: (1) the conduct, operation or management of, or from any work or thing done in or on, any Project; (ii) any condition of any Project, (iii) any act of negligence, malfeasance or misconduct of the Authority or of any agents, contractors, servants, employees or licensees of the Authority or of any lessee or tenant of the Authority; and (iv) any loss or damage to property or any injury to or death of any persons occurring on or about or resulting from any defect in any Project.

Section 6.2 Financial Statements. The Authority will have a certified audit performed at the end of each Fiscal Year by a certified public accountant and will cause such audit to be completed and delivered to the City promptly upon completion and in any event within 120 days of the end of the Fiscal

Year. The Authority will furnish the City with a copy of its audited financial statements promptly upon completion of the annual audit.

Section 6.3 Financial Information. The Authority shall furnish to the City upon written request any monthly financial statements prepared by or on behalf of the Authority's staff for presentation to the Authority.

Section 6.4 Rules and Regulations. The Authority covenants and agrees that (i) it will enforce or cause to be enforced reasonable rules and regulations governing the Project and the operation thereof, (ii) all compensation, salaries, bonuses, fees and wages paid or caused to be paid by it in connection with the operation, repair and maintenance of the Financed Project will be reasonable, (iii) no more persons will be employed than are necessary, (iv) that it will operate in an efficient and economical manner, (v) it will at all times maintain or cause to be maintained the Project in good repair and in sound operating condition, and will make or cause to be made all necessary repairs, renewals and replacements thereto, and (vi) it will comply or cause to be complied with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to such undertaking and enterprise.

Section 6.5 Contracting Procedure. The Authority hereby covenants and agrees that any contract relating to the acquisition, construction, installation, extension, improvement, maintenance or repair of the Financed Project shall be procured in accordance with applicable law.

Section 6.6 Granting of Easements. The Authority may at any time or times cause to be granted easements, licenses, rights-of-way (temporary or perpetual and including the dedication of public highways) and other rights or privileges in the nature of easements with respect to any property included in the Project and may cause to be released existing easements, licenses, rights-of-way and other rights or privileges in the nature of easements, held with respect to any property included in the Project for reasonable and adequate consideration. In connection with any such grant or any sale permitted hereunder, if any, the Authority agrees that it shall execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or asset.

Section 6.7 Discharge of Liens. The Authority will promptly pay, or cause to be discharged, or will make adequate provisions to satisfy and discharge, within 60 days after the same shall accrue, all lawful claims and demands, which, if unpaid, might by law become a lien upon the Project, or any part thereof, or upon the revenues therefrom; provided, however, that nothing contained in this Section shall require the Authority to pay, or cause to be discharged, or make provision for, any such lien or charge, so long as the validity thereof shall be contested in good faith with due diligence and by appropriate legal proceedings.

Section 6.8 Maintenance of Insurance; Damage; Destruction or Condemnation of Financed Projects.

(a) The Authority will carry adequate public liability, fidelity, and property insurance with respect to the Project, with reasonable deductible amounts as applicable; all such policies shall be for the benefit of and made payable to the Authority; and the Authority will provide copies of such policies to the City upon written request.

(b) The proceeds of the Authority's property insurance coverage shall be available for and shall be applied to the repair and replacement of the damaged or destroyed property; provided, that in the event the Authority shall obtain a certification of an independent architect or engineer to the effect that the applicable Project cannot be repaired to a condition permitting its operation substantially at the level of operation prior to such damage or destruction, then the proceeds of such coverage shall be deposited to, as

applicable with respect to such Project, the Senior Lien Sinking Fund and used to pay principal and interest on the applicable Bonds then outstanding or, if such certification is to the effect that the applicable Project may be operated substantially at the level of operation prior to such damage or destruction without such repair or replacement, then the proceeds may be deposited to, as applicable with respect to such Project, the Senior Lien Sinking Fund and used to pay the principal of or interest on the applicable Bonds on the next succeeding payment date. Except to the extent such proceeds are payable to third parties, the proceeds of the performance and payment bonds or other insurance during construction shall be available for and shall, to the extent necessary, be applied to the completion of the applicable Project and of any renewal, replacement, addition, extension, or improvement to such Project in connection with which such coverage was obtained, but to the extent not so used shall be deposited in, as applicable with respect to such Project, the Senior Lien Sinking Fund and used to pay the principal of or interest on the applicable Bonds on the next succeeding payment date.

(c) All insurance policies or other evidences of the coverage required hereunder shall be open to inspection of the City and its respective duly authorized agents, accountants, attorneys, experts and representatives at reasonable times and upon reasonable request.

(d) In the event the Project or any portion thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, the Authority shall apply the proceeds of any such condemnation award to restore the Project or portion thereof to substantially the same condition as before such taking; provided, that if the Authority shall obtain a certification of an independent architect or engineer to the effect that the Project or portion thereof cannot be restored to a condition permitting its operation at substantially the level of operation prior to such taking, then the proceeds of such condemnation award shall be deposited to, as applicable with respect to such portion of the Project, the Senior Lien Sinking Fund and used to pay principal and interest on the applicable Bonds then outstanding or, if such certification is to the effect that such portion of the Project may be operated substantially at the level of operation prior to such taking without such restoration, then the proceeds of such condemnation award may be deposited to, as applicable with respect to such Project, the Senior Lien Sinking Fund and used to pay the principal of or interest on the applicable Bonds on the next succeeding payment date.

Section 6.9 Books and Records. The Authority covenants that it will keep the funds and accounts of the Tax Payments, the Bonds, and the Project separate from all other funds and accounts of the Authority, or any of its departments, and that it will keep accurate records and accounts of all items of cost and all expenditures relating to the Project, and of the revenues collected and the application thereof, and that it will keep said records and accounts with respect to its physical properties in such manner that it will be possible at all times to identify both the amounts and the terms of all additions and retirements. The City and its respective agents, accountants, attorneys, engineers, experts and representatives shall have the right, at reasonable times and upon reasonable notice, to inspect all books and records of the Authority, whether in the Authority's possession or otherwise accessible by the Authority, relating to the Tax Payments, the Bonds, and the Project.

Section 6.10 Access to the Project. The Authority agrees that the City and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right to inspect the Project at all reasonable times and on reasonable notice.

Section 6.11 Encumbrance or Sale of any Portion of the Project. So long as any of the Bonds shall be outstanding and unpaid, the Authority will not encumber the Project or any part thereof, and it will not sell or otherwise dispose of the Project or any part thereof, except it may sell the Project as a whole, or substantially as a whole, to the State, the County or the Cities or to any other public body or authority authorized to own or operate the Project only if the proceeds of such sale will be at least sufficient to provide

for the defeasance of all Bonds in accordance with the respective Indenture and to pay all amounts due to the City under this Agreement or the Funding Agreement, and provided that the proceeds of any such sale to the extent necessary shall be deposited with the Trustee in trust and applied by it to the defeasance of all Bonds in accordance with the respective Indenture and payment of all amounts due to the City. Nothing contained herein, however, shall preclude sale of a part of a Project (a) in the ordinary course of business with respect to equipment no longer needed for the operating of such Project, or (b) in the event the sale would not in any way materially adversely affect the operations or revenue producing capability of the Financed Project, and (ii) the proceeds from such sale will be applied to payment of all amounts due to the City and the retirement of an agreed-upon pro-rata portion of the then outstanding Bonds (as agreed by the City and the Authority) or as otherwise expressly approved in writing by the City.

Section 6.12 Employment of Project Supervisor. The Authority will employ an experienced Project Supervisor during the construction of any additions, extensions or improvements to the Galleria Project or any other Financed Project for the purpose of supervising such construction of such Project and such additions, extensions and improvements thereof.

ARTICLE VII

MISCELLANEOUS

Section 7.1 Effective Date and Term of Agreement. This Agreement shall be effective as of the Effective Date. The Term of this Agreement shall commence on the Effective Date and shall expire and terminate on the first to occur of the following, in each case provided that all Excess Portion of all Annual Excess Tax Payments and all other amounts owed to the City under this Agreement or under the Funding Agreement have been paid in full (including, without limitation, the Excess Portion of the Annual Excess Tax Payments with respect to the Fiscal Year during which the Term ends): (i) the first date on which no Existing Senior Lien Bonds and no Existing Junior Lien Bonds remain outstanding in the event no Additional Bonds have been issued in accordance with this Agreement and the Funding Agreement by September 30, 2026 or (ii) the first date on which no Additional Bonds remain outstanding, whether by full and final payment or by defeasance in accordance with the Senior Lien Indenture, which date shall be no later than the final maturity date of any Additional Bonds issued after the Effective Date hereof; provided, however, in no event shall the Term of this Agreement extend beyond October 1, 2053.

Section 7.2 Independent Contractor. In performing this Agreement, the Authority is acting as an independent contractor. The City shall not have any power to control the means, methods or techniques by which the Authority undertakes the activities or projects contemplated by this Agreement, except as may be otherwise expressly provided in this Agreement.

Section 7.3 No Interest in City. By virtue of this Agreement, the City shall not have or hereafter acquire any legal or equitable interest of any nature in, under or to (i) any part of the property, real or personal, tangible or intangible, comprising or used in the Financed Projects, (ii) the leases, licenses, contracts, accounts or other intangible rights or obligations acquired or incurred by the Authority in connection with the acquisition, construction, improvement, equipping or operation of the Financed Projects, or (iii) the operating revenues of the Financed Projects except as otherwise agreed to between the City and the Authority; provided, however, the foregoing shall not impair or adversely affect the covenants of the City in this Agreement, the Funding Agreement or any other agreement between the Authority and

the City with respect to any of the foregoing, and the City's right to enforce this Agreement and to require specific performance of the Authority's covenants and agreements hereunder.

Section 7.4 Third Party Beneficiaries. Nothing in this Agreement is intended or shall be deemed to confer any interest in this Agreement or benefit on persons not named parties to this Agreement.

Section 7.5 No Additional Waiver Implied by One Waiver. If any provision contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 7.6 Amendment. This Agreement may be amended or supplemented only by a formal written amendment or supplement duly approved by the respective governing body of each party and duly executed on behalf of the Authority and the City. No consent or agreement of any person not a party to this Agreement (including the Trustee or bondholders) shall be required for amendment of this Agreement.

Section 7.7 Agreement to Pay Attorneys' Fees and Expenses.

(a) In the event the City is determined to have defaulted under any of the provisions of this Agreement and the Authority employs attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the City herein contained, the City agrees that it shall on demand therefor pay to the Authority the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Authority.

(b) In the event the Authority is determined to have defaulted under any of the provisions of this Agreement and the City employs attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Authority herein contained, the Authority agrees that it shall on demand therefor pay to the City the reasonable fees of such attorneys and such other reasonable expenses so incurred by the City.

Section 7.8 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered in person or when sent by registered courier or registered over-night delivery service or when mailed by registered or certified mail, return receipt requested, in each case with postage or other charges prepaid, to the parties hereto at the following addresses or such other address designated by such party in writing:

Authority: Cobb-Marietta Coliseum and Exhibit Hall Authority
Two Galleria Parkway
Atlanta, Georgia 30339
Attention: CEO/General Manager

City: City of Kennesaw, Georgia
2521 J.O. Stephenson Ave.
Kennesaw, Georgia 30144
Attention: City Manager

Section 7.9 Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon the Authority, the City and their respective successors and assigns, subject, however, to the limitations contained in this Agreement.

Section 7.10 Severability. If any provision of this Agreement shall be held invalid or

unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 7.11 Execution Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 7.12 Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions of this Operating Agreement.

Section 7.13 Law Governing Operating Agreement. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Georgia. Jurisdiction and venue over any claim or dispute arising under this Agreement shall lie exclusively in the Superior Court of Cobb County, Georgia.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Authority and the City have caused this Amended and Restated Galleria Operating Agreement to be executed and delivered by their respective duly authorized officers to be effective as of the Effective Date hereof, and their respective seals to be hereunto affixed and attested by their duly authorized officers, all to be effective as of the Effective Date set forth hereinabove.

(AUTHORITY SEAL)

THE AUTHORITY:

**COBB-MARIETTA COLISEUM AND EXHIBIT
HALL AUTHORITY**

Attest:

Secretary-Treasurer

By: _____

Chairman

(CITY SEAL)

THE CITY:

CITY OF KENNESAW, GEORGIA

Attest:

City Clerk

By: _____

Mayor

[Remainder of page intentionally left blank]

EXHIBIT A: ANNUAL EXCESS TAX PAYMENTS CALCULATION SPREADSHEET

**Cobb-Marietta Coliseum and Exhibit Hall Authority
Annual Excess Tax Payment (AETP)
FY2022**

	HMT Cobb	HMT Marietta	HMT Smyrna	HMT Acworth	HMT Austell	HMT Kennesaw	HMT Powder Springs	LBTD Cobb	Total
Authority Receipts						44,302		1,487,205	23,003,838
Monthly Contract Payment	19,305,793	717,692	1,139,260	296,745	6,223	(17,721)	6,618	-	(7,893,022)
Collection Fees	(7,239,673)	-	(511,794)	(118,698)	(2,489)	(1,329)	(2,647)	(74,360)	(660,454)
	(544,104)	-	(31,373)	(8,902)	(187)		(199)		
Net Authority Receipts						25,252		1,412,845	14,450,362
	11,522,016	717,692	596,093	169,145	3,547		3,772		
	88.4%	5.5%	4.6%	1.3%	0.0%	0.2%	0.0%		100.0%
							CT&T Cash Payment		(1,104,036)
							Transfer from GenFund to SinkFund (DS)		(6,582,030)
							Debt Service Reserve Transfer (DSRT)		-
									(7,686,066)
							Annual Excess Tax Payments		6,764,297
							Authority Share (62.5%)		4,227,686
							County/Cities Share (37.5%)		2,536,611
Annual Excess Tax Payment	Pro Rata	AETP Payable	<i>Paid From</i>		<i>Total</i>				
			<i>HMT</i>	<i>LBTD</i>					
Cobb County	88.4%								
		2,241,752	828,907	1,412,845	2,241,752				
Marietta	5.5%								
		139,636	139,636		139,636				
Smyrna	4.6%								
		115,977	115,977		115,977				
Acworth	1.3%								
		32,909	32,909		32,909				
Austell	0.0%								
		690	690		690				
Kennesaw	0.2%								
		4,913	4,913		4,913				
Powder Springs	0.0%								
		734	734		734				
	100.0%								
		2,536,611	1,123,766	1,412,845	2,536,611				

* Annual Excess Tax Payments - Breakdown

LBTD Portion 1,412,845

HMT Portion 5,351,452

6,764,297

Annual Excess Tax Payment to be calculated and accrued monthly, does not impact R&E Fund.

Annual Excess Tax Payment defined as HMT and LBTD receipts, less DS, DSRF, Monthly Contract Payment, Collection Fees, CT&T cash payments.

Annual Excess Tax Payment distribution percentages based on HMT only, excludes LBTD Cobb.

Annual Excess Tax Payment paid out annually, within 60 days of fiscal year end.

*** HMT applied to DS, DSRF, and CT&T cash payments first, then LBTD applied as needed.**



Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: June 5, 2023

TITLE: Acceptance of the resignation of Joe Bozeman from the Cemetery Preservation Commission

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. Joe Bozeman Resignation 05-26-2023

5/25/2023

Joseph L. Bozeman
Kennesaw Cemetery Commission

City Clerk,

I, Joseph L. Bozeman, am resigning from the
Kennesaw Cemetery Commission.

Joseph L. Bozeman
Joseph L. Bozeman