

Mayor

Derek Easterling

City Manager

Jeff Drobney, ICMA-CM

City Clerk

Lea Alvarez, CMC

**Council**

Mayor Pro Tem Antonio

Jones

Madelyn Orochena

Tracey Viars

Pat Ferris

Anthony Gutierrez

City Council**Meeting Agenda**

October 21, 2024 6:30 PM

Council Chambers

(2529 J.O. Stephenson Avenue, Kennesaw, GA 30144)

Livestream: www.kennesaw-ga.gov/publicmeetings/

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

- A. 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.

5. Presentations**6. Public Comment/Business from the Floor****7. Old Business****8. New Business****9. Committee and Board Reports****10. Public Hearing(s)****A. Land Use Permit: 2255 Long Bow Chase**

Consideration for approval of a Land Use Permit application for property located at 2255 Long Bow Chase as submitted by Nancy Lesser. Case #LU2024-03

11. Consent Agenda

- A. **Minutes: September 30, 2024 Work Session**
Approval of the September 30, 2024, City Council work session minutes.
- B. **Minutes: September 30, 2024 Executive Session**
Approval of the September 30, 2024, City Council executive session minutes.
- C. **Minutes: October 7, 2024 Regular Meeting**
Approval of the October 7, 2024, City Council regular meeting minutes.
- D. **Cemetery Deed: Section III, Plot 5 Lots A-D and Section III, Plot 12, Lots A-D**
Authorization for the Mayor to sign a deed for cemetery lots purchased by Mike Turner.
- E. **Resolution: Professional Probation Services, Inc. Contract Addendum**
Consideration for approval of a Resolution authorizing an addendum to the contract for probation supervision and rehabilitation services by and between the City of Kennesaw and Professional Probation Services, Inc.
- F. **Road Closures: Taste of Kennesaw**
Consideration to approve road closures for Taste of Kennesaw festival.
- G. **Rescind: Resolution 2024-43, 2024**
Consideration to rescind Resolution No. 2024-43, 2024 terminating the contract with Magnum Contract, LLC for the Smith-Gilbert Gardens Improvement Project.
- H. **Resolution: Smith-Gilbert Gardens Improvements Project**
Consideration for approval of a Resolution awarding the contract to S.H. Creel Contracting, LLC for construction of various Smith-Gilbert Gardens improvements.

12. General and Administrative

- A. **Alcohol License: Cigar Gallery Club**
Consideration for approval of an Alcohol License for Beer, Wine, Liquor and Sunday Sales for Cigar Gallery Club LLC d/b/a Cigar Gallery Club located at 3600 Cherokee St NW, Suite 102 Kennesaw, GA 30144. Applicant: Victor Rodriguez

13. Public Safety

- A. **Crime Statistics: September 2024**
Consideration to accept the September 2024 crime statistics.

14. Information Technology

15. Public Works and Building Maintenance

- A. **Resolution: Keene Street ROW Transfer to Core Property Capital, LLC**
Consideration to approve a Resolution to transfer portions of the Right Of Way known as Keene Street to Core Property Capital, LLC

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 Reports & Discussions

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



Item Report

TO: The Honorable Mayor and City Council

FROM: Darryl Simmons, Zoning Administrator

DATE: October 21, 2024

TITLE: **Land Use Permit: 2255 Long Bow Chase**
 Consideration for approval of a Land Use Permit application for property located at 2255 Long Bow Chase as submitted by Nancy Lesser. Case #LU2024-03

Summary:

Said request is for obtaining a home occupation business license for the creation and sale of sublimation tumblers and home decor. Property is zoned Planed Unit Development - Residential with a Senior Living Overlay and consists of 0.25 +/- acres and lies in land lot 101 tax parcel 375. This public hearing was advertised in the Marietta Daily Journal on September 13, 2024, and a public notice sign has been posted on-site. At the October 2, 2024, meeting, the Planning Commission unanimously voted to recommend approval with conditions as outlined by staff.

Recommendation: The Zoning Administrator recommends approval of the Land Use Application with the following conditions:

1. The land use permit is limited to, exclusive for and only valid for the current applicant and the life of this particular business and use, and it is not transferable. Any changes would require additional review and approval.
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.
3. The land use permit is valid for 24-months after the date of approval.

Fiscal Impact:

Attachments:

1. LU2024_003_2255 Long Bow Chase_Packet
2. 10-02-24 Planning Commission Draft Minutes

ZONING ADMINISTRATOR
DARRYL SIMMONS

**ASSISTANT ZONING
ADMINISTRATOR/PLANNER**
CHANELLE CAMPBELL

CONTACT US

OFFICE: (770) 590-8268
WEBSITE: www.kennesaw-ga.gov
EMAIL: zoningdept@kennesaw-ga.gov



2529 J.O. Stephenson Avenue
Kennesaw, GA 30144

MAYOR AND COUNCIL
OCTOBER 21, 2024

PLANNING COMMISSION
OCTOBER 2, 2024

LEGAL ADVERTISEMENTS
SEPTEMBER 13, 2024

PUBLIC NOTICE SIGN
SEPTEMBER 13, 2024

APPLICATION SUBMITTED
JULY 26, 2024

STAFF ANALYSIS REPORT

ZONING CASE #: LU2024-03

Property Addresses

2255 Long Bow Chase NW

Applicant

Nancy Lesser

Property Owner

Nancy Lesser

Current Zoning

Planned Unit Development—Residential (PUD-R)
with a Senior Living Overlay (SLO) District

Current Future Land Use Category

Residential Low/Medium (RL)

Project Request: Land use permit to acquire a
business license for home occupation to create
sublimation tumblers and décor to sell at craft shows.



Street view of subject property (Cobb Tax Assessor)

PROPERTY DETAILS

Within 1/2 mi from Unincorporated Cobb Co: No
Historic District: No
Cemetery: No Floodplain: No Stream: No
Parcel ID #: 20010103750
Land Lot #: 101 Tax Parcel #: 375
Land Area: 0.25+/- acres or 10873 sq. ft.
Existing Building Total SQFT: 2675
Proposed Building SQFT: N/A
Proposed Streets: N/A

RECOMMENDATION

Staff Recommendation

Approval with conditions

Planning Commission Recommendation

Approval with Conditions

Please see page 12 for basis for recommendation.

ADJACENT PROPERTY DETAILS

Surrounding Zoning Dist. and Future Land Use

North: Long Bow Chase

Zoning: Planned Unit Development— Residential

Future Land Use: Residential Low/Medium (RL)

South: No Street

Zoning: Planned Unit Development— Residential

Future Land Use: Residential Low/Medium (RL)

East: Long Bow Chase

Zoning: Planned Unit Development— Residential

Future Land Use: Residential Low/Medium (RL)

West: Brighton Way

Zoning: R-10 Single Family Residential

Future Land Use: Residential Low/Medium (RL)

Please see pages 3 for zoning map.

STAFF ANALYSIS REPORT

ZONING CASE #: LU2024-03

DESCRIPTION OF ZONING REQUEST

This is a land use permit request for a home occupational business license. The applicant is requesting to obtain a home business license to create and sell sublimation tumbler and décor.
[Please see page 7 for photos of the products](#)
[Please see page 8 for photos of the equipment used](#)
[Please see page 8 for sketch of work space in home](#)
[Please see page 9 for photo of work space in home](#)

4.04.05 HOME OCCUPATION STANDARDS

- “Home Occupation” are allowed in dwelling units on the basis that such uses are incidental to the use of the premises as a residence. They have special regulations that apply to ensure that home occupations will not be a detriment to the character and livability of the surrounding neighborhood. The regulations ensure that the accessory home occupation remains subordinate to the residential use and the residential viability of the dwelling is maintained.
- There are 2 types of home occupations, Type A and Type B. Permit requirements and uses allowed in each type vary and are allowed only if they comply with all of the requirements of this ordinance. Deviation from any standard requires approval of a land use permit from the City Council. For purposes of the section, Virtual Home Office means a single computer and related accessories dedicated to business use.
 1. In Type A home occupations, resident(s) use their home as a Virtual Home Office only. Employees, clients, or customers are prohibited from coming to the residence.
 2. In Type B home occupations resident(s) use their home for work, home office, sales, deliveries, or business mailing address which requires or results in an employee, consultant, agent, subcontractor, customer, or delivery personnel coming to the residence. Examples are counseling, tutoring, and certain office uses. Type B home occupations must obtain a special land use permit from the City Council due to their greater possible impact on the surrounding neighborhood as a result of individuals and visitors from outside the neighborhood coming to the property.

- **Pre-Application Meeting:** July 26, 2024
- **Application Submitted:** July 26, 2024
- **Fees Paid:** \$250.00
- **Certified Letters Mailed:** August 27, 2024

Site Visit:

☐ Yes
☒ No

Staff Member:

Name: N/A
Date of Visit: N/A

Land Use Recommendation:

Home occupational use is compatible

Historic Preservation:

Not in a historic district

Cemetery Preservation:

No cemeteries on site

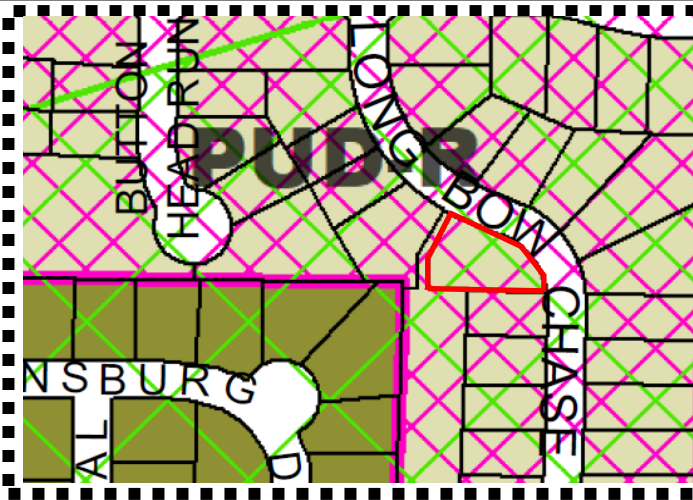
GOOGLE STREET VIEW OF THE RESIDENCE



STAFF ANALYSIS REPORT

ZONING CASE #: LU2024-03

ZONING MAP



LEGEND

Zoning Districts		Zoning Overlays	
CBD	HGB	OI	PBSH
CRC	HI	PSC	Airport Hazard District
FST	LI	PUD-R	Historic Districts
GC	MHP	PVC	Historic Preservation Village
NRC	NS	R-10	Senior Living

BACKGROUND

The site is currently zoned Planned Unit Development - Residential (PUD-R), with a single family home sitting on a 10,873 +/- square foot lot recorded as part of the Victoria Crossing Active Adult Community filed and recorded with Cobb County Superior Court in 2016 by Barnes Mill VDL Inc. The property is also located in the Senior Living Overlay (SLO) District; this district is established to address the growing need for senior housing by making it easier to develop such facilities in convenient locations.

The property was built according to the outlined development standards:

- Building Setbacks:
 - Rear = 20'
 - Front = 15'
 - Major Side = 25'
 - Side = 7.5', 15' between units
- Min. sq. footage of house = 2,069

AREA MAP

LOCATION:

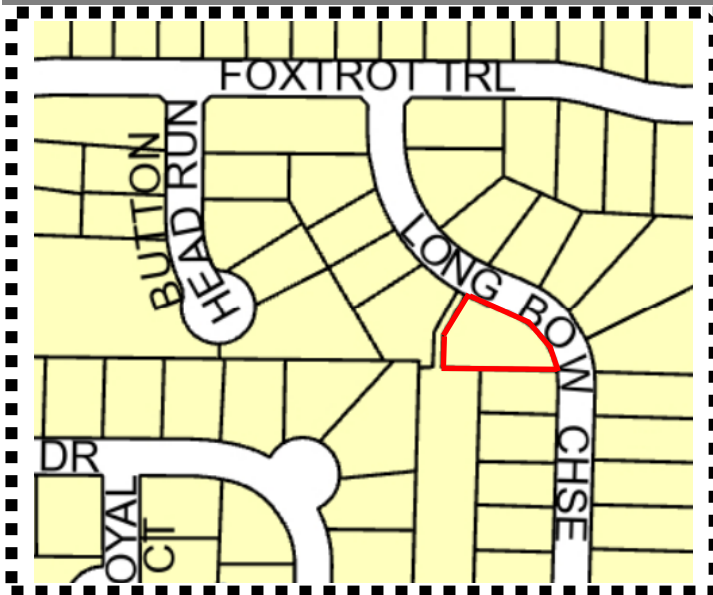
The 0.25+/- acre lot is located off Long Bow Chase in the Victoria Crossing subdivision. The subject property is surrounded by single family lots in the Victoria Crossing subdivisions and is abutted by residential zoning district Planned Unit Development—Residential.



STAFF ANALYSIS REPORT

ZONING CASE #: LU2024-03

2022 COMPREHENSIVE PLAN UPDATE



LEGEND

	I - Industrial
	PI - Public Service/Institutional
	PRC - Park/Recreation/Conservation
	RL - Residential Low/Medium
	RH - Residential High
	PUD - Planned Unit Development
	TCU - Transportation Communication Utilities

Residential Low/Medium (RL)

These are areas of residential land uses within the City. This may be single-family or multi-family housing. New development should reflect the character of the surrounding development.

Recommendations:

- Density: 1-4 units per acre
- Internal amenities
- Walkable, connectivity to adjacent parcels
- Conservation of natural resources
- Percentage of housing dedicated to being affordable*

* Affordable based on the definitions and standards provided by the United States Housing and Urban Development.

FUTURE LAND USE ANALYSIS

The Comprehensive plan notates the future land use for the property as Residential Low/Medium (RL) to encourage the development of moderate density characterized by single family homes or multi-family homes on larger lots which provides more space and privacy to homeowners.

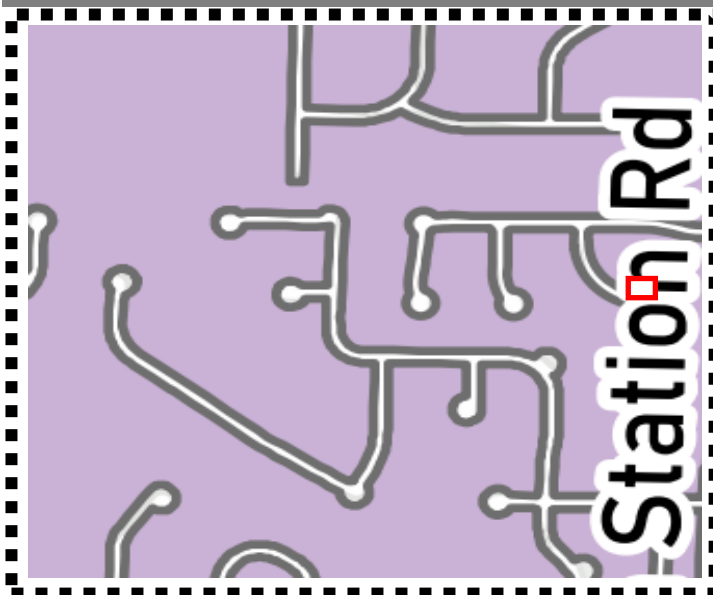
The applicant's property will adhere to the Comprehensive Plan since there are no intentions to change the zoning or the external appearance of the property that could potentially change the characteristic of the neighborhood or the overall density. Staff finds that the request aligns with the goals of the Comprehensive Plan.

STAFF ANALYSIS REPORT



ZONING CASE #: LU2024-03

COMPREHENSIVE PLAN - AREAS



LEGEND

Kennesaw Areas

-  Historic Central Business District
-  In-Town Living
-  Jiles and Baker
-  Kennesaw Due West
-  Kennesaw Marketplace
-  McCollum Industrial Corridor

COMPATIBLE FUTURE LAND USE

- Neighborhood Activity Center (NAC)
- Park / Recreation / Conservation (PRC)
- Planned Unit Development (PUD)
- Residential Low (RL)

In addition to the established Future Land Use Map, the City would like to further define an appropriate development atmosphere to ensure compatible and unified development within specified areas of the City.

Furthermore, please refer to the Policy Matrix which should be used for new development within each of the described areas.

JILES AND BAKER

The Jiles and Baker area is a unique blend of older and newer housing developments mixed with neighborhood-compatible retail. This is the largest of the residential character areas in land area and in population. Located in the northwest quadrant of the City, the area spans from Moon Station Road west to near the Acworth city limits and from Main Street north to Baker Road. Single-family detached residential is the predominant land use. Most of the homes are part of a neighborhood or planned unit developments. Notable public features of the area include the Kennesaw Community Trail and being adjacent to Swift-Cantrell Park.

TRANSPORTATION DATA

Long Bow Chase

Local

25-MPH

Inside City Limits - Privately Owned Street

50-feet minimum

STAFF ANALYSIS REPORT

ZONING CASE #: LU2024-03

PRODUCTS - PHOTOS PROVIDED BY THE APPLICANT

Tumblers Examples



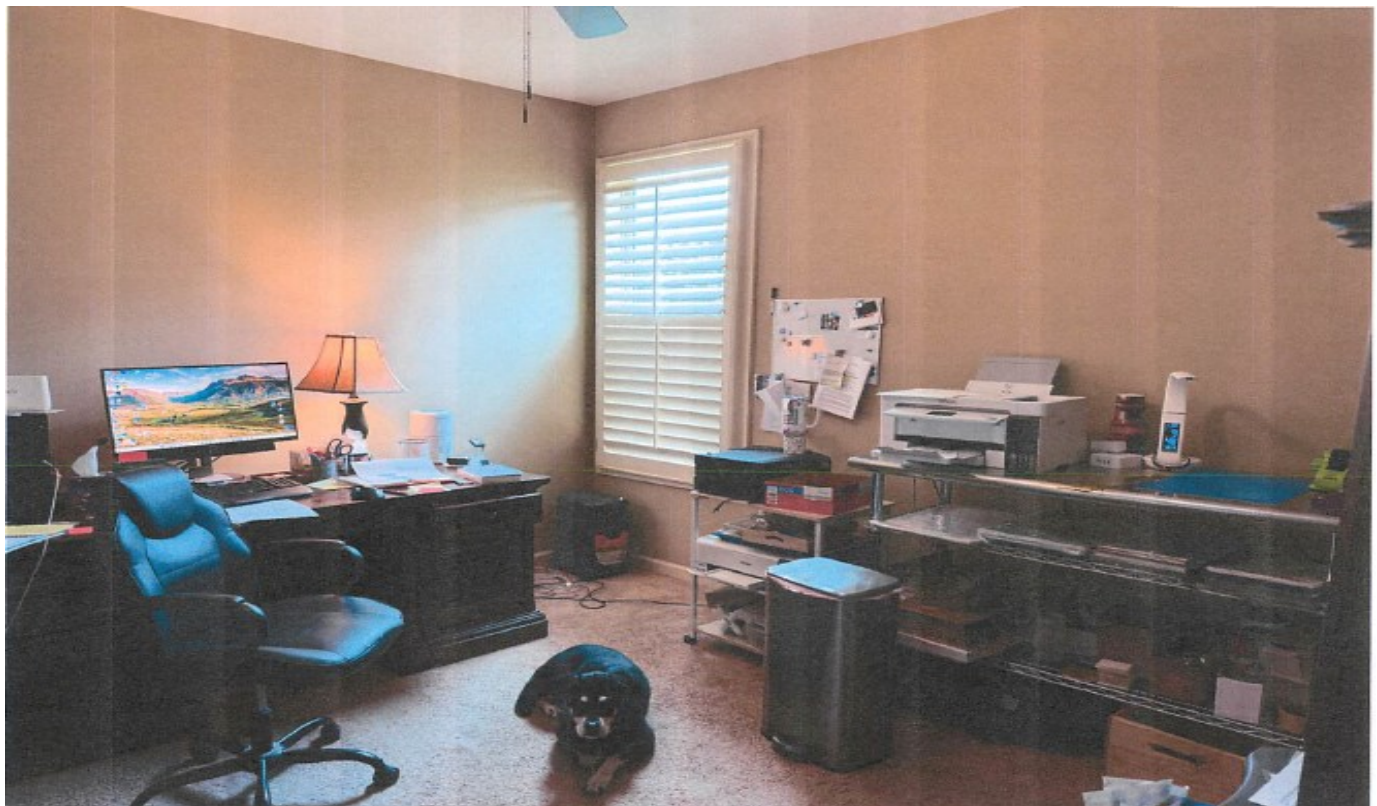
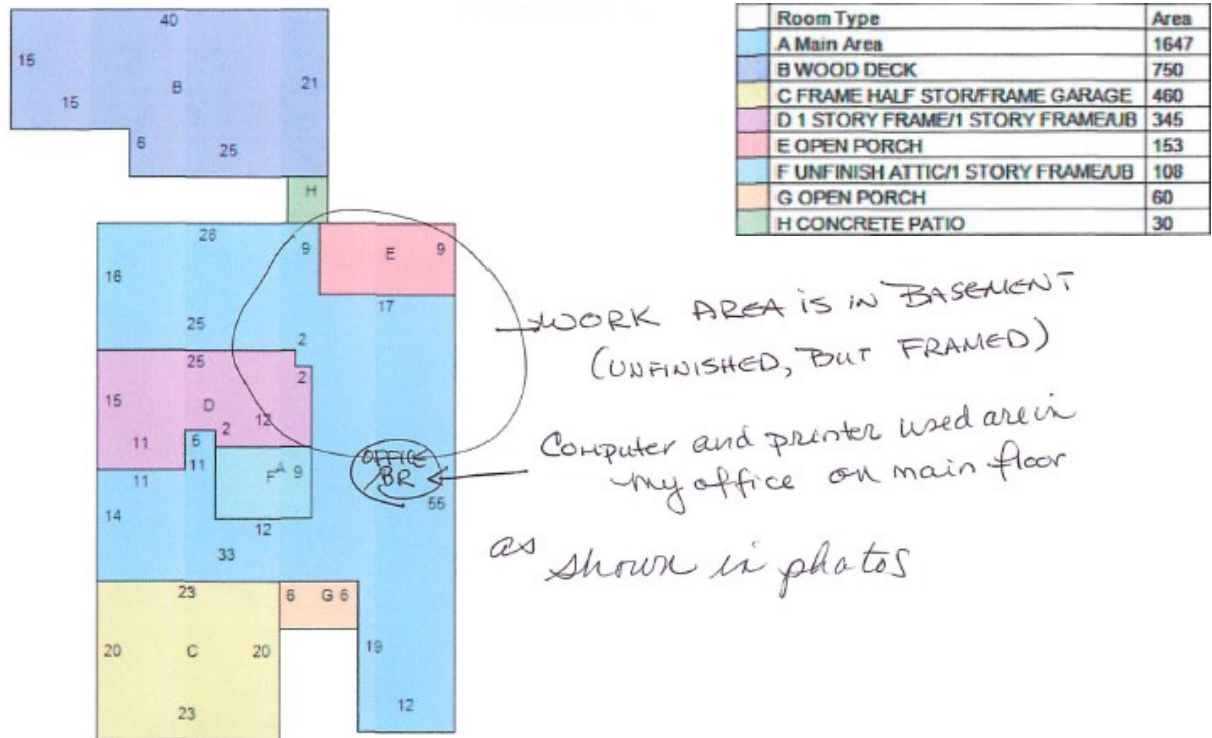
Home Décor Examples



STAFF ANALYSIS REPORT

ZONING CASE #: LU2024-03

PROPOSED FLOOR PLAN OF WORKSPACE



Office on Main Floor—Includes computer and sublimation printers

STAFF ANALYSIS REPORT

ZONING CASE #: LU2024-03

PROPOSED FLOOR PLAN OF WORKSPACE - BASEMENT



Heat Press



Tumbler Press and Engraver



STAFF ANALYSIS REPORT



ZONING CASE #: LU2024-03

HOA MANAGEMENT APPROVAL LETTER

Victoria Crossing

Sharon G Blandford, President
Victoria Crossing Board of Directors
3626 Foxtrot Trail NW
770 331 3239
sharonblandford@icloud.com

NalaSublimagic

2255 Long Bow Chase NW
Kennesaw, GA 30144

RE: Approval for use of Residence for Business Operations

July 30, 2024

Dear NalaSublimagic,

We are pleased to inform you that the Board of Directors of the Homeowner's Association of Victoria Crossing has reviewed and approved your request to use the residence at 2255 Long Bow Chase NW, Kennesaw, GA for the purpose of manufacturing and producing products to be sold both online and offsite under the business name of NalaSublimagic.

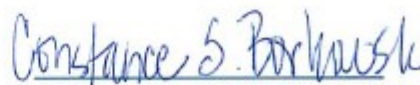
This approval is granted with the understanding that all activities will comply with the association's guidelines and local regulations. We trust that NalaSublimagic will maintain the community standards and ensure that all operations are conducted in a manner that does not disrupt the neighborhood's tranquility.

Please retain this letter as a formal record of approval. If you have any questions or require further assistance, do not hesitate to contact us.

We wish NalaSublimagic great success in its endeavors.

Sincerely,


Sharon G Blandford, President
Victoria Crossing Board of Directors


Constance S. Borkowski
Notary Public
Date
7/31/24



STAFF ANALYSIS REPORT



ZONING CASE #: LU2024-03

STAFF ANALYSIS:

The applicant, Nancy Lesser is requesting a Land Use Permit for the operations of a home occupation at the property located at 2255 Long Bow Chase NW, zoned Planned Unit Development - Residential (PUD-R). The applicant has applied for a Land Use Permit to create sublimation tumblers and décor to sell at craft shows.

Under current regulation, [section 4.04.05](#) Standards for Home Occupation, home occupations are permitted with the approval of a Land Use Permit by Mayor and Council. "*Home occupation*" is defined as being those occupations which can ordinarily be carried on out of a residence or other structure without having any significant effect on the neighborhood or area from which such home occupation is carried on.

Staff has analyzed the request based on the standards for decision outlined in [section 4.04.05](#) with the following observations :

1. **Safety, health, welfare, and moral concerns involving the surrounding neighborhood**
The proposed use will not generate excessive noise, nor will it emit smoke, odor, dust or vibrations detectable to the normal senses outside the dwelling unit that will affect the safety, health, welfare and moral concerns of the surrounding property owners.
2. **Parking and traffic consideration**
No additional traffic shall be generated by the home occupation other than would normally be expected in a residential neighborhood, as the applicant plans to sell products online and offsite at craft fairs.
3. **Number of nonrelated employees**
The applicant will be the only employee connected to the functioning of the business.
4. **Number of commercial and business deliveries**
There will be no commercial or business deliveries at the property.
5. **The city's general presumption that residential neighborhoods should not allow non-compatible business uses**
Staff finds that the residential nature of the community will not be affected as there will be no commercial deliveries and there will be no clients visiting the home.
6. **Compatibility of the business use to the neighborhood**
Staff finds that if granted the land use permit, the business will not be detrimental to the character or livability of the surrounding homes and the residential viability of the dwelling is maintained with the home occupation being minor to the use of the premises as a residence. There will be no exterior indication of the home occupation or variation from the residential character of the principal use or foot traffic that would indicate the presence of a business.
7. **Hours of operation**
There will not be a set hours of operation as the applicant will be preparing products as ordered by clients and in preparations to be sold at craft fairs.
8. **Existing business uses in the vicinity**
The property is zoned residential, there are no other existing business in the vicinity.

STAFF ANALYSIS REPORT



ZONING CASE #: LU2024-03

STAFF ANALYSIS:

9. Effect on property values of surrounding property

The home occupation will not affect the property value of the surrounding properties as there will be no significant alteration to the exterior of the dwelling unit nor will the designated zone be adjusted from residential.

10. Circumstances surrounding neighborhood complaints

Staff has not identified any negative impacts that could be cause for complaints from surrounding property owners. To ensure compliance with the standards listed in the Unified Development Code, staff has included proposed conditions of approval that are listed in the recommendation body of this report.

11. Intensity of the proposed business use

The intensity of the proposed use is very low and would be compatible to the surrounding zoning districts of Planned Unit Development - Residential.

12. Location of use within the neighborhood

Staff finds the home occupation shall be contained and conducted within an enclosed building. The proposed use will be confined to the basement and designated office of the principal residential structure and will not be bleed into other areas of the subdivision.

Staff finds that approval of the request for a land use permit will not affect the current zoning and will continue to align with the goals outlined in the Comprehensive Plan. The property will maintain its residential nature and the character of the neighborhood and surrounding properties will go unchanged.

ZONING ADMINISTRATOR'S RECOMMENDATION: **APPROVAL WITH CONDITIONS**

Based on the analysis completed by Staff, the Zoning Administrator, recommends **approval with the following conditions** for case #LU2024-03.

Conditions:

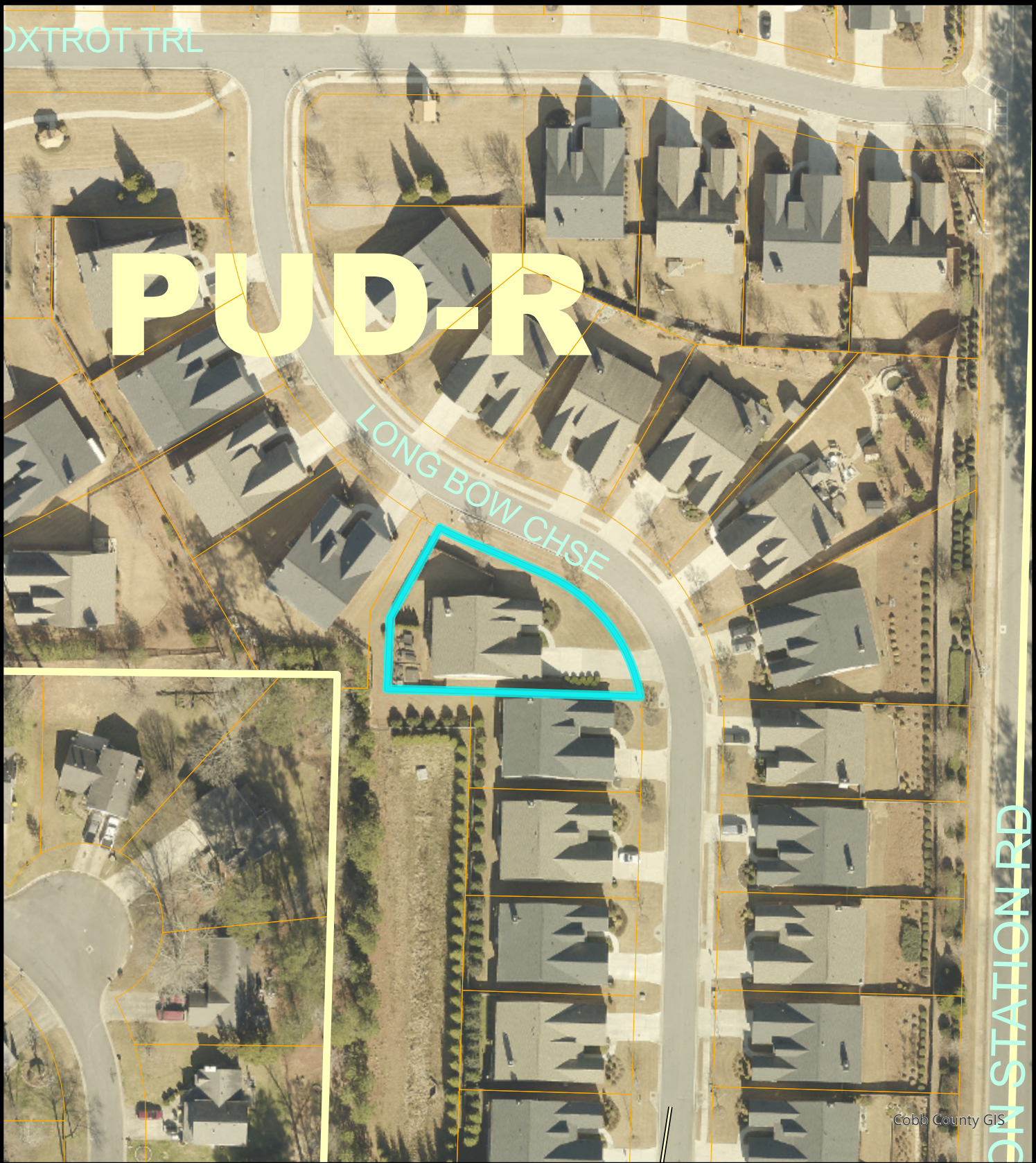
1. The land use permit is limited to, exclusive for and only valid for the current applicant and the life of this particular business and use, and it is not transferrable. Any changes would require additional review and approval.
2. There shall be no clients, customers or employees at this location. Nor shall there be any evidence of a home based business visible from the public right-of-way including no signs and no more than one commercial vehicle dedicated to this business.
3. The land use permit is valid for 24-months starting from the date of final approval.

PLANNING COMMISSION RECOMMENDATION:

At the October 2, 2024, the Planning Commission recommended approval with conditions as outlined by Staff.

MAYOR AND COUNCIL DECISION:

To be determined on October 21, 2024



CASE NUMBER	LAND USE OR ZONING		2255 Long Bow Chase Land Lot 101, Tax Parcel 375 Subject Property		
	FROM	TO			
AV	LU 2024-003	PUD-R	ZONING	CITY OF KENNESAW PLANNING & ZONING DEPT. 770-590-8268	Deirdre Esterling MAYOR Lisa Murray CITY CLERK
AX					
DX					
HBR					
SLUP					
ZV			LAND LOT	Scale: 1" = 82' Print Date: 8/23/2024 LU2024_003	



LAND USE & SPECIAL LAND USE APPLICATION

Required Fee \$250.00

Date Received 7/26/24

Staff's Initials NF

☒ LAND USE APPLICATION

☐ SPECIAL LAND USE APPLICATION

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

A MINIMUM OF ONE CONSULTATION WITH PLANNING AND ZONING ADMINISTRATOR AND STAFF PRIOR TO THE SUBMISSION OF THE REQUESTED APPLICATION IS MANDATORY.
(Applicant or agent must be present at all public hearings)

Date of Consultation _____

Staff's Initials _____

PURPOSE OF LAND USE REQUEST HOME BASED OCCUPATION - MAKING OF
SUBLIMATION TUMBLERS + DECOR TO SELL AT CRAFT SHOWS. RECENTLY ADDED Laser Engraving

LAND USE PROPERTY ADDRESS 2255 LONG BOW CHASE NW, KENNESAW, GA 30144

Land Lot 101 Tax Parcel 375 Lot Size 0.25 +/- Current Zoning PUD-R

APPLICANT Nancy Lesser

APPLICANT EMAIL _____

Applicant address 2255 LONG BOW CHASE NW, KENNESAW, GA 30144

(Home#) _____ (Fax#) _____ (Work#) _____

(Cell#) _____

Applicant Signature Nancy Lesser

Signed, sealed and delivered in presence of: _____

Notary

Date

REPRESENTATIVE _____

(Fax #) _____ (Work#) _____ (Cell#) _____

Representative Signature _____

Signed, sealed and delivered in presence of: _____

Notary

Date

TITLEHOLDER: Nancy Lesser

Telephone: _____

Signature: Nancy Lesser

Address: 2255 Long Bow Chase NW, Kennesaw, GA 30144

Signed, sealed and delivered in presence of: _____

Notary

Date





CAMPAIGN DISCLOSURE REPORT¹ 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? **WRITE YES OR NO:** 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 26th day of July, 2024

Nancy Resser
Applicant's 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.

August 27, 2024

Subject: Please Take Notice - Notification of Nearby Zoning Application

2255 Long Bow Chase NW, Kennesaw, GA, 30144 – 20010103750

To whom it may concern,

This correspondence is to formally notify you that the City of Kennesaw Planning and Zoning Department has received a zoning application for a parcel of land within two hundred feet of your property. As a nearby property owner, you have the right to be informed of potential zoning changes.

The application details are as follows:

Applicant Name: Nancy Lesser

Property Address: 2255 Long Bow Chase NW

Parcel Identification Number: 20010103750

Description of Proposal: Consideration for approval of a land use request to obtain a home occupation business license to create sublimation tumblers and décor to sell.

The application will be reviewed and voted on at public hearings by the Planning Commission and the Mayor and Council. The meeting details are as follows:

Planning Commission Meeting	Mayor & Council Meeting
------------------------------------	------------------------------------

Date: 10/2/24

Date: 10/21/24

Time: 6:30 p.m.

Time: 6:30 p.m.

Both meetings occur in the City Hall Council Chambers located at 2529 J. O. Stephenson Avenue, Kennesaw, GA 30144. You may appear in person or be represented by an attorney to present any objections you may have. The application is enclosed for your review. This notice is being sent to you by order of the Planning Commission and the Mayor and Council.

Applicant Signature



Date





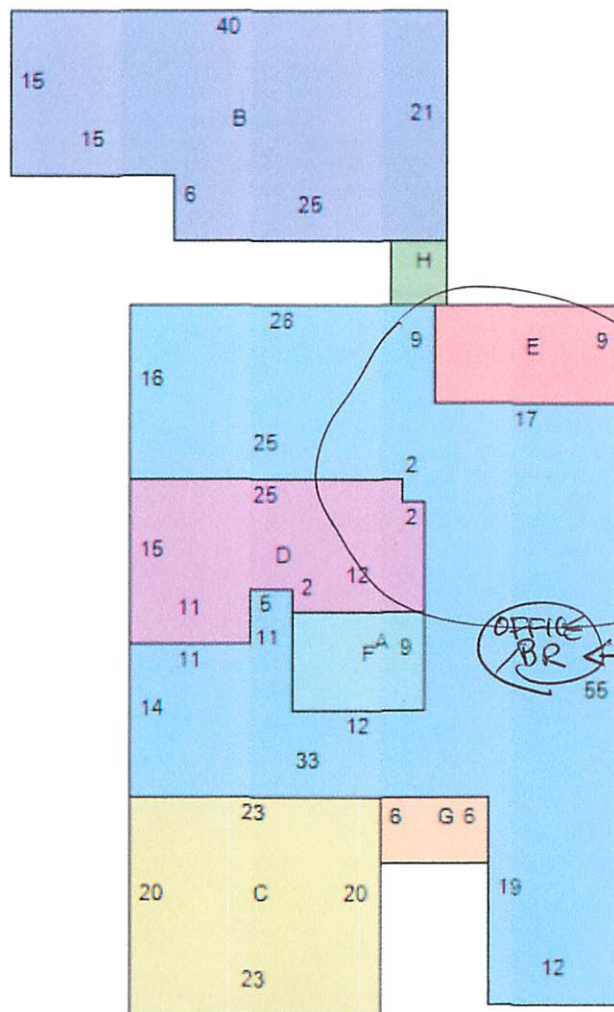
Section 2100, Part 5 Standards for Decisions – Only Land Use Permits

Land Use Permits may be granted in such individual cases based on the standards for decisions as follows, please comment using additional pages if necessary.

COMMENTS:

(1) Safety, health, welfare, and moral concerns involving the surrounding neighborhoods.	
(2) Parking and traffic considerations.	no changes—products sold only online or at offsite craft fairs, etc
(3) Number of non-related employees.	0 - SUE PROPRIETOR AND ONLY ONE INVOLVED
(4) Number of commercial and business deliveries.	0
(5) The City's general presumption that residential neighborhoods should not allow non-compatible business uses.	all work is inside home - no outside changes
(6) Compatibility of the business use to the neighborhood.	- " "
(7) Hours of operation.	
(8) Existing business uses in the vicinity.	none
(9) Effect on property valued of surrounding property.	none
(10) Circumstances surrounding neighborhood complaints.	none
(11) Intensity of the proposed business use; and	
(12) Location of use within the neighborhood.	Everything is inside the home.

Room Type	Area
A Main Area	1647
B WOOD DECK	750
C FRAME HALF STOR/FRAME GARAGE	460
D 1 STORY FRAME/1 STORY FRAME/UB	345
E OPEN PORCH	153
F UNFINISH ATTIC/1 STORY FRAME/UB	108
G OPEN PORCH	60
H CONCRETE PATIO	30



WORK AREA IS IN BASEMENT
(UNFINISHED, BUT FRAMED)

Computer and printer used are in
my office on main floor
as shown in photos



Office on Main floor
Computer and sublimation printers



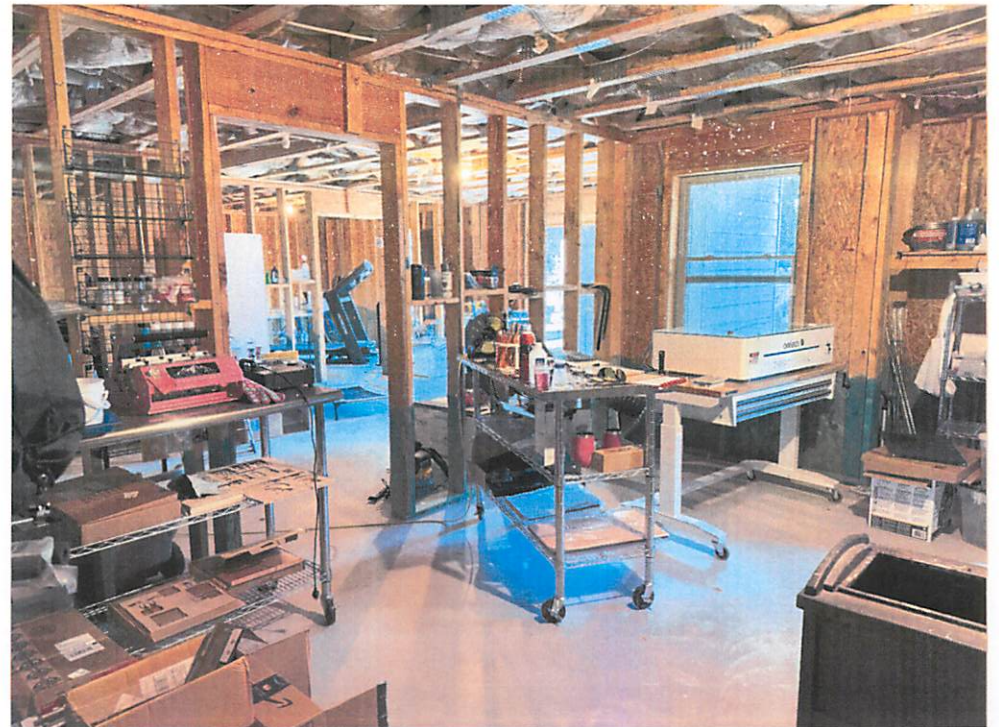
Basement

LU2024-03

Supplies and products on shelves



Heat Press



Tumbler press and laser engraver

Victoria Crossing

Sharon G Blandford, President
Victoria Crossing Board of Directors
3626 Foxtrot Trail NW
770 331 3239
sharonblandford@icloud.com

NalaSublimagic

2255 Long Bow Chase NW
Kennesaw, GA 30144

RE: Approval for use of Residence for Business Operations

July 30, 2024

Dear NalaSublimagic,

We are pleased to inform you that the Board of Directors of the Homeowner's Association of Victoria Crossing has reviewed and approved your request to use the residence at 2255 Long Bow Chase NW, Kennesaw, GA for the purpose of manufacturing and producing products to be sold both online and offsite under the business name of NalaSublimagic.

This approval is granted with the understanding that all activities will comply with the association's guidelines and local regulations. We trust that NalaSublimagic will maintain the community standards and ensure that all operations are conducted in a manner that does not disrupt the neighborhood's tranquility.

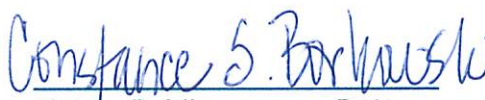
Please retain this letter as a formal record of approval. If you have any questions or require further assistance, do not hesitate to contact us.

We wish NalaSublimagic great success in its endeavors.

Sincerely,



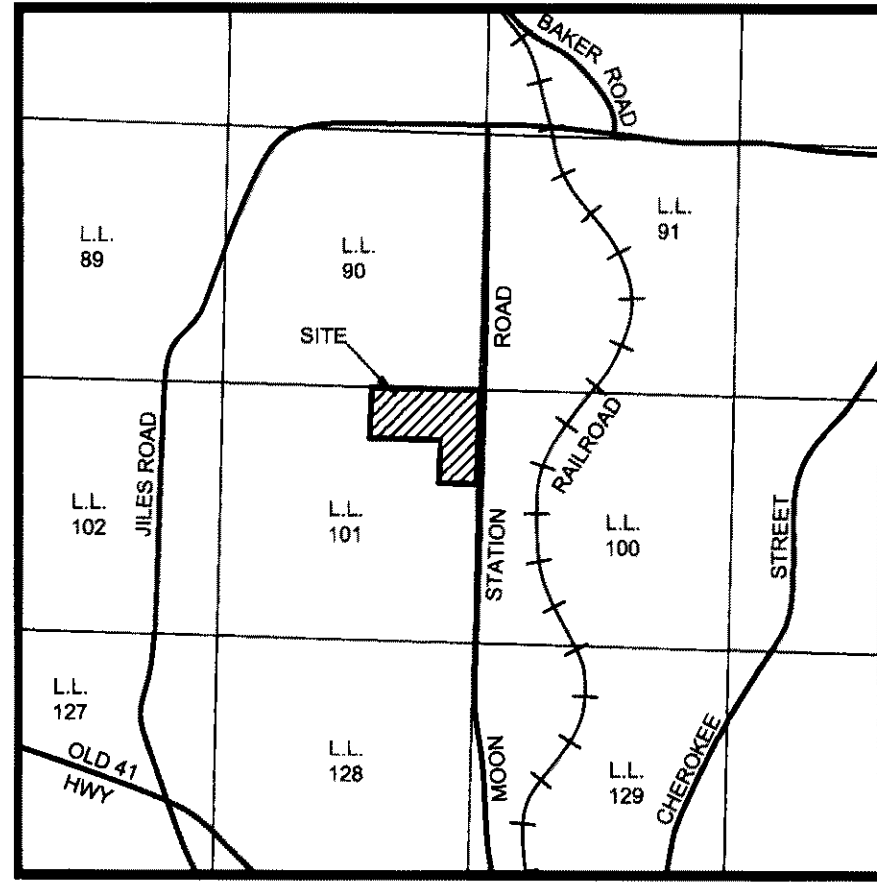
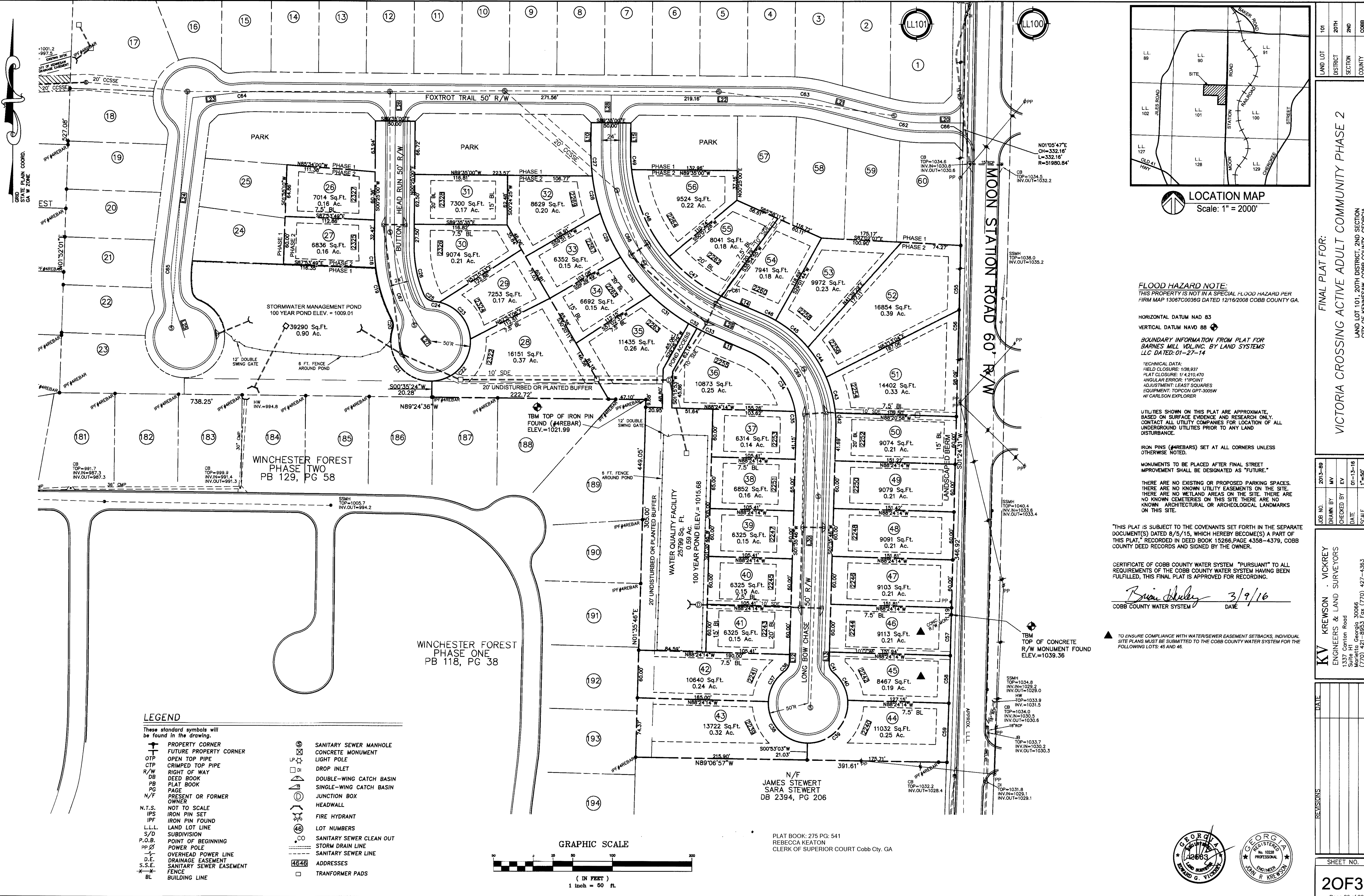
Sharon G Blandford, President
Victoria Crossing Board of Directors


Notary Public

Date

7/31/24





FLOOD HAZARD NOTE:
THIS PROPERTY IS NOT IN A SPECIAL FLOOD HAZARD PER
FIRM MAP 13067C0036G DATED 12/16/2008 COBB COUNTY GA.

HORIZONTAL DATUM NAD 83
VERTICAL DATUM NAVD 88

**BOUNDARY INFORMATION FROM PLAT FOR
BARNES WILL VOLVING BY LAND SYSTEMS
LLC DATED: 01-27-14**

TECHNICAL DATA:
FIELD CLOSURE: 1/28.837
PLAT CLOSURE: 1/4.210.470
ANGULAR ERROR: 1' POINT
ADJUSTMENT: LEAST SQUARES
EQUIPMENT: TOPCON GPT-300SW
W/ CARLSON EXPLORER

UTILITIES SHOWN ON THIS PLAT ARE APPROXIMATE,
BASED ON SURFACE EVIDENCE AND RESEARCH ONLY.
CONTACT ALL UTILITY COMPANIES FOR LOCATION OF ALL
UNDERGROUND UTILITIES PRIOR TO ANY LAND
DISTURBANCE.

IRON PINS (#4REBAR) SET AT ALL CORNERS UNLESS
OTHERWISE NOTED.

MONUMENTS TO BE PLACED AFTER FINAL STREET
IMPROVEMENT SHALL BE DESIGNATED AS "FUTURE."

THERE ARE NO EXISTING OR PROPOSED PARKING SPACES.
THERE ARE NO KNOWN UTILITY EASEMENTS ON THE SITE.
THERE ARE NO WETLAND AREAS ON THE SITE. THERE ARE
NO KNOWN CEMETERIES ON THIS SITE. THERE ARE NO
KNOWN ARCHITECTURAL OR ARCHEOLOGICAL LANDMARKS
ON THIS SITE.

"THIS PLAT IS SUBJECT TO THE COVENANTS SET FORTH IN THE SEPARATE
DOCUMENT(S) DATED 8/5/15, WHICH HEREBY BECOME(S) A PART OF
THIS PLAT." RECORDED IN DEED BOOK PAGE 4358-4379, COBB
COUNTY DEED RECORDS AND SIGNED BY THE OWNER.

CERTIFICATE OF COBB COUNTY WATER SYSTEM "PURSUANT" TO ALL
REQUIREMENTS OF THE COBB COUNTY WATER SYSTEM HAVING BEEN
FULFILLED, THIS FINAL PLAT IS APPROVED FOR RECORDING.

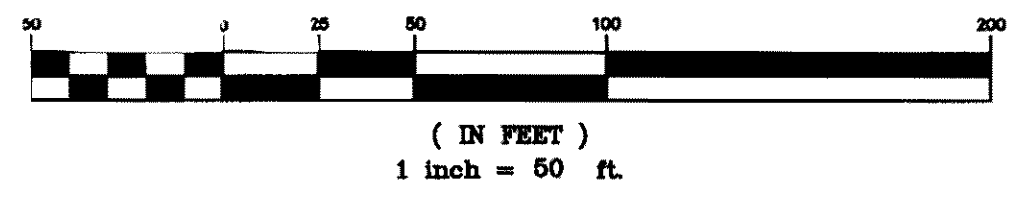
Brian Huley 3/9/16
COBB COUNTY WATER SYSTEM DATE

▲ TO ENSURE COMPLIANCE WITH WATER/SEWER EASEMENT SETBACKS, INDIVIDUAL
SITE PLANS MUST BE SUBMITTED TO THE COBB COUNTY WATER SYSTEM FOR THE
FOLLOWING LOTS: 45 AND 46.

LEGEND

- These standard symbols will be found in the drawing.
- PROPERTY CORNER
 - FUTURE PROPERTY CORNER
 - OTF OPEN TOP PIPE
 - CTP CRIMPED TOP PIPE
 - R/W RIGHT OF WAY
 - DB DEED BOOK
 - PB PLAT BOOK
 - PC PAGE
 - N/F PRESENT OR FORMER OWNER
 - N.T.S. NOT TO SCALE
 - IPS IRON PIN SET
 - IPF IRON PIN FOUND
 - L.L.L. LAND LOT LINE
 - S/D SUBDIVISION
 - P.O.B. POINT OF BEGINNING
 - P.P.O. POWER POLE
 - O.P.E. OVERHEAD POWER LINE
 - D.E. DRAINAGE EASEMENT
 - S.S.E. SANITARY SEWER EASEMENT
 - FENCE
 - BL BUILDING LINE
 - SANITARY SEWER MANHOLE
 - CONCRETE MONUMENT
 - LIGHT POLE
 - DROP INLET
 - DOUBLE-WING CATCH BASIN
 - SINGLE-WING CATCH BASIN
 - JUNCTION BOX
 - HEADWALL
 - FIRE HYDRANT
 - LOT NUMBERS
 - SANITARY SEWER CLEAN OUT
 - STORM DRAIN LINE
 - SANITARY SEWER LINE
 - ADDRESSES
 - TRANSFORMER PADS

GRAPHIC SCALE



PLAT BOOK: 275 PG: 541
REBECCA KEATON
CLERK OF SUPERIOR COURT Cobb Cty. GA

LAND LOT	101
DISTRICT	20TH
SECTION	2ND
COUNTY	COBB

FINAL PLAT FOR:
VICTORIA CROSSING ACTIVE ADULT COMMUNITY PHASE 2
LAND LOT 101, 20TH DISTRICT, 2ND SECTION
CITY OF KENNESAW, COBB COUNTY, GEORGIA

JOB NO.	2013-69
DRAWN BY	WV
CHECKED BY	EV
DATE	01-13-16
SCALE	1"=50'

KV KREWSON & VICKREY
ENGINEERS & LAND SURVEYORS
1337 Canton Road
Suite H1 Marietta, Georgia 30066
(770) 421-8553 Fax (770) 427-4363

DATE	
REVISIONS	

SHEET NO.
20F3
Page 26 of 301

Deed Book 15777 Page 4976
Filed and Recorded 08/03/20 4:36:00 PM
2020-0096609
Real Estate Transfer Tax \$396.00
Rebecca Keaton
Clerk of Superior Court
Cobb County, GA
Participant IDs: 3939890538
7067927936

Return to:
NEEL, ROBINSON & STAFFORD, LLC
2414 DALLAS HIGHWAY, BLDG. 100, STE. 300
MARIETTA, GA 30064
File No.: 2047192Y
Parcel No. 20010103750

STATE OF GEORGIA
COUNTY OF COBB

LIMITED WARRANTY DEED

INDENTURE, made on 31st day of July, 2020, between

Kevin E. Lee and Tina Lee

(hereinafter referred to as "Grantor") and

Nancy Lesser

(hereinafter referred to as "Grantee"), the words "Grantor" and "Grantee" to include the heirs, executors, legal representatives, successors and assigns of said parties where the context requires or permits;

WITNESSETH:

THAT Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATIONS, in hand paid, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged by Grantor, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto Grantee,

All that tract or parcel of land lying and being in Land Lot 101 of the 20th District, 2nd Section, City of Kennesaw, Cobb County, Georgia, and being Lot 36, Victoria Crossing Active Adult Community, Phase II, as per that certain Final Plat prepared by Krewson Vickrey Engineers & Land Surveyors, bearing the seal and certification of Edward G. Vickrey, Georgia Registered Land Surveyor No. 2563, dated January 13, 2016, and being recorded in Plat Book 275, Pages 540-542, Records of Cobb County, Georgia. Said plat is incorporated herein for a more complete delineation of caption property.

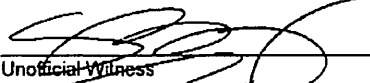
This Deed is given subject to all easements, restrictions and encumbrances of record.

TOGETHER WITH all and singular the rights, members and appurtenances thereto, to the same being, belonging, or in anywise appertaining (hereinafter collectively referred to as the "Premises").

TO HAVE AND TO HOLD the Premises, to the only proper use, benefit and behoof of Grantee, forever, in FEE SIMPLE, and Grantor will warrant and forever defend the right and title to the Premises unto Grantee against the claims of all person claiming by, through or under Grantor, but not otherwise.

IN WITNESS WHEREOF, Grantor has executed this instrument under seal.

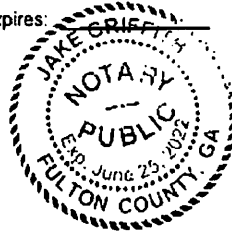
Signed, sealed and delivered in the presence of:

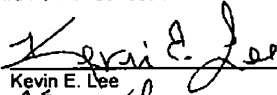

Unofficial Witness


Notary Public

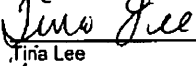
My Commission Expires:

[Notary Seal]




Kevin E. Lee

(SEAL)


Tina Lee

(SEAL)

**PURSUANT TO DEATH CERTIFICATE
ATTACHED HERETO AS EXHIBIT "A"

Exhibit "A"

LU2024-03

GEORGIA DEATH CERTIFICATE				State File Number: 2018GA000086590	
1. DECEDENT'S LEGAL FULL NAME (First, Middle, Last) HAROLD FRANK ADAMS		2. IF FEMALE, ENTER LAST NAME AT BIRTH		3. SEX MALE	4. DATE OF DEATH (Mo., Day, Year) 10/28/2018
5. SOCIAL SECURITY NUMBER [REDACTED]	6a. AGE (Years) 64	6b. UNDER 1 YEAR Days: [REDACTED]	6c. UNDER 1 DAY Hours: [REDACTED] Mins: [REDACTED]	5. DATE OF BIRTH (Mo., Day, Year) 03/18/1954	
7a. BIRTHPLACE GEORGIA	7b. RESIDENCE STATE GEORGIA	7c. COUNTY COBB		7d. CITY/TOWN KENNESAW	
7e. STREET AND NUMBER 2288 LONG BOW CHASE		7f. ZIP CODE 30144	7g. INSIDE CITY LIMITS YES	7h. ARMED FORCES YES	
8. USUAL OCCUPATION REAL ESTATE DEVELOPER		9. KIND OF INDUSTRY OR BUSINESS REAL ESTATE			
10. MARITAL STATUS WIDOWED		11. SPOUSE NAME HARRIETTE MATILDA PATRICK		12. FATHER'S FULL NAME (First, Middle, Last) FRANK BRIGHT ADAMS	
13. MOTHER'S MAIDEN NAME (First, Middle, Last) FANNIE POORE		14. INFORMANT'S NAME (First, Middle, Last) TINA LEE		15. RELATIONSHIP TO DECEDENT DAUGHTER	
16. MAILING ADDRESS 2288 LONG BOW CHASE KENNESAW GEORGIA 30144		17. DECEDENT'S EDUCATION BACHELOR'S DEGREE			
18. ORIGIN OF DECEDENT (Italian, Irish, French, English, etc.) NOT SPANISH/Hispanic/Latino		19. DECEDENT'S RACE (White, Black, American Indian, etc.) (Specify) WHITE			
20. IF DEATH OCCURRED IN HOSPITAL		21. IF DEATH OCCURRED OTHER THAN HOSPITAL (Specify) NURSING HOME/LONG TERM CARE FACILITY			
22. HOSPITAL OR OTHER INSTITUTION NAME (If not in other give street and no.) TRANQUILITY AT KENNESAW MOUNTAIN		23. CITY, TOWN OR LOCATION OF DEATH MARIETTA		24. COUNTY OF DEATH COBB	
25. METHOD OF DISPOSITION (Specify) BURIAL		26. PLACE OF DISPOSITION JOHNSON UNITED METHODIST CHURCH CEMETERY FLAT ROCK ROAD WATKINSVILLE GEORGIA 30677		27. DISPOSITION DATE (Mo., Day, Year) 10/28/2018	
28. EMBALMER'S NAME NOT EMBALMED		29. EMBALMER LICENSE NO.		30. FUNERAL HOME NAME LORD AND STEPHENS FUNERAL HOME W	
31. FUNERAL HOME ADDRESS 1211 JIMMY DANIEL ROAD WATKINSVILLE GEORGIA 30677		32. SIGNATURE OF FUNERAL DIRECTOR JASON B. WOMACK		33. FUN. DIR. LICENSE NO. 4283	
34. DATE PRONOUNCED DEAD (Mo., Day, Year) 10/28/2018		35. HOUR PRONOUNCED DEAD 11:20 AM		36. AMENDMENTS	
37. SIGNATURE OF MEDICAL EXAMINER DABDIE ANN MARIE GRANT		38. LICENSE NUMBER RN188306		39. DATE SIGNED 10/28/2018	
40. TIME OF DEATH 11:20 AM		41. WAS CASE REFERRED TO MEDICAL EXAMINER? NO		42. APPROPRIATE INQUIRY BY DEATH INVESTIGATOR AND DEATH CERTIFICATE [REDACTED]	
43. IMMEDIATE CAUSE (From certificate of condition resulting in death) (Mo., Day, Year) PROSTATE CANCER METASTATIC TO LUNG, ABDOMEN AND BONE					
44. IF FEMALE, indicate conditions contributing to death but not related to cause [REDACTED]					
45. IF FEMALE, indicate if pregnant or birth occurred within 90 days of death [REDACTED]					
46. IF FEMALE, indicate if pregnant or birth occurred within 90 days of death [REDACTED]					
47. IF FEMALE, indicate if pregnant or birth occurred within 90 days of death [REDACTED]					
48. IF FEMALE, indicate if pregnant or birth occurred within 90 days of death [REDACTED]					
49. IF FEMALE, indicate if pregnant or birth occurred within 90 days of death [REDACTED]					
50. IF FEMALE, indicate if pregnant or birth occurred within 90 days of death [REDACTED]					
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98. IF FEMALE, indicate if pregnant or birth occurred within 90 days of death [REDACTED]					
99. IF FEMALE, indicate if pregnant or birth occurred within 90 days of death [REDACTED]					
100. IF FEMALE, indicate if pregnant or birth occurred within 90 days of death [REDACTED]					

Deed Book 15777 Page 4978
 Rebecca Keaton
 Clerk of Superior Court



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

2023
Property Tax Bill

Parcel ID	Tax District				Bill #				
20010103750	3/3-BOND - KENNESAW CITY				242116				
Property Owner/Location/Description					Fair Market Value		Taxable Value		
LESSER NANCY 2255 LONG BOW CHSE					433,530		173,412		
Levies	Taxable Value	-	Exemptions	=	Net Assessment	X	Tax Rate	=	Net Tax
CITY OF KENNESAW	173,412		173,412		0		7.7500000000		\$0.00
BOND	173,412		173,412		0		1.5000000000		\$0.00
Exemptions:									
113 - Age 62 (Floating Exemption)									
413 - Age 65									
Interest will accrue monthly at a rate of .96% per month, based on an annual calculation of Federal Prime Rate (8.5%) plus 3%. To arrive at the new monthly interest rate, divide the Federal Prime Rate by 12. This annual interest rate will change when the Federal Reserve announces the new bank prime loan rate each January (House Bill 960).									
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).									
Any questions concerning payment instructions should be directed to the City of Kennesaw Property Tax Department at (770) 429-4542.									
					Current Year Tax		\$0.00		
					Interest		\$0.00		
					Penalty		\$0.00		
					Other Fees		\$0.00		
					Payments Received		\$0.00		
					Other Amounts Due		\$0.00		
					Total Due		\$0.00		
					Due Date		12/01/2023		



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: 20010103750
Amount Due: \$0.00
Bill#: 242116
Due Date: 12/01/2023

AMOUNT PAID

LESSER NANCY
2255 LONG BOW CHASE NW
KENNESAW, GA 30144

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



CARLA JACKSON
HEATHER WALKER
Phone:
Fax:

TAX COMMISSIONER
CHIEF DEPUTY
770-528-8600
770-528-8679

Printed: 7/26/2024

Cobb County Online Tax Receipt

Thank you for your payment!

Payer

NANCY LESSER

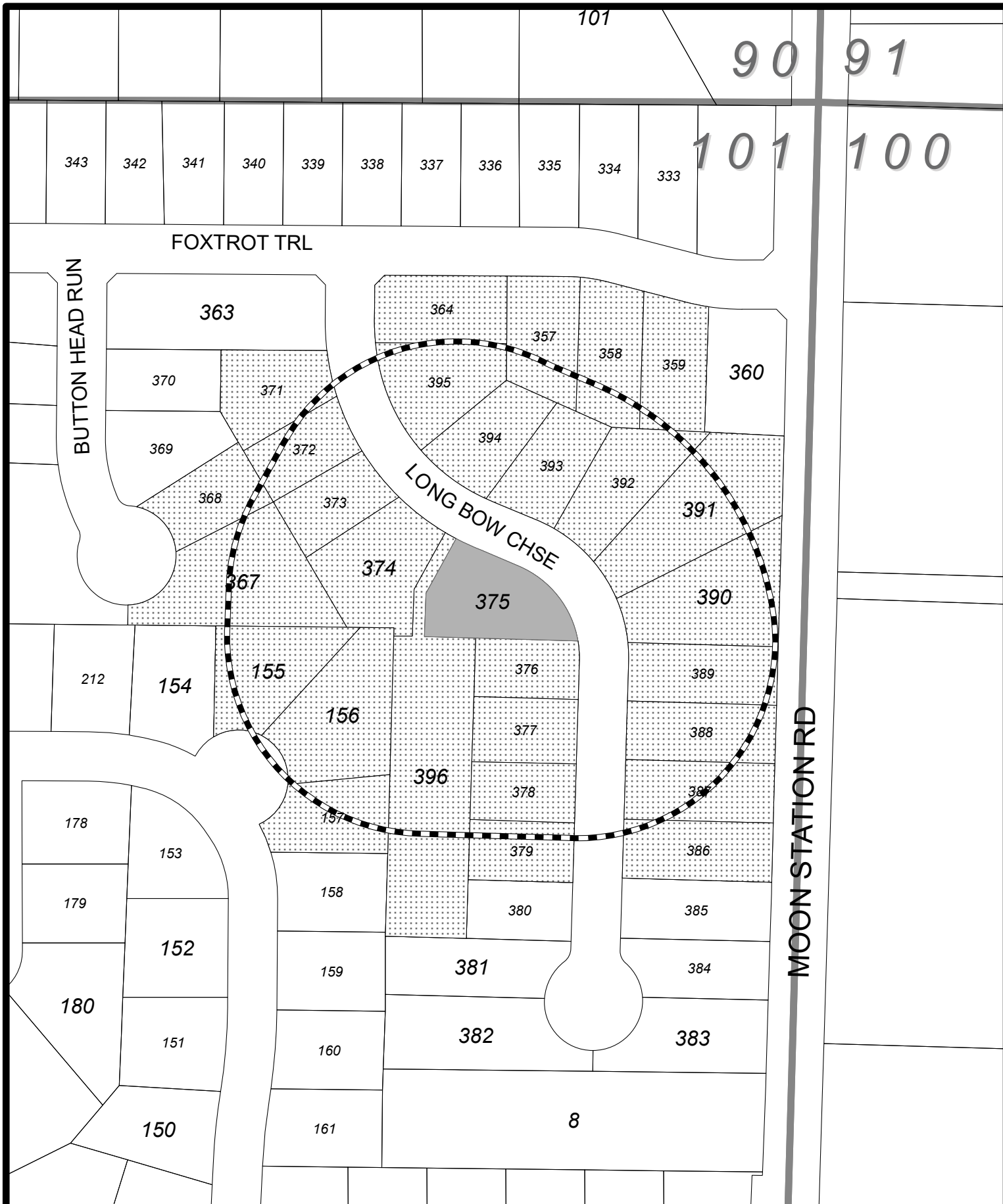
LESSER NANCY

Payment Date: 10/2/2023

Tax Year	Parcel ID	Due Date	Appeal Amount	Taxes Due	
2023	20010103750	10/15/2023	Pay:	N/A or	\$0.00
Interest	Penalty	Fees	Total Due	Amount Paid	Balance
\$0.00	\$0.00	\$0.00	\$0.00	\$1,375.38	\$0.00



Scan this code with your
mobile phone to view this
bill!!!



-  Subject Parcel
-  200' Radius
-  Properties Notified

2255 Longbow Chase
Land Lot 101,
Tax Parcel 375

LU2024-003
200' PROPERTY NOTIFICATION



CITY OF KENNESAW
 PLANNING & ZONING DEPT.
 770-590-6268

Derek Easton
 MANOR
Lee Moore
 CITY CLERK

Date: 8/23/2024

LU2024-003



Tax Parcel - 20010101550

BECERRA-BECERRA JUAN
2070 WINSBURG DR
KENNESAW GA 30144

Tax Parcel - 20010103710

MACEWEN RALPH M & DEBRA A
2269 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103880

R H PEARSON REVOCABLE TRUST
2250 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103730

JONES KEVIN L & ROBIN LEE
2265 LONG BOW CHASE NW
KENNESAW GA 30144-3552

Tax Parcel - 20010103930

FIELDS PAUL D & FIELDS DONNA S
2260 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103890

SCHIVAL JOSEPH A & PATRICIA
2252 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103740

THE MATTHEW K RICKETTS TRUST
2263 LONG BOW CHSE NW
KENNESAW GA 30144

Tax Parcel - 20010103940

SALSBERRY MARK D & SHARON B
2262 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103790

GARCIA RIVERA ALEX & GARCIA MONA E
2245 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103870

WISE MARK J & KATHLEEN A
2248 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103950

THE RONALD L SULLIVAN REVOCABLE TRUST
4507 CLUB HOUSE DR
MARIETTA GA 30066

Tax Parcel - 20010103640

VICTORIA CROSSING COMMUNITY
ASSOCIATION INC.
701 WHITLOCK AVE SUITE K 46
MARIETTA GA 30064

Tax Parcel - 20010103720

WILLIAMS CHARLES MICHAEL
2267 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103860

KELSO JOHN DAVID & BETTY LOUISE
2246 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103960

VICTORIA CROSSING COMMUNITY
ASSOCIATION INC
701 WHITLOCK AVE SUITE K 46
MARIETTA GA 30064

Tax Parcel - 20010103670

THE JOHN & ANNA HALL REVOCABLE LIVING
TRUST
2322 BUTTON HEAD RUN NW
KENNESAW GA 30144

Tax Parcel - 20010103780

PERRYMAN WILLIAM D II & LINDA
2247 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103580

MORROW DARIN J & JODY A
3625 FOXTROT TRL
KENNESAW GA 30144

Tax Parcel - 20010103680

MCELROY JENNIFER L TRUSTEE N & R
KOELZER FAMILY TRUST
2324 BUTTON HEAD RUN NW
KENNESAW GA 30144

Tax Parcel - 20010103910

PAINTER ROSEANNA M
2256 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103590

HARRIS JOHN
3623 FOXTROT TRL
KENNESAW GA 30144

Tax Parcel - 20010103900

PEGUES THARROW & GERDA YVETTE
2254 LONG BOW CHASE
KENNESAW GA 30152

Tax Parcel - 20010101560

PAGAYA SMARTRESI F1 FUND PROPERTY
OWNER III LLC
1950 E GREYHOUND PASS STE 18-355
CARMEL IN 46033

Tax Parcel - 20010103920

WEBB KELLY ANN & WRIGHT CYNTHIA RENA
300 BOB WALLACE AVE SW STE B
HUNTSVILLE AL 35801

Tax Parcel - 20010103760

GRAVES LESLIE K
2253 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010101570

2018 2 IH BORROWER LP
1717 MAIN ST STE 2000
DALLAS TX 75201

Tax Parcel - 20010103770

GOSSAGE NOREEN S
2251 LONG BOW CHASE NW
KENNESAW GA 30144

Tax Parcel - 20010103570

ELLIOTT ROBERT E & SUWATTANA K
3627 FOXTROT TRL NW
KENNESAW GA 30144



**CITY OF KENNESAW
LAND USE NOTICE**

APPLICATION # **LU2024-03**

PURPOSE Home based business license to create sublimation
tumblers and home decor

DATE OF PUBLIC MEETING: **10/2/2024** TIME: **6:30PM**

DATE OF PUBLIC MEETING: **10/21/2024** TIME: **6:30PM**

PLACE: CITY HALL KENNESAW, GA

Due to the priority for public health and safety,
the City of Kennesaw will implement a public meeting
protocol / system for community participation
in compliance to social distancing protocol.
For specific public meeting guidelines and access to all
application information please visit our website

HTTP://WWW.KENNESAW-GA.GOV

FOR FURTHER INFORMATION PLEASE CALL :
PLANNING AND ZONING DEPARTMENT 770-590-8268

09.13.2024 10:34

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Start: 09/13/2024 Stop: 09/13/2024
Times Ord: 1 Times Run: ***
LEG 1.00 X 2.81 Words: 200
Total LEG 2.81
Class: 8003 PUBLIC HEARING
Rate: LEGL Cost: 30.00
Ad Descrpt: PH-7081 2255 LONG BOW CHA
Descr Cont: MDJ-7081 GPN-16 CITY OF K
Given by: CHANELLE CAMPBELL
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Last Changed: rmill 09/11/24 14:56

Contact: LEA ALVAREZ
Phone: (770)424-8274
Fax#:
Email: LALVAREZ@KENNESAW-GA.GOV
Agency:

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Under this agreement rates are subject to change with 30 days notice. In the event of a cancellation before schedule completion, I understand that the rate charged will be based upon the rate for the number of insertions used.

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MDJ-7081
GPN-16

City of Kennesaw
Land Use Permit Request

Notice is hereby given that the City of Kennesaw shall hold a public hearing to give consideration for a land use permit request submitted by Nancy Lesser for property located at 2255 Long Bow Chase. Said request is to obtain a home occupational business license to allow for the creation of sublimation tumblers and décor to sell at craft shows. Property consists of 0.25 +/- acres, lies in Land Lot 101, Tax Parcel 375 and is zoned Planned Unit Development - Residential (PUD-R). Said meetings shall be held before the Planning Commission on October 2, 2024 at 6:30 P.M. and the Mayor and Council will hold a public hearing on October 21, 2024, at 6:30 P.M. both meetings to be held at 2529 J.O. Stephenson Avenue, Kennesaw, Georgia. Any interested persons may attend and be heard relative thereto.

Mayor and Council will be conducting their meeting in person and you can access the meeting via the following link:

<https://www.kennesaw-ga.gov/publicmeetings/>
Any interested citizens are invited to email kennesawcouncil@kennesaw-ga.gov.

9:13-2024

Notice is hereby given that the City of Kennesaw shall hold a public hearing to give consideration for a land use permit request submitted by Nancy Lesser for property located at 2255 Long Bow Chase. Said request is to obtain a home occupational business license to allow for the creation of sublease agreements for the use of the property for craft shows. Property consists of 0.25 +/- acres, lies in Land Lot 101, Tax Parcel 375 and is zoned Planned Unit Development - Residential (PUD-R). Said meetings shall be held before the Planning Commission on October 2, 2024 at 6:30 P.M. and the Mayor and Council will hold a public hearing on October 21, 2024, at 6:30 P.M. Both meetings to be held at 2529 J.O. Stephenson Avenue, Kennesaw, Georgia. Any interested persons may attend and be heard relative thereto.

9:13-2024

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Street and BECERRA-BECERRA JUAN

City, State, ZIP+4 2070 WINSBURG DR

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Postage \$1.01

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City, State, ZIP+4 2245 LONG BOW CHASE NW

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City, State, ZIP+4 2252 LONG BOW CHASE NW

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Postage \$1.01

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Street and ELLIOTT ROBERT E & SUWATTANA K

City, State, ZIP+4 3627 FOXTROT TRL NW

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Postage \$1.01

Total Postage and Fees \$9.96

Sent To Tax Parcel - 20010103880

Street and Apt. N R H PEARSON REVOCABLE TRUST

City, State, ZIP+4 2250 LONG BOW CHASE NW

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☐ Adult Signature Required \$0.00
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Postage \$1.01

Total Postage and Fees \$9.96

Sent To Tax Parcel - 20010103910

Street and PAINTER ROSEANNA M

City, State, ZIP+4 2256 LONG BOW CHASE NW

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☐ Adult Signature Required \$0.00
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Postage \$1.01
Total Postage and Fees \$9.96
Sent To Tax Parcel - 20010103860
Street and Apt. KELSO JOHN DAVID & BETTY LOUISE
City, State, Zip 2246 LONG BOW CHASE NW
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Postage \$1.01
Total Postage and Fees \$9.96
Sent To Tax Parcel - 20010103780
Street and Apt. PERRYMAN WILLIAM D II & LINDA
City, State, Zip 2247 LONG BOW CHASE NW
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☐ Adult Signature Required \$0.00
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Postage \$1.01
Total Postage and Fees \$9.96
Sent To Tax Parcel - 20010103940
Street and Apt. SALSBERY MARK D & SHARON B
City, State, Zip 2262 LONG BOW CHASE NW
KENNESAW GA 30144
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☐ Adult Signature Restricted Delivery \$0.00
Postage \$1.01
Total Postage and Fees \$9.96
Sent To Tax Parcel - 20010103930
Street and Apt. FIELDS PAUL D & FIELDS DONNA S
City, State, Zip 2260 LONG BOW CHASE NW
KENNESAW GA 30144
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☐ Adult Signature Required \$0.00
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Postage \$1.01
Total Postage and Fees \$9.96
Sent To Tax Parcel - 20010103760
Street and Apt. K GRAVES LESLIE K
City, State, Zip 2253 LONG BOW CHASE NW
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Street and Apt. GOSSAGE NOREEN S
City, State, Zip 2251 LONG BOW CHASE NW
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☐ Return Receipt (hardcopy)	\$4.10
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☐ Certified Mail Restricted Delivery	\$0.00
☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00
Postage	\$1.01
Total Postage and Fees	\$9.96

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Street and VICTORIA CROSSING COMMUNITY

City, State, 701 WHITLOCK AVE SUITE K 46

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☐ Return Receipt (electronic)	\$0.00
☐ Certified Mail Restricted Delivery	\$0.00
☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00
Postage	\$1.01
Total Postage and Fees	\$9.96

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Street VICTORIA CROSSING COMMUNITY

City, State, 701 WHITLOCK AVE SUITE K 46

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Official Use

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☐ Return Receipt (hardcopy)	\$4.10
☐ Return Receipt (electronic)	\$0.00
☐ Certified Mail Restricted Delivery	\$0.00
☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00
Postage	\$1.01
Total Postage and Fees	\$9.96

Sent To Tax Parcel - 20010101570

Street 2018 2 IH BORROWER LP

City, State, 1717 MAIN ST STE 2000

DALLAS TX 75201

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Official Use

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Street and PAGAYA SMARTRESI F1 FUND PROPERTY

City, State, OWNER III LLC

1950 E GREYHOUND PASS STE 18-355

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☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00
Postage	\$1.01
Total Postage and Fees	\$9.96

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Street THE RONALD L SULLIVAN REVOCABLE TRUST

City, State, 4507 CLUB HOUSE DR

MARIETTA GA 30066

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☐ Adult Signature Required	\$0.00
☐ Adult Signature Restricted Delivery	\$0.00
Postage	\$1.01
Total Postage and Fees	\$9.96

Sent To Tax Parcel - 20010103900

Street and PEGUES THARROW & GERDA YVETTE

City, State, 2254 LONG BOW CHASE

KENNESAW GA 30142

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☐ Return Receipt (electronic)	\$	\$0.00
☐ Certified Mail Restricted Delivery	\$	\$0.00
☐ Adult Signature Required	\$	\$0.00
☐ Adult Signature Restricted Delivery	\$	\$0.00
Postage	\$1.01	
\$		
Total Postage and Fees	\$9.96	
\$		
Sent To	Tax Parcel - 20010103730	
Street and Apt.	JONES KEVIN L & ROBIN LEE	
City, State, ZIP+4	2265 LONG BOW CHASE NW KENNESAW GA 30144-3552	
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☐ Return Receipt (electronic)	\$	\$0.00
☐ Certified Mail Restricted Delivery	\$	\$0.00
☐ Adult Signature Required	\$	\$0.00
☐ Adult Signature Restricted Delivery	\$	\$0.00
Postage	\$1.01	
\$		
Total Postage and Fees	\$9.96	
\$		
Sent To	Tax Parcel - 20010103740	
Street and Apt.	THE MATTHEW K RICKETTS TRUST	
City, State, ZIP+4	2263 LONG BOW CHSE NW KENNESAW GA 30144	
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☐ Return Receipt (electronic)	\$	\$0.00
☐ Certified Mail Restricted Delivery	\$	\$0.00
☐ Adult Signature Required	\$	\$0.00
☐ Adult Signature Restricted Delivery	\$	\$0.00
Postage	\$1.01	
\$		
Total Postage and Fees	\$9.96	
\$		
Sent To	Tax Parcel - 20010103870	
Street and Apt.	WISE MARK J & KATHLEEN A	
City, State, ZIP+4	2248 LONG BOW CHASE NW KENNESAW GA 30144	
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☐ Return Receipt (electronic)	\$	\$0.00
☐ Certified Mail Restricted Delivery	\$	\$0.00
☐ Adult Signature Required	\$	\$0.00
☐ Adult Signature Restricted Delivery	\$	\$0.00
Postage	\$1.01	
\$		
Total Postage and Fees	\$9.96	
\$		
Sent To	Tax Parcel - 20010103720	
Street and Apt.	WILLIAMS CHARLES MICHAEL	
City, State, ZIP+4	2267 LONG BOW CHASE NW KENNESAW GA 30144	
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☐ Return Receipt (electronic)	\$	\$0.00
☐ Certified Mail Restricted Delivery	\$	\$0.00
☐ Adult Signature Required	\$	\$0.00
☐ Adult Signature Restricted Delivery	\$	\$0.00
Postage	\$1.01	
\$		
Total Postage and Fees	\$9.96	
\$		
Sent To	Tax Parcel - 20010103680	
Street and Apt.	MCELROY JENNIFER L TRUSTEE N & R	
City, State, ZIP+4	KOELZER FAMILY TRUST 2324 BUTTON HEAD RUN NW KENNESAW GA 30144	
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☐ Certified Mail Restricted Delivery	\$	\$0.00
☐ Adult Signature Required	\$	\$0.00
☐ Adult Signature Restricted Delivery	\$	\$0.00
Postage	\$1.01	
\$		
Total Postage and Fees	\$9.96	
\$		
Sent To	Tax Parcel - 20010103670	
Street and Apt.	THE JOHN & ANNA HALL REVOCABLE LIVING	
City, State, ZIP+4	TRUST 2322 BUTTON HEAD RUN NW KENNESAW GA 30144	
PS Form 3800, January 2023 PSN 7530-02-000-9047	See Reverse for Instructions	

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☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Required \$0.00
☐ Adult Signature Restricted Delivery \$0.00
Postage \$1.01
Total Postage and Fees \$9.96

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Postmark Here
AUG 28 2024
09/28/2024
USPS

Sent To Tax Parcel - 20010103710
Street and MACEWEN RALPH M & DEBRA A
City, State, Zip 2269 LONG BOW CHASE NW
KENNESAW GA 30144
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

9589 0710 5270 0560 8906 43

U.S. Postal Service™
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For delivery information, visit our website at www.usps.com®.

Kennesaw GA 30144

Certified Mail Fee \$4.85
\$4.10
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$10.00
☐ Return Receipt (electronic) \$0.00
☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Required \$0.00
☐ Adult Signature Restricted Delivery \$0.00
Postage \$1.01
Total Postage and Fees \$9.96

0257
05
Postmark Here
AUG 28 2024
09/28/2024
USPS

Sent To Tax Parcel - 20010103590
Street and HARRIS JOHN
City, State, Zip 3623 FOXTROT TRL
KENNESAW GA 30144
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

9589 0710 5270 0560 8906 36

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Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$10.00
☐ Return Receipt (electronic) \$0.00
☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Required \$0.00
☐ Adult Signature Restricted Delivery \$0.00
Postage \$1.01
Total Postage and Fees \$9.96

0257
05
Postmark Here
AUG 28 2024
09/28/2024
USPS

Sent To Tax Parcel - 20010103580
Street and Apt. MORROW DARIN J & JODY A
City, State, Zip 3625 FOXTROT TRL
KENNESAW GA 30144
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

9589 0710 5270 0560 8906 67

U.S. Postal Service™
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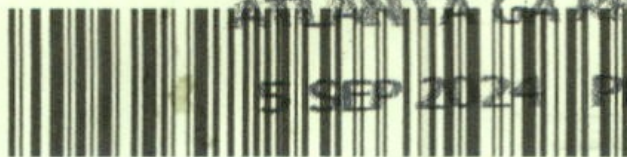
Huntsville AL 35801

Certified Mail Fee \$4.85
\$4.10
Extra Services & Fees (check box, add fee as appropriate)
☐ Return Receipt (hardcopy) \$10.00
☐ Return Receipt (electronic) \$0.00
☐ Certified Mail Restricted Delivery \$0.00
☐ Adult Signature Required \$0.00
☐ Adult Signature Restricted Delivery \$0.00
Postage \$1.01
Total Postage and Fees \$9.96

0257
05
Postmark Here
AUG 28 2024
09/28/2024
USPS

Sent To Tax Parcel - 20010103920
Street and WEBB KELLY ANN & WRIGHT CYNTHIA RENA
City, State, Zip 300 BOB WALLACE AVE SW STE B
HUNTSVILLE AL 35801
PS Form 3800, January 2023 PSN 7530-02-000-9047 See Reverse for Instructions

USPS TRACKING #



ATLANTA GA PDCC 302

5 SEP 2024 PM 10 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 8943 4064 1496 82

Zoning Case # LU2024-03

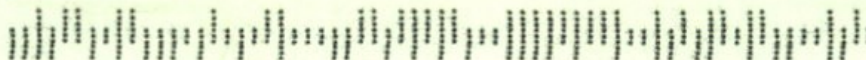
United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

City of Kennesaw Planning & Zoning

2529 J O Stephenson Ave

KENNESAW
Kennesaw, GA 30144



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103900
PEGUES THARROW & GERDA YVETTE
2254 LONG BOW CHASE
KENNESAW GA 30152

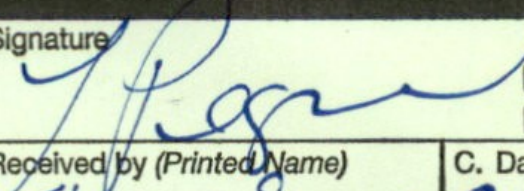


9590 9402 8943 4064 1496 82

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8020 56

COMPLETE THIS SECTION ON DELIVERY

A. Signature  ☐ Agent
X ☐ Addressee

B. Received by (Printed Name) *Tharrow Pegues* C. Date of Delivery *9-3-2024*

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type
- | | |
|--|---|
| ☐ Adult Signature | ☐ Priority Mail Express® |
| ☐ Adult Signature Restricted Delivery | ☐ Registered Mail™ |
| ☒ Certified Mail® | ☐ Registered Mail Restricted Delivery |
| ☐ Certified Mail Restricted Delivery | ☐ Signature Confirmation™ |
| ☐ Collect on Delivery | ☐ Signature Confirmation Restricted Delivery |
| ☐ Collect on Delivery Restricted Delivery | |
| ☐ Insured Mail | |
| ☐ Mail Restricted Delivery (00) | |

USPS TRACKING #



ATLANTA GA RPDC 302

5 SEP 2024 PM 8 L

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USPS
Permit No. G-10

9590 9402 8943 4064 1541 29

Zoning Case# LU2024-03

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

RECEIVED

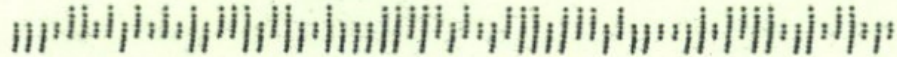
CITY OF Kennesaw Planning Zoning

2529 Jo Stephenson Ave

SEP 5 2024
KENNESAW, GA

30144

CITY OF KENNESAW



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103890
 SCHIVAL JOSEPH A & PATRICIA
 2252 LONG BOW CHASE NW
 KENNESAW GA 30144



9590 9402 8943 4064 1541 29

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8019 36

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

JOSEPH A. SCHIVAL

☐ Agent

☒ Addressee

C. Date of Delivery

9-3-24

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Mail

Mail Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

USPS TRACKING #



9590 9402 8943 4064 1541 81

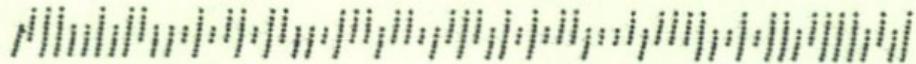
United States
Postal Service

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

Zoning Case# LU2024-03

• Sender: Please print your name, address, and ZIP+4® in this box•

City of Kennesaw Planning + Zoning
2529 JO Stephenson Ave
Kennesaw, GA 30144



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103730

JONES KEVIN L & ROBIN LEE
2265 LONG BOW CHASE NW
KENNESAW GA 30144-3552



9590 9402 8943 4064 1541 81

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8020 87

PS Form 3811, July 2020 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Robin L. Jones*

☐ Agent

☒ Addressee

B. Received by (Printed Name)

Robin L. Jones

C. Date of Delivery

9-1-24

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☒ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Insured Mail

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Mail Restricted Delivery (00)

Domestic Return Receipt

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ATLANTA GA RPDC 302

4 SEP 2024 PM 8 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 8943 4064 1541 50

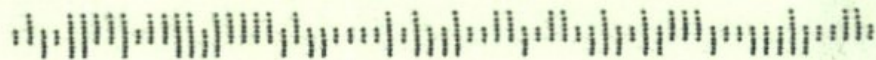
United States
Postal Service

Zoning Case # LU2024-03

• Sender: Please print your name, address, and ZIP+4® in this box•

RECEIVED
CITY OF Kennesaw Planning & Zoning
2529 JO Stephenson Ave
Kennesaw, GA 30144
CITY OF KENNESAW

-278029



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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103870
WISE MARK J & KATHLEEN A
2248 LONG BOW CHASE NW
KENNESAW GA 30144



9590 9402 8943 4064 1541 50

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8020 18

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

MARK WISE

☐ Agent

☒ Addressee

C. Date of Delivery

9/3/24

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☒ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Mail
Mail Restricted Delivery
(00)

USPS TRACKING #

ATLANTA GA RPDC 302

31 AUG 2024 PM 1 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

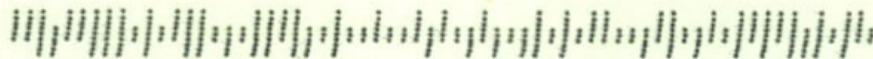
9590 9402 8943 4084 1495 83

United States
Postal Service

Zoning Case# LU2024-03

• Sender: Please print your name, address, and ZIP+4® in this box•

City of Kennesaw Planning & Zoning
2529 Stephens Ave
Kennesaw, GA 30144



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103950

THE RONALD L SULLIVAN REVOCABLE TRUST
4507 CLUB HOUSE DR
MARIETTA GA 30066



9590 9402 8943 4064 1495 83

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8020 01

COMPLETE THIS SECTION ON DELIVERY**A. Signature****X**☐ Agent☐ Addressee**B. Received by (Printed Name)****C. Date of Delivery**

- D. Is delivery address different from item 1?** ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery

☒ Certified Mail®☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ Insured Mail☐ Mail Restricted Delivery (00)☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

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BIRMINGHAM AL 350

3 SEP 2024 PM 4 L



First-Class Mail
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USPS
Permit No. G-10

9590 9402 8943 4064 1541 05

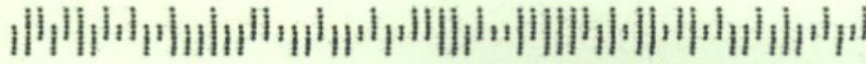
Zoning Case # LU2024-03

United States
Postal Service

• Sender: Please print your name (address, and ZIP+4® in this box) •

RECEIVED
SEP 10 2024
CITY OF KENNESAW

*CITY OF Kennesaw Planning + Zoning
2529 Jo Stephenson Ave
KENNESAW, GA 30144*



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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103920

WEBB KELLY ANN & WRIGHT CYNTHIA RENA
300 BOB WALLACE AVE SW STE B
HUNTSVILLE AL 35801



9590 9402 8943 4064 1541 05

2. Article Number (Transfer from service label)

9589 0710 5270 0560 8906 67

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

[Handwritten Signature]

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Cynthia Wright

C. Date of Delivery

9/3/21

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation

Restricted Delivery

Mail

Mail Restricted Delivery

(over \$500)

PS Form 3811, July 2020 PSN 7530-02-000-9053

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3 SEP 2024 PM 7 L

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USPS
Permit No. G-10

9590 9402 8943 4064 1496 75

Zoning Case# LU2024-03

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

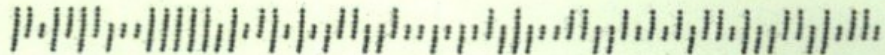
RECEIVED

City of Kennesaw Planning + Zoning
2529 J D Stephenson Ave

SE Kennesaw, GA 30144

CITY OF KENNESAW

4-278029



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103760

GRAVES LESLIE K
2253 LONG BOW CHASE NW
KENNESAW GA 30144



9590 9402 8943 4064 1496 75

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8019 50

COMPLETE THIS SECTION ON DELIVERY

A. Signature

x *Leslie Graves*

- ☐ Agent
☒ Addressee

B. Received by (Printed Name)

LESLIE GRAVES

C. Date of Delivery

8/31/24

D. Is delivery address different from item 1?

If YES, enter delivery address below:

- ☐ Yes
☒ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Mail
Mail Restricted Delivery
(00)

PS Form 3811, July 2020 PSN 7530-02-000-9053

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ATLANTA GA RPDC 302

3 SEP 2024 PM 4 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 8943 4064 1496 99

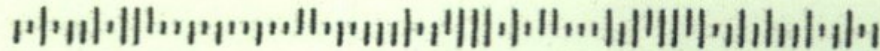
ZONING CASE# LU2024-03

United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

RECEIVED
City of Kennesaw Planning & Zoning
2529 J O Stephenson Ave
Kennesaw, GA 30144

CITY OF KENNESAW



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103680

MCELROY JENNIFER L TRUSTEE N & R
KOELZER FAMILY TRUST
2324 BUTTON HEAD RUN NW
KENNESAW GA 30144



9590 9402 8943 4064 1496 99

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8020 49

COMPLETE THIS SECTION ON DELIVERY**A. Signature**☒ X

Nancy Koelzer

☐ Agent☒ Addressee**B. Received by (Printed Name)**

NANCY KOELZER

C. Date of Delivery

8/31/2021

- D. Is delivery address different from item 1?** ☐ Yes
If YES, enter delivery address below: ☒ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

Mail
Mail Restricted Delivery
(0)

USPS TRACKING#

ATLANTA GA RPDC 302

3 SEP 2024 PM 3 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

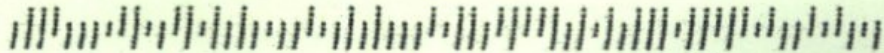
9590 9402 8943 4064 1542 42

United States
Postal Service

Zoning Case# LU2024-03

Sender: Please print your name, address, and ZIP+4® in this box*

RECEIVED
CITY OF Kennesaw Planning + Zoning
2529 I o Stephenson Ave
SEP 8 2024
Kennesaw, GA 30144
CITY OF KENNESAW



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103910

PAINTER ROSEANNA M
2256 LONG BOW CHASE NW
KENNESAW GA 30144



9590 9402 8943 4064 1542 42

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8018 75

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Roseanna M Painter*

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Roseanna M Painter

C. Date of Delivery

9/1/2024

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☒ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Mail

Mail Restricted Delivery

10)

PS Form 3811, July 2020 PSN 7530-02-000-9053

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USPS TRACKING#

ATLANTA GA RPDC 302

3 SEP 2024 PM 1 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 8943 4064 1541 36

United States
Postal Service

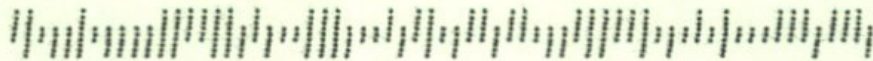
Zoning Case # LU2024-03

Sender: Please print your name, address, and ZIP+4® in this box*

City of Kennesaw Planning + Zoning

2529 J. O. Stephenson Ave

CITY OF KENNESAW
Kennesaw, GA 30144



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103670

THE JOHN & ANNA HALL REVOCABLE LIVING TRUST

2322 BUTTON HEAD RUN NW
KENNESAW GA 30144



9590 9402 8943 4064 1541 36

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8020 25

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below:

☐ Agent

☒ Addressee

C. Date of Delivery

8-31-2024

☐ No

☒ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

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Mail Restricted Delivery

500)

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USPS TRACKING #

ATLANTA GA RPDC 302

3 SEP 2024 PM 1 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

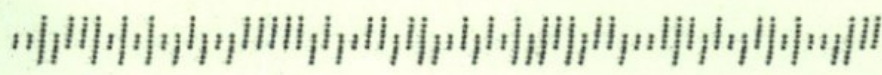
9590 9402 8943 4064 1495 90

Zoning Case # LU2024-03

United States
Postal Service

Sender: Please print your name, address, and ZIP+4® in this box*

RECEIVED
City of Kennesaw Planning + Zoning
2529 J O Stephenson Ave
05 2024
Kennesaw, GA 30144
CITY KENNESAW



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103930
 FIELDS PAUL D & FIELDS DONNA S
 2260 LONG BOW CHASE NW
 KENNESAW GA 30144



9590 9402 8943 4064 1495 90

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8019 81

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Paul D. Fields*

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Paul D. Fields

C. Date of Delivery

9/3/2024

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below:

☒ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

Mail

Mail Restricted Delivery

00)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

USPS TRACKING#

ATLANTA GA RPDC 302



3 SEP 2024 PM 3 L

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 8943 4064 1496 06

Zoning Case# LU2024-03

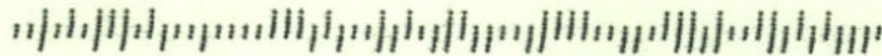
United States
Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

RECEIVED

City of Kennesaw Planning & Zoning
2529 JO Stephenson Ave
SEP 25 2024
Kennesaw, GA 30144
CITY OF KENNESAW

-278029



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103940

SALSBERRY MARK D & SHARON B
2262 LONG BOW CHASE NW
KENNESAW GA 30144



9590 9402 8943 4064 1496 06

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8019 98

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

B. Received by (Printed Name)

Mark Salsberry

☐ Agent

☒ Addressee

C. Date of Delivery

8/31/24

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below:

☒ No

3. Service Type

☐ Adult Signature

☐ Adult Signature Restricted Delivery

☒ Certified Mail®

☐ Certified Mail Restricted Delivery

☐ Collect on Delivery

☐ Collect on Delivery Restricted Delivery

☐ Priority Mail Express®

☐ Registered Mail™

☐ Registered Mail Restricted Delivery

☐ Signature Confirmation™

☐ Signature Confirmation Restricted Delivery

all

all Restricted Delivery

(over \$500)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

USPS TRACKING #



ATLANTA, GA RPDC 302

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United States
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First-Class Mail
Postage & Fees Paid
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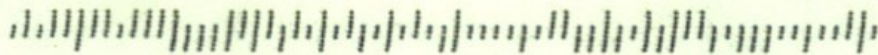
Zoning Case # LU2024-03

• Sender: Please print your name, address, and ZIP+4® in this box•

City of Kennesaw Planning & Zoning
2529 J O Stephenson Ave

SEP 05 2024
Kennesaw, GA 30144

CITY OF KENNESAW



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Tax Parcel - 20010103770
GOSSAGE NOREEN S
2251 LONG BOW CHASE NW
KENNESAW GA 30144



9590 9402 8943 4064 1496 20

2. Article Number (Transfer from service label)

9589 0710 5270 2024 8019 67

COMPLETE THIS SECTION ON DELIVERY**A. Signature**

Noreen S Gossage

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

NOREEN S GOSSAGE

C. Date of Delivery

- D. Is delivery address different from item 1?** ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Mail
Mail Restricted Delivery
(30)

USPS TRACKING #

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United States
Postal Service

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

RECEIVED

SEP 2024

9590 9402 8943 4064 37

• Sender: Please print your name, address, and ZIP+4® in this box•

CITY OF KENNESAW
City of Kennesaw Planning & Zoning
2529 JO Stephenson Ave
Kennesaw, GA 30144

Zoning Case # LU 2024-03

USPS TRACKING #

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United States
Postal Service

First-Class Mail
Postage & Fees Paid
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Permit No. G-10

RECEIVED

SEP 2024

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• Sender: Please print your name, address, and ZIP+4® in this box•

CITY OF KENNESAW
City of Kennesaw Planning & Zoning
2529 JO Stephenson Ave
Kennesaw, GA 30144

Zoning Case # LU 2024-03

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature ☒ Agent ☐ Addressee	
1. Article Addressed to: Tax Parcel - 20010101570 2018 2 IH BORROWER LP 1717 MAIN ST STE 2000 AS TX 75201  9590 9402 8943 4064 1496 37		B. Received by (Printed Name) _____ C. Date of Delivery <u>9/5/24</u>	
2. Article Number (Transfer from service label) 9589 0710 5270 2024 8018 99		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature ☒ Agent ☒ Addressee	
1. Article Addressed to: Tax Parcel - 20010103860 KELSO JOHN DAVID & BETTY LOUISE 2246 LONG BOW CHASE NW KENNESAW GA 30144 		B. Received by (Printed Name) <u>John Kelso</u> C. Date of Delivery _____	
		D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No	
		3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☒ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery	

**MINUTES OF PLANNING COMMISSION MEETING
CITY OF KENNESAW
Council Chambers
(2529 J.O. Stephenson Avenue, Kennesaw, GA 30144)
October 2, 2024
6:30 PM**

1. Call to Order / Roll Call

The meeting was called to order by Vice Chair Bodenhamer at 6:33 p.m.

Roll Call: Commissioner Ragus, Commissioner Patterson, Commissioner Greenall, and Commissioner Trim

Absent: Commissioner Vande Zande and Commissioner Jackson

Staff Present: Darryl Simmons (Planning & Zoning Administrator), Chanelle Campbell (Assistant Zoning Administrator & City Planner), and Rebecca Goldstein (Community Development Administrative Assistant)

2. 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. The meeting may be accessed using the following link: <https://www.kennesaw-ga.gov/publicmeetings/>. If you would like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 p.m. the night of the regular meeting. Your comment will be read aloud or grouped into categories for the record. All interested parties may attend the meeting in person with limited seating available at the City Hall Council Chambers and the Ben Robertson Community Center, if needed. Please note that the Planning Commission serves as an advisory board that makes recommendations to the Mayor and Council unless otherwise noted.
- B. Pending zoning applications may be viewed on an interactive map via the Planning & Zoning webpage or using the following link: <https://arcg.is/1q1ubX0>.
- C. New business items on this agenda will be heard by the Mayor and Council on October 21, 2024.

3. Approval of the Meeting Minutes

- A. Approval of Meeting Minutes: August 7, 2024

Vice Chair Bodenhamer called for a motion.

Motion to approve by Commissioner Trim

Seconded by Commissioner Greenall

Vice Chair Bodenhamer proceeded with a roll call for approval.

Vote taken. Commissioner Ragus and Commissioner Greenall abstained. Commissioner Patterson, Commissioner Trim, and Vice Chair Bodenhamer voted in favor. Motion unanimously approved 3-0. Motion carried.

4. New Business

- A. LU2024-03 - Consideration for approval of a land use request located at 2255 Long Bow Chase submitted by Nancy Lesser. Said request is to obtain a home occupation business license to create sublimation tumblers and decor to sell. Property is zoned Planned Unit Development - Residential (PUD-R), consists of 0.25 +/- acres and lies in land lot 101 tax parcel 375.

Ms. Chanelle Campbell introduced this agenda item. This is a land use permit application submitted by Nancy Lesser, who is the owner of the property located at 2255 Long Bow Chase. The property is currently zoned Planned Unit Development - Residential with a Senior Living Overlay. She is interested in obtaining a Home Occupational License to create and sell sublimation tumblers and home decor.

All the required public notice procedures were completed, including the placement of a public notice sign on the property and advertising in the Marietta Daily Journal on September 13.

The applicant plans to utilize the office space on the main floor and the basement in her home to store, prepare, and package the items including tumblers and home decor. Equipment will include a heat press, tumbler press, and sublimation printer. Items will be sold online and at craft shows in the area. Staff believes the requested use is very low in commercial intensity as the use will be contained within an enclosed building space. It should not cause nuisance to the adjacent neighboring properties as there will be no indication of a commercial business such as foot traffic from clients or customers. There will be no signage, or external display of products. Staff received the correspondence from the Victoria Crossing HOA approving the creation and selling of items online and at craft stores as petitioned by the applicant. Images were shown to display examples of the types of products the applicant would be making, including tumblers and home decor.

Staff recommended approval with the following conditions:

1. The land use permit is valid for 24-months starting from the date of final approval
2. The land use permit is limited to the current applicant, this use and business, and is not transferable. Any changes would require additional review and approval.
3. 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 right-of-way including no signage and no more than one commercial vehicle dedicated to the business.

Staff stated the applicant was present to answer any additional questions from the Commissioners. Vice Chair Bodenhamer asked the applicant if she would like to speak. The applicant declined.

Vice Chair Bodenhamer opened the floor for public comment. Given no response, he closed the floor for public comment and opened the floor to Commissioner comments.

Commissioner Trim asked staff if the condition stating that there shall be no employees affects the applicant as the business owner. Ms. Campbell explained that per the City's ordinance, the individual running the business is the only one at the business but outside of the owner, there shall be no additional employees.

Given no additional comments from the Commissioners, Vice Chair Bodenhamer closed the floor for Commissioner comments.

Vice Chair Bodenhamer entertained a motion to approve with conditions.

Vice Chair Bodenhamer called for a motion.

Motion to approve with conditions by Commissioner Greenall

Seconded by Commissioner Patterson

Vice Chair Bodenhamer proceeded with a verbal vote for approval.

Vote taken, motion unanimously approved 4-0. Motion carried.

5. Staff Comment

Mr. Darryl Simmons, on behalf of staff, solicited Commissioner interest in additional educational opportunities for the remainder of 2024. Mr. Simmons then thanked the Commissioners for their support and expressed that he looks forward to continue working with the Commissioners.

6. Adjourn

Vice Chair Bodenhamer called for a motion to adjourn.

Motion to adjourn by Commissioner Trim

Seconded by Commissioner Greenall

Vice Chair Bodenhamer adjourned the meeting at 6:42 p.m.



Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: October 21, 2024

TITLE: **Minutes: September 30, 2024 Work Session**
Approval of the September 30, 2024, City Council work session minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. 2024-09-30 City Council Work Session Minutes - DRAFT

**MINUTES OF CITY COUNCIL WORK SESSION MEETING
CITY OF KENNESAW
Council Chambers
(2529 J.O. Stephenson Avenue, Kennesaw, GA 30144)**

Livestream: <https://www.facebook.com/CityofKennesaw/>
**September 30, 2024
6:30 PM**

Present	Mayor Derek Easterling Mayor Pro Tem Antonio Jones Councilmember Madelyn Orochena Councilmember Tracey Viars Councilmember Pat Ferris Councilmember Anthony Gutierrez City Clerk Lea Alvarez City Manager Jeff Drobney Assistant City Attorney Sam Hensley, Jr.
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1. Invocation

2. Pledge of Allegiance

3. Call to Order

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

4. Announcements

- A. Starting with the October 14 City Council Work Session, we will no longer be streaming meetings via Facebook Live. To watch a meeting live or to view a recording after the meeting, please visit the Public Meeting Portal on the City website at www.kennesaw-ga.gov/publicmeetings/.
- 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. Old Business

7. New Business

A. Update Only: Realignment of McCollum Parkway

Update provided by the Cobb County Department of Transportation regarding the realignment of McCollum Parkway.

Cobb County Department of Transportation Director Drew Raessler provided an update on the proposed realignment of McCollum Parkway. Initially, Cobb County was looking at expanding the safety zone for the airport. Mr. Raessler explained that the runway is as long as it is going to be, but in terms of how the pilots have to calculate their landing, they have to account for some error on the backside. The safety zone gives them the opportunity to have some wiggle room and not have a roadway immediately adjacent to the runway route.

Mr. Raessler stated that what his team found is that if they extended that safety zone, eliminated some of Old Highway 41 and McCollum Parkway, and rerouted those roadways, it would ultimately come at the expense of greater traffic congestion. In looking at the County's obligations to the airport and the Federal Aviation Administration, they are not obligated to make those improvements unless it was a win-win situation where both traffic is relieved and the safety zone is expanded.

Recognizing from the analysis that the two outcomes are mutually exclusive, Cobb County Department of Transportation is now leaning into the traffic congestion piece.

Mr. Raessler pointed out that all the concepts that will be presented will maintain the traffic connectivity between McCollum Parkway and Old 41 Highway, but they do realign some of those roadway connections. He finished by emphasizing that Cobb Parkway is at capacity. Independent of this project, Cobb Parkway does need to be six lanes based on the traffic projections seen today. The question at hand is, are these alternatives complimentary to that need? More so, can these alternatives help to increase the east-west capacity while the County looks to the Georgia Department of Transportation to assist with north-south capacity along Cobb Parkway.

Mr. Raessler reiterated that the alternatives provided are high-level conceptual. He introduced Robinson Nicol of Atas, who then walked the Council through the various conceptual alternatives [See **Exhibit A**].

Based on some concerns voiced by Councilmember Ferris about cutting off connectivity from downtown Kennesaw, Mr. Raessler clarified that South Main Street and Old 41 Highway will remain. Councilmember Viars confirmed that this project has transitioned from an airport expansion project to a traffic management project. Mr. Raessler responded that Councilmember Viars was correct.

Councilmember Ferris asked about funding for the project. Mr. Raessler responded that with a project this size, it would be a multi-funded project with dollars coming from the State as well as County SPLOSTs.

In November, there will be a public outreach meeting to obtain input on goals, needs, and improvement opportunities. The date is to be determined at this time, but it will be held in the Ben Robertson Community Center.

8. Committee and Board Reports

9. Public Hearing(s)

10. Consent Agenda

A. Minutes: September 9, 2024 Work Session

Approval of the September 9, 2024, City Council work session minutes.

B. Minutes: September 16, 2024 Regular Meeting

Approval of the September 16, 2024, City Council regular meeting minutes.

11. General and Administrative

A. Discussion Only: Short Term Rentals Ordinance

Consideration of an ordinance to amend Chapter 22, "Businesses," of the Kennesaw Code of Ordinances.

Business License Manager LaMaya Edmonds provided a brief overview of a proposed ordinance to amend Chapter 22, titled "Businesses," addressing short-term rentals. Ms. Edmonds shared that staff tried to develop a comprehensive framework that aims to regulate and balance the benefits and challenges of introducing short-term rental regulations. Representatives from varying departments, including Planning and Zoning, Building Services, Code Enforcement and the Business License Division, drafted the ordinance. Overall, the essence of the ordinance is to establish consistency in how the short-term rentals are licensed and operated, to minimize potential adverse effects on residential areas, and to ensure short-term rentals operate within the framework of our existing zoning and building safety standards.

Councilmember Ferris clarified the definition of short-term rentals, which are not to exceed 30 days, and that if someone wanted to rent a house for three to six months, that would fall into a general long-term rental. Ms. Edmonds responded that he was correct. Mr. Ferris wondered if there was a provision in place that prevented an individual from renting for 29 days, checking out for one day, and then renting the space again for an additional 29 days. Ms. Edmonds said the ordinance does not address that concern currently, but that staff could look into it further.

Mayor Pro Tem Jones asked whether the 150 short-term rental cap is per year or in total. Ms. Edmonds stated it would be 150 licenses issued in total, which would create a waitlist. She stated the Business License division will have to play this all by ear because they do not know the demand for it yet. The 500-foot buffer was also discussed, which was included in the ordinance to protect the integrity of the City's residential neighborhoods. The number of licenses per year was calculated with the buffer in mind to prevent clustering and to more evenly distribute this type of use throughout the city.

Dr. Drobney clarified that the ordinance is for short-term rentals like VRBO and Airbnb, not long-term, extended leases. This type of rental would be applicable to someone

coming into the city to visit their child or family for a week or two weeks. The City is looking for some ability to regulate this type of use and have some oversight.

Councilmember Ferris asked whether someone would be eligible to rent out a room in a townhouse. Zoning Administrator Darryl Simmons stated the ordinance was restricted to R zoning districts only. If there is a demand, staff can always revisit that portion of the ordinance. The city is looking to regulate what it already has and see what works. Staff did not want to open up too many zoning districts.

Councilmember Orochena mentioned that she did not see it listed that the agent had to be over the age of 18. She would like for it to be included.

B. Alcohol License: Amigos Food Mart

Consideration for approval of an Alcohol License for Beer, Wine, and Sunday Sales for OMSKY7893 INC d/b/a Amigos Food Mart located at 2851 Cobb Pkwy NW Kennesaw, GA 30152. Applicant: Sangitaben Patel

Ms. Edmonds presented an alcohol license for beer, wine, and Sunday Sales for OMSKY7893 INC d/b/a Amigos Food Mart located at 2851 Cobb Parkway. The applicant has completed the required alcohol workshop, signs have been posted, the application has been properly advertised, and a background check is on file.

C. Alcohol License: Cigar Gallery Club

Consideration for approval of an Alcohol License for Beer, Wine, Liquor and Sunday Sales for Cigar Gallery Club LLC d/b/a Cigar Gallery Club located at 3600 Cherokee St NW, Suite 102 Kennesaw, GA 30144. Applicant: Victor Rodriguez

Ms. Edmonds approved an alcohol license for beer, wine, liquor, and Sunday sales for Cigar Gallery Club LLC d/b/a Cigar Gallery Club located at 3600 Cherokee Street NW, Suite 102, Kennesaw, GA. The applicant has completed the required alcohol workshop, signs have been posted, the application has been properly advertised, and a background check is on file.

12. Public Safety

A. Crime Statistics: August 2024

Captain Ricky Shumpert reviewed the August 2024 crime statistics [See **Exhibit B**].

13. Information Technology

14. Public Works and Building Maintenance

A. Resolution: 3238 Cherokee Street and 3248 Cherokee Street ROW and Property Acquisition

Consideration to approve a resolution to acquire the Right of Way, Permanent Easement and Temporary Easements from 3238 Cherokee Street and 3248 Cherokee Street (Parcels 23, 24 and 25) needed for the Cherokee Street Improvement Project

Public Works Director Ricky Stewart presented a resolution to purchase the right of way and temporary construction and driveway easements from 3238 Cherokee Street and 3248 Cherokee Street (Parcels 23, 24, and 25) needed for the Cherokee Street Improvement Project. The total settlement sum is \$710,000.

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

B. Purchase Authorization: Vehicles for Public Works, Building Maintenance, Parks and Recreation, and Police

Consideration to authorize purchase of vehicles approved in the Fiscal Year 2025 budget.

Mr. Stewart requested authorization to purchase vehicles approved in the fiscal year 2025 budget for Public Works, Building Maintenance, Parks and Recreation, and the Police Department.

Mayor Pro Tem Jones thought the Police Department was going to purchase the hybrid Mavericks. Mr. Stewart stated that the way the city is splitting up its fleet is that Public Works is responsible for purchasing all vehicles except pursuit vehicles. As far as the hybrids, the Mavericks listed in the item are available for purchase immediately, which will be done with ARPA funds that must be used by the end of the year. There were not any hybrid vehicles available for immediate purchase.

Mayor Easterling asked to move the item to the Consent Agenda for the regular meeting. Mayor Pro Tem Jones objected. The item will stay where it is on the agenda.

15. Recreation and Culture

16. Community Development

17. Public Comments

18. City Manager's Report

A. Reports, Discussions, and Updates

Dr. Drobney announced that the Braves were going to the playoffs. He also thanked city staff for their preparation before and hard work following Hurricane Helene. Dr. Drobney is grateful we did not receive a direct hit, but reminded everyone to keep Augusta and Valdosta in their thoughts as those cities are truly devastated.

19. 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.

20. Council Reports & Discussions

21. 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.

Motion by Councilmember Gutierrez to enter into Executive Session as allowed by O.C.G.A § 50-14-3 for the purpose of discussing land. Motion seconded by Councilmember Viars. Vote taken, motion unanimously approved 5-0. Motion passed.

7:40 p.m. Recess to Executive Session

The Mayor, City Council, City Manager, City Clerk, Economic Development Director, and Assistant City Attorney attended the Executive Session.

7:49 p.m. Reconvene to Open Session

Councilmember Gutierrez read the Council back into Open Session and directed the Mayor and City Council to execute an affidavit in compliance with O.C.G.A § 50-14-4. Motion seconded by Councilmember Viars. Vote taken, motion unanimously approved 5-0. Motion passed.

22. Adjourn

Mayor Easterling adjourned the meeting at 7:50 p.m. The next regular meeting will be held on Monday, October 7, 2024, at 6:30 p.m. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.

Lea Alvarez, City Clerk

September 30, 2024

COBB PARKWAY/McCOLLUM PKWY REALIGNMENT SCOPING STUDY

Kennesaw City Council Work Session



AGENDA

- ❖ Project goals
- ❖ Study approach
- ❖ Stakeholder and Public Involvement Update
- ❖ Alternatives Analysis
 - ❖ Concept Layout
 - ❖ Traffic Analysis Results
 - ❖ Preliminary Order Of Magnitude Cost Estimate
 - ❖ Benefit Cost Ratio
- ❖ Alternatives Summary
- ❖ Project Schedule
- ❖ Questions and Closing



PROJECT GOALS

Understand and analyze traffic patterns

Promote the involvement of all stakeholders in the study area

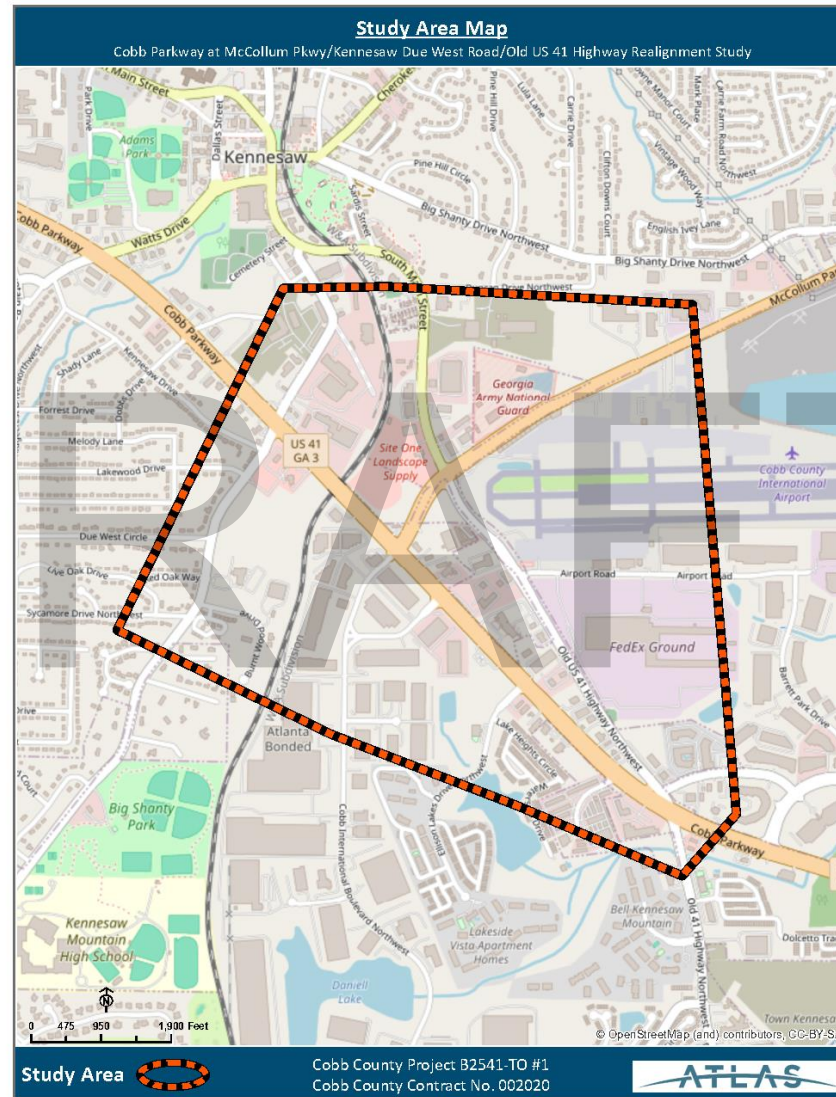
Develop three conceptual alternatives

Select a preferred alternative

Evaluate relative cost, feasibility, and constructability of alternative alignments and sections in logical phases or segments.



STUDY AREA



STUDY APPROACH

TASKS	<i>Address Goals</i>
Stakeholder and Public Engagement	Utilize Stakeholder and Public Engagement strategy to promote the involvement of stakeholders in the study area
Technical Analysis	Analyze traffic patterns to understand the key issues
Alternative Analysis and Concept Plan Development	- Develop and evaluate three alternatives for traffic, bike, ped, transit, utility, ROW, and economic impacts - Select a Preferred Alternative based on cost, feasibility, and constructability of improvements



STAKEHOLDER AND PUBLIC OUTREACH

- ❖ Stakeholders - GDOT, Cobb DOT, City of Kennesaw, citizens, & business owners
- ❖ Three stakeholder meetings held to obtain input on goals, alternatives, analysis, and overall findings – 03/21/2023, 06/27/2023, and 07/31/2024
- ❖ Public Meeting # 1 – May 11, 2023
 - ❖ Obtained feedback on goals, needs, and improvement opportunities
 - ❖ 42 members of the public
 - ❖ 10 staff members from the City of Kennesaw and Cobb County
 - ❖ JoAnn Birrell, County Commissioner, District 3
 - ❖ Pat Ferris, City of Kennesaw Council Post 3
- ❖ Public Meeting # 2 (Final meeting) – Tentatively scheduled for November 12, 2024, at Ben Roberts Community Center

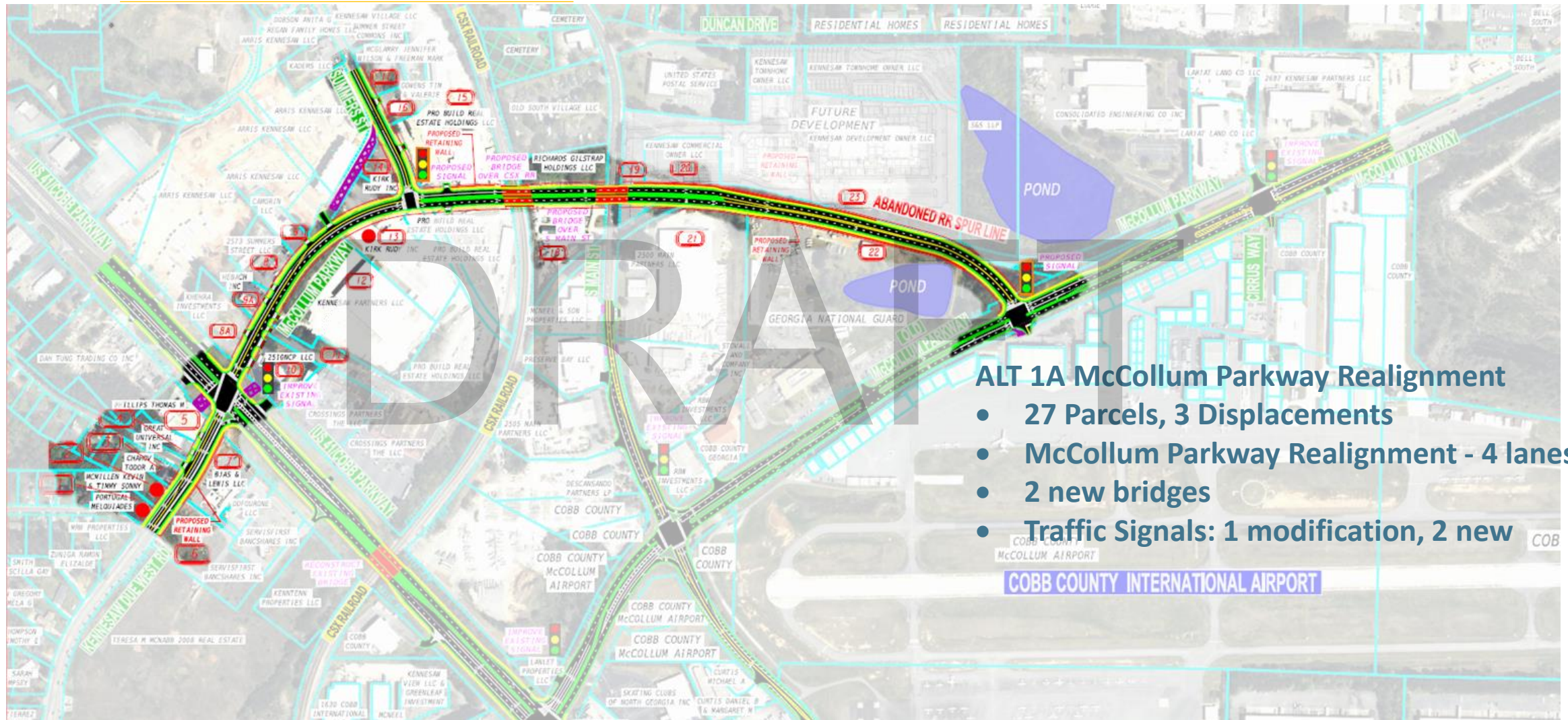


Alternative 1A

DRAFT



Alternative 1A – Concept Layout

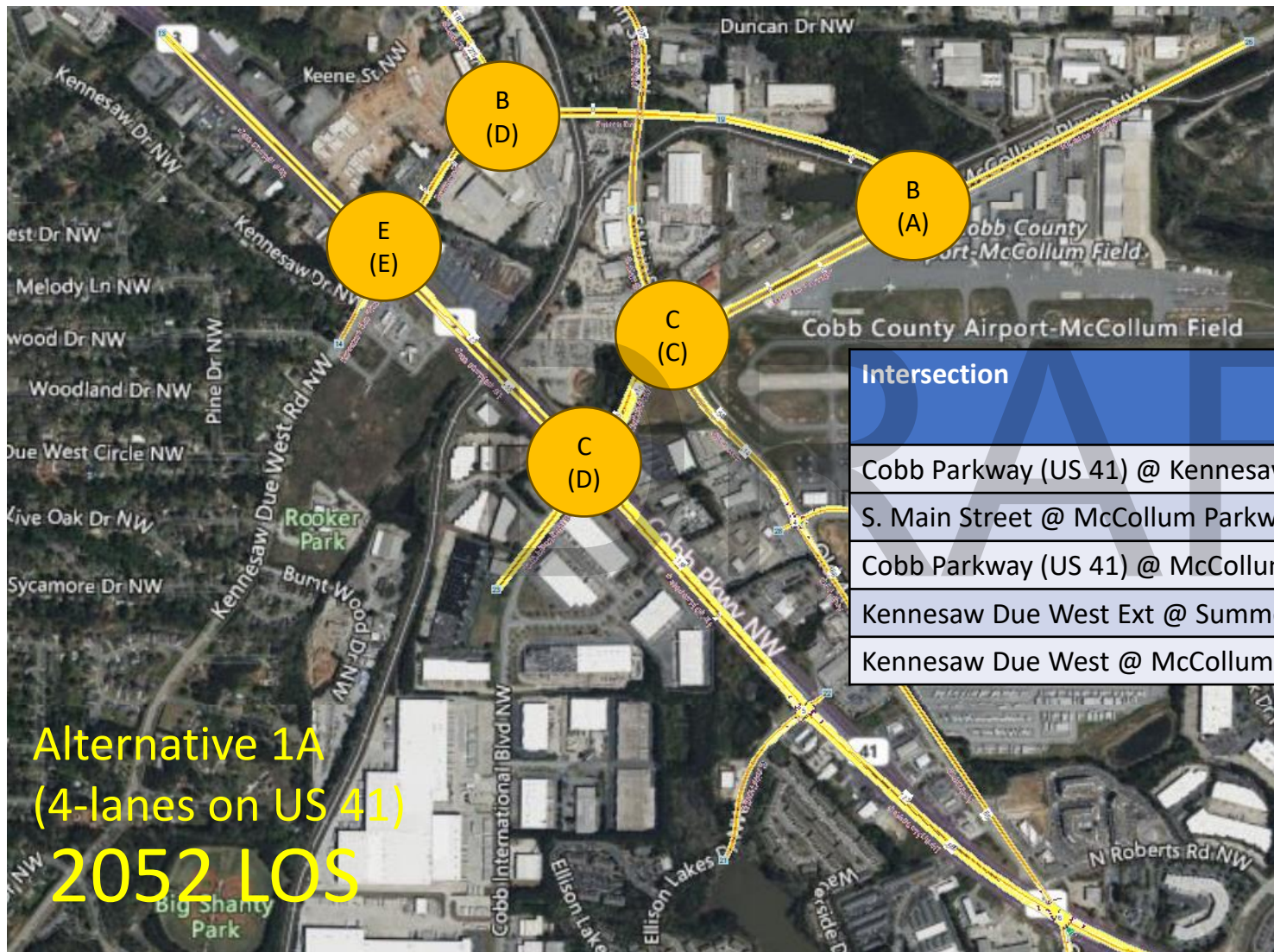


ALT 1A McCollum Parkway Realignment

- 27 Parcels, 3 Displacements
- McCollum Parkway Realignment - 4 lanes
- 2 new bridges
- Traffic Signals: 1 modification, 2 new

COBB COUNTY INTERNATIONAL AIRPORT





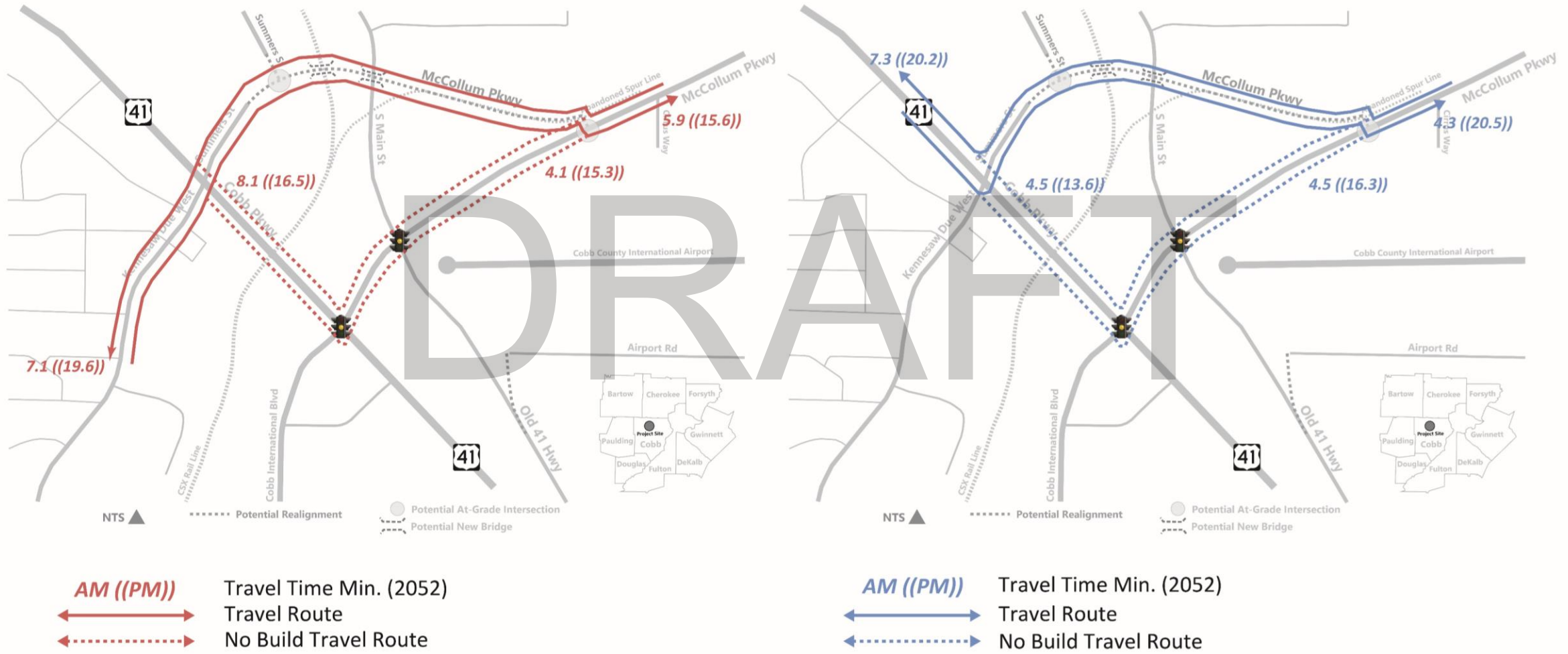
4-Lane Option

Intersection	2052 LOS (DELAY, s)		No-Build	
	AM	PM	AM	PM
Cobb Parkway (US 41) @ Kennesaw Due West	E (58.1)	E (68.5)	F (170.1)	F (83.4)
S. Main Street @ McCollum Parkway	C (25.2)	C (32.6)	D (36.0)	E (55.5)
Cobb Parkway (US 41) @ McCollum Parkway	C (21.2)	D (47.8)	C (25.4)	F (103.3)
Kennesaw Due West Ext @ Summers St	B (15.2)	D (45.2)	n/a	n/a
Kennesaw Due West @ McCollum Pkwy	B (10.8)	A (8.2)	n/a	n/a

Alternative 1A – Synchro Results



Alternative 1A – VISSIM Travel Time Results



Alternative 1A – Cost Estimate

	McCollum Parkway Realignment
Construction Cost	\$16,458,856.64
<i>Constr Contingency 15%</i>	<i>\$ 2,468,828.50</i>
R/W Cost	\$ 12,237,000.00 (27 Parcels, 3 Displacements)
Utility Cost	\$ 1,070,000.00
PE Cost	\$ 1,645,885.66
Total	\$ 33,880,570.80



Alternative 1A – Benefit Cost Ratio

McCollum Parkway Realignment B/C Ratio		
Design Life Operational Benefit	\$2,989,465	Weight=100%
Design Life Safety Benefit	\$0	Weight=0%
Total Weighted Benefit	\$2,989,465	
Design Life Operational Cost	\$33,880,571	Weight=100%
Design Life Safety Cost	\$0	Weight=0%
Total Weighted Cost	\$33,880,571	
Project Benefit-Cost Ratio	0.09	

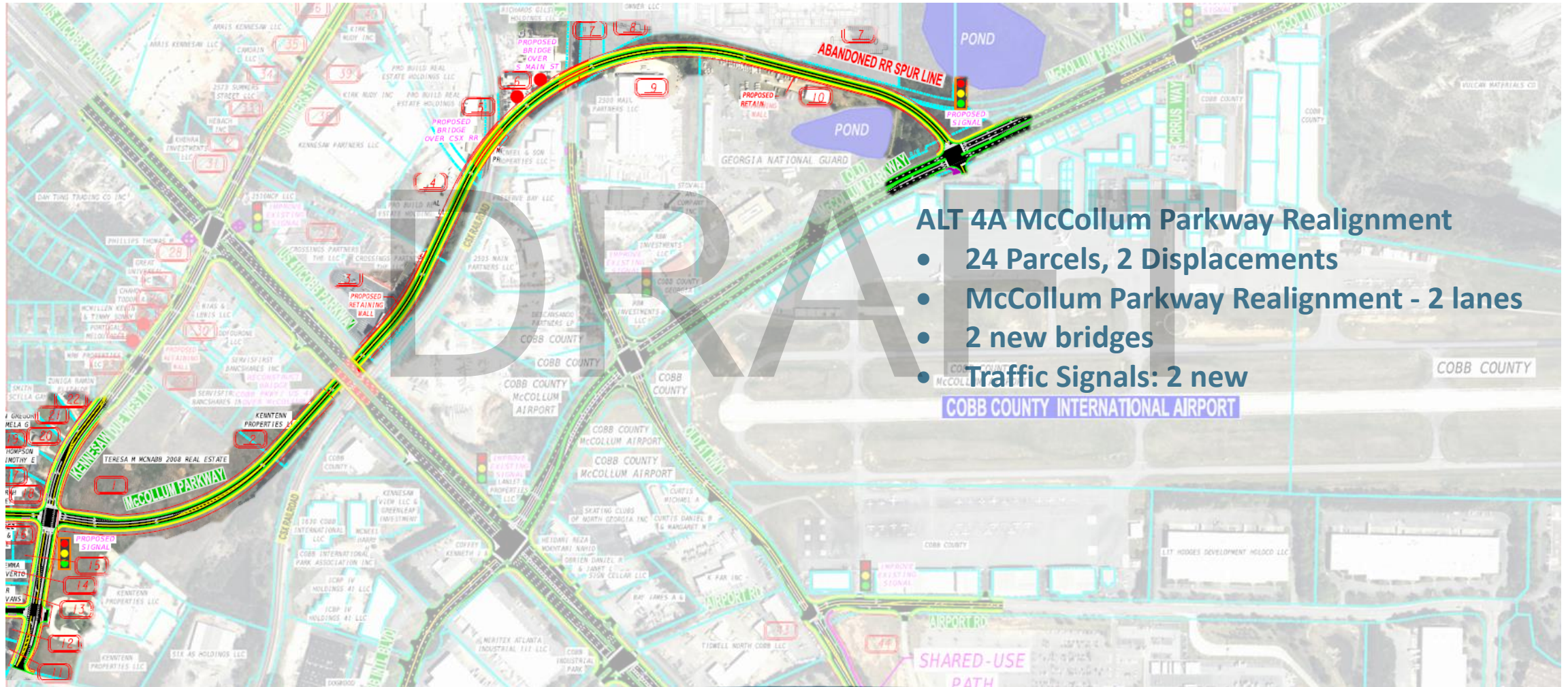


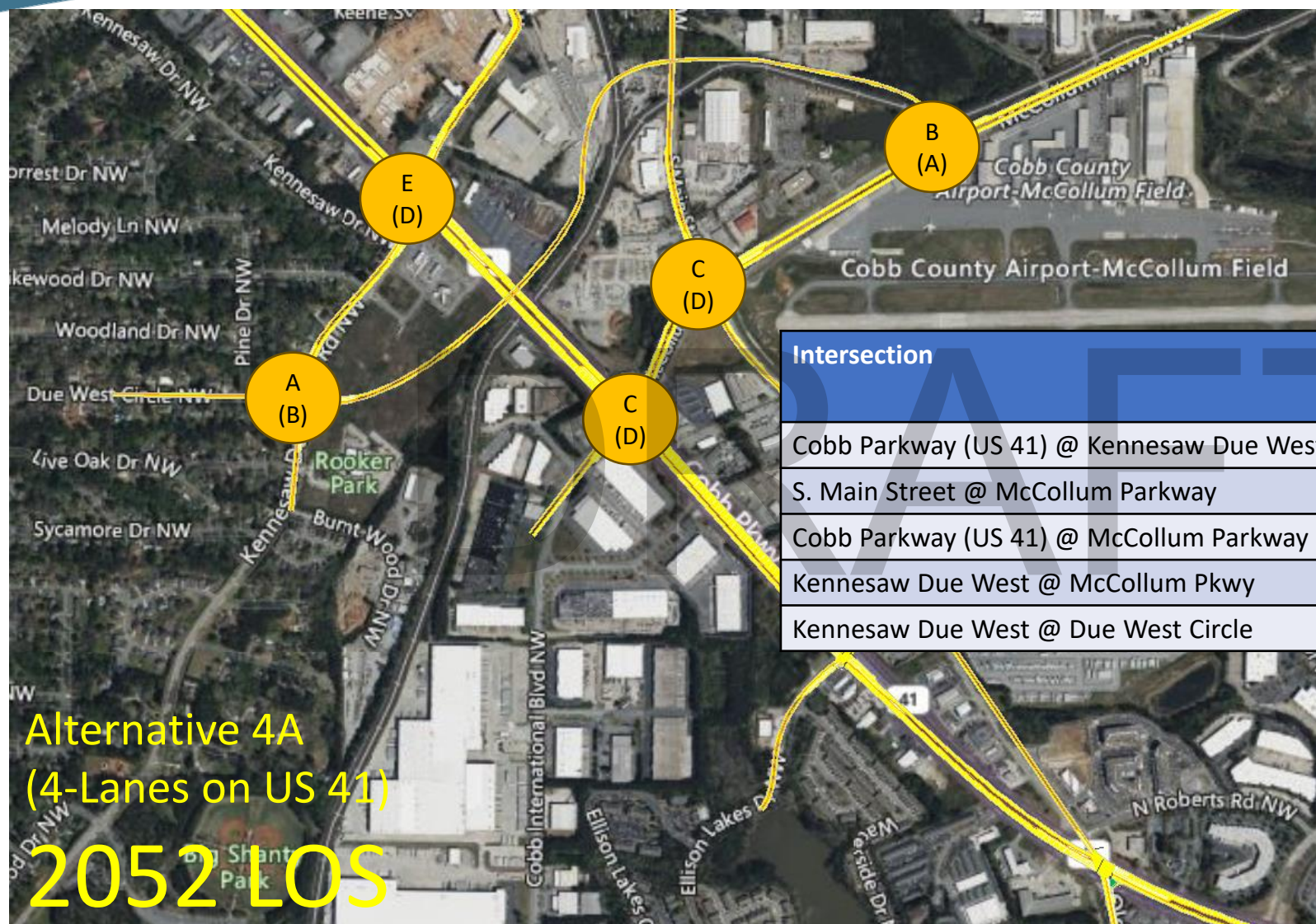
Alternative 4A

DRAFT



Alternative 4A – Concept Layout





Alternative 4A
(4-Lanes on US 41)
2052 LOS

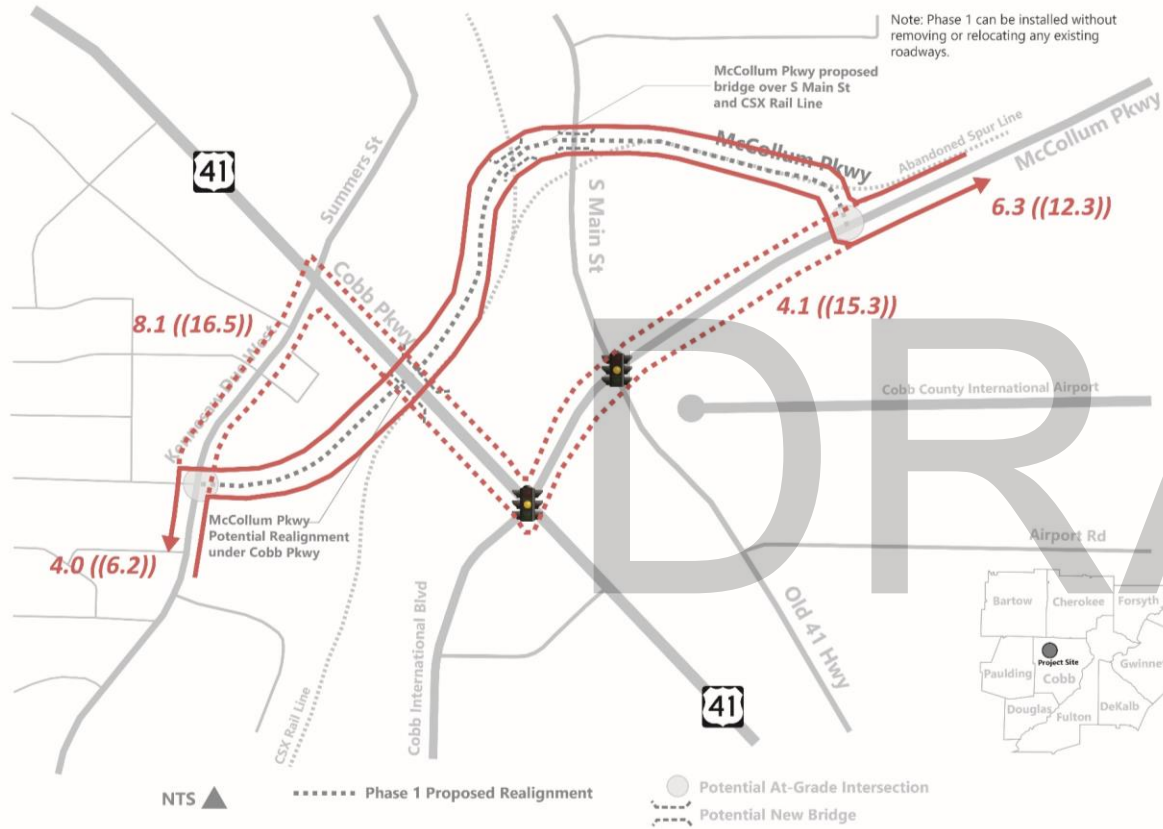
4-Lane Option

Intersection	2052 LOS (DELAY, s)		No-Build	
	AM	PM	AM	PM
Cobb Parkway (US 41) @ Kennesaw Due West	E (70.2)	D (41.0)	F (170.1)	F (83.4)
S. Main Street @ McCollum Parkway	C (27.3)	D (42.3)	D (36.0)	E (55.5)
Cobb Parkway (US 41) @ McCollum Parkway	C (21.3)	D (49.5)	C (25.4)	F (103.3)
Kennesaw Due West @ McCollum Pkwy	B (12.1)	A (6.7)	n/a	n/a
Kennesaw Due West @ Due West Circle	A (6.2)	B (17.8)	n/a	n/a

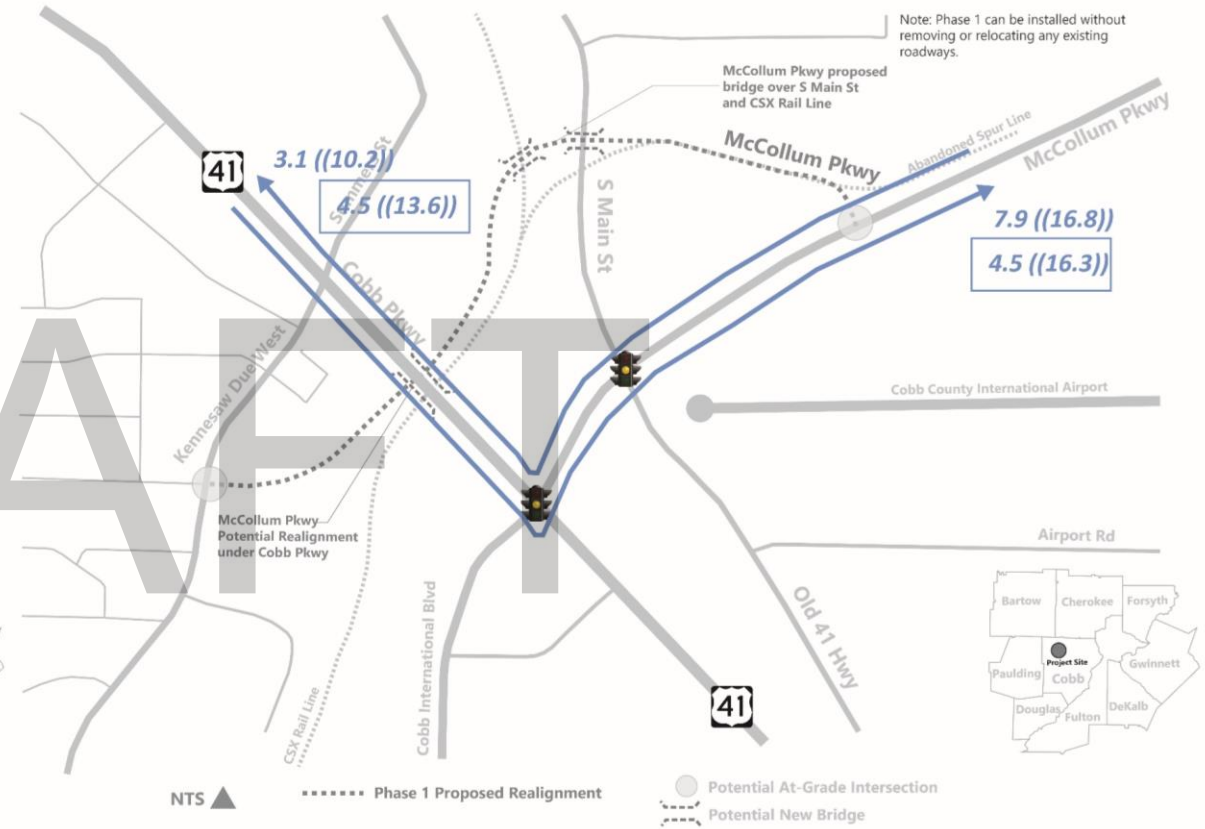
Alternative 4A – Synchro Results



Alternative 4A – VISSIM Travel Time Results



AM ((PM)) Travel Time Min. (2052)
 Travel Route
 No Build Travel Route



AM ((PM)) Travel Time Min. (2052)
 Travel Route
 No Build Travel Time Min. (2052)



Alternative 4A – Cost Estimate

	McCollum Parkway Realignment
Construction Cost	\$ 22,721,266.40
<i>Constr Contingency 15%</i>	\$ 3,408,189.96
R/W Cost	\$ 11,076,000.00 (24 Parcels, 2 Displacements)
Utility Cost	\$ 4,928,500.00
PE Cost	\$ 2,272,126.64
Total	\$ 44,406,083.00



Alternative 4A – Benefit Cost Ratio

McCollum Parkway Realignment B/C Ratio		
Design Life Operational Benefit	\$58,854,799	Weight=100%
Design Life Safety Benefit	\$0	Weight=0%
Total Weighted Benefit	\$58,854,799	
Design Life Operational Cost	\$44,406,083	Weight=100%
Design Life Safety Cost	\$0	Weight=0%
Total Weighted Cost	\$44,406,083	
Project Benefit-Cost Ratio	1.33	

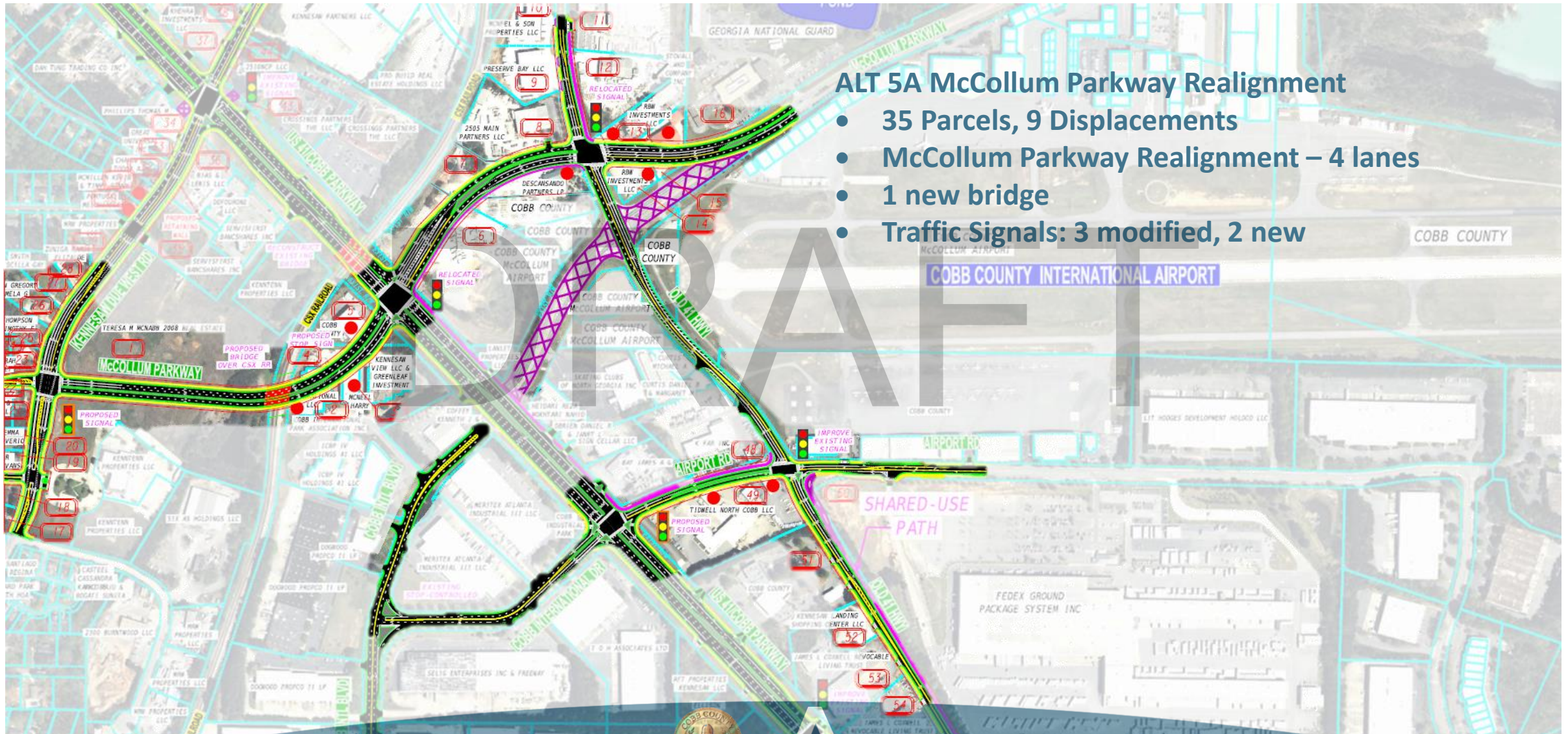


Alternative 5A

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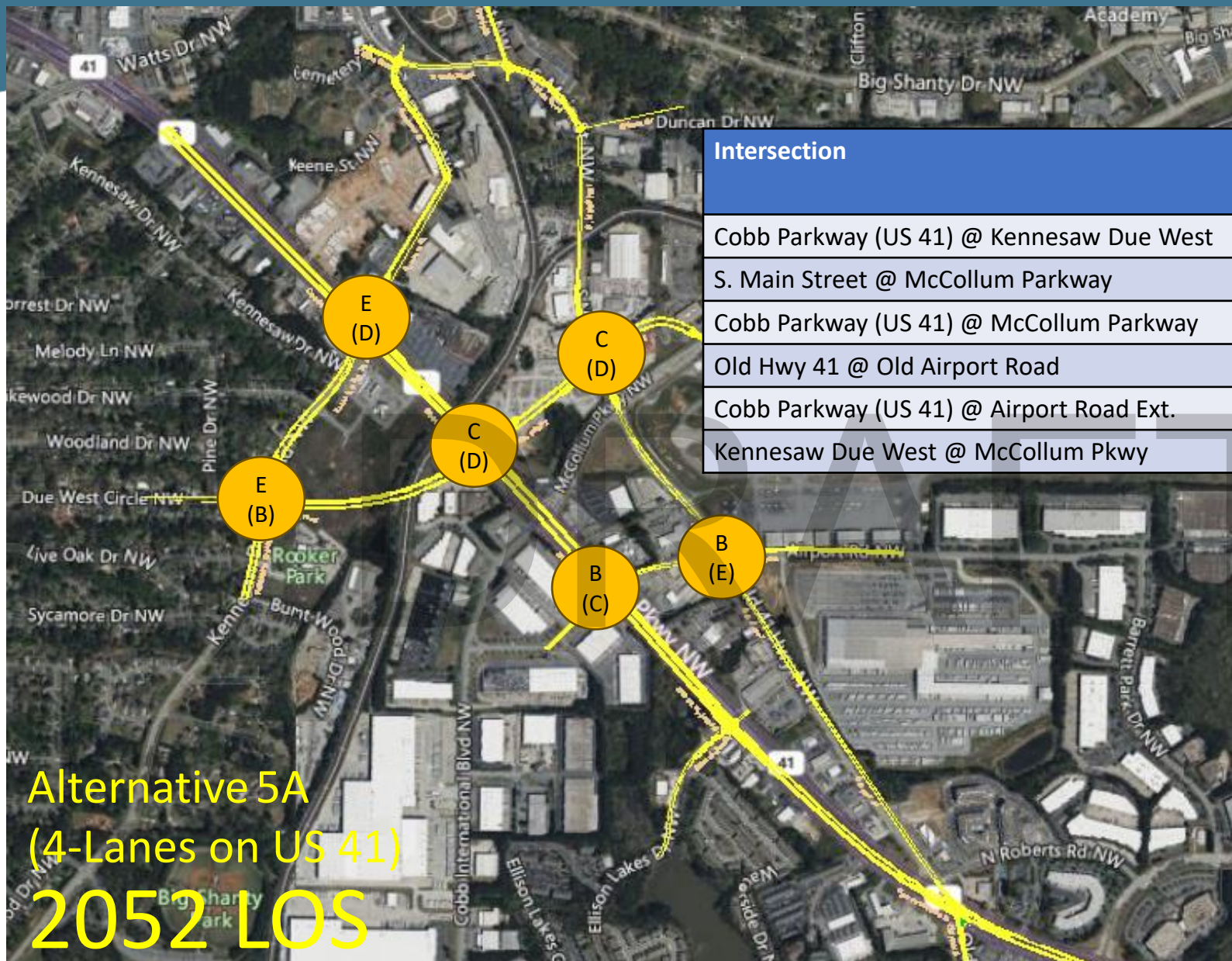
Alternative 5A – Concept Layout



4-Lane Option

Intersection	2052 LOS (DELAY, s)		No-Build	
	AM	PM	AM	PM
Cobb Parkway (US 41) @ Kennesaw Due West	E (77.6)	D (49.8)	F (170.1)	F (83.4)
S. Main Street @ McCollum Parkway	C (24.7)	D (41.7)	D (36.0)	E (55.5)
Cobb Parkway (US 41) @ McCollum Parkway	C (34.5)	D (35.4)	C (25.4)	F (103.3)
Old Hwy 41 @ Old Airport Road	B (18.5)	E (66.5)	B (14.3)	B (19.4)
Cobb Parkway (US 41) @ Airport Road Ext.	B (12.8)	C (23.4)	n/a	n/a
Kennesaw Due West @ McCollum Pkwy	E (70.1)	B (14.4)	n/a	n/a

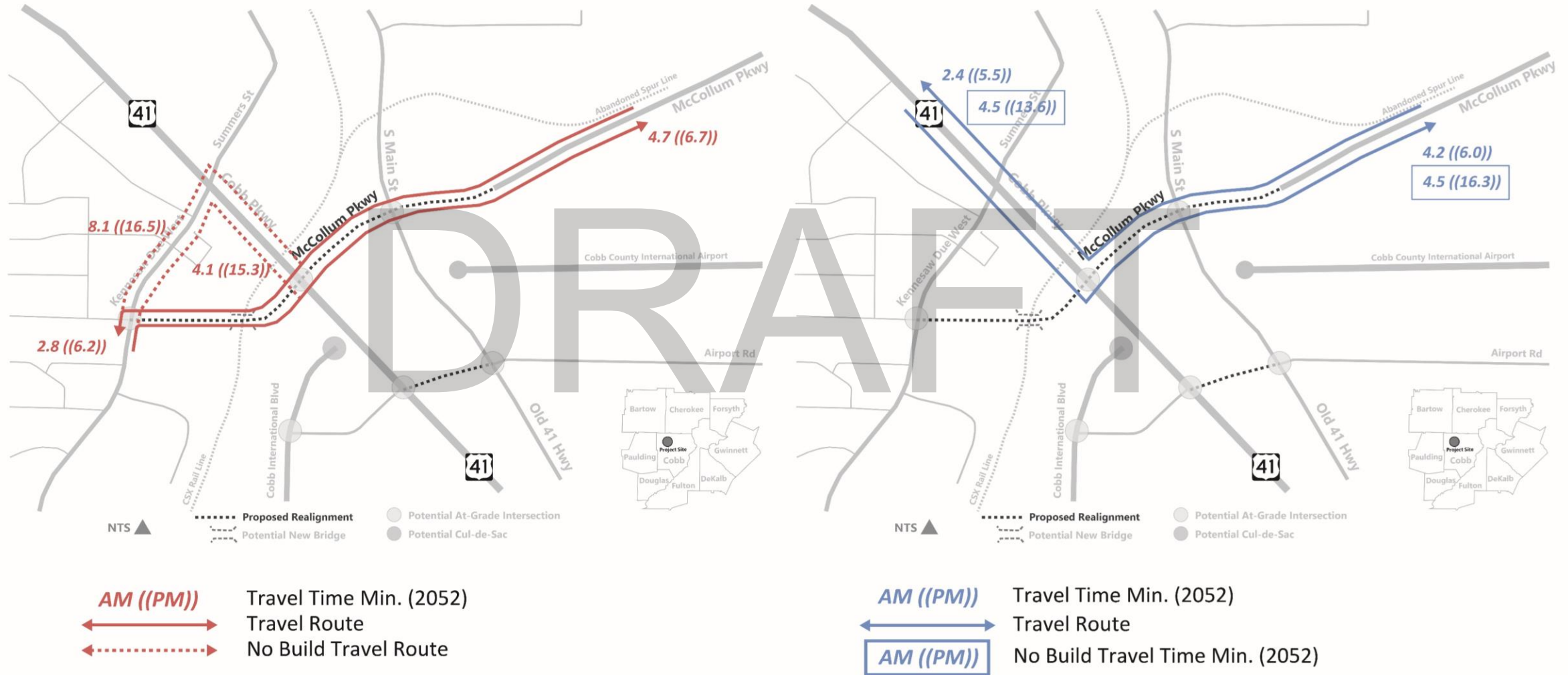
Alternative 5A – Synchro Results



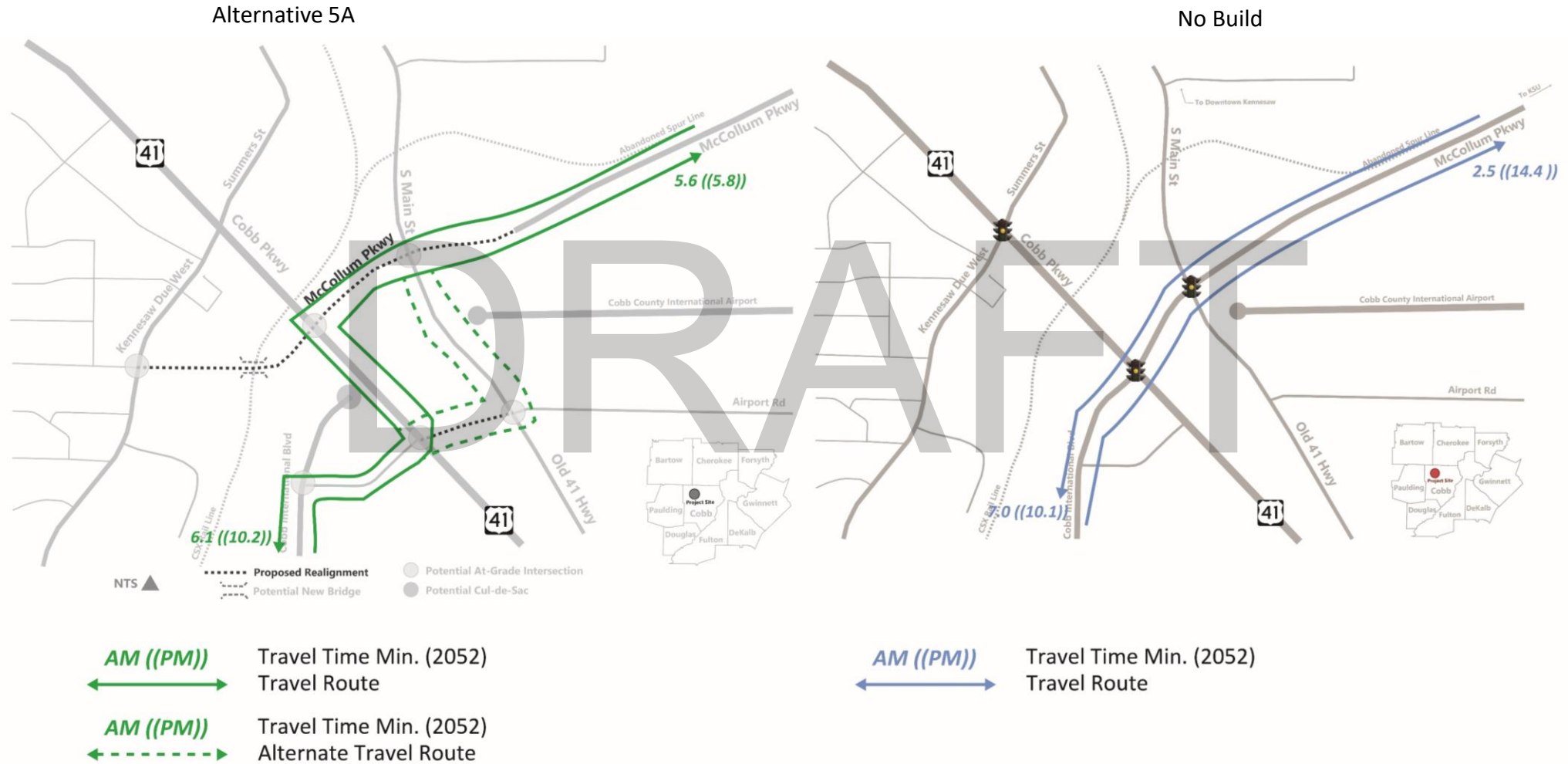
Alternative 5A
(4-Lanes on US 41)
2052 LOS



Alternative 5A – VISSIM Travel Time Results



Alternative 5A – VISSIM Travel Time Results Comparison to No Build



Alternative 5A – Cost Estimate

	McCollum Parkway Realignment
Construction Cost	\$ 19,176,538.60
<i>Constr Contingency 15%</i>	<i>\$ 2,876,480.79</i>
R/W Cost	\$ 22,151,000.00 (35 Parcels, 9 Displacements)
Utility Cost	\$ 5,176,500.00
PE Cost	\$ 1,917,653.86
Total	\$ 51,298,173.25



Alternative 5A – Benefit Cost Ratio

McCollum Parkway Realignment B/C Ratio			
Design Life Operational Benefit	\$100,624,497	Weight=100%	
Design Life Safety Benefit	\$0	Weight=0%	
Total Weighted Benefit	\$100,624,497		
Design Life Operational Cost	\$51,298,173	Weight=100%	
Design Life Safety Cost	\$0	Weight=0%	
Total Weighted Cost	\$51,298,173		
Project Benefit-Cost Ratio	1.96		



Alternatives Cost-Benefit Summary

Alternative	Total Cost	Total Benefit	B/C Ratio
Alternative 1A	\$33,880,571	\$2,989,465	0.09
Alternative 4A	\$44,406,083	\$58,854,799	1.33
Alternative 5A	\$51,221,673	\$100,624,497	1.96



Schedule

EXHIBIT B - SCHEDULE FOR REALIGNMENT OF US 41/MCCOLLUM PARKWAY SCOPING STUDY

TASK DESCRIPTION	DURATION	2024											
		JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
TASK 1													
PROJECT MANAGEMENT	10 months												
TASK 2													
RITIS ANALYSIS	1 month												
TASK 3													
VISSIM ANALYSIS	4 months												
TASK 4													
ADDITIONAL ALTERNATIVES ANALYSIS, B/C RATIO & PREFERRED ALTERNATIVE	9 months												



NEXT STEPS

- ❖ Alternatives Analysis
- ❖ Conduct Public Meeting # 2
- ❖ Select Preferred Alternative
- ❖ Concept Report

DRAFT



Key Contact Information

Cobb County Department of Transportation
Juliane Dixon-Crump, Project Manager
Juliane.Dixon-Crump@CobbCounty.org

Atlas Technical Consultants:
L N Manchi, PE, PMP
Consultant Project Manager
LN.Manchi@oneatlas.com

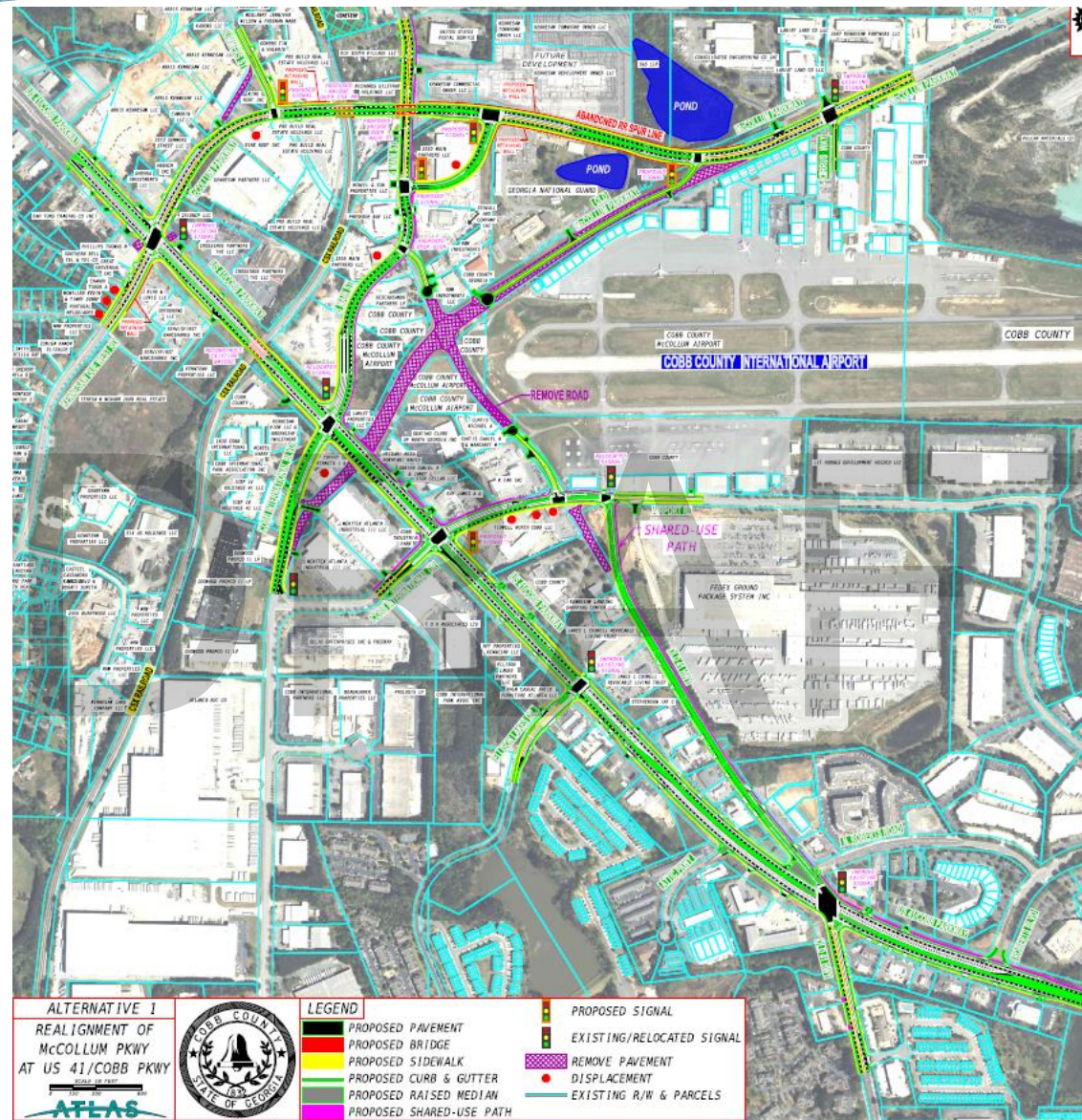
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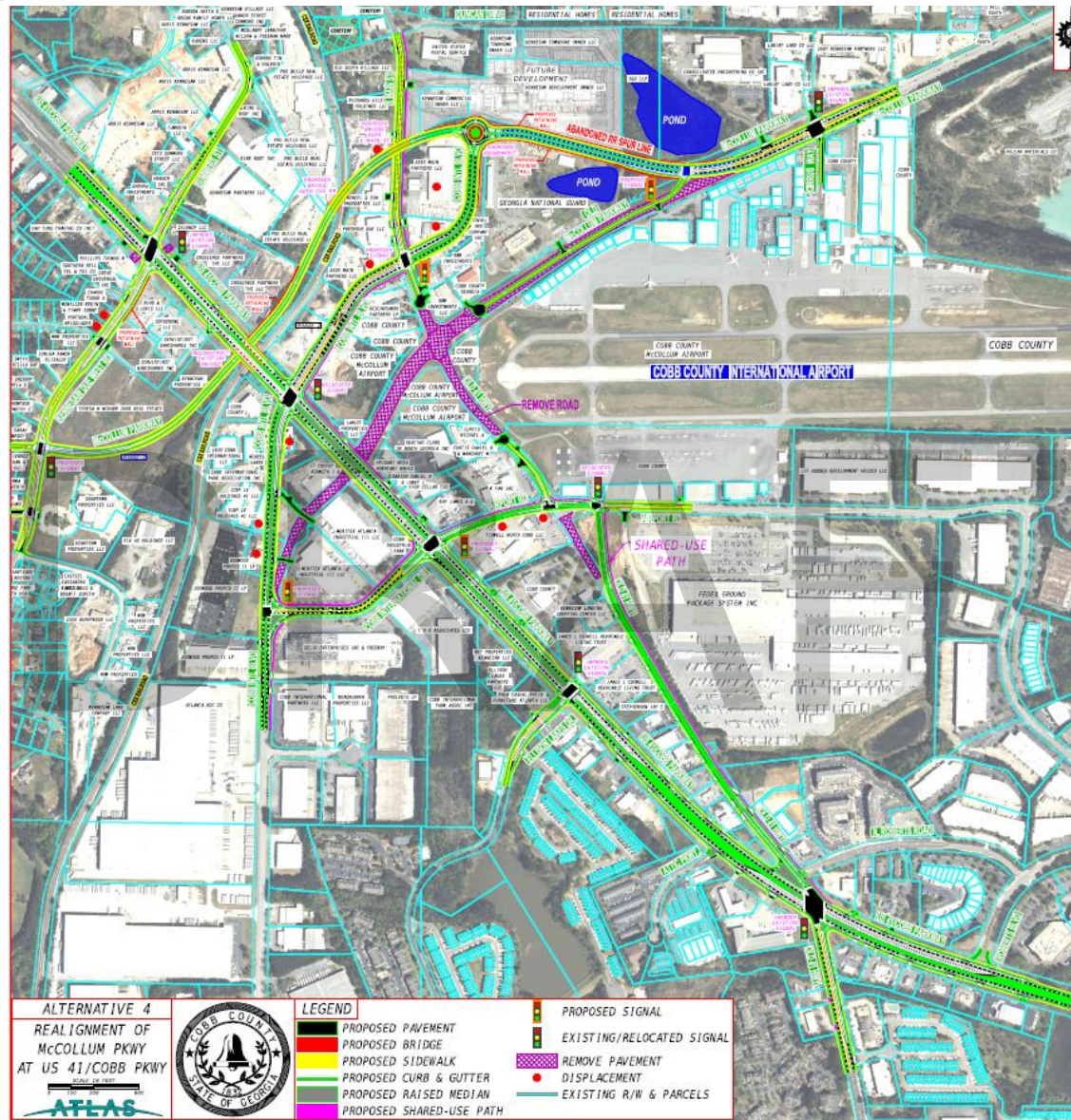
QUESTIONS & ANSWERS





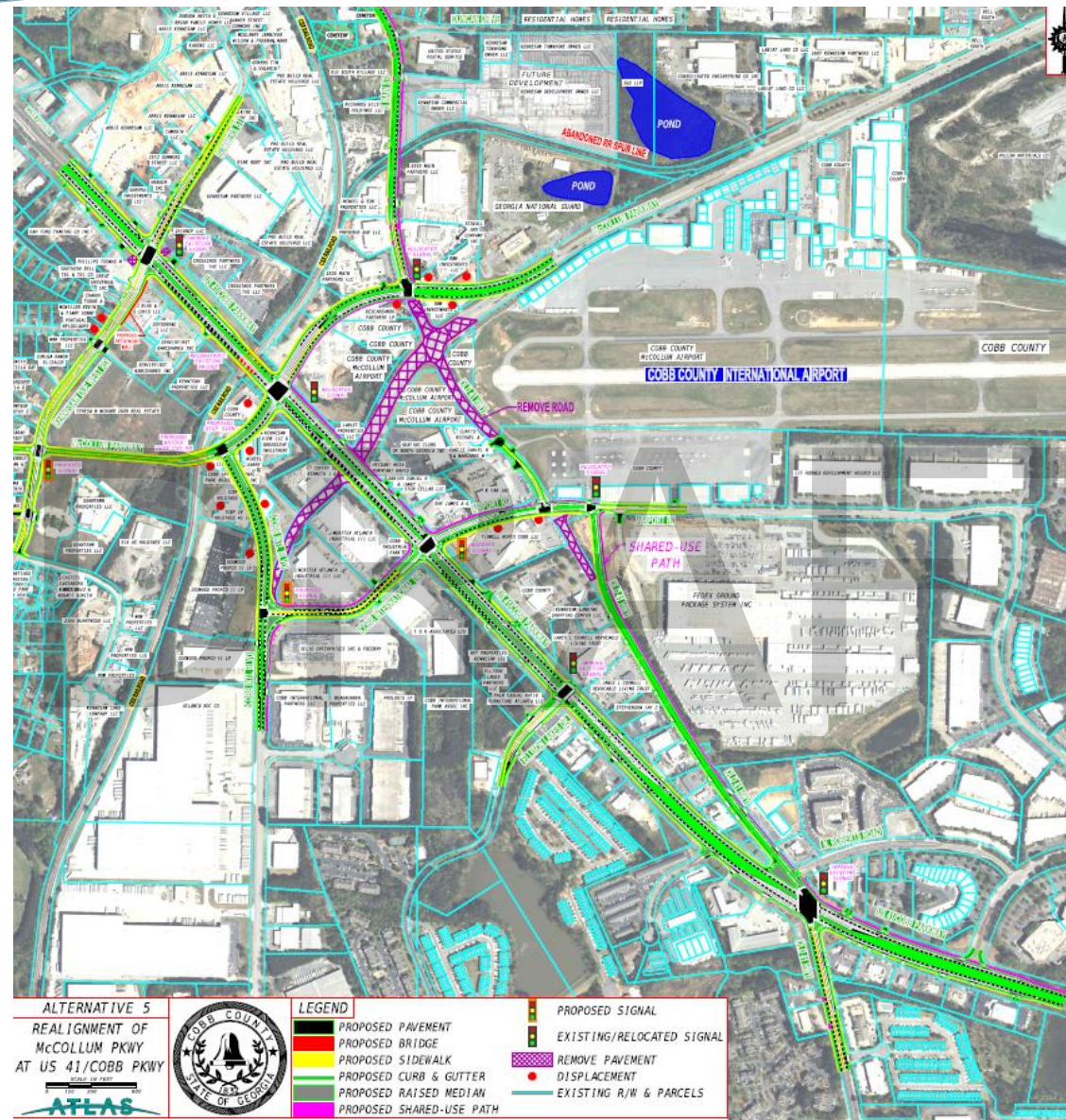
Alternative 1 - Concept Layout





Alternative 4 - Concept Layout





Alternative 5 - Concept Layout





August 2024 Crime Statistics

Crimes	August 2024	August 2023	YTD (01/01/24)- (08/31/24)	YTD (01/01/23)- (08/31/23)
Assault Offenses	16	33	220	247
Motor Vehicle Theft	3	1	21	9
Burglary	1	5	23	21
Homicide Offenses	1	0	2	0
Larceny	9	8	76	92
Sex Offenses	1	1	10	15
Robbery	0	1	2	7
Total	31	49	354	391

	August 2024	August 2023	YTD (01/01/24)- (08/31/24)	YTD (01/01/23)- (08/31/23)
Dispatched Calls for Service	779 (-57)	836	6121 (-559)	6680
Self-Initiated Activity	1377 (+193)	1184	9549 (+1207)	8342
Traffic Citations	593 (-436)	1029	4667 (-1646)	6313
Traffic Warnings*	687 (+512)	175	4807 (+2635)	2172
Arrests**	73 (-34)	107	766 (+54)	712

*Warnings do not include verbal warnings
 **Arrests statistics do not include juveniles

	August 2024	August 2023	YTD (01/01/24)- (08/31/24)	YTD (01/01/23)- (08/31/23)
Auto Accident	106 (-11)	117	836 (-29)	865
Accident W/ Injury	9 (-4)	13	67 (-28)	95
Hit and Run	8 (-9)	17	89 (-32)	121
Hit and Run W/ Injury	0	0	1	1
Person Hit by Auto W/ Injury	0 (-1)	1	5 (-1)	4



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

PLEASE MAKE SURE YOUR NAME IS LEGIBLE AND CLEAR

**City Council Work Session
9/30/2024
Public Comment Sign-in**

	Name	Address	Topic
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DRAFT



Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: October 21, 2024

TITLE: **Minutes: September 30, 2024 Executive Session**
Approval of the September 30, 2024, City Council executive session minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:
None



Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: October 21, 2024

TITLE: **Minutes: October 7, 2024 Regular Meeting**
Approval of the October 7, 2024, City Council regular meeting minutes.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. 2024-10-07 City Council Minutes - DRAFT

**MINUTES OF CITY COUNCIL MEETING
CITY OF KENNESAW
Council Chambers
(2529 J.O. Stephenson Avenue, Kennesaw, GA 30144)**

Livestream: <https://www.facebook.com/CityofKennesaw/>
**October 7, 2024
6:30 PM**

Present	Mayor Derek Easterling Mayor Pro Tem Antonio Jones Councilmember Madelyn Orochena Councilmember Tracey Viars Councilmember Pat Ferris Councilmember Anthony Gutierrez City Clerk Lea Alvarez Assistant City Manager Marty Hughes Assistant City Attorney Sam Hensley, Jr.
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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. Announcements

- A. Starting with the October 14 City Council Work Session, we will no longer be streaming meetings via Facebook Live. To watch a meeting live or to view a recording after the meeting, please visit the Public Meeting Portal on the City website at www.kennesaw-ga.gov/publicmeetings/.
- 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

Chief Westenberger shared that on Saturday, October 5, 2024, the Kennesaw Police Department held its annual awards banquet. At the banquet, the department

acknowledged the hard work and actions of several officers, including Officer of the Year, Joshua Ange. Chief Westenberger introduced Officer Ange to the Mayor and Council and thanked him for being a part of the team. Officer Ange responded that he loves the City of Kennesaw and is grateful for the opportunity to work here.

6. Public Comment/Business from the Floor

6:31 p.m. Floor Open for Public Comments

No comments.

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

7. Old Business

8. New Business

9. Committee and Board Reports

10. Public Hearing(s)

11. Consent Agenda

A. Minutes: September 9, 2024 Work Session

Approval of the September 9, 2024, City Council work session minutes.

B. Minutes: September 16, 2024 Regular Meeting

Approval of the September 16, 2024, City Council regular meeting minutes.

C. Resolution: 3238 Cherokee Street and 3248 Cherokee Street ROW and Property Acquisition

Consideration to approve a resolution to acquire the Right of Way, Permanent Easement and Temporary Easements from 3238 Cherokee Street and 3248 Cherokee Street (Parcels 23, 24 and 25) needed for the Cherokee Street Improvement Project

Resolution No. 2024-48

Motion by Mayor Pro Tem Jones to approve the Consent Agenda engross. Seconded by Councilmember Viars.

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

12. General and Administrative

A. Alcohol License: Amigos Food Mart

Consideration for approval of an Alcohol License for Beer, Wine, and Sunday Sales for OMSKY7893 INC d/b/a Amigos Food Mart located at 2851 Cobb Pkwy NW Kennesaw, GA 30152. Applicant: Sangitaben Patel

Business License Manager LaMaya Edmonds presented an alcohol license for beer,

wine, and Sunday sales for OMSKY7893 INC d/b/a Amigos Food Mart located at 2851 Cobb Parkway NW. The applicant has completed the required alcohol workshop, signs have been posted, and it has been properly advertised. The applicant's background check and fingerprints are on file.

Motion by Mayor Pro Tem Jones to approve the alcohol license for beer, wine, and Sunday sales for OMSKY7893 d/b/a Amigos Food Mart located at 2851 Cobb Parkway NW as presented. Seconded by Councilmember Viars.

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

B. Alcohol License: Cigar Gallery Club

Consideration for approval of an Alcohol License for Beer, Wine, Liquor and Sunday Sales for Cigar Gallery Club LLC d/b/a Cigar Gallery Club located at 3600 Cherokee St NW, Suite 102 Kennesaw, GA 30144. Applicant: Victor Rodriguez

Mayor Easterling announced that the City received some information prior to the meeting that needed to be reviewed prior to the vote. He recommends postponing the item until the regular meeting on October 21, 2024, at 6:30 p.m.

Motion by Mayor Pro Tem Jones to postpone the item until the regular City Council meeting on October 21, 2024, at 6:30 p.m. Seconded by Councilmember Orochena.

13. Public Safety

A. Crime Statistics: August 2024

Chief Bill Westenberger presented the August 2024 crime statistics (See **Exhibit A**).

Motion by Councilmember Viars to receive the August 2024 crime statistics as presented. Seconded by Mayor Pro Tem Jones.

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

14. Information Technology

15. Public Works and Building Maintenance

A. Purchase Authorization: Vehicles for Public Works, Building Maintenance, Parks and Recreation, and Police

Consideration to authorize purchase of vehicles approved in the Fiscal Year 2025 budget.

Public Works Director Ricky Stewart requested authorization to purchase seven (7) vehicles for Public Works (2), Building Maintenance (1), Parks and Recreation (2), and Police (2) approved in the Fiscal Year 2025 budget.

Motion by Councilmember Gutierrez to authorize the purchase of vehicles approved in the Fiscal Year 2025 budget as presented. Seconded by Councilmember Ferris.

Mayor Pro Tem Jones asked if, as long as the American Rescue Plan Act (ARPA) money is earmarked by this year, could the product be received next year. Mr. Stewart deferred to Finance Director Gina Auld. Ms. Auld said that the ARPA funds have to be earmarked by December 2024. So, the City has to commit those dollars and enter into an agreement with a vendor by that date.

Councilmember Ferris asked if all the vehicles are being paid for by the ARPA funds or are some General Fund dollars being allocated as well. Mr. Stewart said all the vehicles listed in the item are being purchased with ARPA dollars.

Mayor Pro Tem Jones asked if we could place the order for electric vehicles this year and receive them next year. Mr. Stewart said that, based on what Ms. Auld said it would be a possibility, but that staff had decided not to buy electric vehicles. Mayor Pro Tem Jones clarified that staff chose not to purchase electric vehicles despite the Council agreeing to go a different direction. Mr. Stewart pointed out that after reviewing the July 8, 2024, minutes, staff was asked to consider purchasing electric vehicles and after consideration, chose not to pursue them.

Councilmember Ferris said his recollection was similar to what Mr. Stewart said. After discussing electric vehicles, staff was asked to look into it, see if it made sense, and then come back with a recommendation. Mr. Ferris noted that the Council did not direct Mr. Stewart to go out and buy electric vehicles. Although he wants the staff to keep considering electric vehicles, right now, staff is saying it is not the time.

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

16. Recreation and Culture

17. Community Development

18. Public Comment/Business from the Floor

6:41 p.m. Floor Open for Public Comments

ANDREW BRAMLETT [City Resident]: Mr. Bramlett discussed Jimmy Carter's connection to Kennesaw in honor of his 100th birthday (See **Exhibit B**).

ROBERT [Roswell Resident]: Robert wanted to make people aware of the MSPLOST vote coming up in November. It is a one cent sales tax that would go toward developing transit here in Cobb County. He believes it would benefit Kennesaw after looking at the plan.

CARLENE FREGEOLLE [City Resident]: Ms. Fregeolle mentioned she is not for MSPLOST. She wanted to give a shout-out to the City and the Downtown Merchants regarding the fantastic concert series being held at the new Amphitheater.

6:44 p.m. Floor Closed for Public Comments

19. City Manager's Report

A. Reports, Discussions, and Updates

Assistant City Manager Marty Hughes is filling in for City Manager Jeff Drobney while he is out on vacation. Mr. Hughes noted that this Friday, the City will have a staff appreciation luncheon. It is a small way for the City to show thanks for all the hard work staff does for this community.

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 Reports & Discussions

Councilmember Ferris mentioned Scarecrows on Main has received a lot of positive feedback. Also, he went to the Kennesaw Police Department awards banquet on Saturday night. He heard a lot of great stories about our officers and their contributions to our community. One time a year is wonderful, but he hopes that department leadership recognizes these guys on a regular basis.

Mayor Pro Tem Jones thanked Ms. Fregeolle for her prayer at the beginning of the meeting and thanked Chief Westenberger for inviting the Council to the awards banquet. He shared that his wife, Chantelle, has been putting food together and giving it to a neighbor from North Carolina to help provide relief in the aftermath of Hurricane Helene. He gave kudos to the Council as he was approached and thanked by staff for paid parental leave.

Councilmember Gutierrez just came back from a family vacation in California. He had forgotten how concentrated everything was there. In a mile radius from the hotel he stayed at was his childhood home, the hospital he was born at, and all the theme parks. He shared that when his mother's water broke with him, the hospital was so close that she just walked there.

Councilmember Orochena had a wonderful time at the awards banquet. She was grateful to give respect and honor to those that have dedicated their lives to protecting the community. She was also grateful for the wonderful weather over the weekend for the cemetery cleanup event held at the Kennesaw City Cemetery.

Councilmember Viars wished Joe Bozeman a happy birthday and thanked those who did a lot of work on the concerts this year.

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 6:53 p.m. The next regularly scheduled meeting will be held on Monday, October 14, 2024, at 6:30 p.m. in the Council Chambers. The public is encouraged to attend or view via Facebook Live.

Lea Alvarez, City Clerk



August 2024 Crime Statistics

Crimes	August 2024	August 2023	YTD (01/01/24)- (08/31/24)	YTD (01/01/23)- (08/31/23)
Assault Offenses	16	33	220	247
Motor Vehicle Theft	3	1	21	9
Burglary	1	5	23	21
Homicide Offenses	1	0	2	0
Larceny	9	8	76	92
Sex Offenses	1	1	10	15
Robbery	0	1	2	7
Total	31	49	354	391

	August 2024	August 2023	YTD (01/01/24)- (08/31/24)	YTD (01/01/23)- (08/31/23)
Dispatched Calls for Service	779 (-57)	836	6121 (-559)	6680
Self-Initiated Activity	1377 (+193)	1184	9549 (+1207)	8342
Traffic Citations	593 (-436)	1029	4667 (-1646)	6313
Traffic Warnings*	687 (+512)	175	4807 (+2635)	2172
Arrests**	73 (-34)	107	766 (+54)	712

*Warnings do not include verbal warnings
 **Arrests statistics do not include juveniles

	August 2024	August 2023	YTD (01/01/24)- (08/31/24)	YTD (01/01/23)- (08/31/23)
Auto Accident	106 (-11)	117	836 (-29)	865
Accident W/ Injury	9 (-4)	13	67 (-28)	95
Hit and Run	8 (-9)	17	89 (-32)	121
Hit and Run W/ Injury	0	0	1	1
Person Hit by Auto W/ Injury	0 (-1)	1	5 (-1)	4



KENNESAW HISTORY

Jimmy Carter

On Tuesday of last week, former president Jimmy Carter celebrated his 100th birthday. In honor of this occasion, I wanted to share about Carter's connections to Kennesaw.

In 1972, the *General* was permanently returned to Georgia. Before it made its way to Kennesaw, the engine was taken to Atlanta for an unveiling. On hand for the occasion was the governor, Jimmy Carter. After the Atlanta ceremony, the engine was moved to Kennesaw.

When Carter successfully ran for president in 1976, Kennesaw resident Jimmy Carter (unrelated) expressed his support.

Lastly, in 1977, Carter helped Kennesaw make national news. During his time as governor, his daughter Amy was a member of the Little General Cloggers. The group was founded by Olivia Smathers, and served as the city's goodwill ambassadors. On entering the White House, Carter invited the Cloggers to perform. In May 1977, they clogged in the East Room of the White House, and word of the performance was in newspapers as far away as Anchorage, Alaska.



Jimmy Carter with the *General*

Presented by Andrew J. Bramlett at the October 7, 2024,
City of Kennesaw Mayor & Council Meeting

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

10/7/2024

Public Comment Sign-in

	Name	Address	Topic
1	<u>Andrew J. Brantlett</u>	<u>2990 Sumnerfield Ct.</u>	<u>Local history</u>
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Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: October 21, 2024

TITLE: **Cemetery Deed: Section III, Plot 5 Lots A-D and Section III, Plot 12, Lots A-D**
Authorization for the Mayor to sign a deed for cemetery lots purchased by Mike Turner.

Summary:

On October 9, 2024, Mike Turner purchased eight (8) cemetery lots in Kennesaw City Cemetery. The lots purchased were Section III, Plot 5, Lots A-D and Section III, Plot 12, Lots A-D. Staff is requesting authorization for the Mayor to sign a supporting deed for the purchase of these lots.

Recommendation:

City Clerk recommends approval.

Fiscal Impact:

Attachments:

1. 2024.10.09 Turner Lots

Deed Number: 2024-02

**City of Kennesaw
Cemetery Deed
Cobb County, Georgia**

This Indenture, made the 09 day of October, 2024 between the City of Kennesaw, a political subdivision of Cobb County existing under the Laws of the State of Georgia, hereinafter called Grantor, and:

Name	Address	City, ST ZipCode
TURNER, MIKE	1935 LUMBER COMPANY RD	TALKING ROCK, GA 301

Hereinafter called Grantee.

WITNESSETH that: Grantor, for and in consideration of the sum of SIXTEEN THOUSAND DOLLARS AND 0 CENTS (\$16,000.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby transfer remise and convey unto the said grantee that certain lot or tract located in the Kennesaw City Cemetery in Land Plot 74 of the 20th District, Cobb County, Georgia, said cemetery lot being more particularly described as follows:

SECTION	PLOT	LOT	PRICE
---------	------	-----	-------

To have and to hold the said premised to grantee. By acceptance of this Deed the grantee herein, his heirs, administrators, successor, and assigns acknowledge that said conveyance is for the purpose of interment of human remains, and for no other purpose; and the grantee herein further does hereby agree to maintain the above demised premises in a neat and orderly condition and abide by the rules and regulations concerning said cemetery as they may from time to time by promulgated by the grantor herein.

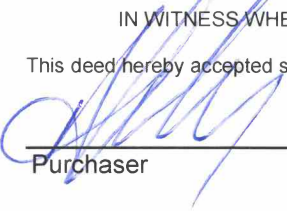
Chapter 30- CEMETERIES Code of Ordinance, Kennesaw, Georgia
Regulations and Non-Liability of City:
Section 30-8 states:

- (a) *The Mayor and Council reserve to themselves and their successor in the office the right to alter, amend, modify or add to the rules, regulations, conditions, and restrictions set for in this chapter and any time it is deemed advisable to do so in order to carry out the purpose of this chapter.*
- (b) *There shall be no liability whatsoever, either tort or contractual, on the part of the city, or its officials or officers, or their successors in office, or its agents or employees, to any purchasers of any lots in the cemetery, or to any person holding under then, or to the family or relatives of any person buried in the cemetery, or to any person or the family of such person who has erected any monument, marker, or mausoleum therein, by reason of any act, thing, omission, negligence, or otherwise relating to the cemetery. In accepting any conveyance of any burial lot, each purchaser agrees that all provisions of this chapter are valid and that he and his heirs and assigns shall hold such lot subject to all provisions of this chapter and subject to all amendments to this chapter made by the Mayor and Council.*

This deed is given by virtue of and under authority granted by the City Council of the City of Kennesaw at its regular meeting on the 21 day of October, 2024.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed the day and year first above written.

This deed hereby accepted subject to the conditions herein set forth.



Purchaser

Mayor

Purchaser

City Clerk

Deed Number: 2024-02

**City of Kennesaw
Cemetery Deed
Cobb County, Georgia**

This Indenture, made the 09 day of October, 2024 between the City of Kennesaw, a political subdivision of Cobb County existing under the Laws of the State of Georgia, hereinafter called Grantor, and:

Name	Address	City, ST ZipCode
TURNER, MIKE	1935 LUMBER COMPANY RD	TALKING ROCK, GA 301

Hereinafter called Grantee.

WITNESSETH that: Grantor, for and in consideration of the sum of SIXTEEN THOUSAND DOLLARS AND 0 CENTS (\$16,000.00) and other valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, by these presents does hereby transfer remise and convey unto the said grantee that certain lot or tract located in the Kennesaw City Cemetery in Land Plot 74 of the 20th District, Cobb County, Georgia, said cemetery lot being more particularly described as follows:

SECTION	PLOT	LOT	PRICE
III	12	A	\$2,000.00
III	12	B	\$2,000.00
III	12	C	\$2,000.00
III	12	D	\$2,000.00
III	5	A	\$2,000.00
III	5	B	\$2,000.00
III	5	C	\$2,000.00
III	5	D	\$2,000.00

Assignment of Burial Permit

Deed No. 2024-02

The undersigned hereby transfers and assigns the following burial space listed on the first sheet hereof, to the person or persons set forth opposite each space, and requests the Clerk of City of Kennesaw located in **Cobb County** to accept and record the same in accordance with the rules and regulations of said Board.

Description

Burial Space(s):

Name

Date

Signature

Transfer approved and recorded, on

City Clerk



Item Report

TO: The Honorable Mayor and City Council

FROM: Brittany Swiney, Court Clerk

DATE: October 21, 2024

TITLE: **Resolution: Professional Probation Services, Inc. Contract Addendum**
 Consideration for approval of a Resolution authorizing an addendum to the contract for probation supervision and rehabilitation services by and between the City of Kennesaw and Professional Probation Services, Inc.

Summary:

On December 19, 2022, the City and Professional Probation Services, Inc. (PPSI) entered into a contract for probation supervision and rehabilitation services, pursuant to which the City retained PPSI to coordinate and provide certain probation services to the Kennesaw Municipal Court. The City and PPSI desire to amend the terms of said Contract by deleting the section entitled, "Specifications for Services," of the original Contract in its entirety, and inserting a new section entitled, "Specifications for Services," included as Exhibit A.

Recommendation:

The Clerk of Court recommends approval.

Fiscal Impact:

Attachments:

1. RES 2024 - PPSI Contract Addendum
2. Exhibit A - Kennesaw Contract Addendum
3. RES 2022-51 Renewal of Probation Services

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2024-____, 2024

**RESOLUTION AUTHORIZING AN ADDENDUM TO THE CONTRACT FOR
PROBATION SUPERVISION AND REHABILITATION SERVICES BETWEEN THE
CITY OF KENNESAW AND PROFESSIONAL PROBATION SERVICES, INC. (PPSI)**

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

WHEREAS, on December 19, 2022, the City of Kennesaw (hereinafter referred to as the “City”) and Professional Probation Services, Inc. (hereinafter referred to as “PPSI”) entered into a Contract for Probation Supervision and Rehabilitation Services (hereinafter referred to as the “Contract”), pursuant to which the City retained PPSI to coordinate and provide certain probation services to the Kennesaw Municipal Court; and

WHEREAS, the City and PPSI desire to amend the terms of said Contract;

NOW, THEREFORE, BE IT RESOLVED in consideration of the promises and mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the City and PPSI do hereby enter into this Addendum of said Contract, and hereby incorporate this Addendum into said Contract attached as Exhibit A.

PASSED AND ADOPTED by the Kennesaw City Council on this ____ day of October 2024.

ATTEST:

CITY OF KENNESAW:

Lea Alvarez, City Clerk

Derek Easterling, Mayor

**State of Georgia
County of Cobb**

**ADDENDUM TO THE CONTRACT FOR PROBATION
SUPERVISION AND REHABILITATION SERVICES
BY AND BETWEEN THE CITY OF KENNESAW
AND PROFESSIONAL PROBATION SERVICES, INC.**

WHEREAS, on December 19, 2022, the City of Kennesaw (hereinafter referred to as the “City”) and Professional Probation Services, Inc. (hereinafter referred to as “PPSI”) entered into a Contract for Probation Supervision and Rehabilitation Services (hereinafter referred to as the “Contract”), pursuant to which the City retained PPSI to coordinate and provide certain probation services to the Kennesaw Municipal Court; and

WHEREAS, the City and PPSI desire to amend the terms of said Contract;

NOW THEREFORE, in consideration of the promises and mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the City and PPSI do hereby enter into this Addendum of said Contract, and hereby incorporate this Addendum into said Contract:

MODIFICATION OF THE SPECIFICATIONS FOR SERVICES

The Contract is hereby amended by deleting the section entitled, “Specifications for Services,” (Exhibit A) of the original Contract in its entirety, and inserting a new section entitled, “Specifications for Services,” (Exhibit A) to read as follows:

[THIS SPACE INTENTIONALLY LEFT BLANK]



EXHIBIT A

Specifications for Services

Pay-Only Probation Supervision	\$45.00 per month The pay-only probation supervision fees shall be capped per O.C.G.A. §42-8-103.
Basic Probation Supervision	\$45.00 per month
Intensive Probation Supervision	\$50.00 per month
Indigent Supervision	\$0.00 – As determined and ordered by the Court
Pre-Trial/Diversion Supervision	\$45.00 per month
Electronic Monitoring	\$50.00 Installation Fee + RF House Arrest: \$6.00 per day Active GPS: \$10.00 per day SCRAM – Remote Breath: \$7.25 per day SCRAM – with landline: \$10.00 per day SCRAM – Alcohol Monitoring with Cellular Connector: \$12.00 per day SCRAM – Alcohol Monitoring plus House Arrest: \$15.00 per day
Alternative GPS Monitoring with Victim Notification	Talitrix (or similar) Smart Phone Application \$50.00/\$85.00 Enrollment Fee + \$5.00 - \$6.00 per day
On-Site, Multi-Panel Drug Screen	\$25.00
Alcohol Test – Breathalyzer	\$15.00
On-Site ETG Test	\$25.00
Laboratory Confirmation Test	\$25.00
Termination Letter Administrative Fee	\$10.00 (If applicable)
Community Service Work Coordination	No Cost
Restitution Collection - Direct Disbursement to Victim	No Cost
On-Line Access for the Court to the PPSI Probation Tracker 2.0 Computer Program	No Cost
Transfer of Supervision	For 24/7 Internet Access to all Offender Data and Activity No Cost to any of our more than 40 locations nationwide
Resume and Interview Skills Development with Job Placement Assistance	No Cost
Indemnification of the City, and Naming the City as an Additional Insured	No Cost – Professional and General Liability

IN WITNESS WHEREOF, the parties hereto have executed this Addendum this
_____ day of _____, 2024.

THE CITY OF KENNESAW

**PROFESSIONAL PROBATION
SERVICES, INC.**

Derek Easterling, Mayor

Keith Ward, CEO

APPROVED BY THE KENNESAW MUNICIPAL COURT:

H. Luke Mayes, Chief Judge

R. Randall Bentley, Solicitor

CITY OF KENNESAW, GEORGIA

RESOLUTION NO. 2022-51, 2022

**RESOLUTION AUTHORIZING CONTRACT RENEWAL FOR PROBATION
SUPERVISION AND REHABILITATION SERVICES BETWEEN THE CITY OF
KENNESAW AND PROFESSIONAL PROBATION SERVICES, INC.**

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

WHEREAS, the City, authorized by O.C.G.A. § 42-8-101, wishes to enter into this Contract with Professional Probation Services, Inc. (PPSI) with the consent of the Court, and recognizes its responsibility to provide professional and effective sentencing alternatives for citizenry and offenders of the community; and

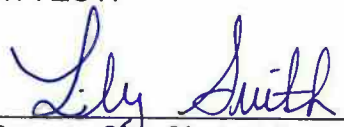
WHEREAS, PPSI is uniquely qualified and experienced in providing such comprehensive professional services and is willing to contract with the City with the approval of the Court; and

WHEREAS, the parties hereto deem it in their respective best interests and each will best be served by entering into said Contract for the provision by PPSI of such probation services as ordered by the Court.

NOW, THEREFORE, BE IT RESOLVED the Kennesaw City Council authorizes the Mayor to sign the contract attached as Exhibit A.

PASSED AND ADOPTED by the Kennesaw City Council on this 19th day of December, 2022.

ATTEST:


Deputy City Clerk, Lily Smith

CITY OF KENNESAW


Derek Easterling, Mayor



STATE OF GEORGIA
COUNTY OF COBB

CONTRACT FOR PROBATION SUPERVISION
AND REHABILITATION SERVICES

THIS CONTRACT made and entered into this 19TH day of DECEMBER, 2022, by and between the City of Kennesaw, Georgia (hereinafter referred to as the "City") and Professional Probation Services, Inc. (hereinafter referred to as "PPSI"), upon the request and consent of the Chief Judge of the Kennesaw Municipal Court (hereinafter referred to as the "Court").

WITNESSETH:

WHEREAS, the City, authorized by O.C.G.A. § 42-8-101, wishes to enter into this Contract with PPSI with the consent of the Court, and recognizes its responsibility to provide professional and effective sentencing alternatives for citizenry and offenders of the community; and

WHEREAS, PPSI is uniquely qualified and experienced in providing such comprehensive professional services and is willing to contract with the City with the approval of the Court; and

WHEREAS, the parties hereto deem it in their respective best interests and each will best be served by entering into said Contract for the provision by PPSI of such probation services as ordered by the Court.

NOW THEREFORE, in consideration of the premises and the mutual benefits and covenants provided under the terms and conditions of this Contract, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

DESIGNATION BY THE CITY

The City shall designate PPSI as the sole private entity to coordinate, provide, and direct probation and pre-trial programs and services to offenders sentenced by and under the jurisdiction of the Court.

SCOPE OF SERVICES

PPSI shall provide the services and programs for the misdemeanor offenders placed on probation by the Court which shall include the following particulars:

- A. Comply with the rules, standards, and qualifications as set forth by the Department of Community Supervision (DCS), and any subsequent changes, thereto, and the Laws of the State of Georgia.

- B. Operate under the conditions as agreed to by and between PPSI and the City, as more fully set forth in the Specifications for Probation Services attached hereto and incorporated herein by reference.
- C. Provide such services as specifically set forth in the Specifications for Probation Services for the provisions of services to offenders under the jurisdiction of the Court.
- D. Meet, maintain, and comply with all rehabilitation program offerings as specified in the Specifications for Probation Services.
- E. Maintain individual files for each offender participating in PPSI's programs in accordance with DCS Board Rule 105-2-.14. The files will be maintained in a secured area, in a secure file cabinet, or electronically. PPSI shall maintain the confidentiality of all files, records, and papers relative to the supervision of probationers under this Contract.
- F. Provide timely and prompt reports as are, or may be required by the Court during the period of the Contract, which include, but are not limited to, statistical reports, caseload data, and other records documenting the types of program services provided and the identity of the offenders receiving such services in accordance with O.C.G.A. § 42-8-108 and DCS Board Rule 105-2-.13.
- G. Provide counseling and supervision services for all persons ordered by the Court to participate in such programs during the period of the Contract and assure that PPSI is providing program services and maintaining records reflective of good business practice.
- H. Make fiscal and program records available within ten (10) working days for review and maintain financial records reflective of good business practice. Records shall be maintained in accordance with O.C.G.A. § 42-8-109.2 and DCS Board Rule 105-2-.14.
- I. Bill the offender for program services provided on such forms and in such manner to conform to acceptable business practice in accordance with DCS Board Rule 105-2-.14 and 105-2-.15. The accuracy of billing is to be confirmed by providing a copy of the services and attending cost to the offender.
- J. Charge each offender participating in rehabilitation programs the reasonable cost of the program as reflected in the Specifications for Probation Services attached hereto and incorporated herein by reference. Each offender shall be charged a maximum not to exceed the program costs as specified in the Specifications for Probation Services unless it is approved in advance by the Court. Those offenders

the Court shall determine to be indigent shall be ordered as such and shall be supervised at no cost in accordance with O.C.G.A. § 42-8-102.

- K. Collect restitution, fines, court costs and fees, program fees, and probation fees as ordered by the Court. PPSI shall prioritize the collection of restitution before the collection of fines and probation fees pursuant to O.C.G.A. § 17-14-8. PPSI shall collect funds for the Georgia Crime Victims Emergency Fund, as applicable, and forward them directly to the Georgia Crime Victims Compensation Board by the end of each month along with a corresponding remittance report pursuant to O.C.G.A. § 17-15-13(f).
- L. Submit a written report to the Court as frequently as the Court requires on the amount of Court fines, costs, fees, and restitution Court ordered and collected from each offender. The report shall include the total dollar amount applied to Court ordered fines, fees, restitution, and other conviction related costs.
- M. Tender all Court fines and costs ordered and collected from offenders to the Court as frequently as the Court requires.
- N. Comply with all laws regarding confidentiality of offender records in accordance with O.C.G.A. § 42-8-109.2 and DCS Board Rule 105-2-.09.
- O. Furnish a crime policy, fidelity bond, or letter of credit in the amount of not less than one hundred thousand (\$100,000.00) dollars as surety for the satisfactory performance of the Contract.
- P. Not profit or attempt to profit from any fines, restitution, or Court cost collected from the offenders.
- Q. The Court shall assist PPSI in obtaining access to criminal histories in the Georgia Crime Information Center and National Crime Information Center through local law enforcement in order for PPSI to conduct pre-sentence or probationer investigations as may be requested. PPSI may obtain a Georgia Crime Information Center (GCIC) Originating Agency Identifier (ORI) number. The Federal Bureau of Investigation (FBI) CJIS Security Addendum is, therefore, attached hereto and incorporated herein by reference.
- R. PPSI shall employ competent and able personnel to provide services rendered hereunder and to appropriately administer this caseload. All staff shall meet qualifications as prescribed by O.C.G.A. § 42-8-107 and DCS Board Rule 105-2-.09.
- S. PPSI shall have a criminal history records check made of all staff in accordance with O.C.G.A. § 42-8-106.1, O.C.G.A. §42-8-107, and DCS Board Rule 105-2-.10.

- T. PPSI staff shall comply with the orientation and continuing education training required per annum as prescribed by O.C.G.A. § 42-8-107, DCS Board Rule 105-2-.09, and DCS Board Rule 105-2-.12.
- U. PPSI shall make a supervision assessment of each offender and determine the reporting schedule, type of contact(s), and frequency of contact(s) pursuant to the direction of the Court. There are no minimally required contacts for pay-only cases. Probation officers shall supervise no more than 250 probationers under Basic Supervision and no more than 50 probationers under Intensive Supervision. There are no caseload size limitations regarding pay-only cases.
- V. PPSI shall coordinate and ensure compliance with community service by each probationer as ordered by the Court. PPSI will maintain records of community service participation and completion.
- W. PPSI shall coordinate with certified vendors the evaluation and assessment of probationers for drug/alcohol rehabilitation, mental health, psychological counseling, or educational programs mandated by the Court and shall require probationer's compliance. PPSI shall not specify, directly or indirectly, a particular DUI Alcohol or Drug Use Risk Reduction Program, which a probationer may or shall attend. PPSI shall conduct on-site drug and alcohol screens as determined necessary by the Court, the costs for which shall be paid by the offender as fully set forth in the Specifications for Services, attached hereto.
- X. The term "pay-only probation" means a defendant has been placed under probation supervision solely because such defendant is unable to pay the court imposed fine and statutory surcharges when such defendant's sentence is imposed. Such term shall not include circumstances when restitution has been imposed or other probation services are deemed appropriate by the court. When pay-only probation is imposed, the probation supervision fees shall be capped so as not to exceed three months of ordinary probation supervision fees in accordance with O.C.G.A. § 42-8-103. In its sole discretion, the Court may order that no probation fees shall be collected if all fines and statutory surcharges are paid in full within the first 30 days of the "pay-only probation" sentence.
- Y. Consecutive misdemeanor sentences shall be supervised in accordance with O.C.G.A. § 42-8-103 and § 42-8-103.1.
- Z. PPSI shall prepare probation violation warrants, orders, and petitions for modification/revocation of probation for submission to the Court. PPSI shall recommend the modification or revocation of probation whenever the probationer fails to substantially comply with the terms and conditions of probation. The Court shall determine what constitutes a substantial failure to comply with probation

terms and conditions. Modification/Revocation proceedings shall be conducted in accordance with O.C.G.A. § 42-8-102 and the Court's Judicial Procedures.

- AA. PPSI shall maintain an office for probation reporting and supervision within the city limits of the City of Kennesaw.
- BB. The parties acknowledge that under Georgia law the court retains discretion to waive probation fees. Any fees waived by the court via court sentence or court order pursuant to Georgia law will not be collected from the probationer by probation officer. *See*, O.C.G.A. § 42-8-102.

PRETRIAL INTERVENTION AND DIVERSION PROGRAM

In accordance with O.C.G.A. § 15-18-80, the prosecuting attorney of the Kennesaw Municipal Court is authorized to create and administer a Pretrial Intervention and Diversion Program for offenses within the jurisdiction of the Court. The purpose of such program is to provide an alternative to prosecuting offenders in the criminal justice system. Upon the request of the Solicitor and with the advice and express written consent of the Solicitor, which is now given, the City designates PPSI as the private entity to be used for the purpose of monitoring program participants' compliance with the Pretrial Intervention and Diversion Program. Fees for monitoring services are payable not by the City, but by the program participants. Entry into the Pretrial Intervention and Diversion Program shall be at the discretion of the Solicitor.

PERIOD OF SERVICE

The performance of the aforementioned services shall commence on the 1st day of April, 2023, and shall continue with a specific expiration date of the 31st day of March, 2024. The contract shall automatically renew for specific one-year terms on April 1st each year, thereafter, under the same terms and conditions as provided herein, unless written notice to the contrary is directed to the other party not less than sixty (60) days prior to the current term's expiration, in accordance with O.C.G.A. §36-60-13. Said automatic renewals shall continue for a maximum period of four (4) years. The contract shall absolutely terminate on March 31, 2028. Notwithstanding anything herein, this contract may be terminated by either party without cause upon giving a sixty (60) day written notice to the other of its intention to do so.

PAYMENTS FOR SERVICES

Fees for basic services are set out in the Specifications for Probation Services, which fees are payable not by the City, but by sentenced offenders. No fees accrued pursuant to the Specifications for Probation Services shall be obligations of the City.

DEFICIENCIES IN SERVICE, TERMINATION

In the event the City determines there are deficiencies in the service and work provided by PPSI, the City shall notify PPSI in writing as to the precise nature of any such deficiencies. Within

ten (10) working days of receipt of such notice, PPSI shall correct or take reasonable steps to correct the deficiencies complained of, including, if necessary, increasing the work force and/or equipment, or modifying the policies and procedures used by PPSI in performing services pursuant to this Contract. If PPSI fails to correct or take reasonable steps to correct the deficiencies within ten (10) working days, the City may declare PPSI in default and this Contract shall be declared terminated upon receipt by PPSI of notice thereof. PPSI agrees that in the event it disputes the City's right to invoke the provisions of this paragraph, it will not seek injunctive or other similar relief, but will either negotiate a settlement of the matter with the City or seek, as its remedy, monetary damages in a Court of competent jurisdiction.

DISPUTES

In the event of any controversy, claim or dispute as to the services and work performed or to be performed by PPSI, or the construction or operation of or rights and liabilities of the parties under this Contract, where the City is the complaining party, each such question shall be submitted to the Chief Judge of the Kennesaw Municipal Court for resolution; provided, however, in the event either party disagrees with the decisions of the Judge, that party shall have the right to litigate the matter in its entirety in a Court of competent jurisdiction. The party wishing to submit a matter to the Judge shall do so by written notice to the other party and to the Judge, which shall specify the nature of the controversy, claim or dispute. The Judge shall schedule a hearing within fifteen (15) days of such notice, at which time both parties shall present their positions. The Judge shall render a decision within seven (7) days after the date of the hearing. In the event the Judge is the complaining party, the Chief Judge of the Cobb County Superior Court, or his/her designee, shall be asked to resolve the issues presented.

TRANSFER OF OPERATIONS

In the event PPSI defaults for any reason in the service provided for by this Contract, the City may, at its election and upon five (5) working days' prior written notice to PPSI, take possession of all records and other documents generated by PPSI in connection with this Contract, and the City may use the same in the performance of the services described herein. PPSI agrees to surrender peacefully said records and documents. The City shall provide PPSI with a written receipt of those items over which the City assumes exclusive control. PPSI agrees that in the event it disputes the City's right to invoke the provisions of this paragraph, it will not seek injunctive or other similar relief, but will either negotiate a settlement of the matter with the City, or seek monetary damages as its remedy in a court of competent jurisdiction.

RIGHT TO REQUIRE PERFORMANCE

The failure of the City at any time to require performance by PPSI of any provisions hereof shall in no way affect the right of the City thereafter to enforce same. Nor shall waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

ACCESS TO BOOKS AND RECORDS

The City's representatives shall have access on a weekday, other than a legal State holiday, upon forty-eight (48) hours prior written notice to PPSI's representative, to all PPSI's books, records, correspondence, instructions, receipts, vouchers, and memoranda of every description pertaining to work under this Contract, for the purpose of conducting a complete independent fiscal audit for any fiscal year within the immediately preceding two (2) years, in accordance with O.C.G.A. § 42-8-108, DCS Board Rule 105-2-.14, and DCS Board Rule 105-2-.19.

INSURANCE

PPSI shall provide and maintain during the life of this Contract, workers' compensation insurance and general liability with the following limits of liability:

Workers' Compensation	- Statutory
Bodily Injury Liability	- \$ 100,000 each accident
	- \$ 500,000 each occurrence
General Liability	- \$1,000,000 each occurrence
Personal & Advertising Injury	- \$1,000,000 each occurrence
Professional Liability	- \$1,000,000 each occurrence

INDEMNIFICATION/HOLD HARMLESS

With regard to the work to be performed by PPSI, neither the Court nor the City shall be liable to PPSI, or to anyone who may claim a right resulting from any relationship with PPSI, for any negligent act or omission of PPSI, its employees, agents, or participants in the performance of services conducted on behalf of the City. In addition, PPSI agrees to indemnify and hold harmless the Court and the City, their officials, employees, agents, or participants with the Court and the Probation Services described herein, from any and all claims, actions, proceedings, expenses, damages, liabilities or losses (including, but not limited to, attorney's fees and court costs) arising out of or in connection with any negligent act or omission of PPSI, including wrongful criminal acts of PPSI, or PPSI's employees, agents, or representatives. Further, the City is to be named as an additional named insured on PPSI's liability insurance policies.

ASSIGNMENT

The duties and obligations assumed by PPSI are professional services unique to PPSI and are therefore not transferable or assignable without prior written consent of the City and Court. Consent, however, shall not be unreasonably withheld.

VALIDITY

This Contract shall be binding on any successor to PPSI. This Contract shall be binding on any successor to the undersigned official of the City or Court to the extent allowed by law. The provisions enumerated in this Contract shall be deemed valid insofar as they do not violate any

City, State, or Federal laws. In the event any provision of this Contract should be declared invalid, the remainder of this Contract shall remain in full force and effect.

NOTICE

Any notice provided for in this Contract shall be in writing and served by personal delivery or by registered or certified mail addressed to:

As to the City : The City of Kennesaw
2529 J.O. Stephenson Ave.
Kennesaw, GA 30144
Attn: Jeff Drobney, City Manager

As to PPSI: Professional Probation Services, Inc.
327 S. Hill Street, Building A
Buford, Georgia 30518
Attn: Keith Ward, CEO

Notices sent by registered or certified mail shall be deemed delivered/received upon actual receipt or three (3) days from mailing, whichever is shorter. The above addresses may be modified by written notice to the other party.

ENTIRE AGREEMENT

This Contract, including all exhibits attached hereto and incorporated herein by reference, constitutes the entire understanding and agreement between the parties hereto and supersedes any and all agreements, whether written or oral, that may exist between the parties regarding the same. No representations, inducements, promises, or agreements between the parties not embodied herein shall be of any force and effect. No amendment or modification to this Contract or any waiver of any provisions hereof shall be effective unless in writing and signed by the City and PPSI.

INDEPENDENT CONTRACTOR

PPSI is and shall at all times remain as to the City a wholly independent contractor. Neither the City nor any of its agents shall have control over the conduct of PPSI or any of PPSI's officers, agents, or employees, except as herein set forth. PPSI shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the City.

GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT

PPSI attests compliance with the requirements of O.C.G.A. § 13-10-91 and Georgia Rules and regulations, Rule 300-10-1.02 by the execution of the contractor affidavit attached as Exhibit

B. PPSI agrees that, in the event PPSI employs or contracts with any subcontractor(s) in connection with the covered contract, PPSI will secure from such subcontractor(s) attestation of the subcontractor's compliance with O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 by the subcontractor's execution of the subcontractor affidavit shown in Rule 300-10-1-.08 or a substantially similar subcontractor affidavit, and maintain records of such attestation for inspection by the City at any time.

INTERPRETATION

PPSI and City acknowledge that the terms of this Contract have been mutually negotiated and, accordingly, shall not be interpreted against either City or PPSI on the basis that either party was solely responsible for or in control of the drafting of this Contract.

ADVERTISING

PPSI may not use City's name or refer to City or the Contract, directly or indirectly in promotional material, advertisement, news release, or release to professional or trade publication without obtaining the City's prior written approval.

CONFLICT OF INTEREST

PPSI represents that it has no existing financial interest and will not acquire any such interest, direct or indirect, which could conflict in any manner or degree with the performance of services required under this Contract and that no person having any such interest shall be subcontracted in connection with this Contract or employed by PPSI. PPSI shall not conduct or solicit any non-City business while on City property or time. PPSI will also take all necessary steps to avoid the appearance of a conflict of interest and shall have a duty to disclose to the City prior to entering into this Contract any and all circumstances existing at such time which pose a potential conflict of interest. PPSI warrants that it has not directly or indirectly offered or given, and will not directly or indirectly offer or give, to any employee, agent, or representative of City any cash or non-cash gratuity or payment with view toward securing any business from City or influencing such person with respect to the conditions, or performance of any agreements with or orders from City, including without limitation this Contract. Any breach of this warranty shall be a material breach of each and every agreement between City and PPSI. Should a conflict of interest issue arise, PPSI agrees to fully cooperate in any inquiry and to provide the City with all documents or other information reasonably necessary to enable the City to determine whether or not a conflict of interest existed or exists. Failure to comply with the provisions of this section shall constitute grounds for immediate termination of this Contract, in addition to whatever other remedies the City may have.

VENUE AND JURISDICTION

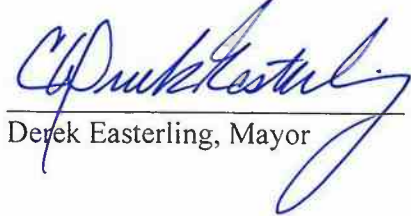
Venue and jurisdiction regarding all disputes not resolved by the Chief Judge of the Municipal Court as set forth herein shall lie exclusively in the Superior Court of Cobb County, Georgia and this Contract shall be interpreted under the laws of the State of Georgia. For purposes

of this Contract, the term "court of competent jurisdiction shall mean the Superior Court of Cobb County, Georgia.

In witness whereof, the parties here to have executed this Contract on the day first above written.

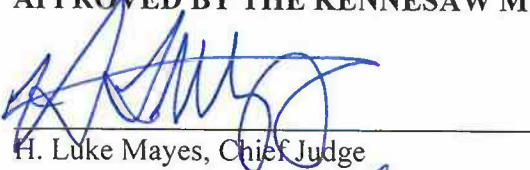
THE CITY OF KENNESAW

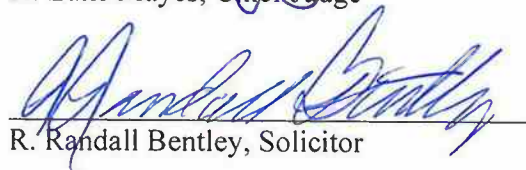
PROFESSIONAL PROBATION SERVICES, INC.


Derek Easterling, Mayor


Keith Ward, CEO

APPROVED BY THE KENNESAW MUNICIPAL COURT


H. Luke Mayes, Chief Judge


R. Randall Bentley, Solicitor



Specifications for Services

Pay-Only Probation Supervision	\$40.00 per month. The pay-only probation supervision fees shall be capped per O.C.G.A. §42-8-103.
Basic Probation Supervision	\$40.00 per month
Intensive Probation Supervision	\$45.00 per month
Indigent Supervision	\$0.00 – As determined and ordered by the Court
Pre-Trial/Diversion Supervision	No Cost (Monthly Alcohol and Drug Screen Fees Apply)
Electronic Monitoring	<u>\$50.00 Installation Fee +</u> RF House Arrest: \$6.00 per day Active GPS: \$10.00 per day SCRAM – Remote Breath: \$7.25 per day SCRAM – with landline: \$10.00 per day SCRAM – Alcohol Monitoring with Cellular Connector: \$12.00 per day SCRAM – Alcohol Monitoring plus House Arrest: \$15.00 per day
Alternative GPS Monitoring with Victim Notification	Shepherd System (or similar) Smart Phone Application \$55.00/\$85.00 Enrollment Fee + \$5.00 - \$6.00 per day
On-Site, Multi-Panel Drug Screen	\$25.00
Alcohol Test – Breathalyzer	\$15.00
On-Site EtG Test	\$25.00
Laboratory Confirmation Test	\$25.00

Termination Letter Administrative Fee	\$10.00 (If applicable)
Community Service Work Coordination	No Cost
Restitution Collection - Direct Disbursement to Victim	No Cost
On-Line Access for the Court to the PPSI Probation Tracker 2.0 Computer Program	No Cost For 24/7 Internet Access to all Offender Data and Activity
Transfer of Supervision	No Cost to any of our more than 40 locations nationwide
Resume and Interview Skills Development with Job Placement Assistance	No Cost
Indemnification of the City, and Naming the City as an Additional Insured	No Cost – Professional and General Liability



Item Report

TO: The Honorable Mayor and City Council
FROM: Ricky Stewart, Public Works Director
DATE: October 21, 2024
TITLE: **Road Closures: Taste of Kennesaw**
Consideration to approve road closures for Taste of Kennesaw festival.

Summary:

JRM has made the following request for road closures associated with the Taste of Kennesaw festival:

Beginning Friday, November 1, 2024, at 11:00 p.m. until November 2, 2024, at 12:00 a.m./Midnight; Cherokee Street from Main Street to Shirley Drive/Big Shanty Drive. Main Street from Summer Street to Lewis Street; J.O. Stephenson Avenue from the entrance to Eaton Chiropractic to Main Street; Watts Drive from Little General Cloggers Lane to Main Street.

Recommendation:

The Events Committee recommends approval of the road closures.

Fiscal Impact:

Attachments:

None



Item Report

TO: The Honorable Mayor and City Council

FROM: Robbie Balenger, Building & Facilities Director

DATE: October 21, 2024

TITLE: **Rescind: Resolution 2024-43, 2024**
Consideration to rescind Resolution No. 2024-43, 2024 terminating the contract with Magnum Contract, LLC for the Smith-Gilbert Gardens Improvement Project.

Summary:

On August 19, 2024, Resolution No. 2024-43 awarded the contract to Magnum Contracting, LLC for the Smith-Gilbert Gardens Improvement Project. The contract contains a provision that requires the parties to negotiate a date of project completion upon the award of the contract (2-3, para. 6). The date of completion of the work is an "Essential Condition" of the contract (3-31, para. 73). Further, the contract required that Magnum Contracting, LLC deliver to the city a construction progress schedule satisfactory to the City (3-15, para. 35). The City and Magnum Contracting, LLC reached an impasse on the date of project completion and the construction progress schedule. As required by the contract (3-14, para. 34), the City certified mailed a Notice of Termination of Contract to Magnum Contracting, LLC, the sureties, and the Engineer on September 10, 2024. Magnum Contracting, LLC had ten (10) calendar days from the date of the Letter to provide assurances to the City in writing that it could complete the project as set forth in the plans provided by the City for the amount set forth in its bid as well as negotiate a project completion date and submit a construction progress schedule satisfactory to the City or the contract shall, upon expiration of said ten (10) calendar days, cease and terminate. The City did not receive a response back from Magnum Contracting, LLC within the ten-day period.

Recommendation:

The Building Facilities Director recommends rescinding Resolution No. 2024-43.

Fiscal Impact:

Attachments:

1. RES 2024-43 Smith Gilbert Gardens Improvements - Original

2. RES 2024-43 SGG Contract - VOID
3. 2024-09-09 Notice of Termination Letter

CITY OF KENNESAW
GEORGIA

RESOLUTION NO. 2024-43, 2024

RESOLUTION TO AWARD THE BID AND CONTRACT TO MAGNUM
CONTRACTING, LLC FOR THE SMITH-GILBERT GARDENS IMPROVEMENT
PROJECT

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

WHEREAS, various Smith-Gilbert Garden improvements will provide better accessibility and amenities for visitors; and

WHEREAS, the scope of work includes all material and labor necessary to construct ADA Pathways, Accessible Pathways, Restroom Facility, and a Pavilion; and

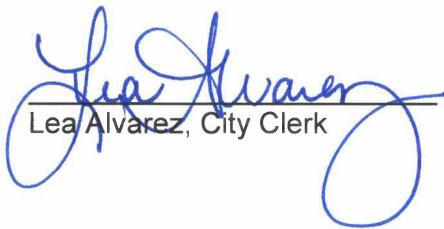
WHEREAS, Magnum Contracting, LLC was the lowest qualified bid of \$1,124,821.40 and there is an additional \$16,667.50 needed for architecture and engineering costs, which brings the total cost of the project to \$1,141,488.90; and

WHEREAS, this project will be funded with previously approved ARPA funds, previously approved SGG Foundation funds, and 2022 SPLOST Funds.

NOW, THEREFORE, BE IT RESOLVED the Kennesaw City Council authorizes the Mayor to award the bid and sign the contract with Magnum Contracting, LLC for Smith-Gilbert Gardens Improvement Project as shown in Exhibit A.

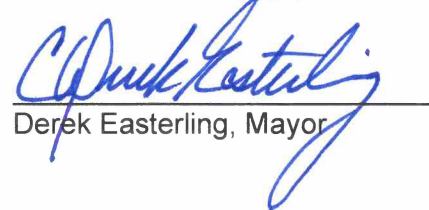
PASSED AND ADOPTED by the Kennesaw City Council on this 19th day of August 2024.

ATTEST:


Lea Alvarez, City Clerk



CITY OF KENNESAW


Derek Easterling, Mayor

City of Kennesaw, Georgia

Smith-Gilbert Gardens Improvements Project



CITY:

City of Kennesaw, Georgia

2529 J. O. Stephenson Avenue

Kennesaw, Georgia 30144

First Advertisement: May 17, 2024

Second Advertisement: May 31, 2024

Pre-Bid Meeting: June 5, 2024, 1:00pm

Proposal Opening: June 14, 2024

10:00am Local Time, City Hall Training Room



200 Cobb Parkway North
Building 400, Suite 413
Marietta, GA 30062

o | 770.971.5407

f | 770.971.0620

croyengineering.com

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ATTACHMENTS

Exhibit A	END
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REQUEST FOR PROPOSAL

Sealed proposals will be received by the City of Kennesaw, Georgia, herein referred to as the City, at the office of the City Clerk located at 2529 J.O. Stephenson Avenue, Kennesaw, Georgia, 30144 until: Friday, June 14, 2024, 10:00 am, Local Time, at which time all received proposals will be opened and recorded, for the furnishing of all materials, labor, tools, skills, equipment, and incidentals necessary for the completion of the:

SMITH GILBERT GARDENS IMPROVEMENT PROJECT

A total of five (5) paper copies, and one (1) digital copy provided on a USB/flash drive device, of the proposal shall be required. Factors used in evaluating proposals will include: Firm Qualifications, References, Experience, Litigation Record, and Project Cost. Proposals received after the designated time will not be considered.

The principal items required for the project shall include all materials and labor necessary for the creation of a new restroom building, a new pavilion, a new ADA parking area, the paving of an existing parking lot, and paved walking paths throughout Smith Gilbert Gardens.

General conditions, specifications and contract documents shall be obtained at no cost from the Kennesaw City Clerk's Office upon request via email to [Lea Alvarez](mailto:Lea.Alvarez@kennesaw-ga.gov) [lalvarez@kennesaw-ga.gov](mailto:Lea.Alvarez@kennesaw-ga.gov). **Only a proposal submitted by a Contractor on record with the City Clerk's Office as having received general conditions, specifications and contract documents from the Issuing Office will be opened.**

General conditions, specifications and contract documents are open to public inspection at the office of Croy Engineering located at 200 Cobb Pkwy N, Bldg. 400, Suite 413, Marietta, Georgia, 30062. Contract time for final completion shall be negotiated at time of Contract award.

Payment will be made to the contractor each calendar month based on the estimated work completed and in place as described by the standard specifications. Final payment of amounts withheld or deposited in escrow will not be made until the City of Kennesaw has certified that the work has been satisfactorily completed and accepted.

Each proposal must be accompanied by a cashier's check or certified check on a duly organized bank made payable to City of Kennesaw or a bidding bond executed by the bidder, and a surety company authorized to transact business in the State of Georgia, in the sum of not less than five percent (5%) of the total amount of the bid.

All proposals must be made out on the bid form furnished with the Contract Documents, in accordance with the instructions in the information for bidders. No interlineations, additions or deletions shall be made in the bid form by the Bidder.

No proposal may be withdrawn after the scheduled closing time for receiving bids for a period of sixty (60) days.

The City reserves the right to reject any or all proposals, to waive formalities, re-advertise, and to reduce or add to the contract from time to time.

City of Kennesaw, Georgia
2529 J.O. Stephenson Avenue
Kennesaw, Georgia, 30144

Advertisement Run Dates:

May 17, 2024

May 31, 2024

Pre-Bid Meeting:

June 5, 2024, 1:00pm

Smith-Gilbert Gardens

2832 Pine Mountain Rd.

Kennesaw, Ga. 30152

SECTION ONE
INFORMATION FOR BIDDERS

1. RECEIPT AND OPENING OF PROPOSALS

The City of Kennesaw, Georgia (hereinafter called the City), invites competitive cost sealed proposals for SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT. Proposals will be received by the City at City Hall, 2529 J. O. Stephenson Avenue, Kennesaw, GA 30144 until Friday, June 14, 2024, 10:00 am, Local Time, and then at said City Hall opened and recorded. The envelope containing the proposals must be sealed and designated on the outside of the envelope as proposal for:

City of Kennesaw

SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

The City may consider informal any proposal not prepared and submitted in accordance with the provisions hereof and may waive any informalities to reject all proposals. Any proposal may be withdrawn prior to the above scheduled time for opening of bids or authorized postponement thereof. Any proposal received after the time and date specified shall not be considered. No bidder may withdraw a proposal within Sixty (60) days after the actual date of the opening thereof.

2. PREPARATION OF PROPOSAL

Each proposal must be submitted on the prescribed form/s. If unit pricing form is contained within, all blank spaces for unit prices must be filled in, in ink or typewritten, in both words and numerals. In case of discrepancies, words will take precedence over numerals and unit prices will take precedence over totals.

Each proposal must be submitted in a sealed envelope bearing on the outside the name of the bidder, his/her address, and the name of the Project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form. Any bid which is not properly prepared and accompanied by required certifications may be rejected by the City.

Bidders must submit three (3) paper copy of proposal documents as well as one (1) digital copy provided on a USB/flash drive device.

3. QUALIFICATIONS OF BIDDERS

The City may make such investigations as it deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the City all such information and data for this purpose as the City may request. By submission of its Proposal, the Bidder acknowledges the right of the City to make such investigations, to contact references and utilize this information as a basis of determining award of the contract. The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, such bidder fails to satisfy the City that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional proposals will not be accepted.

Written information pertaining to the Bidder's qualifications may be requested by the City. Failure of the Bidder to provide such information within fifteen days of notification will be grounds for disqualification.

All bidders must demonstrate the following:

SUBMISSION OF STATEMENT OF QUALIFICATIONS

Responses must be submitted in a sealed envelope bearing on the outside the name of the Firm, the Firm's address, and the name of the Project for which the Response is submitted. If forwarded by mail, the sealed envelope containing the Response must be enclosed in another envelope addressed as specified above. All sealed Responses shall include three (3) paper copies and one (1) digital copy provided on a USB/flash drive device. Responses shall include and/or address all submittal requirements listed below. Please note maximum page limit for some sections.

1. Cover Page

- a. Include the project name (SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT)

2. Table of Contents

3. Required Documents

- a. Provide items specified in the "Submission of Statement of Qualifications"

4. Firm Qualifications (15 Page Limit)

- a. Capability of the firm to progress and complete the work, taking into consideration size of work force, current workload, in house staff capabilities and the like. At a minimum, Responses should provide the following information:
 - i. Provide proof of Georgia General Contractor license and Business License.

- ii. Provide Summary of firm history. Include founding date and years of continuous operation.
- iii. Identify the primary point of contact for the overall administration of this project.
- iv. Identify key team members available for this project.
- v. List qualifications of staff to be assigned to this project.
- vi. List years in construction and years with firm for staff to be assigned to this project.
- vii. Provide the office location for each listed team member. Preference will be given to teams with a local presence.

5. References and Relationships (10 Page Limit)

- a. Four references from clients detailing level of prior satisfaction.
- b. Four references from sub-contractors, listing projects (with dates) completed with your firm and detailing level of prior satisfaction.

6. Experience (10 Page Limit)

- a. Previous experience of the firm or key team members with similar projects. List awards or commendations, cost effective performance, timely completion, and demonstrated ability.
- b. Experience on projects of similar scope.
- c. Experience within the City of Kennesaw and Cobb County.
 - i. Please list any projects in which the City of Kennesaw was the owner.

7. Litigation Record

- a. Provide a comprehensive ten (10) year summary of the firm's litigation, arbitration, and negotiated/settled history with previous clients. State the issues in the litigation, the status of the litigation, names of parties, and outcome.

8. Project Cost

- a. A Bid Proposal must be completed using both Exhibit A and pages 2-3 through 2-5 in the Program Manual and is only required be included with the paper submittal of the response and should be submitted in a separately sealed envelope. The Bid proposal should NOT be included with the digital copy of the Response provided on a USB/flash drive device.

CITY QUESTIONS

Any Firm that submits a Response may be requested to provide additional information to the City of Kennesaw. Such information is only for the purpose of clarification and in no way changes the Firm's Response as originally submitted. The City of Kennesaw reserves the right to ask any or all Firms to clarify any portion of their Response after submission.

4. BID SECURITY

Each bid must be accompanied by a certified check or bid bond prepared on the form of bid bond attached hereto, duly executed by the bidder as principal and having as surety thereon a surety company approved by the City, in the amount of not less than 5% of the bid. Such certified checks or bid bonds will be returned to all except the three lowest responsible bidders within three (3) business days after the opening of bids, and the remaining certified checks or bid bonds will be returned promptly after the City and the accepted bidder have executed the Contract, or, if no award has been made within 180 days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid.

5. LIQUIDATED DAMAGES AND FAILURE TO ENTER INTO CONTRACT

The successful bidder, upon his failure or refusal to execute and deliver the Contract and bonds required within ten (10) calendar days after he has received notice of the acceptance of his bid, shall forfeit to the City, as liquidated damages for such failure or refusal, the security deposited with his bid.

6. TIME OF COMPLETION AND LIQUIDATED DAMAGES

Bidder hereby agrees to commence work under this contract on or before a date to be specified in a written "Notice to Proceed" of the City and project completion date will be negotiable upon contract award. Bidder further agrees to pay as liquidated damages, beyond the negotiated completion date, in the sum of \$500 per each consecutive calendar day that the Contractor shall be in default after the negotiated date stipulated in the Contract for completing the work.

7. CONDITION OF WORK

Each bidder must inform himself fully of the conditions relating to the design and construction of the Project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his Contract. Insofar as possible, the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor.

8. ADDENDA AND INTERPRETATIONS

Oral interpretations of the meaning of general conditions, specifications or other Contract documents shall not be binding over written material. Every request for such interpretation should be in writing, via email, addressed to Mr. Roy Acree, email: racree@croyeng.com and to be given consideration must be received by Monday, June 10, 2024, 5:00pm Local Time. All such interpretations and any supplemental instructions will be in the form of written addenda to the specifications, which, will be mailed to all prospective bidders. Failure of any bidder to receive any such addendum or interpretations shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the Contract Documents.

9. SECURITY FOR FAITHFUL PERFORMANCE

Simultaneously with its delivery of the executed Contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of his Contract and for the payment of all persons performing labor on the Project under this contract, and furnishing materials in connection with its contract, as specified in the General Conditions included herein. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Georgia.

10. POWER OF ATTORNEY

Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

11. NOTICE OF SPECIAL CONDITIONS

Attention is particularly called to those parts of the contract documents and specifications which are identified subsequently under Special Conditions.

12. LAWS AND REGULATIONS

The bidders' attention is directed to the fact that all applicable federal and state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

13. METHOD OF AWARD

The contract shall be awarded pursuant to O.C.G.A. § 36-91-21, to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth herein. The information requested in the "Submission of Statement of Qualifications" section of this RFP will serve as the selection criteria and is surmised below.

Selection Criteria

Firm Qualifications

Experience

Project Cost

References

Litigation Record

In the event the City Council approves the selection of the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth herein, the City intends to enter into a contractual agreement with the selected Firm.

14. OBLIGATION OF BIDDER

At the time of the opening of proposals, each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the general conditions, specifications, and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve any bidder from any obligation in respect to its bid.

Each bidder agrees to waive any claim it has or may have against the City, the Engineer, and their respective elected officials, officers, attorneys, and employees, arising out of or in conjunction with the administration, evaluation, or recommendation for award of any bid. The City reserves the right to reject any or all proposals; to waive formalities; re-advertise; and to reduce or add to the Contract from time to time.

15. CORRELATION AND INTENT OF DOCUMENTS

The Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all. The intent of the Contract Documents is to describe in detail all construction entailed in this Project. The Contractor will furnish plans, all labor, materials, equipment, transportation, tools, and appurtenances such as may be reasonably required under the terms of the contract to make each part of the work complete.

16. CLAIMS

The City reserves the right to refuse to issue any voucher and to direct that no payment shall be made to the Contractor in case they have reason to believe that said Contractor has neglected or failed to pay any Subcontractor, material dealer, worker or employee for work performed on or about the Project including work as set forth in these specifications, until the City is satisfied that such Subcontractors, material dealers, worker, or employees have been fully paid. However, this provision shall not obligate the City to intervene in any claim.

17. ORDER OF WORK

The work shall be started at such points as the City shall designate and shall be prosecuted in the order it directs. This applies to both location and items of construction.

18. SUBCONTRACTS

If required by the City the apparent Successful Bidder, and any other Bidder so requested, will within seven (7) calendar days after the day of the Bid opening submit to City a list of all Subcontractors and other persons and organizations (including those who are to furnish the principal items of material and equipment) proposed for those portions of the Work as to which such identification is so required. If City or Engineer after due investigation has reasonable objection to any proposed Subcontractor, other person, or organization, either may before giving the Notice of Award request the apparent Successful Bidder to submit an acceptable substitute without an increase in Bid price. If the apparent Successful Bidder declines to make any such substitution, the contract shall not be awarded to such Bidder, but his declining to make any such substitution will not constitute grounds for sacrificing his Bid Security. Any Subcontractor, other person or organization so listed and to whom City or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to City and Engineer. All subcontractors submitted for consideration must comply with e-Verify requirements.

19. TIMELY EXECUTION

When City gives a Notice of Award to the Successful Bidder, it will be accompanied by at least three (3) unsigned counterparts of the Contract and all other Contract Documents. Within ten (10) calendar days thereafter Contractor shall sign and deliver at least three (3) counterparts of the Contract to City with all other Contract Documents attached. Within ten (10) calendar days thereafter City will deliver 2 fully signed counterparts to Contractor. Engineer will identify those portions of the Contract Documents not fully signed by City and Contractor and such identification shall be binding on all parties.

20. PRE-BID CONFERENCE

A Pre-bid Meeting will be held for this project on Wednesday, June 5, 2024, at 1:00pm local time, at Smith-Gilbert Gardens, located at 2382 Pine Mountain Road, Kennesaw, Ga. 30152.

END OF SECTION

SECTION TWO

CONTRACT DOCUMENTS

BID BOND
(Five Percent of Bid)

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned

Magnum Contracting, LLC as Principal and

American Alternative Insurance Corporation as Surety,

are hereby held and firmly bound unto the City of Kennesaw, Georgia as City in the penal

sum of FIVE PERCENT OF AMOUNT BID Dollars (\$ 5%) for

the payment of which, well and truly to be made, we hereby jointly and severally bind

ourselves, our heirs, executors, administrators, successors, and assigns.

Signed this 14th day of June, 20 24.

The condition of the above obligation is such that whereas the Principal has submitted to the City of Kennesaw, Georgia a certain bid attached hereto and hereby made a part hereof to enter into a contract in writing for the construction of:

City of Kennesaw

SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

NOW, THEREFORE,

- (a) If said bid shall be rejected or in the alternate,
- (b) If said bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said bid) and shall furnish a bond for his faithful performance of said contract and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the Contract created by the acceptance of said bid, then this obligation shall be void; otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

BID BOND
(Continued)

The Surety, for value received, hereby stipulates, and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the City may accept such Bids and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

SEAL

Magnum Contracting, LLC

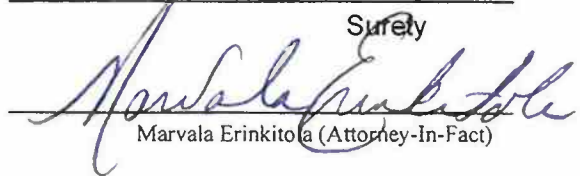
Principal



SEAL

American Alternative Insurance Corporation

Surety


Marvala Erinkito (Attorney-In-Fact)

BID PROPOSAL

Place Jasper, GA

Date 6/13/2024

Proposal of Magnum Contracting, LLC

(hereinafter called "Bidder") a contractor organized and existing under the laws of the State of Georgia, an individual, a corporation, or a partnership doing business as General Contractor.

TO: City of Kennesaw, Georgia
(Hereinafter called "City")

Gentlemen:

The Bidder in compliance with your request for qualifications for the construction of:
City of Kennesaw

SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

having examined the scope and specifications with related documents and the site of the proposed work and being familiar with all of the conditions surrounding the construction of the proposed Project, including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the Project in accordance with the Contract Documents, within the time set forth herein, and at the price stated below. The price will cover all expenses incurred in performing the work required under this Contract, of which this proposal is a part.

Bidder hereby agrees to commence work under this Contract on or before a date to be specified in a written "Notice to Proceed" of the City and project completion date will be negotiable upon contract award. Bidder further agrees to pay as liquidated damages, beyond the negotiated completion date, in the sum of \$500 per each consecutive calendar day that the Contractor shall be in default after the negotiated date stipulated in the Contract for completing the work.

Bidder acknowledges receipt of the following addenda:

Addenda 1
Addenda 2

Scope of Services – SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT:

The property identified for the Smith-Gilbert Gardens Improvement Project is located at 2382 Pine Mountain Rd, Kennesaw, Ga. 30152, and is approximately 12.37 ac. in area. The improvements to Smith-Gilbert Gardens will include topping an existing asphalt parking area, adding a new smaller ADA parking area, the construction of a new restroom building and a new pavilion, and the addition of hard-surface walking pathways. All necessary specifications, details, and engineered requirements can be found in the Smith-Gilbert Gardens Construction Documents.

BID PROPOSAL (Continued)

Note: Please complete Exhibit A – Itemized Bid Proposal Form, to calculate Grand Total for the project.

Grand Total
(From Exhibit A)

\$1,124,821.40
(Numerals)

one Million, One Hundred twenty-
four Thousand, Eight Hundred
twenty-one dollars and
(Words) Forty cents

Amount shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern.

The above price shall include all labor, materials, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

Bidder understands that the City reserves the right to reject any or all bids and to waive any informalities in the bidding.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving bids.

The undersigned further agrees that, in case of failure on his part to execute said Contract and bond within ten (10) calendar days after the award thereof, the check or bond accompanying his bid and the money payable thereon shall become the property of the City; otherwise, the check or bond accompanying this proposal shall be returned to the Bidder.

The Bidder declares that he understands that the items shown on the plans are subject to adjustment by either increase or decrease, and that should the quantities of any of the items of work be increased, the undersigned proposes to do the additional work at the unit prices stated in the schedule of values; and should the quantities be decreased, he also understands that payment will be made on actual quantities at the unit price stated in the schedule of values and will make no claim for anticipated profits for any decrease in the quantities and that actual quantities will be determined upon completion of work by field measurement agreed to by the Project Representative, at which time adjustment will be made to the Contract amount by direct increase or decrease.

Attached hereto is a bid bond or certified check on the Smith-Gilbert Gardens Improv of
City of Kennesaw, in the amount of 5% according
to conditions under "Information for Bidders" and the provisions therein.

The full name and residence of persons or parties interested in the foregoing bids, as
principals, are named as follows:

Magnum Contracting, LLC
2 Mountain Park Drive, W.
Jasper, GA 30143

Dated at: June 14th, 2024

The 13th day of June, 2024

Bradley D. Cox
Signature

Bradley D. Cox
Printed

President
Title

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That Magnum Contracting, LLC as Principal hereinafter called Contractor, and American Alternative Insurance Corporation a corporation organized and existing under the laws of the State of Delaware, as Surety, hereinafter called Surety, are held, and firmly bound unto The City of Kennesaw, Georgia as obligee, hereinafter called City, in the amount of One Million One Hundred Twenty Four Thousand Eight Hundred Twenty-One Dollars and 40/100's Dollars (\$ 1,124,821.40) in lawful money of the United States, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS Contractor has by written agreement dated _____, 20____, entered into a Contract with City for:

City of Kennesaw

SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

in accordance with exhibits and specifications prepared by Croy Engineering, LLC, Marietta, Georgia which Contract is by reference made a part hereof and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the City.

Whenever Contractor shall be, and declared by City to be in default under the Contract, the City having performed City's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) Complete the Contract in accordance with its terms and conditions, or
- (2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the City elects, upon determination by the City and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and the City, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contract of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract price," as used in this paragraph shall mean the total amount payable by City to Contractor under the Contract and any amendments hereto, less the amount properly paid by City to Contractor. No action can be instituted on this bond after one year from the completion of the Contract and the acceptance by City of the work thereunder.
- (3) No suit or action shall be commenced hereunder by any claimant other than in the Superior Court of Cobb County, Georgia. This Bond shall be interpreted under the laws of the State of Georgia. Jurisdiction and venue shall lie in the Superior Court of Cobb County, Georgia.

In witness whereof, this instrument is executed in Three (3) counterparts, each one of which

shall be deemed an original this _____ day of _____ 20_____


Witness as to Principal

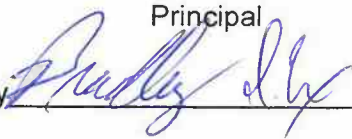
2 Mountain Park Drive West, Jasper, GA 30143


Witness as to Surety Grace DelGiudice

8358 Main Street, Woodstock, GA 30188

Magnum Contracting, LLC

Principal

By  SEAL

American Alternative Insurance Corporation

Surety

By 
Attorney-in-Fact Marvala Erinkitola

8358 Main Street, Woodstock, GA 30188

Address

Note: Date of Bond must not be prior to date of Contract.

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That Magnum Contracting, LLC as Principal, hereinafter called Principal,
and American Alternative Insurance Corporation, a corporation organized and existing
under the laws of the State of Delaware, as Surety, hereinafter called Surety,
are held and firmly bound unto the City of Kennesaw, Georgia, as obligee, herein below
defined, in the amount of One Million One Hundred Twenty Four Thousand
Eight Hundred Twenty-One Dollars and 40/100's Dollars
(\$1,124,821.40) for the payment whereof Principal and Surety bind
themselves, their heirs, executors, administrators, successors and assigns, jointly and
severally, firmly by these presents.

WHEREAS, Principal has by written agreement

this _____ day of _____, 20____, entered into a Contract with City
for: _____

City of Kennesaw

SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

In accordance with exhibits and specifications prepared by Croy Engineering, LLC,
Marietta, Georgia which Contract is by reference made a part hereof and is hereinafter
referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all claimants as herein below defined, for all labor and materials used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

LABOR AND MATERIAL PAYMENT BOND

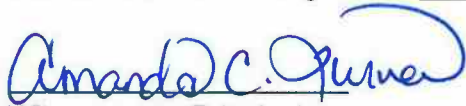
- (1) A claimant is defined as one having a direct Contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat oil, gasoline, telephone service, rental of equipment, or repair or equipment directly applicable to the Contract.
- (2) The above-named principal and surety hereby jointly and severally agree with the City that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The City shall be entitled to attorney fees and costs for the prosecution of any such suit. The City shall not be liable for the payment of any costs or expenses of any such suit.
- (3) No suit or action shall be commenced hereunder by any claimant,
 - (a) Unless claimant, other than one having a direct Contract with the Principal, shall have given written notice to any two of the following: The Principal, the City, or the Surety above-named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, City or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid Project is located, save that such service need not be made by a public officer.
 - (b) After one year from the completion of the Contract and the acceptance by City of the work thereunder, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

LABOR AND MATERIAL PAYMENT BOND

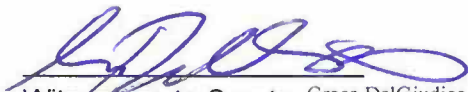
- (c) No suit or action shall be commenced hereunder by any claimant other than in the Superior Court of Cobb County, Georgia. This Bond shall be interpreted under the laws of the State of Georgia. Jurisdiction and venue shall lie in the Superior Court of Cobb County, Georgia.
- (4) The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder inclusive of the payment by Surety or mechanics' liens which may be filed of record against improvement, whether or not claim for the amount of such lien be presented under and against this bond.
- (5) This payment bond is intended as payment bond for all claimants furnishing work or material for the Contract and should be construed so as to be in accordance with applicable statutes including Official Code of Georgia Section 13-10-1(a) (2).

In witness whereof, this instrument is executed in Three (3) counterparts, each one of which

shall be deemed an original this _____ day of _____ 20_____.

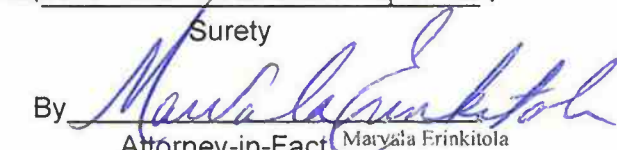

Witness as to Principal

2 Mountain Park Drive West, Jasper, GA 30143


Witness as to Surety Grace DelGiudice

8358 Main Street, Woodstock, GA 30188

Magnum Contracting, LLC
Principal
By  SEAL

American Alternative Insurance Corporation
Surety
By 
Attorney-in-Fact Marvaia Frinkitola

8358 Main Street, Woodstock, GA 30188.
Address

This bond is issued simultaneously with performance bond in favor of the City conditioned on the full and faithful performance of the Contract.

Note: Date of Bond must not be prior to date of Contract.

IN WITNESS WHEREOF, the parties to those presents have executed this Contract in Three (3) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

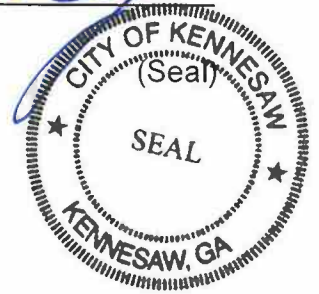
City of Kennesaw, Georgia

By



ATTEST:


City Clerk

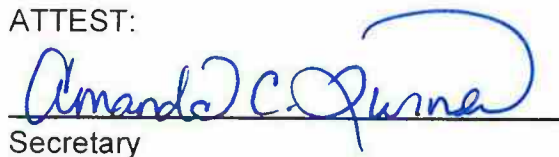


Magnum Contracting, LLC
Contractor

By



ATTEST:


Secretary

(Seal)



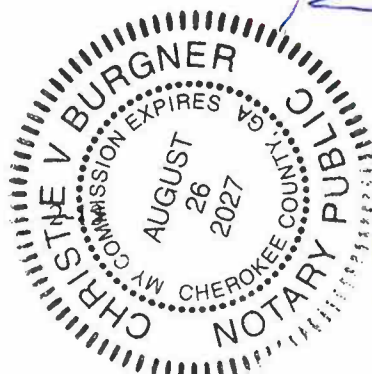
Witness

Secretary of City should attest. If Contractor is corporation, corporate secretary should attest.

Give proper title of each person executing Contract.

contract voided
10 Sept 2024

 9-10-24




9/10/2024

CONTRACT

THIS AGREEMENT made this the _____ day of _____, 20____,
by and between the City of Kennesaw, Georgia, hereinafter called "City",
and Magnum Contracting, LLC a contractor doing business
as an individual, a partnership, or a corporation* of the City of Jasper, County of
Pickens, and State of Georgia hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the City, the Contractor hereby agrees to commence and complete the construction described as follows:

City of Kennesaw

SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

hereinafter called the "Project", for the sum of One Million One Hundred Twenty Four Thousand Eight Hundred Twenty
Dollars (\$ 1,124,821.40) and all extra work in connection therewith, one and Forty Cents
under the terms as stated in the Contract Documents, and at their own proper cost and
expense to furnish all materials, supplies, machinery, equipment, tools, superintendence,
labor, insurance and other accessories and services necessary to complete the said
Project in accordance with the conditions and prices stated in the proposal, the General
Conditions of the Contract, the plans, which include all explanatory matter thereof, the
specifications and Contract Documents therefore as prepared by Croy Engineering
LLC., here entitled the "Engineers" and as enumerated in Paragraph 2 of the General
Conditions, all of which are made a part hereof and collectively constitute the Contract.

Contractor hereby agrees to commence work under this Contract on or before a date to
be specified in a written "Notice to Proceed" of the City and project completion date will
be negotiable upon contract award. Bidder further agrees to pay as liquidated damages,
beyond the negotiated completion date, in the sum of \$500 per each consecutive calendar
day that the Contractor shall be in default after the negotiated date stipulated in the
Contract for completing the work.

The City agrees to pay the Contractor in current funds for the performance of the Contract,
subject to additions and deductions as provided in the General Conditions of the Contract,
and to make payments on account thereof as provided in "Payments to Contractor," of
the General Conditions.

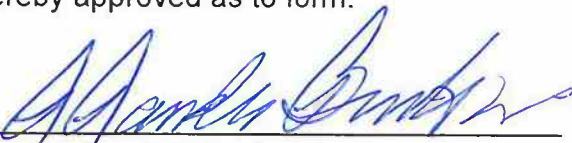
CONCERNING THE CONTRACT FOR
SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

COBB COUNTY, GEORGIA

1. The City of Kennesaw is entering into a contract for SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT (the "Contract") with:

Magnum Contracting, LLC

2. I have reviewed the Contract and it is hereby approved as to form.

BY: 

Name: R. Randall Bentley, Sr.

Title: City Attorney for the City of Kennesaw

CONTRACTOR'S AFFIDAVIT OF INDIVIDUAL EXECUTING

Bradley D. Cox
(Name of Individual Executing Contract)

CONCERNING THE CONTRACT FOR
SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

COBB COUNTY, GEORGIA

Personally appeared before the undersigned Notary Public, being of full age, who after being duly sworn, deposes and says:

1. That I am over 18 years of age, competent to make this affidavit, and I am executing this affidavit in my individual capacity.
2. That I am the President (title) of Magnum Contracting, LLC (the "Company"), which is entering into a contract for SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT (the "Contract") with the City of Kennesaw, Georgia.
3. That the organizational documents of the Company provided to the City of Kennesaw are true and accurate, are in full force and effect and no proceeding is pending for dissolution or annulment of the Company.
4. That, pursuant to the organizational documents of the Company, I am authorized to legally bind the Company and to execute documents on behalf of the Company, which includes, but is not limited to, execution of the Contract with the City of Kennesaw.
5. That I acknowledge that this Affidavit is to be a part of the Contract with the City of Kennesaw. The City of Kennesaw shall rely upon the representations herein and those included in the organizational documents of the Company in making and entering into the Contract, and any material misrepresentation herein shall constitute grounds to permit said Contract to be voided by City of Kennesaw but shall also constitute the offense of false swearing to a written document.
6. This Affidavit is given for the purpose of inducing the City of Kennesaw's execution of the Contract.

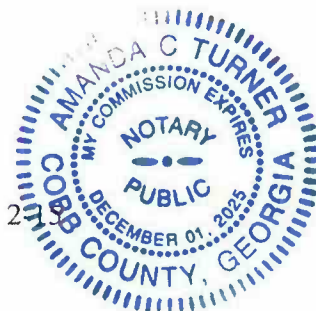
FURTHER AFFIANT SAYETH NOT.

Signed: Bradley D. Cox
Printed: Bradley D. Cox
Title: President

Sworn to and subscribed before me,
this 15th day of August, 2024.

Amanda C. Turner

NOTARY PUBLIC



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), 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 (name of the public employer) at the time the subcontractor(s) is retained to perform such service.

147636
EEV/Basic Pilot Program e-Verify Number

Bradley D Cox
BY: Authorized Officer or Agent Date
(Contractor Name)

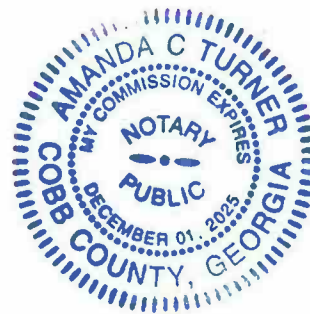
President
Title of Authorized Officer or Agent of Contractor

Bradley D. Cox
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME
ON THIS 13th DAY OF June, 2024

Amanda C. Turner
Notary Public

My Commission Expires: 12/01/2025



* 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).

SECTION THREE

GENERAL CONDITIONS

1. CONTRACT AND CONTRACT DOCUMENTS

The Contract Documents as hereinafter enumerated in Paragraph 2 of the General Conditions, shall form this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were fully set forth. The Table of Contents, Titles, Headings, Running Headlines and Marginal Notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way effect, limit or cast light on the interpretation of the provisions to which they refer.

2. DEFINITIONS

The following terms as used in this Contract are respectively defined as follows:

- (a) City - The party of the First Part in the accompanying Contract, and meaning the City of Kennesaw, Georgia.
- (b) Contractor - A person, firm or corporation with whom the Contract is made by the City and meaning _____
- (c) Contract Documents - The Contract Documents are composed of the Advertisement for Bids; Instructions to Bidders; Form of Proposal (bid), General Conditions, Supplementary Conditions, Detail Specifications, Form of Contract, Form of Bond(s), e-Verify, Addenda and the drawings including all changes incorporated herein before their execution.
- (d) Engineers - Refers to Croy Engineering, LLC, the Engineers appointed by the City as representatives of the City, and to their properly authorized agents, limited to the particular duties entrusted to them.
- (e) Project - Refers to the Work to be performed as set forth in the Contract Documents for SMITH-GILBERT GARDENS IMPROVEMENT PROJECT.
- (f) Project Representative - Refers to the authorized representative of the Engineers, who is assigned to the site or any part thereof.
- (g) Subcontractor - A person, firm or corporation supplying labor and/or materials for work at the site of the Project for, and under separate Contract or agreement with the Contractor for performance of a part of the work at the site.
- (h) Work on (at) the Project - Work to be performed at the location of the Project, including the transportation of materials and supplies to or from the location of the Project by employees of the Contractor and any Subcontractor.

3. CORRELATION AND INTENT OF DOCUMENTS

The Contract Documents are complementary, and what is called for by anyone shall be as binding as if called for by all.

The intent of the documents is to describe all construction entailed in this Project. The Contractor will furnish all labor and materials, equipment, transportation, tools, and appurtenances such as may be reasonably required under the terms of the Contract to make each part of the work complete.

The Drawings are intended to conform and agree with the Specifications; if, however, discrepancies occur, the Engineers will decide which shall govern. Special specifications stated on the Drawings govern that piece of construction and have equal weight and importance as the printed specifications. In the event of any discrepancies between the Drawings and the figures written thereon, the figures are to be taken as correct.

4. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

The Contractor will be furnished additional instructions and detail drawings as necessary to carry out the work included in the Contract. The additional drawings and instructions thus supplied to the Contractor will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions.

The Contractor and the Engineer will prepare jointly (a) a schedule, fixing the dates at which special detail drawings will be required, such drawings, if any, to be furnished by the Engineer in accordance with said schedule, and (b) a schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing and installation of materials, supplies, and equipment, and the completion of the various parts of the work; each such schedule to be subject to change from time to time in accordance with the progress of the work.

5. SHOP OR SETTING DRAWINGS

The Contractor shall submit promptly to the Engineer six (6) copies of each shop or setting drawing prepared in accordance with the schedule predetermined as previously mentioned. After examination of such drawings by the Engineer and the return thereof, the Contractor shall make such corrections to the drawings as have been indicated and shall furnish the Engineer with two corrected copies. If requested by the Engineer, the Contractor must furnish additional copies. Regardless of corrections made in or approval given to such drawings by the Engineer, the Contractor shall nevertheless be responsible for the accuracy of such drawings and for their conformity to the Plans and Specifications at the time it furnishes such drawings.

6. MATERIALS, SERVICES AND FACILITIES

- (a) It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.
- (b) Any work necessary to be performed by the Contractor to complete the Project on time after regular working hours, on Sundays or Legal Holidays, shall be performed without additional expense to the City.

7. CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale Contract or other agreement by which the seller retains an interest. The Contractor warrants that it has good title to all materials and supplies used by it in the work, free from all liens, claims and/or encumbrances.

8. MATERIALS FURNISHED BY THE CONTRACTOR

All materials used in the work including equipment shall be new and unused materials of a reputable U.S. Manufacturer conforming to the applicable requirements of the Specifications, and no materials shall be used in the work until the Engineer has approved them. The Contractor shall furnish all materials necessary except as otherwise specifically noted or specified.

9. INSPECTION AND TESTING OF MATERIALS

All materials and equipment used in the construction of the Project shall be subject to adequate inspection and testing in accordance with accepted standards. The City shall select the laboratory or inspection agency. Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

10. "OR EQUAL" CLAUSE

Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufacturer's or vendor's names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed, is in the opinion of the Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Engineer's written approval.

11. PATENTS

- (a) The Contractor shall hold and save the City and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the City, unless otherwise specifically stipulated in the Contract Documents.
- (b) License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the City of the Project must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the City and not by or through the Contractor.
- (c) If the Contractor uses any design, device or materials covered by letters, patent, or copyright, he shall provide for such use by suitable agreement with the City of such patented or copyrighted design, device, or material. It is mutually agreed and understood, that, without exception, arising from the use of such design, device, or materials or in any way involved in the work, the Contractor and/or his Sureties shall indemnify and save harmless the City of the Project from all claims for infringement by the reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this Contract and shall indemnify the City for any cost, expense or damage, including but not limited to attorney fees and litigation costs, which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

12. SURVEYS, PERMITS AND REGULATIONS

Control alignment and benchmark data from previous engineering surveys is not available and will not be provided by the City.

The Contractor shall procure and pay all permits, licenses, and approvals necessary for the execution of this Contract.

The Contractor is required to complete the Notice of Intent (NOI) and submit to the Georgia EPD fourteen (14) days prior to beginning any construction activity.

The Contractor is required to coordinate the submittal of the Notice of Termination to the Georgia EPD, in accordance with the applicable NPDES storm water permit, once proper permanent vegetation has been established as approved by the Engineer and City.

The Contractor shall comply with all laws, ordinances, rules, orders, and regulations relating to performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences or other protective facilities.

13. LINES AND GRADES

Benchmarks and referenced horizontal control points will be shown on the plans.

Construction staking will be done by the Contractor at no additional cost to the City.

The Contractor shall furnish all necessary materials and competent personnel and shall be responsible for the adequacy and accuracy of construction staking.

The Contractor shall furnish the Engineer with an accurate record of the location of all underground pipes and other structures, and any changes from plans during construction.

14. CONTRACTOR'S OBLIGATIONS

The Contractor shall and will, in good workmanlike manner do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this Contract, within the time herein specified, in accordance with the plans and drawings covered by this Contract any and all supplemental plans and drawings, and in accordance with the directions of the Engineer as given from time to time during the progress of the work. Contractor shall furnish, erect, maintain and remove such construction plant and such temporary works as may be required. Contractor alone shall be responsible for the safety, efficiency and adequacy of his plant, appliances, and methods, and for any damage which may result from their failure of its improper construction, maintenance, or operation.

The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the Contract and specifications, and shall do, carry on, and complete the entire work to the satisfaction of the Engineer and the City.

15. CONTRACTOR'S RESPONSIBILITY

The Contractor shall indemnify and hold harmless the City and shall be responsible for all material and work until they are finally accepted by the City and shall repair at its own expense any damage that it sustains before their final acceptance. The Contractor shall be responsible for all damages caused by it of whatever nature and must settle all claims arising from such damage without cost to the City; it shall act as defendant in, and bear the expense of each and every suit of any and every nature which may be brought against the Contractor or the City, by reason of, or connected with the work under the Contract. Should any claim arise, the City may hold back sufficient money to meet said claims or until the Contractor has satisfied the City that all claims against it as the result of its work have been adjusted. Contractor must also show that there are no claims or liens whatsoever outstanding at the completion of its Contract before final payment is made.

16. WEATHER CONDITIONS

In the event of temporary suspension of work, or during inclement weather, or whenever the Engineer shall direct; the Contractor will and will cause its Subcontractors to carefully protect all work and materials against damage or injury from the weather. If, in the opinion of the Engineer, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of its Subcontractors so to protect its work, such materials shall be removed and replaced at the expense of the Contractor.

17. SAFETY PROVISIONS

The Contractor shall comply with the Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (PL 91-596) and under Sec. 107 of the Contract Work Hours and Safety Standards Act (PL 91-54).

The Contractor shall be responsible for the safety, efficiency, and adequacy of his plant, appliances, and methods, and for any damage which may result from its failure or their improper construction, maintenance, and operation.

The Contractor shall employ, when necessary, watchmen on the work and shall, when necessary, erect and maintain such strong and suitable barriers and such light as will effectually prevent the happening of any accident to health, limb or property.

18. USE OF EXPLOSIVES

When the use of explosives is necessary for the prosecution of the work, the Contractor shall use the utmost care not to endanger life or property, and whenever directed or otherwise indicated, the number and size of the charges shall be reduced. The Contractor shall notify the proper representatives of any public service corporation, any company, or any individual at least eight (8) hours in advance of any blasting which may endanger his or their property on, along, or adjacent to the site of the work. All explosives shall be stored in a secure manner and all storage places shall be marked clearly "DANGEROUS EXPLOSIVES" and shall be in the care of competent watchmen at all times.

19. SANITARY PROVISIONS

The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of his employees as may be necessary to comply with the regulations of the State Board of Health and all local ordinances. No nuisance will be permitted.

20. PUBLIC CONVENIENCE AND SAFETY

Materials stored at the site of the work shall be so placed and the work shall, at all times, be so conducted as to cause no greater obstruction to traffic than is considered permissible by the Engineer. No roadway shall be closed or opened except by express permission of the Engineer and the Contractor's proper notification of local fire and police departments. Precaution shall be exercised at all times for the protection of persons and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded in accordance with the safety provisions of the manual of Accident Prevention in Construction, published by the Associated General Contractors of America to extent that such provisions are not in contravention of applicable laws.

21. PROTECTION OF WORK AND PROPERTY - EMERGENCY

The Contractor shall at all times safely guard the City's property from injury or loss in connection with this Contract. The Contractor shall at all times safely guard and protect its own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss, or injury unless such be caused directly by errors contained in the Contract or by the City, or its duly authorized representative.

In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the City in a diligent manner. Contractor shall notify the City immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the City for approval.

Where the Contractor has not taken action but has notified the City of an emergency threatening injury to persons or damage to the work or any adjoining property, it shall act as instructed or authorized by the City.

The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Paragraph 27 of the General Conditions.

22. INSPECTION

The authorized representatives and agents of the City shall be permitted to observe all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records.

23. REPORTS, RECORDS AND DATA

The Contractor shall submit to the City such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records, and other data as the City may request concerning work performed or to be performed under this Contract.

24. SUPERINTENDENCE BY CONTRACTOR

At the site of the work, the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the City and the Engineer and shall be one who can be continued in that capacity for the job involved unless the representative ceases to be on the Contractor's payroll.

25. COMPETENT LABOR

The Contractor shall employ only competent and skilled workers on the Project. The Contractor shall have a competent superintendent or foreman present at all times when the work is in progress and with authority to receive orders and execute the work. The Contractor shall, upon demand from the Engineer, immediately remove any superintendent, foreman or worker whom the Engineer may consider incompetent or undesirable.

26. CONSTRUCTION EQUIPMENT

The Contractor shall provide all necessary equipment in good repair for the expeditious construction of the work. Any equipment not adapted for the work, in such repair as to be dangerous to the Project or workers, shall not be used.

27. CHANGES IN THE WORK

27.1 Without invalidating the Agreement, the City may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by Change Orders. Upon receipt of a Change Order, the Contractor will proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Article 28. A Change Order signed by the Contractor indicates his agreement therewith.

27.2 The Engineer may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the Contractor believes that any Field Order authorized by the Engineer entitles him to an increase in the Contract Price or extension of Contract Time, Contractor shall inform the Engineer in writing of the amount of increased price or time associated with the Field Order, and it shall include reference to appropriate Contract Documents supporting the basis for the claim, and it shall not proceed with the work in question until a written decision has been rendered by the Engineer.

27.3 Any changes or additional work performed by the Contractor without authorization of a Change Order will not entitle it to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency.

27.4 It is the Contractor's responsibility to notify its surety of any changes affecting

the general scope of the Work or change in the Contract Price and the amount of the applicable bonds shall be adjusted accordingly. The Contractor will furnish proof of such adjustment to the City.

27.5 The term Change Order is defined as a written order to the Contractor signed by the City (or the Engineer acting as the City's agent) which authorizes a change in the work or the Contract price or the Contract time issued after execution of the Contract.

27.6 The Contract Price constitutes the total compensation payable to the Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the Contractor shall be at its expense without changing the Contract Price, except where authorized by Change Order.

28. CHANGE IN CONTRACT PRICE

28.1 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

28.1.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.

28.1.2 By mutual acceptance of a lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 28.4.2.1).

28.1.3 On the basis of the Cost of the Work (determined as provided in paragraphs 28.4 and 28.5) plus a Contractor's Fee for overhead and profit (determined as provided in paragraphs 28.4 and 28.5).

28.2 The term Cost of the Work means the sum of all costs necessarily incurred and paid by the Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by City, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in paragraph 28.3.

28.2.1 Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by City and Contractor. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing work after regular working hours, on Sunday or legal holidays shall be included in the above to the extent authorized by City.

28.2.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith.

28.2.3 Payments made by Contractor to the Subcontractors for Work performed by Subcontractors. If required by City, Contractor shall obtain competitive bids from Subcontractors acceptable to it and shall deliver such Bids to City who will then determine with the advice of Engineer, which Bids will be accepted.

28.2.4 Costs of special consultants (including, but not limited to, engineers, architects, testing laboratories, surveyors, lawyers, and accountants) employed for services specifically related to the Work.

28.2.5 Supplemental costs including the following:

28.2.5.1 The proportion of necessary transportation, traveling and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

28.2.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workmen, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of Contractor.

28.2.5.3 Rentals of all construction equipment and machinery and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by City with the advice of Engineer, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.

28.2.5.4 Sales, use or similar taxes related to the Work, and for which Contractor is liable, imposed by any governmental authority.

28.2.5.5 Deposits lost for causes other than Contractor's negligence, royalty payments and fees for permits and licenses. Costs for permits and licenses must be shown as a separate item.

28.2.5.6 Losses, damages and expenses, not compensated by insurance or otherwise, sustained by Contractor in connection with the execution of, and to, the Work, provided they have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of City. No such losses, damages and expenses shall be included in the Cost of

the Work for the purpose of determining Contractor's Fee.

28.2.5.7 The cost of utilities, fuel, and sanitary facilities at the site.

28.2.5.8 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage, and similar petty cash items in connection with the Work.

28.2.5.9 Cost of premiums for additional Bonds and Insurance required because of changes in the Work.

28.3 The term Cost of the Work shall not include any of the following:

28.3.1 Payroll costs and other compensation of Contractor's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and Contracting agents, expeditors, timekeepers, clerks and other personnel employed by Contractor whether at the site or in its principal or a branch office for general administration of the Work and not specifically included in the schedule referred to in subparagraph 28.2.1 - all of which are to be considered administrative costs covered by the Contractor's Fee.

28.3.2 Expenses of Contractor's principal and branch offices other than his office at the site.

28.3.3 Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

28.3.4 Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.

28.3.5 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 28.4.

28.4 The Contractor's Fee which shall be allowed to Contractor for its overhead and profit shall be determined as follows:

28.4.1 a mutually acceptable firm fixed price; or if none can be agreed upon;

28.4.2 a fee based on the following percentages of the various portions of the Cost of the Work.

28.4.2.1 for costs incurred under paragraphs 28.2.1 and 28.2.2, the Contractor's Fee shall be fifteen percent (15%).

28.4.2.2 for costs incurred under paragraph 28.2.3, the Contractor's Fee shall be five percent (5%); and if a Subcontract is based on Cost of the Work Plus a Fee, the maximum allowable to Contractor on

account of overhead and profit of all Subcontractors shall be fifteen percent (15%):

28.4.2.3 no fee shall be payable on the basis of costs itemized under paragraphs 28.2.4, 28.2.5, and 28.3;

28.4.2.4 the amount of credit to be allowed by Contractor to City for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in Contractor's Fee by an amount equal to ten percent (10%) of the net decrease; and

28.4.2.5 when both additions and credits are involved in any one change, the adjustment in Contractor's Fee shall be computed on the basis of the net change in accordance with paragraphs 28.4.2.1 through 28.4.2.4, inclusive.

28.5 Whenever the cost of any Work is to be determined pursuant to paragraph 28.2 or 28.3. Contractor will submit in form acceptable to Engineer an itemized cost breakdown together with supporting data.

29. CHANGE OF THE CONTRACT TIME

29.1 The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to City and Engineer within ten (10) calendar days of the occurrence of the event giving rise to the claim. Notice of the extent of the claim with supporting data shall be delivered within forty-five days (45) of such occurrence unless Engineer allows an additional period to ascertain more accurate data. All claims for adjustment in the Contract Time shall be determined by Engineer if City and Contractor cannot otherwise agree. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

29.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of Contractor if he makes a claim therefor as provided in paragraph 29.1. Such delays shall include, but not be restricted to, acts or neglect by any separate Contractor employed by City, fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.

29.3 All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Article 29 shall not exclude recovery for damages (including compensation for additional professional services) for delay by either party.

30. CORRECTION OF WORK

All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the review of the Engineer who shall be the final judge of the quality and

suitability of the work, material, processes of manufacture and methods of construction for the purposes for which they are used. Should any fail to meet its approval, it shall be forthwith reconstructed, made good, replaced and/or corrected by the Contractor at his own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgement of the Engineer shall be equitable. It is not intended that the Engineer should be liable for the Contractor's performance of the work nor for safety during construction.

31. EXISTING UNDERGROUND UTILITIES AND STRUCTURES

- (a) The City and/or operators of private or public utilities shall have access to such utility at all times, for the installation, maintenance, adjustment, repair and operation of said utility. No extra compensation will be allowed because of the delay or interference caused by such work.
- (b) In preparing the plan drawings there has not been an all-inclusive search for identifying existing underground utilities. Therefore, any information pertaining to existing utilities is provided only for preliminary purposes and implies no guarantee as to accuracy or completeness. Prior to blasting or excavation, the Contractor is responsible for contacting all utility owners in the area. Specifically, the Contractor shall contact the "one-call notification center" SEVENTY-TWO (72) hours in advance of blasting or excavation as required by Georgia Law.
- (c) Wherever existing utilities are encountered which conflict in actual position and location with the proposed work, the Contractor shall promptly notify the Engineer for resolution of the conflict.
- (d) Temporary supports, beams or bridging for utilities shall be left in place during backfill operations unless otherwise directed by the Engineer.
- (e) All costs in connection with supporting, protecting, relocating, removal, repair of damage, restoration, and other work on affected existing utilities and other existing underground structures whether or not they are shown on the plans, not borne by the City or owners of the utilities, shall be borne by the Contractor. No separate payment will be made for any work performed as herein above specified unless otherwise stated in the proposal as a separate payment item. All costs in connection therewith shall be included in the Contract price for the item to which the work pertains.
- (f) The Contractor shall be solely responsible to the City and/or other operator of such utility properties for any damage, injury, expense, loss, inconvenience or delay, or for any suits, actions, claims of any character brought on account of any injuries or damages which may result from the carrying out of the work.

32. SUBSURFACE CONDITIONS FOUND DIFFERENT

Should the Contractor encounter sub-surface and/or latent conditions at the site materially differing from those shown on the plans or indicated in the specifications, it shall immediately give notice to the Engineer of such conditions before they are disturbed. The Engineer will thereupon promptly investigate the conditions, and if it finds that they materially differ from those shown on the plans or indicated in the specifications, it will at once make such changes in the plans and/or specifications as he may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 27 of the General Conditions.

33. CLAIMS FOR EXTRA WORK

No claim for extra work or cost shall be allowed unless the same was one in pursuance of a written order of the Engineer approved by the City, as previously mentioned, and the claim presented with the first estimate after the changed or extra work is done. When work is performed under the terms of subparagraph 27.3, of the General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the City, give the City access to accounts relating thereto.

34. RIGHT OF THE CITY TO TERMINATE CONTRACT

In the event that any of the provisions of this Contract are violated by the Contractor or by any of his Subcontractors, the City may serve written notice upon the Contractor and the surety of its intention to terminate the Contract, such notices to contain the reasons for such intention to terminate the Contract, and unless within ten (10) calendar days after the serving of such notice upon the Contractor such violation or delay shall cease and satisfactory arrangement of correction be made, the Contract shall, upon the expiration of said ten (10) calendar days, cease and terminate. In the event of any such termination the City shall immediately serve notice thereof upon the Surety and the Contractor and the Surety shall have the right to take over and perform the Contract; provided, however, that if the Surety does not commence performance thereof within ten (10) calendar days from the date of the mailing to such Surety of notice of termination, the City may take over the work and prosecute the same to completion by Contract or by force for the account and at the expense of the Contractor and the Contractor and the Surety shall be liable to the City for any excess cost occasioned the City thereby, and in such event the City may take possession of and utilize in completing the work, such materials, appliances and plant as may be on the site of the work and necessary therefore.

35. CONSTRUCTION SCHEDULE AND PERIODIC ESTIMATES

Immediately after execution and delivery of the Contract, and before the first partial payment is made, the Contractor shall deliver to the City an estimated construction progress schedule in form satisfactory to the City showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the Contract documents and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule. The Contractor shall also furnish on forms to be supplied by the City, (a) a detailed estimate giving a complete breakdown of the Contract price and (b) periodic itemized estimate of work done for the purpose of making partial payments thereon. The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the Contract price.

36. PAYMENTS TO CONTRACTORS

- (a) No later than thirty (30) days after submittal of a progress payment request the City shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under this Contract, but to insure the proper performance of this Contract, the City shall retain ten percent (10%) of the amount of each estimate (as retainage).
- (b) At substantial completion of the work and as the City's authorized Contract representative determines the work to be reasonably satisfactory, the City shall within thirty (30) days after invoice and other appropriate documentation, as may be required by the Contract documents are provided pay the retainage to the Contractor. If at that time there are any remaining incomplete minor items, an amount equal to two hundred percent (200%) of the value of each item as determined by the City's authorized Contract representatives shall be withheld until such item or items are completed.
- (c) In preparing estimates the material delivered on the site and preparatory work done may be taken into consideration.
- (d) All material and work covered by partial payments made shall thereupon become the sole property of the City, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the City to require the fulfillment of all of the terms of the Contract.
- (e) The Contractor agrees that it will indemnify and save the City harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary incurred in the furtherance of the performance of this Contract. The Contractor shall, at the City's request, furnish satisfactory evidence that all obligations

hereinabove designated have been paid, discharged, or waived. If the Contractor fails to do so, then the City may, after having served written notice on the said Contractor, either pay unpaid bills, of which the City has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this Contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the City to either the Contractor or the Surety. In paying any unpaid bills of the Contractor, the City shall be deemed the agent of the Contractor, and any payment so made by the City shall be considered as a payment made under the Contract by the City to the Contractor and the City shall not be liable to the Contractor for any such payments made in good faith.

- (f) If at any time the City shall determine that the amount of work completed at that time is lagging behind the Contract schedule by more than twenty percent (20%), the City may determine that the Contractor is not faithfully performing on the Contract and therefore the City may elect to withhold all monies and refrain from making any additional payments to the Contractor until such time as the City determines the work to be progressing satisfactorily.
- (g) On all Contracts relating to installation, extension, improvement, maintenance or repair of any water or sewer facility, retainage shall be invested at the current market rate and any interest earned on the retained amount shall be paid to the Contractor when the Project has been completed within the time limits specified and for the price specified in the Contract, or in any amendments or change orders approved in accord with the terms of the Contract.
- (h) Final payment of the retained amounts to the Contractor under the Contract to which the retained amounts relate shall be made after certification by the Engineer that the work has been, to the best of his knowledge, satisfactorily completed and is accepted.

37. ACCEPTANCE AND FINAL PAYMENT

Upon receipt of the corrections list the Contractor shall complete all items and submit the final payment request within thirty (30) days. Upon completion by the Contractor of The Work and correction list items, including the receipt of any final written submission of the Contractor and the approval thereof by the Kennesaw Public Works Department, the City will pay the Contractor as set forth below.

When the Project provided for under this Contract shall have been completed by the Contractor, and all parts of the work have been approved by the Engineer according to the Contract, the Engineer shall, within ten (10) calendar days unless otherwise provided, make final inspection and advise the Contractor as to preparing a final estimate, showing the value of work as soon as the necessary measurements and computations can be made, all prior certificates or estimates

upon which payments have been made are approximate only, and subject to correction in the final payment. The amount of the final estimates, less any sums that may have been deducted or retained under the provisions of this Contract, will be paid to the Contractor within sixty (60) days after approval by the Engineer, provided that the Contractor has properly maintained and operated the Project as specified under these specifications, and provided, that Contractor has furnished to the City a sworn affidavit to the effect that all bills are paid and no suits are pending in connection with the work done or labor and material furnished under this Contract.

38. PAYMENTS BY CONTRACTORS

The Contractor shall pay (a) for all transportation and utility services not later than the 20th day of the calendar month following that in which such services are rendered, (b) for all materials, tools, and other expendable equipment to the extent of ninety percent (90%) of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools and equipment are delivered at the site of the Project, and the balance of the cost thereof not later than the 30th day following the completion of that part of the work in or on which such materials, tools and equipment are incorporated or used, and (c) to each of his Subcontractors, not later than the 5th day following each payment to the Contractor, the respective amounts allowed the Contractor on account of the work performed by his Subcontractors to the extent of each Subcontractor's interest therein.

39. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

The Contractor shall not commence work under this Contract until he has obtained all the insurance required under this paragraph and such insurance has been reviewed by the City, nor shall the Contractor allow any Subcontractor to commence work on its Subcontract until the insurance has been so obtained and reviewed.

- a. Contractor's Liability Insurance: Contractor shall purchase and maintain such comprehensive general liability and other insurance as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the work and Contractor's other obligations under the Contract Documents, whether such performance is indirectly employed by any of them, or by anyone for whose acts any of them may be liable.
 1. Claims under workers' or workmen's compensation, disability benefits and other similar employees benefit acts;
 2. Claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
 3. Claims for damages because of bodily injury, sickness or disease, or

death of any person other than Contractor's employees;

4. Claims for damages insured by personnel injury liability coverage which are sustained (i) by any person because of an offense directly or indirectly related to the employment of such person by Contractor, or (ii) by any other person for any other reason;
5. Claims for damages, other than to the work itself because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
6. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.

The insurance required by this paragraph shall include the specific coverages and be written for not less than the limits of liability and coverages provided in these specifications, or required by law, whichever is greater. The comprehensive general liability insurance shall include completed operations insurance. All such insurance shall contain a provision that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty (30) days prior written notice has been given to City and Engineer. All such insurance shall remain in effect until final payment and at all times thereafter when Contractor may be correcting, removing or replacing defective work. In addition, Contractor shall maintain such completed operations insurance for at least one year after final payment and furnish City with evidence of continuation of such insurance at final payment.

- b. Contractual Liability Insurance: The comprehensive general liability insurance required by paragraph (a) will include Contractual liability insurance applicable to Contractor's obligations under separate Contract and Subcontracting.
- c. Unless otherwise provided in these Supplementary Conditions, Contractor shall purchase and maintain property insurance upon the work at the site to the full insurable value thereof (subject to such deductible amounts as may be provided in these supplementary conditions or required by law). This insurance shall include the interest of City, Contractor and Subcontractors in the work, shall insure against the perils of fire and extended coverage, shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and other perils as may be provided in these supplementary conditions, and shall include damages, losses and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including fees and charges of engineers, architects, attorneys and other professionals). If not covered under the "all risk" insurance or otherwise provided in these Supplementary Conditions, Contractor shall purchase and maintain similar property insurance on portions of the work

stored on and off the site or in transit when such portions of the work are to be included in an Application for Payment. The policies of insurance required to be purchased and maintained by Contractor in accordance with paragraphs c and d shall contain a provision that the coverage afforded will not be cancelled or materially changed until at least thirty days' prior written notice has been given to the City.

- d. Contractor shall purchase and maintain such boiler and machinery insurance as may be required by the Supplementary Conditions or by law. This insurance shall include the interest of City, Contractor and Subcontractors in the work and shall provide coverage for all installed and functional mechanical equipment for the full replacement value of the equipment.
- e. City shall not be responsible for purchasing and maintaining any property insurance to protect the interests of Contractor or Subcontractors in the work to the extent of any deductible amounts that are provided in the supplemental conditions. If Contractor wishes property insurance coverage within the limits of such amounts, Contractor may purchase and maintain it at his own expense.
- f. If City has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by Contractor in accordance with paragraphs a, b, c, and d, City will notify Contractor thereof within ten days of the date of delivery of such certificates to City. Contractor will provide to the City such additional information in respect of insurance provided by him as City may reasonably request. The right of the City to review and comment on Certificates of Insurance is not intended to relieve the Contractor of his responsibility to provide insurance coverage as specified nor to relieve the Contractor of his liability for any claims which might arise.
- g. Partial Utilization - Property Insurance: If City finds it necessary to occupy or use a portion or portions of the work prior to Substantial Completion of all the work, such use or occupancy may be accomplished provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected the changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be cancelled or lapse on account of any such partial use or occupancy.
- h. The limits of liability for the insurance required by paragraph (a) of the General Conditions shall provide coverage for not less than the following amounts or greater where required by law:

For claims under paragraph 39.a.1 and 39.a.2, Worker's Compensation:

- | | | |
|-----|--|--|
| (1) | State | Statutory |
| (2) | Applicable Federal (e.g.)
Longshoreman's: | Statutory |
| (3) | Employer's Liability: | \$500,000 per person
\$500,000 per occurrence |

For claims under 39.a.2 through 39.a.5,

- | | | |
|-----|---|---|
| (1) | Bodily Injury: | |
| | \$1,000,000 | Each person |
| | \$1,000,000 | Each Occurrence |
| | \$1,000,000 | Annual Aggregate,
Products and Completed
Operations |
| (2) | Property Damage: | |
| | \$1,000,000 | Each Person |
| | \$1,000,000 | Each Occurrence |
| (3) | Property Damage Liability
insurance will provide Explosion,
Collapse and Underground
coverages where applicable. | |
| (4) | Personal Injury, with employment
exclusion deleted | |
| | \$1,000,000 | Annual Aggregate |

For claims under 39.a.6, Comprehensive Automobile Liability:

- | | | |
|-----|------------------|-----------------|
| (1) | Bodily Injury: | |
| | \$1,000,000 | Each Person |
| | \$1,000,000 | Each Accident |
| (2) | Property Damage: | |
| | \$1,000,000 | Each Occurrence |

The Contractual Liability required by paragraph 39.b of the General Conditions shall provide coverage for not less than the following amounts:

Contractual Liability Insurance:

Bodily Injury:

\$1,000,000	Each Occurrence
-------------	-----------------

Property Damage:

\$1,000,000	Each Occurrence
\$1,000,000	Annual Aggregate

Scope of Insurance and Special Hazards - The amounts stated in subparagraph "h" above are minimum amounts of insurance to be carried. The Contractor shall carry such additional insurance as may be required to provide adequate protection of the Contractor and his Subcontractors, respectively, against any and all damage claims which may arise from operations under this Contract, whether such operations be by the insured or by anyone directly or indirectly employed by his and, also, against any of the special hazards which may be encountered in the performance of this Contract.

40. CONTRACT SECURITY

The Contractor shall furnish a performance bond in an amount at least equal to one-hundred percent (100%) of the Contract prices as security for the faithful performance of this Contract and also a payment bond in an amount at least equal to one-hundred percent (100%) of the Contract price or in a penal sum not less than that prescribed by State, Territorial or local law, as security for the payment of all persons performing labor on the Project under this Contract and furnishing materials in connection with this Contract. The performance bond and the payment bond may be in one or in separate instruments in accordance with local law.

41. ADDITIONAL OR SUBSTITUTE BOND

If at any time the City for justifiable cause shall be or become dissatisfied with any Surety or Sureties, then upon the Performance or Payment Bonds, the Contractor shall within five (5) business days after notice from the City to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other Surety or Sureties as may be satisfactory to the City. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the City.

42. 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 Contract, or receipts in full in lieu thereof, and if required in either case, an affidavit that insofar as he has 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.

43. ASSIGNMENTS

The Contractor shall not assign the whole or any part of this Contract or any money due to or to become due hereunder without written consent of the City. In case the Contractor assigns all or part of any money due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assigned in and to any money due or to become due to the Contractor shall be subject to prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Contract.

44. MUTUAL RESPONSIBILITY OF CONTRACTORS

If through acts of negligence on the part of the Contractor, any other Contractor or Subcontractor, shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or Subcontractor by agreement or arbitration, if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against the City on account of any damage alleged to have been so sustained, the City shall notify the Contractor, who shall indemnify and save harmless the City against any such claim, including but not limited to Attorney fees and costs.

45. COORDINATION WITH OTHER CONTRACTORS

The Contractor shall coordinate his operations with those of other Contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including his Subcontractors shall keep informed of the progress and the detail work of other Contractors and shall notify the Engineer immediately of lack of progress or defective workmanship on the part of other Contractors. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by the Contractor of the status of the work as being satisfactory for proper coordination with the Contractor's own work.

46. SUBCONTRACTING

(a) The Contractor shall utilize the service of a specialty Subcontractor on those parts of the work which, under normal Contracting practices, are performed by specialty Subcontractors. Provided - that if the City shall determine that the specialty work in question has been customarily performed by the Contractor's own organization and that such organization is presently competent to perform such work, the Contractor shall be permitted to do so. Provided further - that if the City shall determine that the performance of any specialty work by specialty Subcontractors will result in materially increased costs or inordinate delays, the requirements of this paragraph shall not apply.

(b) The Contractor shall not be allowed to award work to any Subcontractor prior to written approval of the City, which approval will not be given until the Contractor submits to the City, a written statement concerning the proposed award to the Subcontractor, which statement shall contain such information as the City may require.

(c) The Contractor shall be as fully responsible to the City for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by Contractor, as it is for the acts and omissions of persons directly employed by Contractor.

(d) The Contractor shall cause appropriate provisions to be inserted in all Subcontracts relative to the work to bind Subcontractors to the Contractor by the terms of the General Conditions and other Contract documents insofar as applicable to the work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the City may exercise over the Contractor under any provision of the Contract Documents.

(e) Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the City.

47. ENGINEER'S AUTHORITY

In addition to the authority granted elsewhere in this contract, the Engineer will have authority to disapprove or reject defective work and will also have authority to require special inspection or testing of the work.

The Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder. Claims, disputes and other matters relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work shall be referred initially to Engineer in writing with a request for a formal decision in accordance with this paragraph, which the Engineer will render in writing within a reasonable time. Written notice of each such claim, dispute and other matter shall be delivered by the claimant to Engineer and the other party to the Agreement within fifteen (15) days of the occurrence of the event giving rise thereto, and written supporting data will be submitted to the Engineer and the other party within forty-five (45) days of such occurrence unless Engineer allows an additional period of time to ascertain more accurate data. In his capacity as interpreter and judge, Engineer will not show partiality to City or Contractor, and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

48. LIMITATIONS ON ENGINEER'S RESPONSIBILITIES

Neither the Engineer's authority to act under this Contract, nor any decision made by the Engineer in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the Engineer to the Contractor, any Subcontractor, any manufacturer, fabricator, supplier or distributor, or any of their agents or employees or any other person performing any of the work.

Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used, to describe requirements, direction, review or judgement of the Engineer as to the work, it is intended that such requirement, direction, review or judgement will be solely to evaluate the work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective never indicates that the Engineer shall have authority to supervise or direct performance of the work.

The Engineer will not be responsible for Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and the Engineer will not be responsible for Contractor's failure to perform the work in accordance with the Contract Documents.

The Engineer will not be responsible for the acts or omissions of the Contractor or of any Subcontractors, or of the agents or employees of any Contractor or Subcontractor, or of any other persons at the site or otherwise performing any of the work.

49. USE OF PREMISES AND REMOVAL OF DEBRIS

The Contractor expressly undertakes at its own expense:

- (a) To take every precaution against injuries to persons or damage to property;
- (b) To store its apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of its work or the work of any other Contractors;
- (c) To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work;
- (d) To clean up frequently all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;
- (e) Before final payment to remove all surplus material, falsework, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from its operations, and to put the site in a neat orderly condition; and
- (f) To affect all cutting, fitting, or patching of its work required to make the same to conform to the plans and specifications and, except with the consent of the Engineer, not to cut or otherwise alter the work of any other Contractor.

50. ESTIMATE OF QUANTITIES

Wherever the estimated quantities of work to be done and materials to be furnished under this Contract are shown in any of the documents including the proposal, they are given for use in comparing bids and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the City to complete the work contemplated by this Contract, and such increase or diminution shall in no way vitiate this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

51. RIGHTS-OF-WAY AND SUSPENSION OF WORK

The City shall furnish all land and rights-of-way necessary for the carrying out of this Contract and the completion of the work herein contemplated and will use due diligence in acquiring said land and rights-of-way as speedily as possible. But it is possible that all lands and rights-of-way may not be obtained as herein contemplated before construction begins, in which event the Contractor shall begin its work upon such land and rights-of-way as the City may have previously acquired, and no claim for damages whatsoever will be allowed by reason of the delay in obtaining the remaining lands and rights-of-way. Should the City be prevented or enjoined from proceeding with the work, or from authorizing its prosecution, either before or after the commencement, by reason of any litigation, or by reason of its inability to procure any lands or rights-of-way for the said work, the Contractor shall not be entitled to make or assert a claim for damages by reason of said delay, or, to withdraw from the Contract except by consent of the City, but time for completion of the work will be extended to such time as the City determines will compensate for the time lost by such delay, such determination to be set forth in writing.

52. GUARANTY

(a) All structures erected under this Contract shall be fully guaranteed by the Contractor for a period of one year from the date of final inspection and acceptance by the City. This guarantee shall cover any and all defects in workmanship or materials that may develop in this specified time, and any failure in such workmanship or materials shall be repaired or replaced to the satisfaction of the City by the Contractor at his own expense.

(b) All equipment of whatever nature incorporated in the work covered by this Contract shall carry the same guarantee as outlined above for construction. Failure of any equipment or part thereof within the specified time shall be corrected to the satisfaction of the City, at the Contractor's expense. This guarantee does not apply to manufacturing defects of equipment furnished by the City.

It is the intent of these specifications that all pipelines, both underground and above ground, together with all appurtenances attached thereto, under this Contract, shall be classified as structures.

Neither the final certificate of payment nor any provision in the Contract Documents nor partial or entire occupancy of the premises by the City shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship.

53. CONFLICTING CONDITIONS

Any provisions in any of the Contract documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

54. NOTICE AND SERVICE THEREOF

Any notice to any Contractor from the City relative to any part of this Contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said Contractor at its last given address, or delivered in person to the said Contractor or its authorized representative on the work.

55. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract 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 Contract shall forthwith be physically amended to make such insertion or correction.

56. SUSPENSION OF WORK

Should the City be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the City, the Contractor shall not be entitled to make or assert a claim for damages by reason of said delay; but time for completion of the work will be extended to such reasonable time as the City may determine will compensate for time lost by such delay with such determination to be set forth in writing.

57. MAINTENANCE OPERATIONS

The Contractor shall schedule and execute his work to avoid interruption of existing services or operations, public or private. The Contractor will use every precaution to prevent damage of any existing facility, and in the event of damage will, at no expense to the City, repair and otherwise make good any damage to facilities resulting from his operations in connection with the Contract. The Contractor will take whatever measures necessary to accurately determine the exact location of existing underground facilities prior to commencing construction.

58. MAINTENANCE

The Contractor will be required to maintain all work done by him in a first-class condition for sixty (60) days after the same has been completed as a whole, and the Engineers have notified the Contractor in writing that the work has been finished to their satisfaction. The retained percentage will not be due or payable to the Contractor until the sixty (60) day maintenance period is up.

59. PROTECTION AND RESTORATION OF PROPERTY

- a. The Contractor shall not enter upon private property for any purpose without first obtaining permission, and it shall use every precaution necessary to prevent damage or injury to any public or private property, trees, fences, monuments, underground structures, etc., on and adjacent to the site of the work. Contractor shall protect carefully, from disturbance or damage, all land monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed.
- b. Except as specifically provided in the Contract Documents, the Contractor shall not do any work that would affect any railway track, pipeline, telephone, telegraph, or electric or transmission line, or other structure nor enter upon the right-of-way or other lands appurtenant thereto, until authority therefore has been secured from the proper parties. The Contractor shall not be entitled to any extension of time or any extra compensation on account of any postponement, interference, or delay resulting from this requirement, except as specifically provided in the Contract.
- c. The Contractor shall be responsible for all damage or injury to property of any character resulting from any act, omission, neglect, or misconduct in its manner or method of executing said work, or due to the non-execution of said work, or at any time due to defective work or materials, and Contractor shall not be released from said responsibility until the work shall have been completed and accepted.
- d. When or where any direct or indirect damage or injury is done to public or private property by, or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence of the non-execution thereof on the part of the Contractor, it shall restore at its own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring, as may be directed, or Contractor shall make good such damage or injury in an acceptable manner.

60. INDEMNIFICATION

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless City and Engineer, and the elected officials, officers, directors, members, partners, employees, agents, consultants, attorneys and Subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting there from but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, and Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any negligence or omission of a person or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such person or entity. If through the negligent act or omission on the part of Contractor, any other Contractor or any Subcontractor shall suffer loss or damage on the Work, Contractor shall settle with such Contractor or Subcontractor by agreement or arbitration if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against City and/or Engineer on account of any damage alleged to have been sustained, City shall notify Contractor, who shall indemnify and save harmless City and Engineer against any such claims, including but not limited to Attorney fees and costs.

61. USE AND OCCUPANCY PRIOR TO ACCEPTANCE BY CITY

The Contractor agrees to the use and occupancy of a portion or unit of the Project before formal acceptance by the City, provided the City:

- (a) Secures written consent of the Contractor except in the event, in the opinion of the Engineer, the Contractor is chargeable with unwarranted delay in completing the Contract requirements;
- (b) Secures consent of the Surety;
- (c) Secures endorsement from the insurance carrier(s) permitting occupancy of the building or use of the Project during the remaining period of construction; or
- (d) When the Project consists of more than one building, and one of the buildings is occupied, secures permanent fire and extended coverage insurance, including a permit from the insurance carrier to complete construction.

62. INTEREST OF FEDERAL, STATE OR LOCAL OFFICIALS

No Federal, State or Local official shall be entitled to any share or part of this Contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

63. OTHER PROHIBITED INTERESTS

No official of the City who is authorized in such capacity and on behalf of the City to negotiate, make, accept or approve or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply Contract or any Subcontract in connection with the construction of the Project, shall become directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the City who is authorized in such capacity and on behalf of the City to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the Project, shall become directly or indirectly interested personally in this Contract or in any part thereof, any material supply Subcontract, insurance Contract, or any other Contract pertaining to the Project.

64. USE OF CHEMICALS

All chemicals used during Project construction or furnished for Project operation, whether herbicide, pesticide, disinfectant, polymer, reactant or of other classification, must show approval of either E.P.A. or U.S.D.A. Use of all such chemicals and disposal of residues shall be in strict conformance with instructions.

65. MAINTENANCE OF TRAFFIC

Traffic is to be maintained on all roads and streets which must be crossed by lines. If the open-cut method is used, two separate cuts must be made leaving one lane open to traffic at all times.

The Contractor shall notify the City and D.O.T. prior to performing any work which disrupts normal flow of traffic, and shall utilize appropriate warning signs, flagmen and other procedures necessary to ensure safety and minimize inconvenience to the public.

66. SPECIAL HAZARDS

The Contractor's and his Subcontractor's Public Liability and Property Damage Insurance shall provide adequate protection against the following special hazards: excavation, shoring, underpinning, blasting, and explosion to the extent to which such risks are present.

67. ENGINEER'S DIRECTIONS REGARDING WORK PARTIALLY COMPLETED

The Engineer may direct that any section or part of the Project considered to be in serviceable condition be placed in use or operation, even though not entirely completed. Such use or operation shall not be held to be an acceptance of the work, or section thereof, so placed in operation, or a waiver of any of the provisions of the Contract Documents.

68. ENGINEER'S EXAMINATION OF WORK COMPLETED

At the request of the Engineer, the Contractor shall, at any time before final acceptance of the work, remove, or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the Specifications. Should the work thus exposed or examined prove acceptable, the uncovering or removing, and the replacing or making good of the parts removed, shall be paid for as Extra Work, but should the work so exposed or examined prove unacceptable, the uncovering or removing, and the restoration shall be at the Contractor's expense.

69. ENGINEER'S LIABILITY

In carrying out any of the provisions of this Contract or in exercising any power or authority granted to Engineer by the Contract, there shall be no liability upon the Engineer or its authorized agents and representatives, it being understood that in such matters the Engineer acts solely as the City's representative.

70. EROSION AND SEDIMENT CONTROL

Care shall be exercised in grading operations to minimize erosion. Temporary sediment control structures will be erected at the Engineer's direction where necessary. Also, Contractor shall comply with the State of Georgia and any applicable local regulations for erosion control.

71. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

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 its sureties from any obligations under this Contract or the Performance and Payment Bond.

72. OWNER'S RIGHT TO SUSPEND WORK

The City shall have the authority to suspend the work, wholly or in part as he may deem necessary because of conditions unsuitable for proper prosecution of the work or failure on the part of the Contractor to carry out the provisions or to meet the specified requirements. The Contractor shall not suspend operations without the City's permission.

73. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

It is hereby understood and mutually agreed, by and between the Contractor and the City, that the date of beginning and the time for completion as specified in the Contract Documents of the work to be done hereunder are ESSENTIAL CONDITIONS of this Contract; and it is further mutually understood and agreed that the work embraced in this Contract shall be commenced on a date to be specified in the "NOTICE TO PROCEED."

The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the City, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the City, then the Contractor does hereby agree, as a part consideration for the awarding of this Contract, to pay to the City the amount specified in the Contract, not as a penalty but as liquidated damages for such breach of Contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the Contract for completing the work.

The said amount is fixed and agreed upon by and between the Contractor and the City because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain, and said amount is agreed to be the amount of damages which the City would sustain and said amount shall be retained from time to time by the City from current periodical estimates.

It is further agreed that time is of the essence of each and every portion of this Contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where, under the Contract, an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this Contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the City determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the City; provided, further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

- (a) To any preference, priority or allocation order duly issued by the Government;
- (b) To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or of the public enemy, acts of the City, acts of another Contractor in the performance of a Contract with the City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and
- (c) To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article.

Provided, further, that the Contractor shall, within ten (10) calendar days from the beginning of such delay, unless the City shall grant a further period of time prior to the date of final settlement of the Contract, notify the City, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay, and notify the Contractor within a reasonable time of its decision in this matter.

74. INCLEMENT WEATHER

The following bad weather calendar days shall be anticipated and included in the contractual time period given for project completion. The Contractor's request for additional time due to weather shall only be granted for days beyond those listed below, considering the full term of the contract. The burden of proof and documentation for such request for additional time shall rest solely upon the Contractor. Requests shall be submitted to the City monthly with progress payment request. Failure to submit documentation monthly may result in requests for weather day extensions to be rejected.

January 10 days	July 4 days
February 10 days	August 2 days
March 7 days	September 2 days
April 6 days	October 3 days
May 4 days	November 5 days
June 3 days	December 9 days

Data submitted in support of a request for contract extension due to inclement weather shall include, but not be limited to: documentation of impact on the critical path; daily high and low temperatures at the jobsite; daily rainfall amount at the jobsite; time that rainfall started and stopped; documented snow or ice accumulation; specific work impacted by inclement weather and date stamped photos of the impacted work or work area. A rain gauge and thermometer shall be placed at the jobsite to accurately record rainfall and temperature data.

Contractor shall maintain a Daily Record of weather conditions and their effect on the work progress. These daily records shall be used to verify any claims for weather delays.

75. CLAIMS AND DISPUTES

Engineer's Decision Required: All claims shall be referred to the Engineer for decision. A written decision by Engineer shall be required as a condition precedent to any exercise by City or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

Notice: Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than fourteen (14) days after the start of the event giving rise thereto). The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with written supporting data shall be delivered to the Engineer and the other party to the Contract within twenty-one (21) days (and monthly thereafter for continuing events) after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim. The opposing party shall submit any response to Engineer and the claimant within thirty (30) days after receipt of the claimant's last submittal (unless Engineer allows additional time).

Engineer's Action: Engineer will review each Claim and, within thirty (30) days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

- (a) Deny the Claim in whole or in part;
- (b) Approve the Claim in whole or in part; or
- (c) Notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

If Engineer does not take action on a Claim within said thirty (30) days, the Claim shall be deemed denied.

Engineer's written action hereunder will be final and binding upon City and Contractor.

If an issue remains unresolved after completing all procedures set forth above, either party may exercise such rights or remedies as they may have under the laws of the State of Georgia. No suit or action shall be commenced hereunder by any claimant other than in the Superior Court of Cobb County, Georgia. This Agreement shall be interpreted under the laws of the State of Georgia. Jurisdiction and venue shall lie exclusively in the Superior Court of Cobb County, Georgia.

76. INDEPENDENT CONTRACTOR STATUS

- (a) The Parties intend that the Contractor be engaged as an independent Contractor of the City. Nothing contained in this Contract will be construed to create the relationship of employer and employee, principal and agent, partnership or joint venture, or any other fiduciary relationship.
- (b) The Contractor may not act as agent for, or on behalf of, the City, or to represent the City, or bind the City in any manner.
- (c) The Contractor will not be entitled to worker's compensation, retirement, insurance, or other benefits afforded to employees of the City.

77. 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.

78. AMENDMENT

This Agreement may be amended only by written agreement duly executed by an authorized representative of each party.

79. SEVERABILITY

If any provision or provisions of this Contract shall be held unenforceable for any reason, then such provision shall be modified to reflect the parties' intention. If modification is not possible, the provision shall be severed. All remaining provisions of this Contract shall remain in full force and effect for the duration of this Contract.

80. NO WAIVER

A failure or delay in exercising any right, power or privilege in respect of this Contract 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.

81. VENUE AND JURISDICTION

This Agreement is governed by and construed in accordance with the laws of the State of Georgia without reference to any principles of conflicts of laws, which might cause the application of the laws of another state. Any legal action instituted by either party arising out of this Contract shall only be brought, tried, and resolved in the Superior Court of Cobb County, Georgia. EACH PARTY HEREBY

CONSENTS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF THE SUPERIOR COURT OF COBB COUNTY, GEORGIA.

82. NONDISCRIMINATION

Contractor will not discriminate against any person employed or applying for employment concerning the performance of Contractor's responsibilities under this Contract. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. Contractor will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.

83. E-VERIFY COMPLIANCE

The Contractor and any Subcontractors thereof, are required and hereby agree to use a federal immigration verification system to determine the work eligibility status of all employees performing services under this Agreement and shall execute Affidavits to that effect on the forms provided in Section 2 of the Contract Documents. A federal immigration system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

84. BENEFIT OF PARTIES

This Contract is entered into solely for the benefit of the Parties. No third party will be deemed a beneficiary of this Contract, and no third party will have the right to make any claim or assert any right under this Contract.

END OF SECTION

SECTION FOUR

PAYMENTS AND COMPLETION

1. APPLICATIONS FOR PROGRESS PAYMENT

Payments will be made monthly in the amount of sums earned based upon the quantity complete, and/or as otherwise provided in this Contract, less previous partial payments and less an established retainage of **ten percent (10%)** of the sums earned, said retainage amount to be held by the City. The final application shall reflect the cost of the Work accomplished by the Contractor under the terms of this Contract and shall be the base for the final payment. All payments shall be made on the quantity of the Work completed and/or as otherwise provided for in this Contract. It is further agreed that upon completion of the Work by the Contractor, approval by the Engineer, and acceptance thereof by the City, the City shall pay to the Contractor a sum equal to the one hundred percent of the total compensation as set forth in the all approved payment applications, less the total of all previous partial payments paid or in the process of being paid.

At least **ten (10)** days before each progress payment falls due (but not more often than once a month), Contractor will submit to City for review by Engineer a certified/approved application for payment also filled out and signed by Contractor covering the Work completed as of the date of the application and supported by such data as City and Engineer may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the application for payment shall also be accompanied by such supporting data, satisfactory to City and Engineer, as will establish City's title to the material and equipment and protect its interest, including applicable insurance.

2. CONTRACTOR'S WARRANTY OF TITLE

Contractor warrants and guaranties that title to all Work, materials and equipment covered by an application for payment, whether incorporated in the Project or not, will have passed to City prior to the making of the application for payment, free and clear of all liens, claims, security interests and encumbrances (referred to below as "liens"); and that no work, materials or equipment covered by an application for payment will have been acquired by Contractor or by any other person performing the Work at the site or furnishing materials and equipment for the Project, subject to a Contract under which an interest or encumbrance is retained by the seller or otherwise imposed by Contractor or such other person.

3. APPROVAL OF PAYMENTS

- (a) City will, within **ten (10)** days after receipt of each duly certified and approved application for payment, either indicate in writing its approval of payment or return the application to Contractor indicating in writing the reasons for refusing to approve payment. In the latter case, Contractor may make the necessary corrections and resubmit the application, and City will, within **thirty (30)** days of presentation to it of an approved application for payment, pay Contractor the amount so approved.
- (b) City may refuse to approve the whole or any part of any payment because of subsequently discovered evidence or the results of subsequent inspections or tests which nullify the grounds for any payment previously approved, to such extent as may be necessary in its opinion to protect itself from loss because:
 - (i) The Work is defective;
 - (ii) Claims have been filed or there is reasonable evidence indicating the probable filing of claims;
 - (iii) The Contract price has been reduced because of Modifications;
 - (iv) City has been required to correct defective Work or complete the Work in accordance with Paragraph 34 of this Agreement; or
 - (v) Of unsatisfactory prosecution of the Work, including failure to clean up as required by Paragraph 49 of this Agreement.

4. SUBSTANTIAL COMPLETION

- (a) Prior to final payment, Contractor may, in writing to Engineer, certify that the entire Project is substantially complete and request that the Engineer issue a certificate of substantial completion. Within a reasonable time thereafter, Engineer and Contractor will inspect the Project to determine the status of completion. If Engineer does not consider the Project substantially complete, Engineer will notify Contractor in writing, giving its reasons for such determination. If it is determined that the Project is substantially complete, the Engineer will prepare a tentative Certificate of Substantial Completion which shall fix the date of Substantial Completion and the responsibilities between City and Contractor for maintenance. There shall be attached to the certificate a tentative list of items to be completed or collected before final payment, and the certificate shall fix the time within which such items shall be completed or collected, the time to be within the Contract Time. Upon the completion and correction of the items on the tentative list, if Engineer considers the Project substantially complete, it shall issue the definitive Certificate of Substantial Completion.

- (b) City shall have the right to exclude Contractor from the Project after the date of Substantial Completion, but City will allow Contractor reasonable access to complete or collect items on the tentative list.

5. PARTIAL UTILIZATION

Prior to final payment, City may request Contractor in writing to permit it to use a specified part of the Project which it believes it may use without significant interference with construction of the other parts of the Project. If Contractor agrees, it will certify to City that such part of the Project is substantially complete and request the Engineer to issue a Certificate of Substantial Completion for that part of the Project. Within a reasonable time thereafter, Engineer and Contractor will make all inspection of that part of the Project to determine its status of completion. If Engineer does not consider that it is substantially complete, Engineer will notify Contractor in writing, giving it the reasons therefore. If Program considers that part of the Project to be substantially complete, it will execute and deliver to Contractor a Certificate to that effect, fixing the date of Substantial Completion as to that part of the Project, attaching to it a tentative list of items to be completed or corrected before final payment and fixing the responsibility between City and Contractor for maintenance as to that part of the Project. City shall have the right to exclude Contractor from all or part of the Project which Engineer has certified to be substantially complete, but City will allow Contractor reasonable access to complete or collect items on the tentative list. It is contemplated that City may desire to begin use of each portion of the Project as said portion is substantially completed rather than wait until all the entire Project is substantially complete.

6. FINAL INSPECTION

Upon written notice from Contractor that the Project is complete, Engineer will make a final inspection with Contractor and Engineer will notify Contractor in writing of any particulars in which this inspection reveals that the Work is defective. Contractor shall immediately make such corrections as are necessary to remedy such defects.

7. FINAL APPLICATION FOR PAYMENT

After Contractor has completed any such corrections to the satisfaction of City and Engineer and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection and other documents required, it may make application for final payment following the procedure for progress payments. The final application for payment shall be accompanied by such supporting data as City and Engineer may require, together with complete and legally effective releases or waivers (satisfactory to the City and Engineer) of all liens arising out of the Contract and the labor and services performed and the material and equipment furnished thereunder. In lieu of this and as approved by City, Contractor may furnish receipts or releases in full; all affidavits of Contractor shall state that the

releases and receipts include all labor, services, material and equipment for which a lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which City or its property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any Subcontractor or supplier fails to furnish a release or receipt in full, Contractor may furnish a bond satisfactory to City, indemnifying City against any lien.

Any Contractor or Subcontractor are prohibited from filing a lien or encumbrance against the items delivered to or against the owned property of the City.

8. APPROVAL OF FINAL PAYMENT

- (a) If, on the basis of its observation and review of the Work during construction, its final inspection and its review of the final application for payment, all as required by the Contract, City and Engineer are satisfied that the Work has been completed, and Contractor has fulfilled all of its obligations under the Contract, the City will, within **ten (10)** days after receipt of the final application for payment, indicate in writing its approval of payment and process the application for payment. Otherwise, the City will return the application to Contractor, indicating in writing its reasons for refusing to approve final payment, in which case Contractor will make the necessary corrections and resubmit the application. City will, within **thirty (30)** days of presentation to it of an approved final application for payment, pay Contractor the amount approved.
- (b) If, after Substantial Completion of the Work, final completion is materially delayed through no fault of Contractor and City so agrees, City shall make payment of the balance due for that portion of the Work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

9. CONTRACTOR'S CONTINUING OBLIGATION

Contractor's obligation to perform the Work and complete the Project in accordance with the Contract shall be absolute. Neither approval of any progress or final payment by City, nor the issuance of a Certificate of Substantial Completion, nor any payment by City to Contractor, nor any use or occupancy of the Project or any part by City, nor any act of acceptance by City nor any failure to do so, nor any correction of defective Work by City shall constitute an acceptance of Work not in accordance with the Contract.

10. WAIVER OF CLAIMS

The making and acceptance of final payment shall constitute a waiver of all claims by Contractor against City other than those previously made in writing and still unsettled.

11. VERIFICATION OF COSTS

The Contractor shall, upon request, allow the examination and verification of costs by the Engineer or other representatives of the City before final payment is due. If the examination of the Contract cost records results in the determination that unallowable expenses were charged to the City by the Contractor, the Contractor shall be immediately responsible for reimbursing the City for the full amount of such unallowable expenses. The Contractor shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred for the Work and Project and used in support of its Proposal and shall make such documents available at all reasonable times during the period of the Contract and for **three (3)** years from the date of final payment under the Contract, for inspection by the City and any reviewing agencies, and copies thereof shall be furnished upon request. The Contractor agrees that the provisions of this Section shall be included in any Contract it may make with any Subcontractor, assignee, or transferee.

END OF SECTION

EXHIBIT A: ITEMIZED BID PROPOSAL FORM

CONTRACTOR NAME: Magnum Contracting, LLC DATE: 6/13/24

1. BASE BID:

PROJECT NAME: Smith-Gilbert Gardens Improvement Project

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT PRICE	TOTAL AMOUNT
1	DEMOLITION	1	LS	\$ <u>18,060</u> Numerals	\$ <u>18,060.00</u> Numerals <u>Eighteen Thousand and sixty dollars</u> Words(unit price only)
2	GRADING COMPLETE -	1	LS	\$ <u>296,517</u> Numerals	\$ <u>296,517.00</u> Numerals <u>Two Hundred ninety-six Thousand, Five Hundred Seventeen dollars</u> Words(unit price only)
3	PAVILLION	1	LS	\$ <u>198,455.40</u> Numerals	\$ <u>198,455.40</u> Numerals <u>One Hundred ninety-eight Thousand, Four Hundred fifty-five dollars & Forty cents</u> Words(unit price only)
4	RESTROOM	1	LS	\$ <u>278,287.80</u> Numerals	\$ <u>278,287.80</u> Numerals <u>Two Hundred seventy-eight Thousand, Two Hundred eighty-seven dollars & Eighty cents</u> Words(unit price only)
5	UTILITY CONNECTIONS	1	LS	\$ <u>36,225</u> Numerals	\$ <u>36,225.00</u> Numerals <u>Thirty-six Thousand, Two Hundred Twenty-five dollars</u> Words(unit price only)

REVISED EXHIBIT A: ITEMIZED BID PROPOSAL FORM

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT PRICE	TOTAL AMOUNT
6	EROSION CONTROL	1	LS	\$ <u>42,860</u> Numerals <u>Forty-Two Thousand, Eight Hundred and sixty dollars</u> Words(unit price only)	\$ <u>42,860.00</u> Numerals
7	PERMANENT GRASSING	1	LS	\$ <u>4,200</u> Numerals <u>Four Thousand, Two Hundred dollars</u> Words(unit price only)	\$ <u>4,200.00</u> Numerals
8	CONC. SIDEWALK 4 IN	1,430	SY	\$ <u>70.00</u> Numerals <u>Seventy dollars</u> Words(unit price only)	\$ <u>100,100.00</u> Numerals
9	GR AGGR BASE CRS, 4 INCH, INCL MATL	762	SY	\$ <u>20.96</u> Numerals <u>Twenty dollars and ninety-six cents</u> Words(unit price only)	\$ <u>15,971.52</u> Numerals
10	ASPHALT 19 MM SUPERPAVE, TYPE 1 TOPPING	82	TN	\$ <u>276.19</u> Numerals <u>Two Hundred seventy-six dollars and nineteen cents</u> Words(unit price only)	\$ <u>22,647.58</u> Numerals
11	12.5 MM ASPHALT	272	TN	\$ <u>176.82</u> Numerals <u>One Hundred seventy-six dollars and eighty-two cents</u> Words(unit price only)	\$ <u>48,095.04</u> Numerals
12	TACK COAT	4,092	SY	\$ <u>0.44</u> Numerals <u>Zero dollars and forty-four cents</u> Words(unit price only)	\$ <u>1800.48</u> Numerals
13	8 IN WHITE STRIPING	294	LF	\$ <u>1.58</u> Numerals <u>One dollar and fifty-eight cents</u> Words(unit price only)	\$ <u>464.52</u> Numerals

EXHIBIT A: ITEMIZED BID PROPOSAL FORM

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT PRICE	TOTAL AMOUNT
14	4 IN WHITE STRIPING	1,387	LF	\$ <u>0.74</u> Numerals	\$ <u>1,026.38</u> Numerals <u>Zero dollars and seventy-four cents</u> Words(unit price only)
15	4 IN BLUE STRIPING	478	LF	\$ <u>0.74</u> Numerals	\$ <u>353.72</u> Numerals <u>zero dollars and seventy-four cents</u> Words(unit price only)
16	HANDICAP SYMBOL	6	EA	\$ <u>63.00</u> Numerals	\$ <u>378.00</u> Numerals <u>Sixty-Three dollars</u> Words(unit price only)
17	ADA SIGNAGE	6	EA	\$ <u>285.34</u> Numerals	\$ <u>1,712.04</u> Numerals <u>Two Hundred Eighty-five dollars and thirty-four cents</u> Words(unit price only)
18	5 FT CONCRETE WHEEL STOP	3	EA	\$ <u>142.00</u> Numerals	\$ <u>426.00</u> Numerals <u>One Hundred Forty-two dollars</u> Words(unit price only)
19	ADA RAMP	1	EA	\$ <u>3675</u> Numerals	\$ <u>3675.00</u> Numerals <u>Three Thousand, six Hundred Seventy-five dollars</u> Words(unit price only)

EXHIBIT A: ITEMIZED BID PROPOSAL FORM

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT PRICE	TOTAL AMOUNT
	TOTAL AMOUNT			\$ 1,071,258.48	Numerals One Million, Seventy-one Thousand, Two Hundred fifty-eight dollars and Forty-eight cents
	CONTINGENCY (5%)			\$ 53,562.92	Numerals Fifty-three Thousand, Five Hundred sixty-two dollars and ninety-two cents
	GRAND TOTAL OF AMOUNTS			\$ 1,124,821.40	Numerals One Million, One Hundred twenty- four Thousand, Eight Hundred and twenty-one dollars & Forty cents

MAYOR

Derek Easterling

City Manager

Jeff Drobney, ICMA-CM

City Clerk

Lea Alvarez, CMC

**COUNCIL**

Mayor Pro Tem Antonio Jones

Madelyn Orochena

Tracey Viars

Pat Ferris

Anthony Gutierrez

September 9, 2024

Magnum Contracting, LLC
 Attn: Kevin Morton
 2 Mountain Park Drive, W
 Jasper, Georgia 30143

Magnum Contracting, LLC
 Attn: Bradley Cox, Registered Agent
 2 Mountain Park Drive, W
 Jasper, Georgia 30143

American Alternative Insurance Corporation
 c/o Registered Agent Solution, Inc.
 900 Old Roswell Lakes Parkway, Suite 310
 Roswell, Georgia 30076

American Alternative Insurance Corporation
 Attn: Marvala Erinkitola, Attorney-in-Fact
 8358 Main Street
 Woodstock, Georgia 30188

Croy Engineering, LLC
 200 N. Cobb Parkway, Bldg. 400
 Marietta, Georgia 30062

RE: NOTICE OF TERMINATION
 Smith-Gilbert Gardens Improvements Project

To whom it may concern:

The City of Kennesaw awarded a contract for the Smith-Gilbert Gardens Improvements Project (the "Contract") to Magnum Contracting, LLC. The Contract contains a provision that requires the parties to negotiate a date of project completion upon the award of the Contract. Reference Contract

City of Kennesaw 2529 J.O. Stephenson Avenue Kennesaw, Georgia
 30144



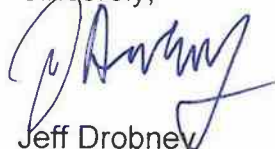
Documents pg. 1-4, para 6 and pg. 2-3. The date of completion of the work is an "ESSENTIAL CONDITION" of the Contract. Reference Contract Documents pg. 3-31, para 73. The Contract further requires that Magnum deliver to the City a construction progress schedule satisfactory to the City. Reference Contract Documents pg. 3-15, para 35.

The negotiations for the date of project completion and construction progress schedule are at an impasse. This letter shall serve as the City's Notice of Termination of the Contract on Magnum Contracting, LLC, the sureties, and the Engineer. Reference Contract Documents pg. 3-14, para 34.

Magnum has admitted that it failed to bid the grading portion of the project in accordance with the plans provided by the City to all bidders. Magnum has ten (10) calendar days from the date of this letter to provide assurances to the City in writing that it can complete the project as set forth in the plans provided by the City for the amount set forth in its bid or "the Contract shall, upon the expiration of said ten (10) calendar days, cease and terminate."

Further, Magnum has ten (10) calendar days from the date of this letter to negotiate a project completion date and submit a construction progress schedule satisfactory to the City or "the Contract shall, upon the expiration of said ten (10) calendar days, cease and terminate."

Sincerely,



Jeff Drobney
City Manager



Item Report

TO: The Honorable Mayor and City Council

FROM: Robbie Balenger, Building & Facilities Director

DATE: October 21, 2024

TITLE: **Resolution: Smith-Gilbert Gardens Improvements Project**
 Consideration for approval of a Resolution awarding the contract to S.H. Creel Contracting, LLC for construction of various Smith-Gilbert Gardens improvements.

Summary:

The Smith-Gilbert Gardens improvements project will consist of a new restroom facility, pavilion, ADA parking lot, ADA pathway, and Accessible pathway. This contract also includes the top coating and striping of the current parking lot on Pine Mountain Road. S.H. Creel Contracting, LLC was the next lowest qualified bid for this project at \$1,125,647.00. This project will be funded with previously approved ARPA funds, previously approved Smith-Gilbert Gardens Foundation funds, and 2022 SPLOST funds.

Recommendation:

The Building and Facilities Director recommends approval of the bid for S.H. Creel Contracting, LLC in the amount of \$1,125,647.00.

Fiscal Impact:

Previously Approved ARPA Trail and Restroom Project - \$234,796.54 (230.6171.54.120000)
 Previously Approved SGG Foundation - \$247,000
 2022 SPLOST Facility Improvements - \$643,850.46 (310.4228.54.150500)

Attachments:

1. RES 2024 - Smith-Gilbert Gardens Improvements - S.H. Creel
2. Contract - S.H. Creel

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2024-__, 2024

**RESOLUTION TO AWARD THE BID AND CONTRACT WITH S.H. CREEL
CONTRACTING, LLC FOR THE SMITH-GILBERT GARDENS IMPROVEMENT
PROJECT**

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

WHEREAS, various Smith-Gilbert Garden improvements will provide better accessibility and amenities for visitors; and

WHEREAS, the scope of work includes all material and labor necessary to construct ADA Pathways, Accessible Pathways, Restroom Facility, Pavilion; and

WHEREAS, S.H. Creel Contracting was the next lowest qualified bid of \$1,125,647 which will be paid from 2022 SPLOST Facility Improvements, previously approved ARPA funds, and previously approved SGG Foundation funds.

NOW, THEREFORE, BE IT RESOLVED the Kennesaw City Council authorizes the mayor to award the bid and sign the contract with S.H. Creel Contracting, LLC for the project at Smith-Gilbert Gardens as shown in Exhibit A.

PASSED AND ADOPTED by the Kennesaw City Council on this __ day of October, 2024.

ATTEST:

CITY OF KENNESAW

Lea Alvarez, City Clerk

Derek Easterling, Mayor

City of Kennesaw, Georgia

Smith-Gilbert Gardens Improvements Project



CITY:

City of Kennesaw, Georgia
2529 J. O. Stephenson Avenue
Kennesaw, Georgia 30144

First Advertisement: May 17, 2024

Second Advertisement: May 31, 2024

Pre-Bid Meeting: June 5, 2024, 1:00pm

Proposal Opening: June 14, 2024

10:00am Local Time, City Hall Training Room



200 Cobb Parkway North
Building 400, Suite 413
Marietta, GA 30062

o | 770.971.5407

f | 770.971.0620

croyengineering.com

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ATTACHMENTS

Exhibit A	END
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REQUEST FOR PROPOSAL

Sealed proposals will be received by the City of Kennesaw, Georgia, herein referred to as the City, at the office of the City Clerk located at 2529 J.O. Stephenson Avenue, Kennesaw, Georgia, 30144 until: Friday, June 14, 2024, 10:00 am, Local Time, at which time all received proposals will be opened and recorded, for the furnishing of all materials, labor, tools, skills, equipment, and incidentals necessary for the completion of the:

SMITH GILBERT GARDENS IMPROVEMENT PROJECT

A total of five (5) paper copies, and one (1) digital copy provided on a USB/flash drive device, of the proposal shall be required. Factors used in evaluating proposals will include: Firm Qualifications, References, Experience, Litigation Record, and Project Cost. Proposals received after the designated time will not be considered.

The principal items required for the project shall include all materials and labor necessary for the creation of a new restroom building, a new pavilion, a new ADA parking area, the paving of an existing parking lot, and paved walking paths throughout Smith Gilbert Gardens.

General conditions, specifications and contract documents shall be obtained at no cost from the Kennesaw City Clerk's Office upon request via email to Lea Alvarez lalvarez@kennesaw-ga.gov. **Only a proposal submitted by a Contractor on record with the City Clerk's Office as having received general conditions, specifications and contract documents from the Issuing Office will be opened.**

General conditions, specifications and contract documents are open to public inspection at the office of Croy Engineering located at 200 Cobb Pkwy N, Bldg. 400, Suite 413, Marietta, Georgia, 30062. Contract time for final completion shall be negotiated at time of Contract award.

Payment will be made to the contractor each calendar month based on the estimated work completed and in place as described by the standard specifications. Final payment of amounts withheld or deposited in escrow will not be made until the City of Kennesaw has certified that the work has been satisfactorily completed and accepted.

Each proposal must be accompanied by a cashier's check or certified check on a duly organized bank made payable to City of Kennesaw or a bidding bond executed by the bidder, and a surety company authorized to transact business in the State of Georgia, in the sum of not less than five percent (5%) of the total amount of the bid.

All proposals must be made out on the bid form furnished with the Contract Documents, in accordance with the instructions in the information for bidders. No interlineations, additions or deletions shall be made in the bid form by the Bidder.

No proposal may be withdrawn after the scheduled closing time for receiving bids for a period of sixty (60) days.

The City reserves the right to reject any or all proposals, to waive formalities, re-advertise, and to reduce or add to the contract from time to time.

City of Kennesaw, Georgia
2529 J.O. Stephenson Avenue
Kennesaw, Georgia, 30144

Advertisement Run Dates:

May 17, 2024

May 31, 2024

Pre-Bid Meeting:

June 5, 2024, 1:00pm

Smith-Gilbert Gardens

2832 Pine Mountain Rd.

Kennesaw, Ga. 30152

SECTION ONE
INFORMATION FOR BIDDERS

1. RECEIPT AND OPENING OF PROPOSALS

The City of Kennesaw, Georgia (hereinafter called the City), invites competitive cost sealed proposals for SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT. Proposals will be received by the City at City Hall, 2529 J. O. Stephenson Avenue, Kennesaw, GA 30144 until Friday, June 14, 2024, 10:00 am, Local Time, and then at said City Hall opened and recorded. The envelope containing the proposals must be sealed and designated on the outside of the envelope as proposal for:

City of Kennesaw
SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

The City may consider informal any proposal not prepared and submitted in accordance with the provisions hereof and may waive any informalities to reject all proposals. Any proposal may be withdrawn prior to the above scheduled time for opening of bids or authorized postponement thereof. Any proposal received after the time and date specified shall not be considered. No bidder may withdraw a proposal within Sixty (60) days after the actual date of the opening thereof.

2. PREPARATION OF PROPOSAL

Each proposal must be submitted on the prescribed form/s. If unit pricing form is contained within, all blank spaces for unit prices must be filled in, in ink or typewritten, in both words and numerals. In case of discrepancies, words will take precedence over numerals and unit prices will take precedence over totals.

Each proposal must be submitted in a sealed envelope bearing on the outside the name of the bidder, his/her address, and the name of the Project for which the bid is submitted. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form. Any bid which is not properly prepared and accompanied by required certifications may be rejected by the City.

Bidders must submit three (3) paper copy of proposal documents as well as one (1) digital copy provided on a USB/flash drive device.

3. QUALIFICATIONS OF BIDDERS

The City may make such investigations as it deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the City all such information and data for this purpose as the City may request. By submission of its Proposal, the Bidder acknowledges the right of the City to make such investigations, to contact references and utilize this information as a basis of determining award of the contract. The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, such bidder fails to satisfy the City that such bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional proposals will not be accepted.

Written information pertaining to the Bidder's qualifications may be requested by the City. Failure of the Bidder to provide such information within fifteen days of notification will be grounds for disqualification.

All bidders must demonstrate the following:

SUBMISSION OF STATEMENT OF QUALIFICATIONS

Responses must be submitted in a sealed envelope bearing on the outside the name of the Firm, the Firm's address, and the name of the Project for which the Response is submitted. If forwarded by mail, the sealed envelope containing the Response must be enclosed in another envelope addressed as specified above. All sealed Responses shall include three (3) paper copies and one (1) digital copy provided on a USB/flash drive device. Responses shall include and/or address all submittal requirements listed below. Please note maximum page limit for some sections.

1. Cover Page

- a. Include the project name (SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT)

2. Table of Contents

3. Required Documents

- a. Provide items specified in the "Submission of Statement of Qualifications"

4. Firm Qualifications (15 Page Limit)

- a. Capability of the firm to progress and complete the work, taking into consideration size of work force, current workload, in house staff capabilities and the like. At a minimum, Responses should provide the following information:
 - i. Provide proof of Georgia General Contractor license and Business License.

- ii. Provide Summary of firm history. Include founding date and years of continuous operation.
- iii. Identify the primary point of contact for the overall administration of this project.
- iv. Identify key team members available for this project.
- v. List qualifications of staff to be assigned to this project.
- vi. List years in construction and years with firm for staff to be assigned to this project.
- vii. Provide the office location for each listed team member. Preference will be given to teams with a local presence.

5. References and Relationships (10 Page Limit)

- a. Four references from clients detailing level of prior satisfaction.
- b. Four references from sub-contractors, listing projects (with dates) completed with your firm and detailing level of prior satisfaction.

6. Experience (10 Page Limit)

- a. Previous experience of the firm or key team members with similar projects. List awards or commendations, cost effective performance, timely completion, and demonstrated ability.
- b. Experience on projects of similar scope.
- c. Experience within the City of Kennesaw and Cobb County.
 - i. Please list any projects in which the City of Kennesaw was the owner.

7. Litigation Record

- a. Provide a comprehensive ten (10) year summary of the firm's litigation, arbitration, and negotiated/settled history with previous clients. State the issues in the litigation, the status of the litigation, names of parties, and outcome.

8. Project Cost

- a. A Bid Proposal must be completed using both Exhibit A and pages 2-3 through 2-5 in the Program Manual and is only required be included with the paper submittal of the response and should be submitted in a separately sealed envelope. The Bid proposal should NOT be included with the digital copy of the Response provided on a USB/flash drive device.

CITY QUESTIONS

Any Firm that submits a Response may be requested to provide additional information to the City of Kennesaw. Such information is only for the purpose of clarification and in no way changes the Firm's Response as originally submitted. The City of Kennesaw reserves the right to ask any or all Firms to clarify any portion of their Response after submission.

4. BID SECURITY

Each bid must be accompanied by a certified check or bid bond prepared on the form of bid bond attached hereto, duly executed by the bidder as principal and having as surety thereon a surety company approved by the City, in the amount of not less than 5% of the bid. Such certified checks or bid bonds will be returned to all except the three lowest responsible bidders within three (3) business days after the opening of bids, and the remaining certified checks or bid bonds will be returned promptly after the City and the accepted bidder have executed the Contract, or, if no award has been made within 180 days after the date of the opening of bids, upon demand of the bidder at any time thereafter, so long as he has not been notified of the acceptance of his bid.

5. LIQUIDATED DAMAGES AND FAILURE TO ENTER INTO CONTRACT

The successful bidder, upon his failure or refusal to execute and deliver the Contract and bonds required within ten (10) calendar days after he has received notice of the acceptance of his bid, shall forfeit to the City, as liquidated damages for such failure or refusal, the security deposited with his bid.

6. TIME OF COMPLETION AND LIQUIDATED DAMAGES

Bidder hereby agrees to commence work under this contract on or before a date to be specified in a written "Notice to Proceed" of the City and project completion date will be negotiable upon contract award. Bidder further agrees to pay as liquidated damages, beyond the negotiated completion date, in the sum of \$500 per each consecutive calendar day that the Contractor shall be in default after the negotiated date stipulated in the Contract for completing the work.

7. CONDITION OF WORK

Each bidder must inform himself fully of the conditions relating to the design and construction of the Project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his Contract. Insofar as possible, the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor.

8. ADDENDA AND INTERPRETATIONS

Oral interpretations of the meaning of general conditions, specifications or other Contract documents shall not be binding over written material. Every request for such interpretation should be in writing, via email, addressed to Mr. Roy Acree, email: racree@croyeng.com and to be given consideration must be received by Monday, June 10, 2024, 5:00pm Local Time. All such interpretations and any supplemental instructions will be in the form of written addenda to the specifications, which, will be mailed to all prospective bidders. Failure of any bidder to receive any such addendum or interpretations shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the Contract Documents.

9. SECURITY FOR FAITHFUL PERFORMANCE

Simultaneously with its delivery of the executed Contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of his Contract and for the payment of all persons performing labor on the Project under this contract, and furnishing materials in connection with its contract, as specified in the General Conditions included herein. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Georgia.

10. POWER OF ATTORNEY

Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

11. NOTICE OF SPECIAL CONDITIONS

Attention is particularly called to those parts of the contract documents and specifications which are identified subsequently under Special Conditions.

12. LAWS AND REGULATIONS

The bidders' attention is directed to the fact that all applicable federal and state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the contract throughout, and they will be deemed to be included in the contract the same as though herein written out in full.

13. METHOD OF AWARD

The contract shall be awarded pursuant to O.C.G.A. § 36-91-21, to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth herein. The information requested in the "Submission of Statement of Qualifications" section of this RFP will serve as the selection criteria and is surmised below.

Selection Criteria

Firm Qualifications

Experience

Project Cost

References

Litigation Record

In the event the City Council approves the selection of the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth herein, the City intends to enter into a contractual agreement with the selected Firm.

14. OBLIGATION OF BIDDER

At the time of the opening of proposals, each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the general conditions, specifications, and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument or document shall in no way relieve any bidder from any obligation in respect to its bid.

Each bidder agrees to waive any claim it has or may have against the City, the Engineer, and their respective elected officials, officers, attorneys, and employees, arising out of or in conjunction with the administration, evaluation, or recommendation for award of any bid. The City reserves the right to reject any or all proposals; to waive formalities; re-advertise; and to reduce or add to the Contract from time to time.

15. CORRELATION AND INTENT OF DOCUMENTS

The Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all. The intent of the Contract Documents is to describe in detail all construction entailed in this Project. The Contractor will furnish plans, all labor, materials, equipment, transportation, tools, and appurtenances such as may be reasonably required under the terms of the contract to make each part of the work complete.

16. CLAIMS

The City reserves the right to refuse to issue any voucher and to direct that no payment shall be made to the Contractor in case they have reason to believe that said Contractor has neglected or failed to pay any Subcontractor, material dealer, worker or employee for work performed on or about the Project including work as set forth in these specifications, until the City is satisfied that such Subcontractors, material dealers, worker, or employees have been fully paid. However, this provision shall not obligate the City to intervene in any claim.

17. ORDER OF WORK

The work shall be started at such points as the City shall designate and shall be prosecuted in the order it directs. This applies to both location and items of construction.

18. SUBCONTRACTS

If required by the City the apparent Successful Bidder, and any other Bidder so requested, will within seven (7) calendar days after the day of the Bid opening submit to City a list of all Subcontractors and other persons and organizations (including those who are to furnish the principal items of material and equipment) proposed for those portions of the Work as to which such identification is so required. If City or Engineer after due investigation has reasonable objection to any proposed Subcontractor, other person, or organization, either may before giving the Notice of Award request the apparent Successful Bidder to submit an acceptable substitute without an increase in Bid price. If the apparent Successful Bidder declines to make any such substitution, the contract shall not be awarded to such Bidder, but his declining to make any such substitution will not constitute grounds for sacrificing his Bid Security. Any Subcontractor, other person or organization so listed and to whom City or Engineer does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to City and Engineer. All subcontractors submitted for consideration must comply with e-Verify requirements.

19. TIMELY EXECUTION

When City gives a Notice of Award to the Successful Bidder, it will be accompanied by at least three (3) unsigned counterparts of the Contract and all other Contract Documents. Within ten (10) calendar days thereafter Contractor shall sign and deliver at least three (3) counterparts of the Contract to City with all other Contract Documents attached. Within ten (10) calendar days thereafter City will deliver 2 fully signed counterparts to Contractor. Engineer will identify those portions of the Contract Documents not fully signed by City and Contractor and such identification shall be binding on all parties.

20. PRE-BID CONFERENCE

A Pre-bid Meeting will be held for this project on Wednesday, June 5, 2024, at 1:00pm local time, at Smith-Gilbert Gardens, located at 2382 Pine Mountain Road, Kennesaw, Ga. 30152.

END OF SECTION

SECTION TWO

CONTRACT DOCUMENTS

BID BOND
(Five Percent of Bid)

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned

S.H. Creel Contracting as Principal and

Atlantic Specialty Insurance Company as Surety,

are hereby held and firmly bound unto the City of Kennesaw, Georgia as City in the penal

sum of FIVE PERCENT OF AMOUNT BID Dollars (\$ 5%) for

the payment of which, well and truly to be made, we hereby jointly and severally bind

ourselves, our heirs, executors, administrators, successors, and assigns.

Signed this 14th day of June, 20 24.

The condition of the above obligation is such that whereas the Principal has submitted to the City of Kennesaw, Georgia a certain bid attached hereto and hereby made a part hereof to enter into a contract in writing for the construction of:

City of Kennesaw

SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

NOW, THEREFORE,

- (a) If said bid shall be rejected or in the alternate,
- (b) If said bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with said bid) and shall furnish a bond for his faithful performance of said contract and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the Contract created by the acceptance of said bid, then this obligation shall be void; otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

BID BOND
(Continued)

The Surety, for value received, hereby stipulates, and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the City may accept such Bids and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

SEAL



S.H. Creel Contracting

Principal

Theresa Rivera
Theresa Rivera

Atlantic Specialty Insurance Company

Surety

Marvella Erinkitola
Marvella Erinkitola (Attorney-In-Fact)

SEAL



Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that ATLANTIC SPECIALTY INSURANCE COMPANY, a New York corporation with its principal office in Plymouth, Minnesota, does hereby constitute and appoint: **Cynthia Kay Troxel, Grace DelGiudice, John David Potts, Marvala Erinkitola, Melissa Potts**, each individually if there be more than one named, its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; provided that no bond or undertaking executed under this authority shall exceed in amount the sum of: **unlimited** and the execution of such bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof in pursuance of these presents, shall be as binding upon said Company as if they had been fully signed by an authorized officer of the Company and sealed with the Company seal. This Power of Attorney is made and executed by authority of the following resolutions adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the President, any Senior Vice President or Vice-President (each an "Authorized Officer") may execute for and in behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and affix the seal of the Company thereto; and that the Authorized Officer may appoint and authorize an Attorney-in-Fact to execute on behalf of the Company any and all such instruments and to affix the Company seal thereto; and that the Authorized Officer may at any time remove any such Attorney-in-Fact and revoke all power and authority given to any such Attorney-in-Fact.

Resolved: That the Attorney-in-Fact may be given full power and authority to execute for and in the name and on behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed and sealed by an Authorized Officer and, further, the Attorney-in-Fact is hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

Resolved: That the signature of an Authorized Officer, the signature of the Secretary or the Assistant Secretary, and the Company seal may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing an Attorney-in-Fact for purposes only of executing and sealing any bond, undertaking, recognizance or other written obligation in the nature thereof, and any such signature and seal where so used, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this first day of January, 2023.

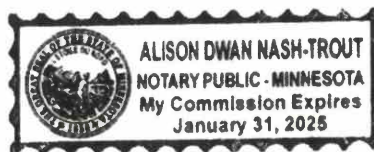
STATE OF MINNESOTA
HENNEPIN COUNTY



By

Sarah A. Kolar, Vice President and General Counsel

On this first day of January, 2023, before me personally came Sarah A. Kolar, Vice President and General Counsel of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and she acknowledged the execution of the same, and being by me duly sworn, that she is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the seal of said Company and that the said seal and the signature as such officer was duly affixed and subscribed to the said instrument by the authority and at the direction of the Company.



Notary Public

I, the undersigned, Secretary of ATLANTIC SPECIALTY INSURANCE COMPANY, a New York Corporation, do hereby certify that the foregoing power of attorney is in full force and has not been revoked, and the resolutions set forth above are now in force.

Signed and sealed. Dated 14th day of June, 2024.

This Power of Attorney expires
January 31, 2025



Kara L.B. Barrow, Secretary

Please direct bond verifications to surety@intactinsurance.com

BID PROPOSAL

Place _____

Date _____

Proposal of SH Creel Contracting LLC

(hereinafter called "Bidder") a contractor organized and existing under the laws of the State of GA, an individual, a corporation, or a partnership doing business as SH Creel Contracting LLC.

TO: City of Kennesaw, Georgia
(Hereinafter called "City")

Gentlemen:

The Bidder in compliance with your request for qualifications for the construction of:

City of Kennesaw

SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

having examined the scope and specifications with related documents and the site of the proposed work and being familiar with all of the conditions surrounding the construction of the proposed Project, including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the Project in accordance with the Contract Documents, within the time set forth herein, and at the price stated below. The price will cover all expenses incurred in performing the work required under this Contract, of which this proposal is a part.

Bidder hereby agrees to commence work under this Contract on or before a date to be specified in a written "Notice to Proceed" of the City and project completion date will be negotiable upon contract award. Bidder further agrees to pay as liquidated damages, beyond the negotiated completion date, in the sum of \$500 per each consecutive calendar day that the Contractor shall be in default after the negotiated date stipulated in the Contract for completing the work.

Bidder acknowledges receipt of the following addenda:

Scope of Services – SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT:

The property identified for the Smith-Gilbert Gardens Improvement Project is located at 2382 Pine Mountain Rd, Kennesaw, Ga. 30152, and is approximately 12.37 ac. in area. The improvements to Smith-Gilbert Gardens will include topping an existing asphalt parking area, adding a new smaller ADA parking area, the construction of a new restroom building and a new pavilion, and the addition of hard-surface walking pathways. All necessary specifications, details, and engineered requirements can be found in the Smith-Gilbert Gardens Construction Documents.

BID PROPOSAL (Continued)

Base Bid

\$ 1,125,647.00

(Numerals)

one million one hundred twenty-five thousand
six hundred forty-seven & 00/100

(Words)

~~Contingency (5%)~~

\$

(Numerals)

(Words)

Grand Total

\$ 1,125,647.00

(Numerals)

one million one hundred twenty-five thousand
six hundred forty-seven & 00/100

(Words)

Amount shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern.

The above price shall include all labor, materials, removal, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

Bidder understands that the City reserves the right to reject any or all bids and to waive any informalities in the bidding.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving bids.

The undersigned further agrees that, in case of failure on his part to execute said Contract and bond within ten (10) calendar days after the award thereof, the check or bond accompanying his bid and the money payable thereon shall become the property of the City; otherwise, the check or bond accompanying this proposal shall be returned to the Bidder.

The Bidder declares that he understands that the items shown on the plans are subject to adjustment by either increase or decrease, and that should the quantities of any of the items of work be increased, the undersigned proposes to do the additional work at the unit prices stated in the schedule of values; and should the quantities be decreased, he also understands that payment will be made on actual quantities at the unit price stated in the schedule of values and will make no claim for anticipated profits for any decrease in the quantities and that actual quantities will be determined upon completion of work by field measurement agreed to by the Project Representative, at which time adjustment will be made to the Contract amount by direct increase or decrease.

Attached hereto is a bid bond or certified check on the _____ of _____, In the amount of _____ according to conditions under "Information for Bidders" and the provisions therein.

The full name and residence of persons or parties interested in the foregoing bids, as principals, are named as follows:

Dated at: _____

The _____ day of _____, 20____.

Signature

Printed

Title

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That SH Creel Contracting, LLC as Principal hereinafter called Contractor, and United Fire & Casualty Company a corporation organized and existing under the laws of the State of Iowa, as Surety, hereinafter called Surety, are held, and firmly bound unto The City of Kennesaw, Georgia as obligee, hereinafter called City, in the amount of One Million One Hundred Eighty-One Thousand Nine Hundred Twenty-Nine Dollars and 35/100's Dollars (\$1,181,929.35) in lawful money of the United States, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS Contractor has by written agreement dated _____, 20____, entered into a Contract with City for:

City of Kennesaw

SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

in accordance with exhibits and specifications prepared by Croy Engineering, LLC, Marietta, Georgia which Contract is by reference made a part hereof and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the City.

Whenever Contractor shall be, and declared by City to be in default under the Contract, the City having performed City's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

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$$f(x) = \frac{1}{2} \ln(x)$$

$$\partial_{\alpha} \mathcal{H}_A(\alpha) = \partial_{\alpha} \mathcal{H}_A(0)$$

$$f(x) = \frac{1}{2} \ln(x) \quad \text{and} \quad g(x) = \frac{1}{2} \ln(x) \quad \text{for} \quad x > 0$$

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$$f(x) = \frac{1}{2} \ln(x) \quad \text{and} \quad g(x) = \frac{1}{2} \ln(x) \quad \text{for} \quad x > 0$$

- (1) Complete the Contract in accordance with its terms and conditions, or
- (2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the City elects, upon determination by the City and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and the City, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contract of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract price," as used in this paragraph shall mean the total amount payable by City to Contractor under the Contract and any amendments hereto, less the amount properly paid by City to Contractor. No action can be instituted on this bond after one year from the completion of the Contract and the acceptance by City of the work thereunder.
- (3) No suit or action shall be commenced hereunder by any claimant other than in the Superior Court of Cobb County, Georgia. This Bond shall be interpreted under the laws of the State of Georgia. Jurisdiction and venue shall lie in the Superior Court of Cobb County, Georgia.

In witness whereof, this instrument is executed in Three (3) counterparts, each one of which

shall be deemed an original this 4th day of October 2024



Witness as to Principal

756 White Blossom Court, Powder Springs, GA 30127



Witness as to Surety

Grace DelGiudice

8358 Main Street, Woodstock, GA 30188

SH Creel Contracting, LLC

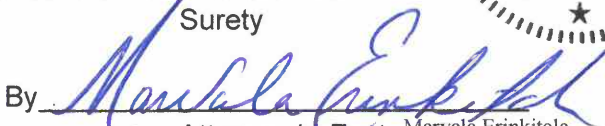
Principal

By 

By

United Fire & Casualty Company

Surety

By 

Attorney-in-Fact

Marvala Erinkitola

8358 Main Street, Woodstock, GA 30188

Address



Note: Date of Bond must not be prior to date of Contract.



LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That SH Creel Contracting, LLC as Principal, hereinafter called Principal,
and United Fire & Casualty Company, a corporation organized and existing
under the laws of the State of Iowa, as Surety, hereinafter called Surety,
are held and firmly bound unto the City of Kennesaw, Georgia, as obligee, herein below
defined, in the amount of One Million One Hundred Eighty-One Thousand
Nine Hundred Twenty-Nine Dollars and 35/100's Dollars
(\$ 1,181,929.35) for the payment whereof Principal and Surety bind
themselves, their heirs, executors, administrators, successors and assigns, jointly and
severally, firmly by these presents.

WHEREAS, Principal has by written agreement

this _____ day of _____ 20_____, entered into a Contract with City
for:

City of Kennesaw

SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

In accordance with exhibits and specifications prepared by Croy Engineering, LLC,
Marietta, Georgia which Contract is by reference made a part hereof and is hereinafter
referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall
promptly make payment to all claimants as herein below defined, for all labor and
materials used or reasonably required for use in the performance of the Contract, then
this obligation shall be void; otherwise it shall remain in full force and effect, subject,
however, to the following conditions:

LABOR AND MATERIAL PAYMENT BOND

- (1) A claimant is defined as one having a direct Contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat oil, gasoline, telephone service, rental of equipment, or repair or equipment directly applicable to the Contract.
- (2) The above-named principal and surety hereby jointly and severally agree with the City that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The City shall be entitled to attorney fees and costs for the prosecution of any such suit. The City shall not be liable for the payment of any costs or expenses of any such suit.
- (3) No suit or action shall be commenced hereunder by any claimant,
 - (a) Unless claimant, other than one having a direct Contract with the Principal, shall have given written notice to any two of the following: The Principal, the City, or the Surety above-named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, City or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid Project is located, save that such service need not be made by a public officer.
 - (b) After one year from the completion of the Contract and the acceptance by City of the work thereunder, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

LABOR AND MATERIAL PAYMENT BOND

- (c) No suit or action shall be commenced hereunder by any claimant other than in the Superior Court of Cobb County, Georgia. This Bond shall be interpreted under the laws of the State of Georgia. Jurisdiction and venue shall lie in the Superior Court of Cobb County, Georgia.
- (4) The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder inclusive of the payment by Surety or mechanics' liens which may be filed of record against improvement, whether or not claim for the amount of such lien be presented under and against this bond.
- (5) This payment bond is intended as payment bond for all claimants furnishing work or material for the Contract and should be construed so as to be in accordance with applicable statutes including Official Code of Georgia Section 13-10-1(a) (2).

In witness whereof, this instrument is executed in Three (3) counterparts, each one of which

shall be deemed an original this 4th day of October 2024.



Witness as to Principal

756 White Blossom Court, Powder Springs, GA 30127

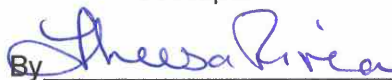


Witness as to Surety Grace DelGiudice

8358 Main Street, Woodstock, GA 30188

SH Creel Contracting, LLC

Principal

By 

United Fire & Casualty Company

Surety

By 
Attorney-in-Fact Marwala Erinkitola

8358 Main Street, Woodstock, GA 30188.

Address



This bond is issued simultaneously with performance bond in favor of the City conditioned on the full and faithful performance of the Contract.

Note: Date of Bond must not be prior to date of Contract.





UNITED FIRE & CASUALTY COMPANY, CEDAR RAPIDS, IA
UNITED FIRE & INDEMNITY COMPANY, WEBSTER, TX
FINANCIAL PACIFIC INSURANCE COMPANY, LOS ANGELES, CA
CERTIFIED COPY OF POWER OF ATTORNEY
(original on file at Home Office of Company – See Certification)

Inquiries: Surety Department
118 Second Ave SE
Cedar Rapids, IA 52401

KNOW ALL PERSONS BY THESE PRESENTS, That United Fire & Casualty Company, a corporation duly organized and existing under the laws of the State of Iowa; United Fire & Indemnity Company, a corporation duly organized and existing under the laws of the State of Texas; and Financial Pacific Insurance Company, a corporation duly organized and existing under the laws of the State of California (herein collectively called the Companies), and having their corporate headquarters in Cedar Rapids, State of Iowa, does make, constitute and appoint

MARVALA ERINKITOLA, MELISSA POTTS, JOHN DAVID POTTS, CINDY TROXEL, HASTEN MCDERMOTT, GRACE DELGIUDICE, EACH INDIVIDUALLY

their true and lawful Attorney(s)-in-Fact with power and authority hereby conferred to sign, seal and execute in its behalf all lawful bonds, undertakings and other obligatory instruments of similar nature provided that no single obligation shall exceed \$50,000,000.00 and to bind the Companies thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Companies and all of the acts of said Attorney, pursuant to the authority hereby given and hereby ratified and confirmed.

The Authority hereby granted is continuous and shall remain in full force and effect until revoked by United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

This Power of Attorney is made and executed pursuant to and by authority of the following bylaw duly adopted by the Boards of Directors of United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

"Article VI – Surety Bonds and Undertakings"

Section 2, Appointment of Attorney-in-Fact. "The President or any Vice President, or any other officer of the Companies may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Companies in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. The signature of any officer authorized hereby, and the Corporate seal, may be affixed by facsimile to any power of attorney or special power of attorney or certification of either authorized hereby; such signature and seal, when so used, being adopted by the Companies as the original signature of such officer and the original seal of the Companies, to be valid and binding upon the Companies with the same force and effect as though manually affixed. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority shall have full power to bind the Companies by their signature and execution of any such instruments and to attach the seal the Companies thereto. The President or any Vice President, the Board of Directors or any other officer of the Companies may at any time revoke all power and authority previously given to any attorney-in-fact.

IN WITNESS WHEREOF, the COMPANIES have each caused these presents to be signed by its vice president and its corporate seal to be hereto affixed this 25th day of January, 2024



UNITED FIRE & CASUALTY COMPANY
UNITED FIRE & INDEMNITY COMPANY
FINANCIAL PACIFIC INSURANCE COMPANY

By: 
Vice President

State of Iowa, County of Linn, ss:

On 25th day of January, 2024, before me personally came Kyanna M. Saylor to me known, who being by me duly sworn, did depose and say; that she resides in Cedar Rapids, State of Iowa; that she is a Vice President of United Fire & Casualty Company, a Vice President of United Fire & Indemnity Company, and a Vice President of Financial Pacific Insurance Company the corporations described in and which executed the above instrument; that she knows the seal of said corporations; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporations and that she signed her name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



Patti Waddell
Iowa Notarial Seal
Commission number 713274
My Commission Expires 10/26/2025

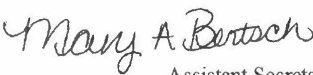

Notary Public

My commission expires: 10/26/2025

I, Mary A. Bertsch, Assistant Secretary of United Fire & Casualty Company and Assistant Secretary of United Fire & Indemnity Company, and Assistant Secretary of Financial Pacific Insurance Company, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the bylaws and resolutions of said Corporations as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID CORPORATIONS, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

In testimony whereof I have hereunto subscribed my name and affixed the corporate seal of the said Corporations
this _____ day of _____, 20 _____.



By: 
Assistant Secretary,
UF&C & UF&I & FPIC

BPOA0049 1217

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CONTRACT

THIS AGREEMENT made this the _____ day of _____, 20____,
by and between the City of Kennesaw, Georgia, hereinafter called "City",
and SH Creel Contracting LLC a contractor doing business
as an individual, a partnership, or a corporation* of the City of Powder Springs, County of
Cobb, and State of GA hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the City, the Contractor hereby agrees to commence and complete the construction described as follows:

City of Kennesaw

SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

hereinafter called the "Project", for the sum of one million one hundred twenty-five thousand six hundred forty-seven & 00/100
Dollars (\$ 1,125,647.00) and all extra work in connection therewith,
under the terms as stated in the Contract Documents, and at their own proper cost and
expense to furnish all materials, supplies, machinery, equipment, tools, superintendence,
labor, insurance and other accessories and services necessary to complete the said
Project in accordance with the conditions and prices stated in the proposal, the General
Conditions of the Contract, the plans, which include all explanatory matter thereof, the
specifications and Contract Documents therefore as prepared by Croy Engineering,
LLC., here entitled the "Engineers" and as enumerated in Paragraph 2 of the General
Conditions, all of which are made a part hereof and collectively constitute the Contract.

Contractor hereby agrees to commence work under this Contract on or before a date to
be specified in a written "Notice to Proceed" of the City and project completion date will
be negotiable upon contract award. Bidder further agrees to pay as liquidated damages,
beyond the negotiated completion date, in the sum of \$500 per each consecutive calendar
day that the Contractor shall be in default after the negotiated date stipulated in the
Contract for completing the work.

The City agrees to pay the Contractor in current funds for the performance of the Contract,
subject to additions and deductions as provided in the General Conditions of the Contract,
and to make payments on account thereof as provided in "Payments to Contractor," of
the General Conditions.

IN WITNESS WHEREOF, the parties to those presents have executed this Contract in Three (3) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

City of Kennesaw, Georgia

By _____

ATTEST:

(Seal)

City Clerk

SH Creel Contracting, LLC

Contractor

By Theresa Rivera
Theresa Rivera, President

ATTEST:

(Seal)

Secretary

Scott Creel

Witness Scott Creel, SH CREEL CONTRACTING, OWNER



Secretary of City should attest. If Contractor is corporation, corporate secretary should attest.

Give proper title of each person executing Contract.

CONCERNING THE CONTRACT FOR
SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

COBB COUNTY, GEORGIA

1. The City of Kennesaw is entering into a contract for SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT (the "Contract") with:

SH Creel Contracting LLC

2. I have reviewed the Contract and it is hereby approved as to form.

BY: _____

Name: R. Randall Bentley, Sr.

Title: City Attorney for the City of Kennesaw

CONTRACTOR'S AFFIDAVIT OF INDIVIDUAL EXECUTING

Theresa Rivera

(Name of Individual Executing Contract)

CONCERNING THE CONTRACT FOR
SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT

COBB COUNTY, GEORGIA

Personally appeared before the undersigned Notary Public, being of full age, who after being duly sworn, deposes and says:

1. That I am over 18 years of age, competent to make this affidavit, and I am executing this affidavit in my individual capacity.
2. That I am the President (title) of SH Creel Contracting LLC (the "Company"), which is entering into a contract for SMITH-GILBERT GARDENS IMPROVEMENTS PROJECT (the "Contract") with the City of Kennesaw, Georgia.
3. That the organizational documents of the Company provided to the City of Kennesaw are true and accurate, are in full force and effect and no proceeding is pending for dissolution or annulment of the Company.
4. That, pursuant to the organizational documents of the Company, I am authorized to legally bind the Company and to execute documents on behalf of the Company, which includes, but is not limited to, execution of the Contract with the City of Kennesaw.
5. That I acknowledge that this Affidavit is to be a part of the Contract with the City of Kennesaw. The City of Kennesaw shall rely upon the representations herein and those included in the organizational documents of the Company in making and entering into the Contract, and any material misrepresentation herein shall constitute grounds to permit said Contract to be voided by City of Kennesaw but shall also constitute the offense of false swearing to a written document.
6. This Affidavit is given for the purpose of inducing the City of Kennesaw's execution of the Contract.

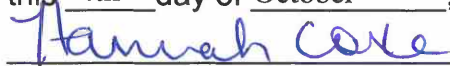
FURTHER AFFIANT SAYETH NOT.

Signed: 

Printed: Theresa Rivera

Title: President

Sworn to and subscribed before me,
this 4th day of October, 2024.



NOTARY PUBLIC



2-15



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), 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 (name of the public employer) at the time the subcontractor(s) is retained to perform such service.

1596892

EEV/Basic Pilot Program e-Verify Number

Theresa Rivera

10/20/2020

BY: Authorized Officer or Agent Date

(Contractor Name) SH Creel Contracting LLC

President

Title of Authorized Officer or Agent of Contractor

Theresa Rivera

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME

ON THIS 4th DAY OF October, 2024

Hannah Cox

Notary Public

My Commission Expires: 06/09/2025



* 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).



SUBCONTRACTOR AFFIDAVIT

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 _____ (name of contractor) on behalf of 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.

EEV/Basic Pilot Program e-Verify Number

BY: Authorized Officer or Agent Date
(Subcontractor Name)

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).

SECTION THREE

GENERAL CONDITIONS

1. CONTRACT AND CONTRACT DOCUMENTS

The Contract Documents as hereinafter enumerated in Paragraph 2 of the General Conditions, shall form this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were fully set forth. The Table of Contents, Titles, Headings, Running Headlines and Marginal Notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way effect, limit or cast light on the interpretation of the provisions to which they refer.

2. DEFINITIONS

The following terms as used in this Contract are respectively defined as follows:

- (a) City - The party of the First Part in the accompanying Contract, and meaning the City of Kennesaw, Georgia.
- (b) Contractor - A person, firm or corporation with whom the Contract is made by the City and meaning _____
- (c) Contract Documents - The Contract Documents are composed of the Advertisement for Bids; Instructions to Bidders; Form of Proposal (bid), General Conditions, Supplementary Conditions, Detail Specifications, Form of Contract, Form of Bond(s), e-Verify, Addenda and the drawings including all changes incorporated herein before their execution.
- (d) Engineers - Refers to Croy Engineering, LLC, the Engineers appointed by the City as representatives of the City, and to their properly authorized agents, limited to the particular duties entrusted to them.
- (e) Project - Refers to the Work to be performed as set forth in the Contract Documents for SMITH-GILBERT GARDENS IMPROVEMENT PROJECT.
- (f) Project Representative - Refers to the authorized representative of the Engineers, who is assigned to the site or any part thereof.
- (g) Subcontractor - A person, firm or corporation supplying labor and/or materials for work at the site of the Project for, and under separate Contract or agreement with the Contractor for performance of a part of the work at the site.
- (h) Work on (at) the Project - Work to be performed at the location of the Project, including the transportation of materials and supplies to or from the location of the Project by employees of the Contractor and any Subcontractor.

3. CORRELATION AND INTENT OF DOCUMENTS

The Contract Documents are complementary, and what is called for by anyone shall be as binding as if called for by all.

The intent of the documents is to describe all construction entailed in this Project. The Contractor will furnish all labor and materials, equipment, transportation, tools, and appurtenances such as may be reasonably required under the terms of the Contract to make each part of the work complete.

The Drawings are intended to conform and agree with the Specifications; if, however, discrepancies occur, the Engineers will decide which shall govern. Special specifications stated on the Drawings govern that piece of construction and have equal weight and importance as the printed specifications. In the event of any discrepancies between the Drawings and the figures written thereon, the figures are to be taken as correct.

4. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

The Contractor will be furnished additional instructions and detail drawings as necessary to carry out the work included in the Contract. The additional drawings and instructions thus supplied to the Contractor will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions.

The Contractor and the Engineer will prepare jointly (a) a schedule, fixing the dates at which special detail drawings will be required, such drawings, if any, to be furnished by the Engineer in accordance with said schedule, and (b) a schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing and installation of materials, supplies, and equipment, and the completion of the various parts of the work; each such schedule to be subject to change from time to time in accordance with the progress of the work.

5. SHOP OR SETTING DRAWINGS

The Contractor shall submit promptly to the Engineer six (6) copies of each shop or setting drawing prepared in accordance with the schedule predetermined as previously mentioned. After examination of such drawings by the Engineer and the return thereof, the Contractor shall make such corrections to the drawings as have been indicated and shall furnish the Engineer with two corrected copies. If requested by the Engineer, the Contractor must furnish additional copies. Regardless of corrections made in or approval given to such drawings by the Engineer, the Contractor shall nevertheless be responsible for the accuracy of such drawings and for their conformity to the Plans and Specifications at the time it furnishes such drawings.

6. MATERIALS, SERVICES AND FACILITIES

- (a) It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.
- (b) Any work necessary to be performed by the Contractor to complete the Project on time after regular working hours, on Sundays or Legal Holidays, shall be performed without additional expense to the City.

7. CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale Contract or other agreement by which the seller retains an interest. The Contractor warrants that it has good title to all materials and supplies used by it in the work, free from all liens, claims and/or encumbrances.

8. MATERIALS FURNISHED BY THE CONTRACTOR

All materials used in the work including equipment shall be new and unused materials of a reputable U.S. Manufacturer conforming to the applicable requirements of the Specifications, and no materials shall be used in the work until the Engineer has approved them. The Contractor shall furnish all materials necessary except as otherwise specifically noted or specified.

9. INSPECTION AND TESTING OF MATERIALS

All materials and equipment used in the construction of the Project shall be subject to adequate inspection and testing in accordance with accepted standards. The City shall select the laboratory or inspection agency. Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

10. "OR EQUAL" CLAUSE

Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufacturer's or vendor's names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed, is in the opinion of the Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Engineer's written approval.

11. PATENTS

- (a) The Contractor shall hold and save the City and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the City, unless otherwise specifically stipulated in the Contract Documents.
- (b) License or Royalty Fees: License and/or Royalty Fees for the use of a process which is authorized by the City of the Project must be reasonable, and paid to the holder of the patent, or his authorized licensee, direct by the City and not by or through the Contractor.
- (c) If the Contractor uses any design, device or materials covered by letters, patent, or copyright, he shall provide for such use by suitable agreement with the City of such patented or copyrighted design, device, or material. It is mutually agreed and understood, that, without exception, arising from the use of such design, device, or materials or in any way involved in the work, the Contractor and/or his Sureties shall indemnify and save harmless the City of the Project from all claims for infringement by the reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with work agreed to be performed under this Contract and shall indemnify the City for any cost, expense or damage, including but not limited to attorney fees and litigation costs, which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after completion of the work.

12. SURVEYS, PERMITS AND REGULATIONS

Control alignment and benchmark data from previous engineering surveys is not available and will not be provided by the City.

The Contractor shall procure and pay all permits, licenses, and approvals necessary for the execution of this Contract.

The Contractor is required to complete the Notice of Intent (NOI) and submit to the Georgia EPD fourteen (14) days prior to beginning any construction activity.

The Contractor is required to coordinate the submittal of the Notice of Termination to the Georgia EPD, in accordance with the applicable NPDES storm water permit, once proper permanent vegetation has been established as approved by the Engineer and City.

The Contractor shall comply with all laws, ordinances, rules, orders, and regulations relating to performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences or other protective facilities.

13. LINES AND GRADES

Benchmarks and referenced horizontal control points will be shown on the plans. Construction staking will be done by the Contractor at no additional cost to the City.

The Contractor shall furnish all necessary materials and competent personnel and shall be responsible for the adequacy and accuracy of construction staking.

The Contractor shall furnish the Engineer with an accurate record of the location of all underground pipes and other structures, and any changes from plans during construction.

14. CONTRACTOR'S OBLIGATIONS

The Contractor shall and will, in good workmanlike manner do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this Contract, within the time herein specified, in accordance with the plans and drawings covered by this Contract any and all supplemental plans and drawings, and in accordance with the directions of the Engineer as given from time to time during the progress of the work. Contractor shall furnish, erect, maintain and remove such construction plant and such temporary works as may be required. Contractor alone shall be responsible for the safety, efficiency and adequacy of his plant, appliances, and methods, and for any damage which may result from their failure of its improper construction, maintenance, or operation.

The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the Contract and specifications, and shall do, carry on, and complete the entire work to the satisfaction of the Engineer and the City.

15. CONTRACTOR'S RESPONSIBILITY

The Contractor shall indemnify and hold harmless the City and shall be responsible for all material and work until they are finally accepted by the City and shall repair at its own expense any damage that it sustains before their final acceptance. The Contractor shall be responsible for all damages caused by it of whatever nature and must settle all claims arising from such damage without cost to the City; it shall act as defendant in, and bear the expense of each and every suit of any and every nature which may be brought against the Contractor or the City, by reason of, or connected with the work under the Contract. Should any claim arise, the City may hold back sufficient money to meet said claims or until the Contractor has satisfied the City that all claims against it as the result of its work have been adjusted. Contractor must also show that there are no claims or liens whatsoever outstanding at the completion of its Contract before final payment is made.

16. WEATHER CONDITIONS

In the event of temporary suspension of work, or during inclement weather, or whenever the Engineer shall direct; the Contractor will and will cause its Subcontractors to carefully protect all work and materials against damage or injury from the weather. If, in the opinion of the Engineer, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of its Subcontractors so to protect its work, such materials shall be removed and replaced at the expense of the Contractor.

17. SAFETY PROVISIONS

The Contractor shall comply with the Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (PL 91-596) and under Sec. 107 or the Contract Work Hours and Safety Standards Act (PL 91-54).

The Contractor shall be responsible for the safety, efficiency, and adequacy of his plant, appliances, and methods, and for any damage which may result from its failure or their improper construction, maintenance, and operation.

The Contractor shall employ, when necessary, watchmen on the work and shall, when necessary, erect and maintain such strong and suitable barriers and such light as will effectually prevent the happening of any accident to health, limb or property.

18. USE OF EXPLOSIVES

When the use of explosives is necessary for the prosecution of the work, the Contractor shall use the utmost care not to endanger life or property, and whenever directed or otherwise indicated, the number and size of the charges shall be reduced. The Contractor shall notify the proper representatives of any public service corporation, any company, or any individual at least eight (8) hours in advance of any blasting which may endanger his or their property on, along, or adjacent to the site of the work. All explosives shall be stored in a secure manner and all storage places shall be marked clearly "DANGEROUS EXPLOSIVES" and shall be in the care of competent watchmen at all times.

19. SANITARY PROVISIONS

The Contractor shall provide and maintain in a neat and sanitary condition such accommodations for the use of his employees as may be necessary to comply with the regulations of the State Board of Health and all local ordinances. No nuisance will be permitted.

20. PUBLIC CONVENIENCE AND SAFETY

Materials stored at the site of the work shall be so placed and the work shall, at all times, be so conducted as to cause no greater obstruction to traffic than is considered permissible by the Engineer. No roadway shall be closed or opened except by express permission of the Engineer and the Contractor's proper notification of local fire and police departments. Precaution shall be exercised at all times for the protection of persons and property. The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment, and other hazards shall be guarded in accordance with the safety provisions of the manual of Accident Prevention in Construction, published by the Associated General Contractors of America to extent that such provisions are not in contravention of applicable laws.

21. PROTECTION OF WORK AND PROPERTY - EMERGENCY

The Contractor shall at all times safely guard the City's property from injury or loss in connection with this Contract. The Contractor shall at all times safely guard and protect its own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss, or injury unless such be caused directly by errors contained in the Contract or by the City, or its duly authorized representative.

In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the City in a diligent manner. Contractor shall notify the City immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the City for approval.

Where the Contractor has not taken action but has notified the City of an emergency threatening injury to persons or damage to the work or any adjoining property, it shall act as instructed or authorized by the City.

The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Paragraph 27 of the General Conditions.

22. INSPECTION

The authorized representatives and agents of the City shall be permitted to observe all work, materials, payrolls, records of personnel, invoices of materials and other relevant data and records.

23. REPORTS, RECORDS AND DATA

The Contractor shall submit to the City such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records, and other data as the City may request concerning work performed or to be performed under this Contract.

24. SUPERINTENDENCE BY CONTRACTOR

At the site of the work, the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the City and the Engineer and shall be one who can be continued in that capacity for the job involved unless the representative ceases to be on the Contractor's payroll.

25. COMPETENT LABOR

The Contractor shall employ only competent and skilled workers on the Project. The Contractor shall have a competent superintendent or foreman present at all times when the work is in progress and with authority to receive orders and execute the work. The Contractor shall, upon demand from the Engineer, immediately remove any superintendent, foreman or worker whom the Engineer may consider incompetent or undesirable.

26. CONSTRUCTION EQUIPMENT

The Contractor shall provide all necessary equipment in good repair for the expeditious construction of the work. Any equipment not adapted for the work, in such repair as to be dangerous to the Project or workers, shall not be used.

27. CHANGES IN THE WORK

27.1 Without invalidating the Agreement, the City may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by Change Orders. Upon receipt of a Change Order, the Contractor will proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Article 28. A Change Order signed by the Contractor indicates his agreement therewith.

27.2 The Engineer may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the Contractor believes that any Field Order authorized by the Engineer entitles him to an increase in the Contract Price or extension of Contract Time, Contractor shall inform the Engineer in writing of the amount of increased price or time associated with the Field Order, and it shall include reference to appropriate Contract Documents supporting the basis for the claim, and it shall not proceed with the work in question until a written decision has been rendered by the Engineer.

27.3 Any changes or additional work performed by the Contractor without authorization of a Change Order will not entitle it to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency.

27.4 It is the Contractor's responsibility to notify its surety of any changes affecting

the general scope of the Work or change in the Contract Price and the amount of the applicable bonds shall be adjusted accordingly. The Contractor will furnish proof of such adjustment to the City.

27.5 The term Change Order is defined as a written order to the Contractor signed by the City (or the Engineer acting as the City's agent) which authorizes a change in the work or the Contract price or the Contract time issued after execution of the Contract.

27.6 The Contract Price constitutes the total compensation payable to the Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the Contractor shall be at its expense without changing the Contract Price, except where authorized by Change Order.

28. CHANGE IN CONTRACT PRICE

28.1 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

28.1.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.

28.1.2 By mutual acceptance of a lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 28.4.2.1).

28.1.3 On the basis of the Cost of the Work (determined as provided in paragraphs 28.4 and 28.5) plus a Contractor's Fee for overhead and profit (determined as provided in paragraphs 28.4 and 28.5).

28.2 The term Cost of the Work means the sum of all costs necessarily incurred and paid by the Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by City, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items and shall not include any of the costs itemized in paragraph 28.3.

28.2.1 Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by City and Contractor. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing work after regular working hours, on Sunday or legal holidays shall be included in the above to the extent authorized by City.

28.2.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith.

28.2.3 Payments made by Contractor to the Subcontractors for Work performed by Subcontractors. If required by City, Contractor shall obtain competitive bids from Subcontractors acceptable to it and shall deliver such Bids to City who will then determine with the advice of Engineer, which Bids will be accepted.

28.2.4 Costs of special consultants (including, but not limited to, engineers, architects, testing laboratories, surveyors, lawyers, and accountants) employed for services specifically related to the Work.

28.2.5 Supplemental costs including the following:

28.2.5.1 The proportion of necessary transportation, traveling and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.

28.2.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workmen, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of Contractor.

28.2.5.3 Rentals of all construction equipment and machinery and the parts thereof whether rented from Contractor or others in accordance with rental agreements approved by City with the advice of Engineer, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof - all in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.

28.2.5.4 Sales, use or similar taxes related to the Work, and for which Contractor is liable, imposed by any governmental authority.

28.2.5.5 Deposits lost for causes other than Contractor's negligence, royalty payments and fees for permits and licenses. Costs for permits and licenses must be shown as a separate item.

28.2.5.6 Losses, damages and expenses, not compensated by insurance or otherwise, sustained by Contractor in connection with the execution of, and to, the Work, provided they have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of City. No such losses, damages and expenses shall be included in the Cost of

the Work for the purpose of determining Contractor's Fee.

28.2.5.7 The cost of utilities, fuel, and sanitary facilities at the site.

28.2.5.8 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage, and similar petty cash items in connection with the Work.

28.2.5.9 Cost of premiums for additional Bonds and Insurance required because of changes in the Work.

28.3 The term Cost of the Work shall not include any of the following:

28.3.1 Payroll costs and other compensation of Contractor's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and Contracting agents, expeditors, timekeepers, clerks and other personnel employed by Contractor whether at the site or in its principal or a branch office for general administration of the Work and not specifically included in the schedule referred to in subparagraph 28.2.1 - all of which are to be considered administrative costs covered by the Contractor's Fee.

28.3.2 Expenses of Contractor's principal and branch offices other than his office at the site.

28.3.3 Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.

28.3.4 Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.

28.3.5 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 28.4.

28.4 The Contractor's Fee which shall be allowed to Contractor for its overhead and profit shall be determined as follows:

28.4.1 a mutually acceptable firm fixed price; or if none can be agreed upon;

28.4.2 a fee based on the following percentages of the various portions of the Cost of the Work.

28.4.2.1 for costs incurred under paragraphs 28.2.1 and 28.2.2, the Contractor's Fee shall be fifteen percent (15%).

28.4.2.2 for costs incurred under paragraph 28.2.3, the Contractor's Fee shall be five percent (5%); and if a Subcontract is based on Cost of the Work Plus a Fee, the maximum allowable to Contractor on

account of overhead and profit of all Subcontractors shall be fifteen percent (15%):

28.4.2.3 no fee shall be payable on the basis of costs itemized under paragraphs 28.2.4, 28.2.5, and 28.3;

28.4.2.4 the amount of credit to be allowed by Contractor to City for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in Contractor's Fee by an amount equal to ten percent (10%) of the net decrease; and

28.4.2.5 when both additions and credits are involved in any one change, the adjustment in Contractor's Fee shall be computed on the basis of the net change in accordance with paragraphs 28.4.2.1 through 28.4.2.4, inclusive.

28.5 Whenever the cost of any Work is to be determined pursuant to paragraph 28.2 or 28.3. Contractor will submit in form acceptable to Engineer an itemized cost breakdown together with supporting data.

29. CHANGE OF THE CONTRACT TIME

29.1 The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to City and Engineer within ten (10) calendar days of the occurrence of the event giving rise to the claim. Notice of the extent of the claim with supporting data shall be delivered within forty-five days (45) of such occurrence unless Engineer allows an additional period to ascertain more accurate data. All claims for adjustment in the Contract Time shall be determined by Engineer if City and Contractor cannot otherwise agree. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

29.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of Contractor if he makes a claim therefor as provided in paragraph 29.1. Such delays shall include, but not be restricted to, acts or neglect by any separate Contractor employed by City, fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.

29.3 All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Article 29 shall not exclude recovery for damages (including compensation for additional professional services) for delay by either party.

30. CORRECTION OF WORK

All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the review of the Engineer who shall be the final judge of the quality and

suitability of the work, material, processes of manufacture and methods of construction for the purposes for which they are used. Should any fail to meet its approval, it shall be forthwith reconstructed, made good, replaced and/or corrected by the Contractor at his own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgement of the Engineer shall be equitable. It is not intended that the Engineer should be liable for the Contractor's performance of the work nor for safety during construction.

31. EXISTING UNDERGROUND UTILITIES AND STRUCTURES

- (a) The City and/or operators of private or public utilities shall have access to such utility at all times, for the installation, maintenance, adjustment, repair and operation of said utility. No extra compensation will be allowed because of the delay or interference caused by such work.
- (b) In preparing the plan drawings there has not been an all-inclusive search for identifying existing underground utilities. Therefore, any information pertaining to existing utilities is provided only for preliminary purposes and implies no guarantee as to accuracy or completeness. Prior to blasting or excavation, the Contractor is responsible for contacting all utility owners in the area. Specifically, the Contractor shall contact the "one-call notification center" SEVENTY-TWO (72) hours in advance of blasting or excavation as required by Georgia Law.
- (c) Wherever existing utilities are encountered which conflict in actual position and location with the proposed work, the Contractor shall promptly notify the Engineer for resolution of the conflict.
- (d) Temporary supports, beams or bridging for utilities shall be left in place during backfill operations unless otherwise directed by the Engineer.
- (e) All costs in connection with supporting, protecting, relocating, removal, repair of damage, restoration, and other work on affected existing utilities and other existing underground structures whether or not they are shown on the plans, not borne by the City or owners of the utilities, shall be borne by the Contractor. No separate payment will be made for any work performed as herein above specified unless otherwise stated in the proposal as a separate payment item. All costs in connection therewith shall be included in the Contract price for the item to which the work pertains.
- (f) The Contractor shall be solely responsible to the City and/or other operator of such utility properties for any damage, injury, expense, loss, inconvenience or delay, or for any suits, actions, claims of any character brought on account of any injuries or damages which may result from the carrying out of the work.

32. SUBSURFACE CONDITIONS FOUND DIFFERENT

Should the Contractor encounter sub-surface and/or latent conditions at the site materially differing from those shown on the plans or indicated in the specifications, it shall immediately give notice to the Engineer of such conditions before they are disturbed. The Engineer will thereupon promptly investigate the conditions, and if it finds that they materially differ from those shown on the plans or indicated in the specifications, it will at once make such changes in the plans and/or specifications as he may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 27 of the General Conditions.

33. CLAIMS FOR EXTRA WORK

No claim for extra work or cost shall be allowed unless the same was one in pursuance of a written order of the Engineer approved by the City, as previously mentioned, and the claim presented with the first estimate after the changed or extra work is done. When work is performed under the terms of subparagraph 27.3, of the General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the City, give the City access to accounts relating thereto.

34. RIGHT OF THE CITY TO TERMINATE CONTRACT

In the event that any of the provisions of this Contract are violated by the Contractor or by any of his Subcontractors, the City may serve written notice upon the Contractor and the surety of its intention to terminate the Contract, such notices to contain the reasons for such intention to terminate the Contract, and unless within ten (10) calendar days after the serving of such notice upon the Contractor such violation or delay shall cease and satisfactory arrangement of correction be made, the Contract shall, upon the expiration of said ten (10) calendar days, cease and terminate. In the event of any such termination the City shall immediately serve notice thereof upon the Surety and the Contractor and the Surety shall have the right to take over and perform the Contract; provided, however, that if the Surety does not commence performance thereof within ten (10) calendar days from the date of the mailing to such Surety of notice of termination, the City may take over the work and prosecute the same to completion by Contract or by force for the account and at the expense of the Contractor and the Contractor and the Surety shall be liable to the City for any excess cost occasioned the City thereby, and in such event the City may take possession of and utilize in completing the work, such materials, appliances and plant as may be on the site of the work and necessary therefore.

35. CONSTRUCTION SCHEDULE AND PERIODIC ESTIMATES

Immediately after execution and delivery of the Contract, and before the first partial payment is made, the Contractor shall deliver to the City an estimated construction progress schedule in form satisfactory to the City showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the Contract documents and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule. The Contractor shall also furnish on forms to be supplied by the City, (a) a detailed estimate giving a complete breakdown of the Contract price and (b) periodic itemized estimate of work done for the purpose of making partial payments thereon. The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the Contract price.

36. PAYMENTS TO CONTRACTORS

- (a) No later than thirty (30) days after submittal of a progress payment request the City shall make a progress payment to the Contractor on the basis of a duly certified and approved estimate of the work performed during the preceding calendar month under this Contract, but to insure the proper performance of this Contract, the City shall retain ten percent (10%) of the amount of each estimate (as retainage).
- (b) At substantial completion of the work and as the City's authorized Contract representative determines the work to be reasonably satisfactory, the City shall within thirty (30) days after invoice and other appropriate documentation, as may be required by the Contract documents are provided pay the retainage to the Contractor. If at that time there are any remaining incomplete minor items, an amount equal to two hundred percent (200%) of the value of each item as determined by the City's authorized Contract representatives shall be withheld until such item or items are completed.
- (c) In preparing estimates the material delivered on the site and preparatory work done may be taken into consideration.
- (d) All material and work covered by partial payments made shall thereupon become the sole property of the City, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the City to require the fulfillment of all of the terms of the Contract.
- (e) The Contractor agrees that it will indemnify and save the City harmless from all claims growing out of the lawful demands of Subcontractors, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary incurred in the furtherance of the performance of this Contract. The Contractor shall, at the City's request, furnish satisfactory evidence that all obligations

hereinabove designated have been paid, discharged, or waived. If the Contractor fails to do so, then the City may, after having served written notice on the said Contractor, either pay unpaid bills, of which the City has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this Contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the City to either the Contractor or the Surety. In paying any unpaid bills of the Contractor, the City shall be deemed the agent of the Contractor, and any payment so made by the City shall be considered as a payment made under the Contract by the City to the Contractor and the City shall not be liable to the Contractor for any such payments made in good faith.

- (f) If at any time the City shall determine that the amount of work completed at that time is lagging behind the Contract schedule by more than twenty percent (20%), the City may determine that the Contractor is not faithfully performing on the Contract and therefore the City may elect to withhold all monies and refrain from making any additional payments to the Contractor until such time as the City determines the work to be progressing satisfactorily.
- (g) On all Contracts relating to installation, extension, improvement, maintenance or repair of any water or sewer facility, retainage shall be invested at the current market rate and any interest earned on the retained amount shall be paid to the Contractor when the Project has been completed within the time limits specified and for the price specified in the Contract, or in any amendments or change orders approved in accord with the terms of the Contract.
- (h) Final payment of the retained amounts to the Contractor under the Contract to which the retained amounts relate shall be made after certification by the Engineer that the work has been, to the best of his knowledge, satisfactorily completed and is accepted.

37. ACCEPTANCE AND FINAL PAYMENT

Upon receipt of the corrections list the Contractor shall complete all items and submit the final payment request within thirty (30) days. Upon completion by the Contractor of The Work and correction list items, including the receipt of any final written submission of the Contractor and the approval thereof by the Kennesaw Public Works Department, the City will pay the Contractor as set forth below.

When the Project provided for under this Contract shall have been completed by the Contractor, and all parts of the work have been approved by the Engineer according to the Contract, the Engineer shall, within ten (10) calendar days unless otherwise provided, make final inspection and advise the Contractor as to preparing a final estimate, showing the value of work as soon as the necessary measurements and computations can be made, all prior certificates or estimates

upon which payments have been made are approximate only, and subject to correction in the final payment. The amount of the final estimates, less any sums that may have been deducted or retained under the provisions of this Contract, will be paid to the Contractor within sixty (60) days after approval by the Engineer, provided that the Contractor has properly maintained and operated the Project as specified under these specifications, and provided, that Contractor has furnished to the City a sworn affidavit to the effect that all bills are paid and no suits are pending in connection with the work done or labor and material furnished under this Contract.

38. PAYMENTS BY CONTRACTORS

The Contractor shall pay (a) for all transportation and utility services not later than the 20th day of the calendar month following that in which such services are rendered, (b) for all materials, tools, and other expendable equipment to the extent of ninety percent (90%) of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools and equipment are delivered at the site of the Project, and the balance of the cost thereof not later than the 30th day following the completion of that part of the work in or on which such materials, tools and equipment are incorporated or used, and (c) to each of his Subcontractors, not later than the 5th day following each payment to the Contractor, the respective amounts allowed the Contractor on account of the work performed by his Subcontractors to the extent of each Subcontractor's interest therein.

39. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

The Contractor shall not commence work under this Contract until he has obtained all the insurance required under this paragraph and such insurance has been reviewed by the City, nor shall the Contractor allow any Subcontractor to commence work on its Subcontract until the insurance has been so obtained and reviewed.

a. Contractor's Liability Insurance: Contractor shall purchase and maintain such comprehensive general liability and other insurance as will provide protection from claims set forth below which may arise out of or result from Contractor's performance of the work and Contractor's other obligations under the Contract Documents, whether such performance is indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

1. Claims under workers' or workmen's compensation, disability benefits and other similar employees benefit acts;
2. Claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
3. Claims for damages because of bodily injury, sickness or disease, or

death of any person other than Contractor's employees;

4. Claims for damages insured by personnel injury liability coverage which are sustained (i) by any person because of an offense directly or indirectly related to the employment of such person by Contractor, or (ii) by any other person for any other reason;
5. Claims for damages, other than to the work itself because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
6. Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle.

The insurance required by this paragraph shall include the specific coverages and be written for not less than the limits of liability and coverages provided in these specifications, or required by law, whichever is greater. The comprehensive general liability insurance shall include completed operations insurance. All such insurance shall contain a provision that the coverage afforded will not be cancelled, materially changed or renewal refused until at least thirty (30) days prior written notice has been given to City and Engineer. All such insurance shall remain in effect until final payment and at all times thereafter when Contractor may be correcting, removing or replacing defective work. In addition, Contractor shall maintain such completed operations insurance for at least one year after final payment and furnish City with evidence of continuation of such insurance at final payment.

- b. Contractual Liability Insurance: The comprehensive general liability insurance required by paragraph (a) will include Contractual liability insurance applicable to Contractor's obligations under separate Contract and Subcontracting.
- c. Unless otherwise provided in these Supplementary Conditions, Contractor shall purchase and maintain property insurance upon the work at the site to the full insurable value thereof (subject to such deductible amounts as may be provided in these supplementary conditions or required by law). This insurance shall include the interest of City, Contractor and Subcontractors in the work, shall insure against the perils of fire and extended coverage, shall include "all risk" insurance for physical loss and damage including theft, vandalism and malicious mischief, collapse and water damage, and other perils as may be provided in these supplementary conditions, and shall include damages, losses and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including fees and charges of engineers, architects, attorneys and other professionals). If not covered under the "all risk" insurance or otherwise provided in these Supplementary Conditions, Contractor shall purchase and maintain similar property insurance on portions of the work

stored on and off the site or in transit when such portions of the work are to be included in an Application for Payment. The policies of insurance required to be purchased and maintained by Contractor in accordance with paragraphs c and d shall contain a provision that the coverage afforded will not be cancelled or materially changed until at least thirty days' prior written notice has been given to the City.

- d. Contractor shall purchase and maintain such boiler and machinery insurance as may be required by the Supplementary Conditions or by law. This insurance shall include the interest of City, Contractor and Subcontractors in the work and shall provide coverage for all installed and functional mechanical equipment for the full replacement value of the equipment.
- e. City shall not be responsible for purchasing and maintaining any property insurance to protect the interests of Contractor or Subcontractors in the work to the extent of any deductible amounts that are provided in the supplemental conditions. If Contractor wishes property insurance coverage within the limits of such amounts, Contractor may purchase and maintain it at his own expense.
- f. If City has any objection to the coverage afforded by or other provisions of the insurance required to be purchased and maintained by Contractor in accordance with paragraphs a, b, c, and d, City will notify Contractor thereof within ten days of the date of delivery of such certificates to City. Contractor will provide to the City such additional information in respect of insurance provided by him as City may reasonably request. The right of the City to review and comment on Certificates of Insurance is not intended to relieve the Contractor of his responsibility to provide insurance coverage as specified nor to relieve the Contractor of his liability for any claims which might arise.
- g. Partial Utilization - Property Insurance: If City finds it necessary to occupy or use a portion or portions of the work prior to Substantial Completion of all the work, such use or occupancy may be accomplished provided that no such use or occupancy shall commence before the insurers providing the property insurance have acknowledged notice thereof and in writing effected the changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be cancelled or lapse on account of any such partial use or occupancy.
- h. The limits of liability for the insurance required by paragraph (a) of the General Conditions shall provide coverage for not less than the following amounts or greater where required by law:

For claims under paragraph 39.a.1 and 39.a.2, Worker's Compensation:

- | | | |
|-----|--|--|
| (1) | State | Statutory |
| (2) | Applicable Federal (e.g.)
Longshoreman's: | Statutory |
| (3) | Employer's Liability: | \$500,000 per person
\$500,000 per occurrence |

For claims under 39.a.2 through 39.a.5,

- | | | |
|-----|---|---|
| (1) | Bodily Injury: | |
| | \$1,000,000 | Each person |
| | \$1,000,000 | Each Occurrence |
| | \$1,000,000 | Annual Aggregate,
Products and Completed
Operations |
| (2) | Property Damage: | |
| | \$1,000,000 | Each Person |
| | \$1,000,000 | Each Occurrence |
| (3) | Property Damage Liability
insurance will provide Explosion,
Collapse and Underground
coverages where applicable. | |
| (4) | Personal Injury, with employment
exclusion deleted | |
| | \$1,000,000 | Annual Aggregate |

For claims under 39.a.6, Comprehensive Automobile Liability:

- | | | |
|-----|------------------|-----------------|
| (1) | Bodily Injury: | |
| | \$1,000,000 | Each Person |
| | \$1,000,000 | Each Accident |
| (2) | Property Damage: | |
| | \$1,000,000 | Each Occurrence |

The Contractual Liability required by paragraph 39.b of the General Conditions shall provide coverage for not less than the following amounts:

Contractual Liability Insurance:

Bodily Injury:

\$1,000,000	Each Occurrence
-------------	-----------------

Property Damage:

\$1,000,000	Each Occurrence
-------------	-----------------

\$1,000,000	Annual Aggregate
-------------	------------------

Scope of Insurance and Special Hazards - The amounts stated in subparagraph "h" above are minimum amounts of insurance to be carried. The Contractor shall carry such additional insurance as may be required to provide adequate protection of the Contractor and his Subcontractors, respectively, against any and all damage claims which may arise from operations under this Contract, whether such operations be by the insured or by anyone directly or indirectly employed by his and, also, against any of the special hazards which may be encountered in the performance of this Contract.

40. CONTRACT SECURITY

The Contractor shall furnish a performance bond in an amount at least equal to one-hundred percent (100%) of the Contract prices as security for the faithful performance of this Contract and also a payment bond in an amount at least equal to one-hundred percent (100%) of the Contract price or in a penal sum not less than that prescribed by State, Territorial or local law, as security for the payment of all persons performing labor on the Project under this Contract and furnishing materials in connection with this Contract. The performance bond and the payment bond may be in one or in separate instruments in accordance with local law.

41. ADDITIONAL OR SUBSTITUTE BOND

If at any time the City for justifiable cause shall be or become dissatisfied with any Surety or Sureties, then upon the Performance or Payment Bonds, the Contractor shall within five (5) business days after notice from the City to do so, substitute an acceptable bond (or bonds) in such form and sum and signed by such other Surety or Sureties as may be satisfactory to the City. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the City.

42. 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 Contract, or receipts in full in lieu thereof, and if required in either case, an affidavit that insofar as he has 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.

43. ASSIGNMENTS

The Contractor shall not assign the whole or any part of this Contract or any money due to or to become due hereunder without written consent of the City. In case the Contractor assigns all or part of any money due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assigned in and to any money due or to become due to the Contractor shall be subject to prior liens of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Contract.

44. MUTUAL RESPONSIBILITY OF CONTRACTORS

If through acts of negligence on the part of the Contractor, any other Contractor or Subcontractor, shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or Subcontractor by agreement or arbitration, if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against the City on account of any damage alleged to have been so sustained, the City shall notify the Contractor, who shall indemnify and save harmless the City against any such claim, including but not limited to Attorney fees and costs.

45. COORDINATION WITH OTHER CONTRACTORS

The Contractor shall coordinate his operations with those of other Contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including his Subcontractors shall keep informed of the progress and the detail work of other Contractors and shall notify the Engineer immediately of lack of progress or defective workmanship on the part of other Contractors. Failure of a Contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by the Contractor of the status of the work as being satisfactory for proper coordination with the Contractor's own work.

46. SUBCONTRACTING

(a) The Contractor shall utilize the service of a specialty Subcontractor on those parts of the work which, under normal Contracting practices, are performed by specialty Subcontractors. Provided - that if the City shall determine that the specialty work in question has been customarily performed by the Contractor's own organization and that such organization is presently competent to perform such work, the Contractor shall be permitted to do so. Provided further - that if the City shall determine that the performance of any specialty work by specialty Subcontractors will result in materially increased costs or inordinate delays, the requirements of this paragraph shall not apply.

(b) The Contractor shall not be allowed to award work to any Subcontractor prior to written approval of the City, which approval will not be given until the Contractor submits to the City, a written statement concerning the proposed award to the Subcontractor, which statement shall contain such information as the City may require.

(c) The Contractor shall be as fully responsible to the City for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by Contractor, as it is for the acts and omissions of persons directly employed by Contractor.

(d) The Contractor shall cause appropriate provisions to be inserted in all Subcontracts relative to the work to bind Subcontractors to the Contractor by the terms of the General Conditions and other Contract documents insofar as applicable to the work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the City may exercise over the Contractor under any provision of the Contract Documents.

(e) Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the City.

47. ENGINEER'S AUTHORITY

In addition to the authority granted elsewhere in this contract, the Engineer will have authority to disapprove or reject defective work and will also have authority to require special inspection or testing of the work.

The Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder. Claims, disputes and other matters relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work shall be referred initially to Engineer in writing with a request for a formal decision in accordance with this paragraph, which the Engineer will render in writing within a reasonable time. Written notice of each such claim, dispute and other matter shall be delivered by the claimant to Engineer and the other party to the Agreement within fifteen (15) days of the occurrence of the event giving rise thereto, and written supporting data will be submitted to the Engineer and the other party within forty-five (45) days of such occurrence unless Engineer allows an additional period of time to ascertain more accurate data. In his capacity as interpreter and judge, Engineer will not show partiality to City or Contractor, and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity.

48. LIMITATIONS ON ENGINEER'S RESPONSIBILITIES

Neither the Engineer's authority to act under this Contract, nor any decision made by the Engineer in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the Engineer to the Contractor, any Subcontractor, any manufacturer, fabricator, supplier or distributor, or any of their agents or employees or any other person performing any of the work.

Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper" or "satisfactory" or adjectives of like effect or import are used, to describe requirements, direction, review or judgement of the Engineer as to the work, it is intended that such requirement, direction, review or judgement will be solely to evaluate the work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective never indicates that the Engineer shall have authority to supervise or direct performance of the work.

The Engineer will not be responsible for Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and the Engineer will not be responsible for Contractor's failure to perform the work in accordance with the Contract Documents.

The Engineer will not be responsible for the acts or omissions of the Contractor or of any Subcontractors, or of the agents or employees of any Contractor or Subcontractor, or of any other persons at the site or otherwise performing any of the work.

49. USE OF PREMISES AND REMOVAL OF DEBRIS

The Contractor expressly undertakes at its own expense:

- (a) To take every precaution against injuries to persons or damage to property;
- (b) To store its apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of its work or the work of any other Contractors;
- (c) To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work;
- (d) To clean up frequently all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;
- (e) Before final payment to remove all surplus material, falsework, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from its operations, and to put the site in a neat orderly condition; and
- (f) To affect all cutting, fitting, or patching of its work required to make the same to conform to the plans and specifications and, except with the consent of the Engineer, not to cut or otherwise alter the work of any other Contractor.

50. ESTIMATE OF QUANTITIES

Wherever the estimated quantities of work to be done and materials to be furnished under this Contract are shown in any of the documents including the proposal, they are given for use in comparing bids and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the City to complete the work contemplated by this Contract, and such increase or diminution shall in no way vitiate this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

51. RIGHTS-OF-WAY AND SUSPENSION OF WORK

The City shall furnish all land and rights-of-way necessary for the carrying out of this Contract and the completion of the work herein contemplated and will use due diligence in acquiring said land and rights-of-way as speedily as possible. But it is possible that all lands and rights-of-way may not be obtained as herein contemplated before construction begins, in which event the Contractor shall begin its work upon such land and rights-of-way as the City may have previously acquired, and no claim for damages whatsoever will be allowed by reason of the delay in obtaining the remaining lands and rights-of-way. Should the City be prevented or enjoined from proceeding with the work, or from authorizing its prosecution, either before or after the commencement, by reason of any litigation, or by reason of its inability to procure any lands or rights-of-way for the said work, the Contractor shall not be entitled to make or assert a claim for damages by reason of said delay, or, to withdraw from the Contract except by consent of the City, but time for completion of the work will be extended to such time as the City determines will compensate for the time lost by such delay, such determination to be set forth in writing.

52. GUARANTY

(a) All structures erected under this Contract shall be fully guaranteed by the Contractor for a period of one year from the date of final inspection and acceptance by the City. This guarantee shall cover any and all defects in workmanship or materials that may develop in this specified time, and any failure in such workmanship or materials shall be repaired or replaced to the satisfaction of the City by the Contractor at his own expense.

(b) All equipment of whatever nature incorporated in the work covered by this Contract shall carry the same guarantee as outlined above for construction. Failure of any equipment or part thereof within the specified time shall be corrected to the satisfaction of the City, at the Contractor's expense. This guarantee does not apply to manufacturing defects of equipment furnished by the City.

It is the intent of these specifications that all pipelines, both underground and above ground, together with all appurtenances attached thereto, under this Contract, shall be classified as structures.

Neither the final certificate of payment nor any provision in the Contract Documents nor partial or entire occupancy of the premises by the City shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship.

53. CONFLICTING CONDITIONS

Any provisions in any of the Contract documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

54. NOTICE AND SERVICE THEREOF

Any notice to any Contractor from the City relative to any part of this Contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified or registered mail, to the said Contractor at its last given address, or delivered in person to the said Contractor or its authorized representative on the work.

55. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract 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 Contract shall forthwith be physically amended to make such insertion or correction.

56. SUSPENSION OF WORK

Should the City be prevented or enjoined from proceeding with work either before or after the start of construction by reason of any litigation or other reason beyond the control of the City, the Contractor shall not be entitled to make or assert a claim for damages by reason of said delay; but time for completion of the work will be extended to such reasonable time as the City may determine will compensate for time lost by such delay with such determination to be set forth in writing.

57. MAINTENANCE OPERATIONS

The Contractor shall schedule and execute his work to avoid interruption of existing services or operations, public or private. The Contractor will use every precaution to prevent damage of any existing facility, and in the event of damage will, at no expense to the City, repair and otherwise make good any damage to facilities resulting from his operations in connection with the Contract. The Contractor will take whatever measures necessary to accurately determine the exact location of existing underground facilities prior to commencing construction.

58. MAINTENANCE

The Contractor will be required to maintain all work done by him in a first-class condition for sixty (60) days after the same has been completed as a whole, and the Engineers have notified the Contractor in writing that the work has been finished to their satisfaction. The retained percentage will not be due or payable to the Contractor until the sixty (60) day maintenance period is up.

59. PROTECTION AND RESTORATION OF PROPERTY

- a. The Contractor shall not enter upon private property for any purpose without first obtaining permission, and it shall use every precaution necessary to prevent damage or injury to any public or private property, trees, fences, monuments, underground structures, etc., on and adjacent to the site of the work. Contractor shall protect carefully, from disturbance or damage, all land monuments and property marks until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed.
- b. Except as specifically provided in the Contract Documents, the Contractor shall not do any work that would affect any railway track, pipeline, telephone, telegraph, or electric or transmission line, or other structure nor enter upon the right-of-way or other lands appurtenant thereto, until authority therefore has been secured from the proper parties. The Contractor shall not be entitled to any extension of time or any extra compensation on account of any postponement, interference, or delay resulting from this requirement, except as specifically provided in the Contract.
- c. The Contractor shall be responsible for all damage or injury to property of any character resulting from any act, omission, neglect, or misconduct in its manner or method of executing said work, or due to the non-execution of said work, or at any time due to defective work or materials, and Contractor shall not be released from said responsibility until the work shall have been completed and accepted.
- d. When or where any direct or indirect damage or injury is done to public or private property by, or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence of the non-execution thereof on the part of the Contractor, it shall restore at its own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring, as may be directed, or Contractor shall make good such damage or injury in an acceptable manner.

60. INDEMNIFICATION

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless City and Engineer, and the elected officials, officers, directors, members, partners, employees, agents, consultants, attorneys and Subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting there from but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, and Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any negligence or omission of a person or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such person or entity. If through the negligent act or omission on the part of Contractor, any other Contractor or any Subcontractor shall suffer loss or damage on the Work, Contractor shall settle with such Contractor or Subcontractor by agreement or arbitration if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against City and/or Engineer on account of any damage alleged to have been sustained, City shall notify Contractor, who shall indemnify and save harmless City and Engineer against any such claims, including but not limited to Attorney fees and costs.

61. USE AND OCCUPANCY PRIOR TO ACCEPTANCE BY CITY

The Contractor agrees to the use and occupancy of a portion or unit of the Project before formal acceptance by the City, provided the City:

- (a) Secures written consent of the Contractor except in the event, in the opinion of the Engineer, the Contractor is chargeable with unwarranted delay in completing the Contract requirements;
- (b) Secures consent of the Surety;
- (c) Secures endorsement from the insurance carrier(s) permitting occupancy of the building or use of the Project during the remaining period of construction; or
- (d) When the Project consists of more than one building, and one of the buildings is occupied, secures permanent fire and extended coverage insurance, including a permit from the insurance carrier to complete construction.

62. INTEREST OF FEDERAL, STATE OR LOCAL OFFICIALS

No Federal, State or Local official shall be entitled to any share or part of this Contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

63. OTHER PROHIBITED INTERESTS

No official of the City who is authorized in such capacity and on behalf of the City to negotiate, make, accept or approve or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction or material supply Contract or any Subcontract in connection with the construction of the Project, shall become directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the City who is authorized in such capacity and on behalf of the City to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the Project, shall become directly or indirectly interested personally in this Contract or in any part thereof, any material supply Subcontract, insurance Contract, or any other Contract pertaining to the Project.

64. USE OF CHEMICALS

All chemicals used during Project construction or furnished for Project operation, whether herbicide, pesticide, disinfectant, polymer, reactant or of other classification, must show approval of either E.P.A. or U.S.D.A. Use of all such chemicals and disposal of residues shall be in strict conformance with instructions.

65. MAINTENANCE OF TRAFFIC

Traffic is to be maintained on all roads and streets which must be crossed by lines. If the open-cut method is used, two separate cuts must be made leaving one lane open to traffic at all times.

The Contractor shall notify the City and D.O.T. prior to performing any work which disrupts normal flow of traffic, and shall utilize appropriate warning signs, flagmen and other procedures necessary to ensure safety and minimize inconvenience to the public.

66. SPECIAL HAZARDS

The Contractor's and his Subcontractor's Public Liability and Property Damage Insurance shall provide adequate protection against the following special hazards: excavation, shoring, underpinning, blasting, and explosion to the extent to which such risks are present.

67. ENGINEER'S DIRECTIONS REGARDING WORK PARTIALLY COMPLETED

The Engineer may direct that any section or part of the Project considered to be in serviceable condition be placed in use or operation, even though not entirely completed. Such use or operation shall not be held to be an acceptance of the work, or section thereof, so placed in operation, or a waiver of any of the provisions of the Contract Documents.

68. ENGINEER'S EXAMINATION OF WORK COMPLETED

At the request of the Engineer, the Contractor shall, at any time before final acceptance of the work, remove, or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the Specifications. Should the work thus exposed or examined prove acceptable, the uncovering or removing, and the replacing or making good of the parts removed, shall be paid for as Extra Work, but should the work so exposed or examined prove unacceptable, the uncovering or removing, and the restoration shall be at the Contractor's expense.

69. ENGINEER'S LIABILITY

In carrying out any of the provisions of this Contract or in exercising any power or authority granted to Engineer by the Contract, there shall be no liability upon the Engineer or its authorized agents and representatives, it being understood that in such matters the Engineer acts solely as the City's representative.

70. EROSION AND SEDIMENT CONTROL

Care shall be exercised in grading operations to minimize erosion. Temporary sediment control structures will be erected at the Engineer's direction where necessary. Also, Contractor shall comply with the State of Georgia and any applicable local regulations for erosion control.

71. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

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 its sureties from any obligations under this Contract or the Performance and Payment Bond.

72. OWNER'S RIGHT TO SUSPEND WORK

The City shall have the authority to suspend the work, wholly or in part as he may deem necessary because of conditions unsuitable for proper prosecution of the work or failure on the part of the Contractor to carry out the provisions or to meet the specified requirements. The Contractor shall not suspend operations without the City's permission.

73. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

It is hereby understood and mutually agreed, by and between the Contractor and the City, that the date of beginning and the time for completion as specified in the Contract Documents of the work to be done hereunder are ESSENTIAL CONDITIONS of this Contract; and it is further mutually understood and agreed that the work embraced in this Contract shall be commenced on a date to be specified in the "NOTICE TO PROCEED."

The Contractor agrees that said work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the City, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

If the said Contractor shall neglect, fail or refuse to complete the work within the time herein specified, or any proper extension thereof granted by the City, then the Contractor does hereby agree, as a part consideration for the awarding of this Contract, to pay to the City the amount specified in the Contract, not as a penalty but as liquidated damages for such breach of Contract as hereinafter set forth, for each and every calendar day that the Contractor shall be in default after the time stipulated in the Contract for completing the work.

The said amount is fixed and agreed upon by and between the Contractor and the City because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the City would in such event sustain, and said amount is agreed to be the amount of damages which the City would sustain and said amount shall be retained from time to time by the City from current periodical estimates.

It is further agreed that time is of the essence of each and every portion of this Contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where, under the Contract, an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this Contract. Provided, that the Contractor shall not be charged with liquidated damages or any excess cost when the City determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the City; provided, further, that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:

- (a) To any preference, priority or allocation order duly issued by the Government;
- (b) To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or of the public enemy, acts of the City, acts of another Contractor in the performance of a Contract with the City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and
- (c) To any delays of Subcontractors or suppliers occasioned by any of the causes specified in subsections (a) and (b) of this article.

Provided, further, that the Contractor shall, within ten (10) calendar days from the beginning of such delay, unless the City shall grant a further period of time prior to the date of final settlement of the Contract, notify the City, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay, and notify the Contractor within a reasonable time of its decision in this matter.

74. INCLEMENT WEATHER

The following bad weather calendar days shall be anticipated and included in the contractual time period given for project completion. The Contractor's request for additional time due to weather shall only be granted for days beyond those listed below, considering the full term of the contract. The burden of proof and documentation for such request for additional time shall rest solely upon the Contractor. Requests shall be submitted to the City monthly with progress payment request. Failure to submit documentation monthly may result in requests for weather day extensions to be rejected.

January 10 days	July 4 days
February 10 days	August 2 days
March 7 days	September 2 days
April 6 days	October 3 days
May 4 days	November 5 days
June 3 days	December 9 days

Data submitted in support of a request for contract extension due to inclement weather shall include, but not be limited to: documentation of impact on the critical path; daily high and low temperatures at the jobsite; daily rainfall amount at the jobsite; time that rainfall started and stopped; documented snow or ice accumulation; specific work impacted by inclement weather and date stamped photos of the impacted work or work area. A rain gauge and thermometer shall be placed at the jobsite to accurately record rainfall and temperature data.

Contractor shall maintain a Daily Record of weather conditions and their effect on the work progress. These daily records shall be used to verify any claims for weather delays.

75. CLAIMS AND DISPUTES

Engineer's Decision Required: All claims shall be referred to the Engineer for decision. A written decision by Engineer shall be required as a condition precedent to any exercise by City or Contractor of any rights or remedies either may otherwise have under the Contract Documents or by Laws and Regulations in respect of such Claims.

Notice: Written notice stating the general nature of each Claim shall be delivered by the claimant to Engineer and the other party to the Contract promptly (but in no event later than fourteen (14) days after the start of the event giving rise thereto. The responsibility to substantiate a Claim shall rest with the party making the Claim. Notice of the amount or extent of the Claim, with written supporting data shall be delivered to the Engineer and the other party to the Contract within twenty-one (21) days (and monthly thereafter for continuing events) after the start of such event (unless Engineer allows additional time for claimant to submit additional or more accurate data in support of such Claim. The opposing party shall submit any response to Engineer and the claimant within thirty (30) days after receipt of the claimant's last submittal (unless Engineer allows additional time).

Engineer's Action: Engineer will review each Claim and, within thirty (30) days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any, take one of the following actions in writing:

- (a) Deny the Claim in whole or in part;
- (b) Approve the Claim in whole or in part; or
- (c) Notify the parties that the Engineer is unable to resolve the Claim if, in the Engineer's sole discretion, it would be inappropriate for the Engineer to do so. For purposes of further resolution of the Claim, such notice shall be deemed a denial.

If Engineer does not take action on a Claim within said thirty (30) days, the Claim shall be deemed denied.

Engineer's written action hereunder will be final and binding upon City and Contractor.

If an issue remains unresolved after completing all procedures set forth above, either party may exercise such rights or remedies as they may have under the laws of the State of Georgia. No suit or action shall be commenced hereunder by any claimant other than in the Superior Court of Cobb County, Georgia. This Agreement shall be interpreted under the laws of the State of Georgia. Jurisdiction and venue shall lie exclusively in the Superior Court of Cobb County, Georgia.

76. INDEPENDENT CONTRACTOR STATUS

- (a) The Parties intend that the Contractor be engaged as an independent Contractor of the City. Nothing contained in this Contract will be construed to create the relationship of employer and employee, principal and agent, partnership or joint venture, or any other fiduciary relationship.
- (b) The Contractor may not act as agent for, or on behalf of, the City, or to represent the City, or bind the City in any manner.
- (c) The Contractor will not be entitled to worker's compensation, retirement, insurance, or other benefits afforded to employees of the City.

77. 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.

78. AMENDMENT

This Agreement may be amended only by written agreement duly executed by an authorized representative of each party.

79. SEVERABILITY

If any provision or provisions of this Contract shall be held unenforceable for any reason, then such provision shall be modified to reflect the parties' intention. If modification is not possible, the provision shall be severed. All remaining provisions of this Contract shall remain in full force and effect for the duration of this Contract.

80. NO WAIVER

A failure or delay in exercising any right, power or privilege in respect of this Contract 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.

81. VENUE AND JURISDICTION

This Agreement is governed by and construed in accordance with the laws of the State of Georgia without reference to any principles of conflicts of laws, which might cause the application of the laws of another state. Any legal action instituted by either party arising out of this Contract shall only be brought, tried, and resolved in the Superior Court of Cobb County, Georgia. EACH PARTY HEREBY

CONSENTS TO THE EXCLUSIVE PERSONAL JURISDICTION AND VENUE OF
THE SUPERIOR COURT OF COBB COUNTY, GEORGIA.

82. NONDISCRIMINATION

Contractor will not discriminate against any person employed or applying for employment concerning the performance of Contractor's responsibilities under this Contract. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. Contractor will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.

83. E-VERIFY COMPLIANCE

The Contractor and any Subcontractors thereof, are required and hereby agree to use a federal immigration verification system to determine the work eligibility status of all employees performing services under this Agreement and shall execute Affidavits to that effect on the forms provided in Section 2 of the Contract Documents. A federal immigration system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

84. BENEFIT OF PARTIES

This Contract is entered into solely for the benefit of the Parties. No third party will be deemed a beneficiary of this Contract, and no third party will have the right to make any claim or assert any right under this Contract.

END OF SECTION

SECTION FOUR
PAYMENTS AND COMPLETION

1. APPLICATIONS FOR PROGRESS PAYMENT

Payments will be made monthly in the amount of sums earned based upon the quantity complete, and/or as otherwise provided in this Contract, less previous partial payments and less an established retainage of **ten percent (10%)** of the sums earned, said retainage amount to be held by the City. The final application shall reflect the cost of the Work accomplished by the Contractor under the terms of this Contract and shall be the base for the final payment. All payments shall be made on the quantity of the Work completed and/or as otherwise provided for in this Contract. It is further agreed that upon completion of the Work by the Contractor, approval by the Engineer, and acceptance thereof by the City, the City shall pay to the Contractor a sum equal to the one hundred percent of the total compensation as set forth in the all approved payment applications, less the total of all previous partial payments paid or in the process of being paid.

At least **ten (10)** days before each progress payment falls due (but not more often than once a month), Contractor will submit to City for review by Engineer a certified/approved application for payment also filled out and signed by Contractor covering the Work completed as of the date of the application and supported by such data as City and Engineer may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the application for payment shall also be accompanied by such supporting data, satisfactory to City and Engineer, as will establish City's title to the material and equipment and protect its interest, including applicable insurance.

2. CONTRACTOR'S WARRANTY OF TITLE

Contractor warrants and guaranties that title to all Work, materials and equipment covered by an application for payment, whether incorporated in the Project or not, will have passed to City prior to the making of the application for payment, free and clear of all liens, claims, security interests and encumbrances (referred to below as "liens"); and that no work, materials or equipment covered by an application for payment will have been acquired by Contractor or by any other person performing the Work at the site or furnishing materials and equipment for the Project, subject to a Contract under which an interest or encumbrance is retained by the seller or otherwise imposed by Contractor or such other person.

3. APPROVAL OF PAYMENTS

- (a) City will, within **ten (10)** days after receipt of each duly certified and approved application for payment, either indicate in writing its approval of payment or return the application to Contractor indicating in writing the reasons for refusing to approve payment. In the latter case, Contractor may make the necessary corrections and resubmit the application, and City will, within **thirty (30)** days of presentation to it of an approved application for payment, pay Contractor the amount so approved.
- (b) City may refuse to approve the whole or any part of any payment because of subsequently discovered evidence or the results of subsequent inspections or tests which nullify the grounds for any payment previously approved, to such extent as may be necessary in its opinion to protect itself from loss because:
 - (i) The Work is defective;
 - (ii) Claims have been filed or there is reasonable evidence indicating the probable filing of claims;
 - (iii) The Contract price has been reduced because of Modifications;
 - (iv) City has been required to correct defective Work or complete the Work in accordance with Paragraph 34 of this Agreement; or
 - (v) Of unsatisfactory prosecution of the Work, including failure to clean up as required by Paragraph 49 of this Agreement.

4. SUBSTANTIAL COMPLETION

- (a) Prior to final payment, Contractor may, in writing to Engineer, certify that the entire Project is substantially complete and request that the Engineer issue a certificate of substantial completion. Within a reasonable time thereafter, Engineer and Contractor will inspect the Project to determine the status of completion. If Engineer does not consider the Project substantially complete, Engineer will notify Contractor in writing, giving its reasons for such determination. If it is determined that the Project is substantially complete, the Engineer will prepare a tentative Certificate of Substantial Completion which shall fix the date of Substantial Completion and the responsibilities between City and Contractor for maintenance. There shall be attached to the certificate a tentative list of items to be completed or collected before final payment, and the certificate shall fix the time within which such items shall be completed or collected, the time to be within the Contract Time. Upon the completion and correction of the items on the tentative list, if Engineer considers the Project substantially complete, it shall issue the definitive Certificate of Substantial Completion.

- (b) City shall have the right to exclude Contractor from the Project after the date of Substantial Completion, but City will allow Contractor reasonable access to complete or collect items on the tentative list.

5. PARTIAL UTILIZATION

Prior to final payment, City may request Contractor in writing to permit it to use a specified part of the Project which it believes it may use without significant interference with construction of the other parts of the Project. If Contractor agrees, it will certify to City that such part of the Project is substantially complete and request the Engineer to issue a Certificate of Substantial Completion for that part of the Project. Within a reasonable time thereafter, Engineer and Contractor will make all inspection of that part of the Project to determine its status of completion. If Engineer does not consider that it is substantially complete, Engineer will notify Contractor in writing, giving it the reasons therefore. If Program considers that part of the Project to be substantially complete, it will execute and deliver to Contractor a Certificate to that effect, fixing the date of Substantial Completion as to that part of the Project, attaching to it a tentative list of items to be completed or corrected before final payment and fixing the responsibility between City and Contractor for maintenance as to that part of the Project. City shall have the right to exclude Contractor from all or part of the Project which Engineer has certified to be substantially complete, but City will allow Contractor reasonable access to complete or collect items on the tentative list. It is contemplated that City may desire to begin use of each portion of the Project as said portion is substantially completed rather than wait until all the entire Project is substantially complete.

6. FINAL INSPECTION

Upon written notice from Contractor that the Project is complete, Engineer will make a final inspection with Contractor and Engineer will notify Contractor in writing of any particulars in which this inspection reveals that the Work is defective. Contractor shall immediately make such corrections as are necessary to remedy such defects.

7. FINAL APPLICATION FOR PAYMENT

After Contractor has completed any such corrections to the satisfaction of City and Engineer and delivered all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection and other documents required, it may make application for final payment following the procedure for progress payments. The final application for payment shall be accompanied by such supporting data as City and Engineer may require, together with complete and legally effective releases or waivers (satisfactory to the City and Engineer) of all liens arising out of the Contract and the labor and services performed and the material and equipment furnished thereunder. In lieu of this and as approved by City, Contractor may furnish receipts or releases in full; all affidavits of Contractor shall state that the

releases and receipts include all labor, services, material and equipment for which a lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which City or its property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any Subcontractor or supplier fails to furnish a release or receipt in full, Contractor may furnish a bond satisfactory to City, indemnifying City against any lien.

Any Contractor or Subcontractor are prohibited from filing a lien or encumbrance against the items delivered to or against the owned property of the City.

8. APPROVAL OF FINAL PAYMENT

- (a) If, on the basis of its observation and review of the Work during construction, its final inspection and its review of the final application for payment, all as required by the Contract, City and Engineer are satisfied that the Work has been completed, and Contractor has fulfilled all of its obligations under the Contract, the City will, within **ten (10)** days after receipt of the final application for payment, indicate in writing its approval of payment and process the application for payment. Otherwise, the City will return the application to Contractor, indicating in writing its reasons for refusing to approve final payment, in which case Contractor will make the necessary corrections and resubmit the application. City will, within **thirty (30)** days of presentation to it of an approved final application for payment, pay Contractor the amount approved.
- (b) If, after Substantial Completion of the Work, final completion is materially delayed through no fault of Contractor and City so agrees, City shall make payment of the balance due for that portion of the Work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

9. CONTRACTOR'S CONTINUING OBLIGATION

Contractor's obligation to perform the Work and complete the Project in accordance with the Contract shall be absolute. Neither approval of any progress or final payment by City, nor the issuance of a Certificate of Substantial Completion, nor any payment by City to Contractor, nor any use or occupancy of the Project or any part by City, nor any act of acceptance by City nor any failure to do so, nor any correction of defective Work by City shall constitute an acceptance of Work not in accordance with the Contract.

10. WAIVER OF CLAIMS

The making and acceptance of final payment shall constitute a waiver of all claims by Contractor against City other than those previously made in writing and still unsettled.

11. VERIFICATION OF COSTS

The Contractor shall, upon request, allow the examination and verification of costs by the Engineer or other representatives of the City before final payment is due. If the examination of the Contract cost records results in the determination that unallowable expenses were charged to the City by the Contractor, the Contractor shall be immediately responsible for reimbursing the City for the full amount of such unallowable expenses. The Contractor shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred for the Work and Project and used in support of its Proposal and shall make such documents available at all reasonable times during the period of the Contract and for **three (3)** years from the date of final payment under the Contract, for inspection by the City and any reviewing agencies, and copies thereof shall be furnished upon request. The Contractor agrees that the provisions of this Section shall be included in any Contract it may make with any Subcontractor, assignee, or transferee.

END OF SECTION

EXHIBIT A: ITEMIZED BID PROPOSAL FORM

CONTRACTOR NAME:

DATE:

1. BASE BID:

PROJECT NAME: Smith-Gilbert Gardens Improvement Project

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT PRICE	TOTAL AMOUNT
1	DEMOLITION	1	LS	\$ Numerals	\$ Numerals
					Words(unit price only)
2	GRADING COMPLETE -	1	LS	\$ Numerals	\$ Numerals
					Words(unit price only)
3	PAVILLION	1	LS	\$ Numerals	\$ Numerals
					Words(unit price only)
4	RESTROOM	1	LS	\$ Numerals	\$ Numerals
					Words(unit price only)
5	UTILITY CONNECTIONS	1	LS	\$ Numerals	\$ Numerals
					Words(unit price only)

EXHIBIT A: ITEMIZED BID PROPOSAL FORM

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT PRICE	TOTAL AMOUNT
6	EROSION CONTROL	1	LS	\$ _____ Numerals	\$ _____ Numerals
				Words(unit price only)	
7	PERMANENT GRASSING	1	LS	\$ _____ Numerals	\$ _____ Numerals
				Words(unit price only)	
8	CONC. SIDEWALK 4 IN	477	SY	\$ _____ Numerals	\$ _____ Numerals
				Words(unit price only)	
9	GR AGGR BASE CRS, 4 INCH, INCL MATL	254	SY	\$ _____ Numerals	\$ _____ Numerals
				Words(unit price only)	
10	ASPHALT 19 MM SUPERPAVE, TYPE 1 TOPPING	27	TN	\$ _____ Numerals	\$ _____ Numerals
				Words(unit price only)	
11	12.5 MM ASPHALT	91	TN	\$ _____ Numerals	\$ _____ Numerals
				Words(unit price only)	
12	TACK COAT	1,364	SY	\$ _____ Numerals	\$ _____ Numerals
				Words(unit price only)	
13	8 IN WHITE STRIPING	294	LF	\$ _____ Numerals	\$ _____ Numerals
				Words(unit price only)	

EXHIBIT A: ITEMIZED BID PROPOSAL FORM

ITEM NO.	DESCRIPTION	EST. QTY.	UNIT	UNIT PRICE	TOTAL AMOUNT
14	4 IN WHITE STRIPING	1,387	LF	\$ _____ Numerals	\$ _____ Numerals
				_____ Words(unit price only)	
15	4 IN BLUE STRIPING	478	LF	\$ _____ Numerals	\$ _____ Numerals
				_____ Words(unit price only)	
16	HANDICAP SYMBOL	6	EA	\$ _____ Numerals	\$ _____ Numerals
				_____ Words(unit price only)	
17	ADA SIGNAGE	6	EA	\$ _____ Numerals	\$ _____ Numerals
				_____ Words(unit price only)	
18	5 FT CONCRETE WHEEL STOP	3	EA	\$ _____ Numerals	\$ _____ Numerals
				_____ Words(unit price only)	
19	ADA RAMP	1	EA	\$ _____ Numerals	\$ _____ Numerals
				_____ Words(unit price only)	

EXHIBIT A: ITEMIZED BID PROPOSAL FORM

ITEM <u>NO.</u>	DESCRIPTION	EST. <u>QTY.</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>TOTAL AMOUNT</u>
TOTAL AMOUNT				\$	_____
					Numerals

					Words
CONTINGENCY (5%)				\$	_____
					Numerals

					Words
GRAND TOTAL OF AMOUNTS				\$	_____
					Numerals

					Words



SHCRE-1

OP ID: SG

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/02/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER R. E. Bullock & Co., Inc. 1621 N.Roberts Rd.NW Suite 130 Kennesaw, GA 30144 R Brian Bullock	770-426-8200	CONTACT NAME: R Brian Bullock PHONE (A/C, No, Ext): 770-426-8200 FAX (A/C, No): 770-428-9914 E-MAIL ADDRESS:																					
INSURED SH Creel Contracting, LLC 756 White Blossom Ct. Powder Springs, GA 30127		<table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A :</td><td>United Specialty Insurance Co</td><td></td></tr><tr><td>INSURER B :</td><td>Southern Trust Insurance Compa</td><td>12610</td></tr><tr><td>INSURER C :</td><td>Berkley Casualty Company</td><td></td></tr><tr><td>INSURER D :</td><td>Richmond National Insurance</td><td>17103</td></tr><tr><td>INSURER E :</td><td>Auto Owners Insurance Company</td><td>18988</td></tr><tr><td>INSURER F :</td><td></td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A :	United Specialty Insurance Co		INSURER B :	Southern Trust Insurance Compa	12610	INSURER C :	Berkley Casualty Company		INSURER D :	Richmond National Insurance	17103	INSURER E :	Auto Owners Insurance Company	18988	INSURER F :		
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INSURER E :	Auto Owners Insurance Company	18988																					
INSURER F :																							

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																					
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ DED/\$5,000. GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			ATN2327710	11/08/2023	11/08/2024	<table border="1"><tr><td>EACH OCCURRENCE</td><td>\$</td><td>1,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$</td><td>50,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$</td><td>5,000</td></tr><tr><td>PERSONAL & ADV INJURY</td><td>\$</td><td>1,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$</td><td>2,000,000</td></tr><tr><td>PRODUCTS - COMP/OP AGG</td><td>\$</td><td>2,000,000</td></tr><tr><td></td><td>\$</td><td></td></tr></table>	EACH OCCURRENCE	\$	1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	50,000	MED EXP (Any one person)	\$	5,000	PERSONAL & ADV INJURY	\$	1,000,000	GENERAL AGGREGATE	\$	2,000,000	PRODUCTS - COMP/OP AGG	\$	2,000,000		\$	
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	\$																											
B	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☒ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			ACV102020991	11/08/2023	11/08/2024	<table border="1"><tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td>\$</td><td>1,000,000</td></tr><tr><td>BODILY INJURY (Per person)</td><td>\$</td><td></td></tr><tr><td>BODILY INJURY (Per accident)</td><td>\$</td><td></td></tr><tr><td>PROPERTY DAMAGE (Per accident)</td><td>\$</td><td></td></tr><tr><td></td><td>\$</td><td></td></tr></table>	COMBINED SINGLE LIMIT (Ea accident)	\$	1,000,000	BODILY INJURY (Per person)	\$		BODILY INJURY (Per accident)	\$		PROPERTY DAMAGE (Per accident)	\$			\$							
COMBINED SINGLE LIMIT (Ea accident)	\$	1,000,000																										
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BODILY INJURY (Per accident)	\$																											
PROPERTY DAMAGE (Per accident)	\$																											
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D	☐ UMBRELLA LIAB ☒ OCCUR ☒ EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$ -0-			RN70502498	11/08/2023	11/08/2024	<table border="1"><tr><td>EACH OCCURRENCE</td><td>\$</td><td>5,000,000</td></tr><tr><td>AGGREGATE</td><td>\$</td><td></td></tr><tr><td></td><td>\$</td><td></td></tr></table>	EACH OCCURRENCE	\$	5,000,000	AGGREGATE	\$			\$													
EACH OCCURRENCE	\$	5,000,000																										
AGGREGATE	\$																											
	\$																											
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☒ Y ☐ N / A If yes, describe under DESCRIPTION OF OPERATIONS below			BNET842951427	11/08/2023	11/08/2024	<table border="1"><tr><td>☒ PER STATUTE ☐ OTH-ER</td><td></td><td></td></tr><tr><td>E.L. EACH ACCIDENT</td><td>\$</td><td>1,000,000</td></tr><tr><td>E.L. DISEASE - EA EMPLOYEE</td><td>\$</td><td>1,000,000</td></tr><tr><td>E.L. DISEASE - POLICY LIMIT</td><td>\$</td><td>1,000,000</td></tr></table>	☒ PER STATUTE ☐ OTH-ER			E.L. EACH ACCIDENT	\$	1,000,000	E.L. DISEASE - EA EMPLOYEE	\$	1,000,000	E.L. DISEASE - POLICY LIMIT	\$	1,000,000									
☒ PER STATUTE ☐ OTH-ER																												
E.L. EACH ACCIDENT	\$	1,000,000																										
E.L. DISEASE - EA EMPLOYEE	\$	1,000,000																										
E.L. DISEASE - POLICY LIMIT	\$	1,000,000																										

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CONTRACTOR EXCLUDED WC OFFICER: SCOTT CREEL.
EMAIL: TIM COX tcox@kennesaw-ga.gov

CERTIFICATE HOLDER

CANCELLATION

CITY OF KENNESAW 2529 J.O. STEPHENSON AVE KENNESAW, GA 30144	CITYKE1	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
		AUTHORIZED REPRESENTATIVE R Brian Bullock

ACORD 25 (2016/03)

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Item Report

TO: The Honorable Mayor and City Council

FROM: LaMaya Edmonds, Business License Manager

DATE: October 21, 2024

TITLE: **Alcohol License: Cigar Gallery Club**
 Consideration for approval of an Alcohol License for Beer, Wine, Liquor and Sunday Sales for Cigar Gallery Club LLC d/b/a Cigar Gallery Club located at 3600 Cherokee St NW, Suite 102 Kennesaw, GA 30144. Applicant: Victor Rodriguez

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. Current application, background check and fingerprint results are on file. Sec. 6-42 refers to all locations within 300 feet of a private residence. This location is within 300 feet of a private residence. Sec. 6-42 states the Mayor and Council may waive the distance requirement if the quiet enjoyment of the premises by the residents thereof shall not be adversely affected and the granting of such license shall not have any adverse effect on the private residence.

Recommendation:

Finance Director recommends approval.

Fiscal Impact:

100-0000-32-1900 Application Fee \$350

Attachments:

1. Cigar Gallery Club_Redacted



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: Cigar Gallery Club L.L.C.
Doing Business As (DBA): Cigar Gallery Club
Anticipated start date of business: 06/01/2024
2. Business location: 3600 Cherokee St NW, Suite 102 Kennesaw, Ga, 30144
Email address: cigargalleryclub@gmail.com
Phone Number: 470 601 0545
Mailing address: 3600 Cherokee St NW, Suite 102 Kennesaw, Ga, 30144

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):

- | | | | | | |
|-------------------------------------|------------------|--------------------------|-----|--------------------------|----|
| 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):

- | | | | | | |
|-------------------------------------|-----------------|--------------------------|-----|--------------------------|----|
| 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:

N/A

Number of video game machines:

N/A

Size of dance floor:

N/A

Amount of cover charge:

N/A

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:

792

b. Bar area:

164

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

54

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

How is the proposed location zoned? PSC

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: Cigar Gallery Club L.L.C

President/Member: Victor Y Fernandez Rodriguez
Email Address: [REDACTED]
Phone Number: [REDACTED]

Social Security #: [REDACTED]
Date of Birth: [REDACTED] 1984
% of Ownership: 100%

Home Address: 3600 Cherokee St NW, Suite 102

City: Kennesaw
State: GA
ZIP: 30144

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

Corporate Name	Business Name	% Owned
N/A		

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

Name	Position	SSN	Home Address	% Owned
N/A				

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
N/A		

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
N/A		

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

Property Owner: KORUSA AMERICA LLC
Address: P.O Box 956672, Duluth, GA, 30095

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.

Name of Lender	Address	Amount	Date	Interest Rate
N/A				

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

Name	Address	Compensation
Victor Fernandez R.	2094 Clearvista Dr. NW, Acworth, GA 30101	

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

Name	Address
Account Force	1400 Market Place Blvd #113 Cumming, GA 30041

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.

N/A

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

Arrested	Yes ☐ No ☒	Convicted	Yes ☐ No ☒
Detained	☒ Yes ☐ No	Indicted	Yes ☐ No ☒
Pled Guilty	Yes ☐ No ☒	Pled Nolo Contender	Yes ☐ No ☒
On Probation	Yes ☐ No ☒	Any Pending Criminal Charge	Yes ☐ 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.

DUI, July 2012 Cobb county

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.

N/A

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.

As part of the new employee training they must review the employee handbook, that covers all company policies on serving/selling alcohol withing 3 months from date of hire all servers must complete an alchoho safety training course.

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

Employee handbook, Alcohol training course, policies on alcohol sales

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 ☐

- Surveillance cameras and constant training. Warning signs.

- Surveillance cameras and constant training. Warning signs on the front door.

KENNESAW, GEORGIA
COBB COUNTY

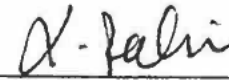
I, Victor Y Fernandez Rodriguez being duly sworn according to law, do swear that the facts and things stated by me in the above and foregoing answers to questions are true and no false or fraudulent statement is made herein and such answers were made in order to procure the granting of such a license.

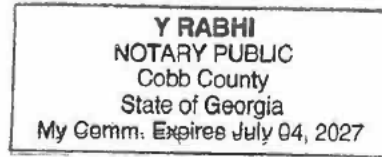
I have received a copy of the City of Kennesaw Alcoholic Beverage Code and I am aware that all licenses must be obtained and fees paid no later than two weeks from the date of approval of this application by the Mayor and Council.


Signature of Applicant

N/A
Signature of Spouse of Applicant

Sworn to and subscribed before me this
05 day of August, 2024

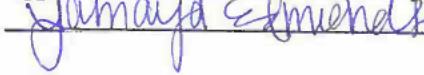

Notary Public



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

[Redacted]
Phone Number

Application received in Kennesaw City Hall by:



Application to be heard by Mayor & Council

Date & Time: October 7, 2024

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: Cigar Gallery Club L.L.C.
ADDRESS OF ESTABLISHMENT: 3600 Cherokee St NW, Suite 102 Kennesaw, Ga, 30144
LICENSEE'S NAME: Victor Y Fernandez Rodriguez

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: April 2023 - March 2024 (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] (100 %)
Gross Receipts from Alcoholic Beverage sales this period: [REDACTED] (0 %)
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:
There is a Point of Sales System that which separates the sales total by category.

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 License Owner

Sworn under oath this 05 day of August, 2024

A. Rabin

Notary Public

Y RABHI
NOTARY PUBLIC
Cobb County
State of Georgia
My Comm. Expires July 04, 2027



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): Victor Y Fernandez Rodriguez
(Include maiden names and alias names if any)

2. Phone Numbers:

a. Business: (770) 575-0678

b. Cell: [REDACTED]

c. Home:

3. Home Address: 2094 Clearvista Dr. NW, Acworth, GA 30101

4. Business Address: 3600 Cherokee St NW, Suite 102 Kennesaw, Ga, 30144



5. Please fill out the following:

Age: 39

Sex: Male

Height: 5'07"

Color of Hair: Brown

Race: Hispanic

Weight: 185 LB

Color of Eyes: Black

6. Social Security #: [REDACTED]

7. Place of Birth: DOMINICAN REPUBLIC Date of Birth: [REDACTED] 1984

U.S. Citizen: Yes ☐ By Birth ☒ Naturalized

If a naturalized citizen, provide certificate #: [REDACTED]

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? 10 years

9. Number of years at this present address? 10 years

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

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

Full Name of Spouse: N/A

Social Security #:

Spouse's Maiden Name:

Place of Birth:

Date of Birth:

Place of Marriage:

Date of Marriage:

Name of spouse's employer: N/A

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).

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

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

	Full Name	Address
Parents:	<u>Mother / DINELIS</u>	<u>RODRIGUEZ / 1408 shiloh way nw Kennesaw ga 30144</u>
Siblings:	<u>N/A</u>	_____
In-Laws:	<u>N/A</u>	_____
	_____	_____

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:

N/A

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.

N/A

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

M/YR	to	M/YR	School	Address	City	State	Degree
	2000		Republica Dominicana High School		Reública Dominicana		High School



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: Victor Y Fernandez Rodriguez
Social Security #: [REDACTED]
Residence Address: 2094 Clearvista Dr. NW
City/State/Zip: Acworth, GA 30101
Residence Phone: [REDACTED]

Date of Birth: [REDACTED] 1984
Name of Spouse: N/A
Business/Organization: Cigar Gallery Club L.L.C.
Business Phone: (770) 575-0678
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 W2 Car Mar and Cigar Gallery
Bonus & Commissions [REDACTED]
Alimony, Child Support, or Separate Income
Itemize all loan sources & Interest
Other Income (Itemize)
Total Income

Salary [REDACTED]
Dividends [REDACTED]
[REDACTED]

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?

N/A

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?

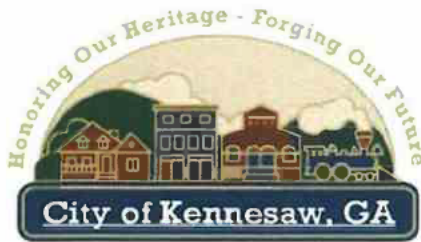
☐ Yes ☒ No

Who is named as your executor?

Beneficiary: N/A

Executor: N/A

As of August 20 24



City of Kennesaw

Alcohol License

Permit No.

A-162

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)	Victor Y Fernandez Rodriguez		
Address	2094 Clearvista Dr. NW, Acworth, GA 30101		
Sex	Race	Date of Birth	Social Security Number
Male	Hispanic	1984	

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

Purpose Code Used: (check one)

NON-CRIMINAL JUSTICE PURPOSES	
☒	A- Alcohol License
☐	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

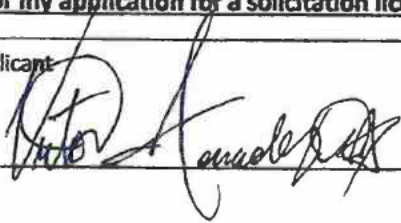
Offense/Charge	Arresting Agency	Date	Disposition
DUI	Cobb county	July 2012	

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



For Department Use Only:

GCIC Operator #: **cm**

Reviewed by Chief of Police or designee

Approved ☒ Denied ☐

Reviewed by Business License Clerk or designee:


City Signature

Georgia Only
Criminal History Record Information

Applicant Privacy Rights Notification Policy

Non-Criminal Justice

Standard Operating Procedure

Applicant Notification Policy for information derived from the Georgia Crime Information Center (GCIC) Criminal Justice Information System (CJIS) network.

The City of Kennesaw Business License Division licenses privilege licenses (alcohol, massage, precious metal, pawn, bail bondsmen, adult entertainment) and as a part of the process conducts fingerprint based background checks through the Georgia Crime Information Center. Prior to fingerprinting, each individual must complete an application and receive a copy of both the Applicant Privacy Rights and the Privacy Act Statement. The City of Kennesaw Business License Division provides the applicant with the privacy rights as part of the application packet and as a poster near the live scan machine.

Once the applicant has read the Applicant Privacy Rights and the Privacy Act Statement, the applicant will sign the Applicant Privacy Rights Notification Signature Form stating the notification was received.

The City of Kennesaw Business License Division will maintain the signed document with the applicant's fingerprints for at least the duration of the audit cycle, which is no less than three years.

Record Challenge/Correction

If an applicant chooses to challenge the accuracy of the criminal history record or needs to correct or update a record, they will be given thirty (30) days to do so. The applicant will be notified that the procedures for challenging an FBI record are set forth in 28 CFR 16.30 through 16.34 and the procedures for challenging a Georgia record can be found on the GBI website.

The applicant will be given a copy of the fingerprint-based criminal history record if a challenge or correction is pursued, otherwise the applicant will not be provided a copy of the record.

The City of Kennesaw Business License Division is not authorized to release the name-based criminal history record.

Appeal Process

The applicant is provided an opportunity to appeal an adverse decision that was based on the criminal history record information provided from the fingerprint-based background check. The procedures for the appeal process are as follows:

- Applicant must submit a request in writing to the Business License Manager stating the reason the adverse decision should be reviewed. The request should include the applicant's name, date of notification of adverse decision, and an explanation of why the decision should be overturned.
- The Business License Manager will provide the written request to the Finance Director. The Finance Director will review the appeal and the applicant will be notified within ten (10) days of the decision regarding the license application.

Applicant Privacy Rights
Notification Signature Form

Applicant Notification and Record Challenge:

Your fingerprints will be used to check the criminal history records of the FBI. You have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record. The procedure of obtaining a change, correction or updating an FBI identification record is set forth in Title 28, Code of Federal Regulations (CFR), 16.34.

Procedures for obtaining a copy of the FBI criminal history record are set forth in 28 CFR 16.30 through 16.33 or review the [FBI website](#).

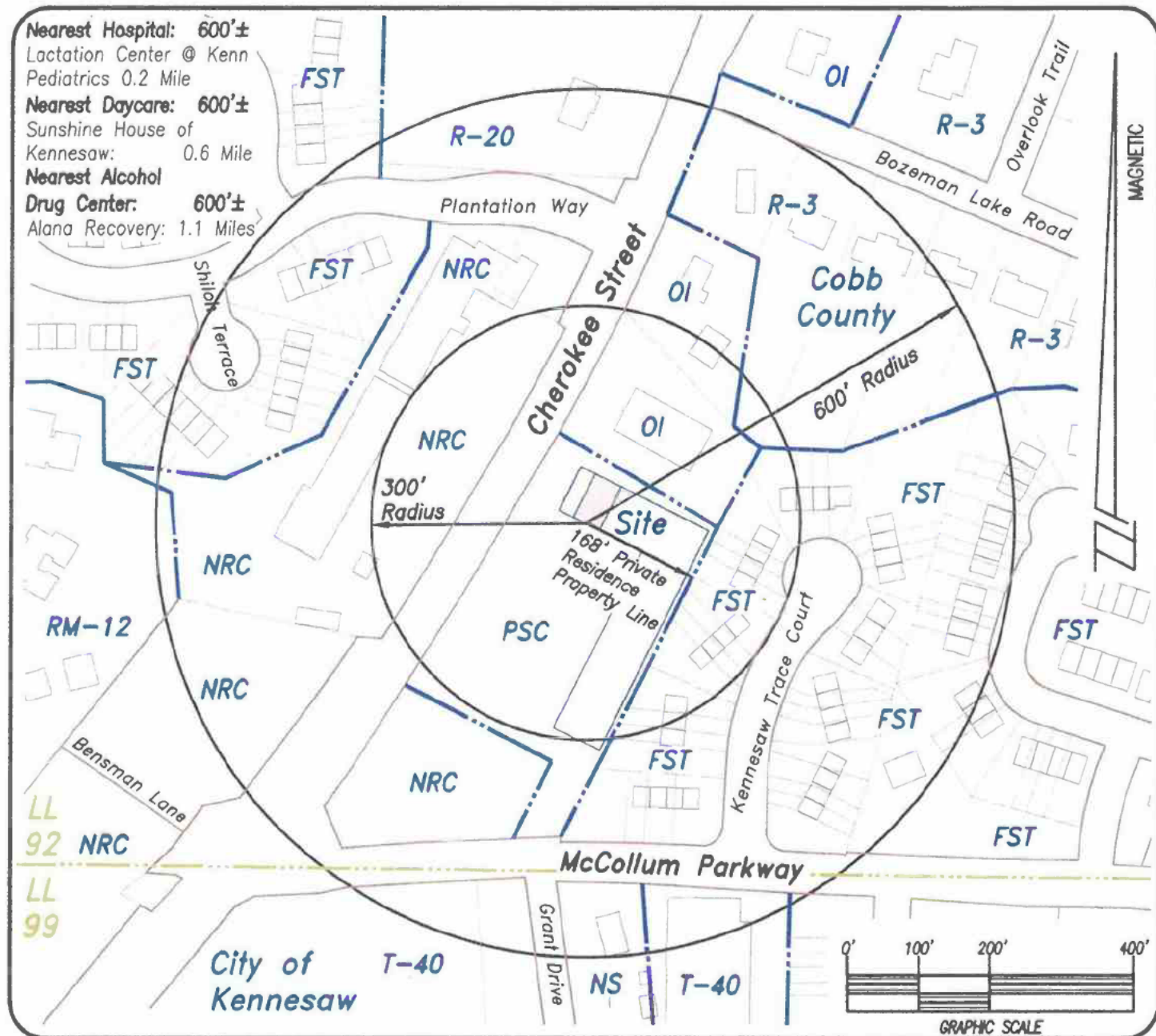


Signature

Victor Y Fernandez Rodriguez

Print Name

Date



Selling on the Premises:
Liquor, Wine and Malt Beverages

Nearest Private Residence Property Line:
1310 Kennesaw Trace Court: 168'±
Nearest School Bus Stop: 340'±
Cul-De-Sac of Kennesaw Trace Court
Nearest Public Library: 600'±
KSU Horace W. Sturgis Library: 1.9 Miles
Nearest Church: 600'±
Shiloh Community Church: 0.5 Mile
Nearest School Property Line: 600'±
St Catherine of Siena Catholic: 1.4 Miles
Nearest Public Park: 600'±
McCollum Park: 0.2 Mile
Nearest Liquor Store: 600'±
Acworth Kennesaw Liquor Store: 0.7 Mile

Property Address:

3600 Cherokee Street
Suite 102
Kennesaw, Georgia 30144



For The Firm
CC Land Surveyors, Inc.

SURVEY FOR ALCOHOLIC BEVERAGE LICENSE

Cigar Gallery Club & Lounge

Contact:

Victor Y Fernandez Rodriguez

LAND LOT: 92	DISTRICT: 20th	SECTION: 2nd
CITY: KENNESAW	SCALE: 1" = 200'	
COUNTY: COBB	STATE: GEORGIA	

REFERENCE PLAT BOOK/PAGE:

FIELD DATE: N.A. CAD DRAFTING DATE: 08/02/2024

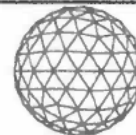
REVISIONS:

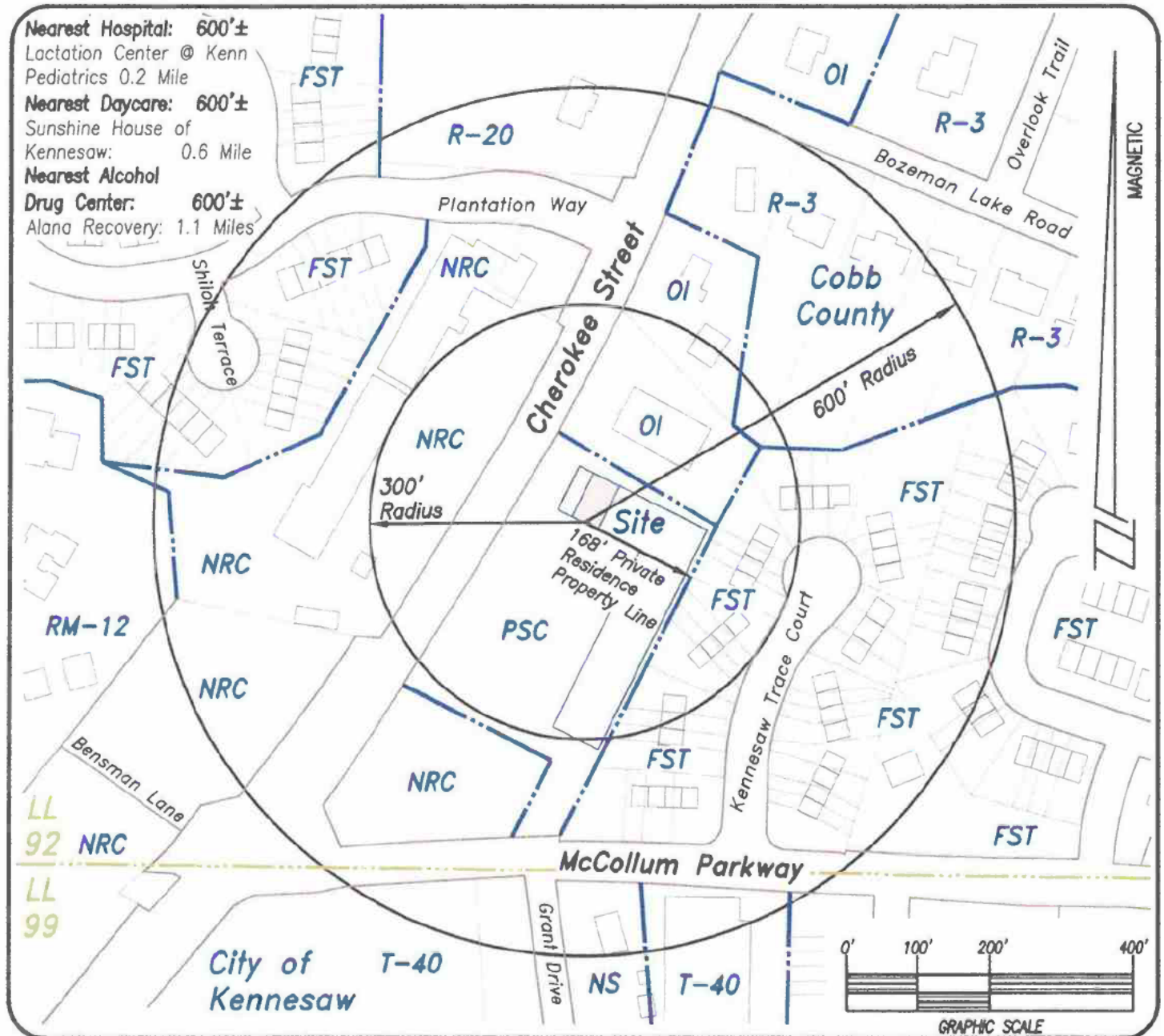
Field Crew: N.A. Drawn By: VH Checked By: CC Approved By: CC

LOCATION: 2024 JOB No.: 3600 Cherokee Street

CC Land Surveyors

PO BOX 801143
Acworth, Georgia 30101
770-975-3933 ~ 770-420-2274 (fax)
www.ccland.com





Selling on the Premises:
Liquor, Wine and Malt Beverages

Nearest Private Residence Property Line:
1310 Kennesaw Trace Court: 168'±

Nearest School Bus Stop: 340'±
Cul-De-Sac of Kennesaw Trace Court

Nearest Public Library: 600'±
KSU Horace W. Sturgis Library: 1.9 Miles

Nearest Church: 600'±
Shiloh Community Church: 0.5 Mile

Nearest School Property Line: 600'±
St Catherine of Siena Catholic: 1.4 Miles

Nearest Public Park: 600'±
McCollum Park: 0.2 Mile

Nearest Liquor Store: 600'±
Acworth Kennesaw Liquor Store: 0.7 Mile

Property Address:

3600 Cherokee Street
Suite 102
Kennesaw, Georgia 30144



For The Firm
CC Land Surveyors, Inc.

SURVEY FOR ALCOHOLIC BEVERAGE LICENSE
Cigar Gallery Club & Lounge

Contact:
Victor Y Fernandez Rodriguez

LAND LOT: 92 **DISTRICT:** 20th **SECTION:** 2nd
CITY: KENNESAW **SCALE:** 1" = 200'
COUNTY: COBB **STATE:** GEORGIA

REFERENCE PLAT BOOK/PAGE:

FIELD DATE: N/A

CAD DRAFTING DATE: 08/02/2024

REVISIONS:

Field Crew: N/A **Drawn By:** VH **Checked By:** CC **Approved By:** CC

LOCATION: 2024

JOB No.: 3600 Cherokee Street

CC Land Surveyors

PO BOX 801143

Acworth, Georgia 30101

770-975-3933 ~ 770-420-2274 (fax)

www.ccland.com



GEORGIA
DRIVER'S LICENSE

Governor: *B. Perdue*

Commissioner: *Spencer R. Moore*

DL 

4d DL NO. [REDACTED] 3 DOB [REDACTED] 1984
9 CLASS C 4b EXP [REDACTED] 2026

2 VICTOR YUNIOR
1 FERNANDEZ RODRIGUEZ

8 2094 CLEARVISTA DR NW
ACWORTH, GA 30101-8823
COBB

12 REST A
9a END NONE
4a ISS 07/14/2020
15 SEX M 18 EYES BLK
16 HGT 5'-07" 17 WGT 185 lb

Victor Fernandez

5 DD 423545173910019229




01/02/2019
www.dds.georgia.gov

10001821988

MEDICAL INFORMATION: NONE

CLASS: C-≤ 26,000 lbs. GVWR and Trailer ≤ 10,000 lbs. All recreational vehicles included

ENDORSEMENTS: NONE

RESTRICTIONS: A-None

DOB: [REDACTED] 1984



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: 3/15/2024 4:20:35 PM

BUSINESS INFORMATION

CONTROL NUMBER	20172889
BUSINESS NAME	Cigar Gallery Club L.L.C
BUSINESS TYPE	Domestic Limited Liability Company
EFFECTIVE DATE	03/15/2024
ANNUAL REGISTRATION PERIOD	2024, 2025, 2026

PRINCIPAL OFFICE ADDRESS

ADDRESS	2094 Clearvista Dr NW, Acworth, GA, 30101, USA
---------	--

REGISTERED AGENT

NAME	ADDRESS	COUNTY
Victor Fernandez	2094 Clearvista Dr NW, Acworth, GA, 30101, USA	Cobb

AUTHORIZER INFORMATION

AUTHORIZER SIGNATURE	Victor Fernandez
AUTHORIZER TITLE	Organizer

CERTIFICATE OF CITIZENSHIP

No. [REDACTED]

DEPARTMENT OF HOMELAND SECURITY

Personal description of holder
as of date of naturalization:

U.S.C.S. Registration No. A045237080

I verify that the description given is true, and that the photograph affixed
hereto is a likeness of me.

Date of birth: NOVEMBER 22, 1984

Sex: MALE

Height: 5 feet 7 inches

Marital status: MARRIED

Country of former nationality:
DOMINICAN REPUBLIC

Be it known that, pursuant to an application filed with the Secretary of
Homeland Security

at: ATLANTA, GEORGIA

The Secretary having found that:

VICTOR YUNIOR FERNANDEZ RODRIGUEZ

residing at: ACWORTH, GEORGIA

having complied in all respects with all of the applicable provisions of the
naturalization laws of the United States, being entitled to be admitted as
a citizen of the United States, and having taken the oath of allegiance at a
ceremony conducted by

U.S. CITIZENSHIP AND IMMIGRATION SERVICES

at: ATLANTA, GEORGIA

on: SEPTEMBER 12, 2014

such person is admitted as a citizen of the United States of America.

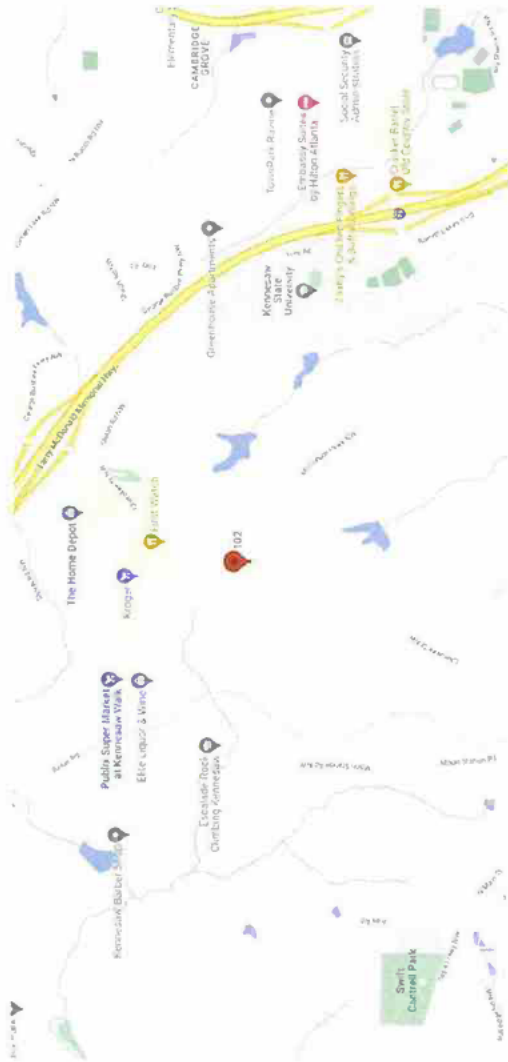


for Acting

U. S. Citizenship and Immigration Service

ALTERATION OF INDENT OF THIS DOCUMENT
IS A FEDERAL OFFENSE AND PUNISHABLE BY LAW

DEPARTMENT OF HOMELAND SECURITY



APPLICABLE CODES:
 +International Building Code, 2018 Edition, with Georgia Amendments (2020) - (Effective January 1, 2020)
 +International Residential Code, 2018 Edition, with Georgia Amendments (2020) - (Effective January 1, 2020)
 +International Fire Code, 2018 Edition, with Georgia Amendments (2020) - (Effective January 1, 2020)
 +International Plumbing Code, 2018 Edition, with Georgia Amendments (2020) - (Effective January 1, 2020)
 +International Mechanical Code, 2018 Edition, with Georgia Amendments (2020) - (Effective January 1, 2020)
 +International Fuel Gas Code, 2018 Edition, with Georgia Amendments (2020) - (Effective January 1, 2020)
 +National Electrical Code, 2018 Edition, with Georgia Amendments (2020) - (Effective January 1, 2020)
 +International Energy Conservation Code, 2015 Edition, with Georgia Supplements and Amendments (2020) - (Effective January 1, 2020)
 +2012 NFPA 101 - Life Safety Code 2018 Edition with State Amendments (2020) Design with Georgia Amendments 1203-3.20

Owner:
 Victor Fernandez
Address:
 3500 Cherokee Street NW
 Suite 102
 Kennesaw, GA 30144
Project:
 Cigar Gallery
 Kitchen & Bar Renovation of Existing Space
 Space: 1800 Gross Square Feet
 Assembly A2
 Sprinklered, Type II Construction
 98 Occupants

Occupancy:

Rm#	Rm Name	SF	OCC/SF	OCC
1	Lobby	80	7	12
2	Seating	792	15	53
4	Front Desk	80	150	1
7	Humidor	277	15	22
8	Proposed Bar	112	100	2
10	Storage	65	100	1
11	Storage	60	100	1
12	Restroom	50	-	-
13	Prop Kitchenette	134	100	2
14	Bar Seating	52	4 Seats	4

Total-----98 Occupants

Sheet Number	Sheet Name
--------------	------------

A000	Coversheet
A100	Existing Conditions
A101	Proposed
A102	Life Safety
A501	Details



RELEASED FOR CONSTRUCTION

Ryan Crooks, Architect
 ryan@ryancrooks.com 2783 Ashburn Lane
 404.966.2142 Atlanta, GA 30341

Victor Fernandez
Cigar Gallery

No.	Description	Date
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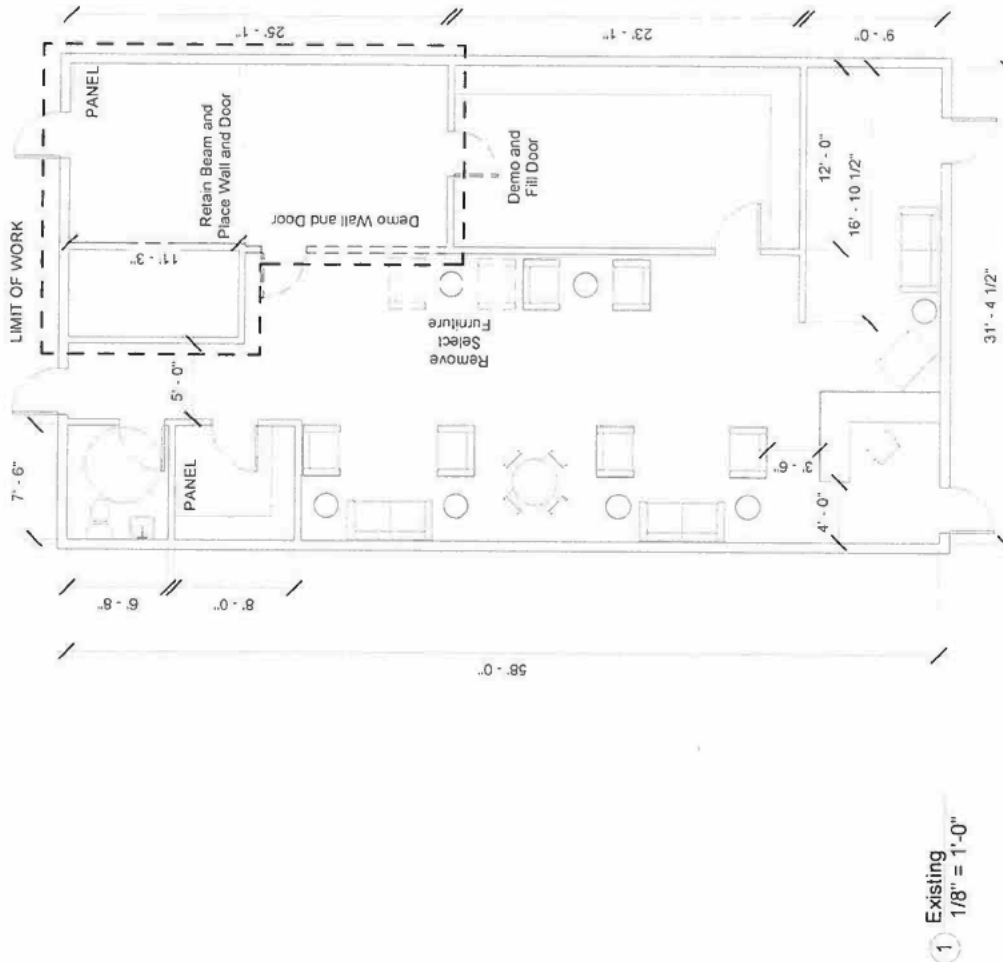
Coversheet

Project number 22074620
 Date Aug 18, 2022
 Drawn by Author
 Checked by Checker
 Scale

A000



RELEASED FOR CONSTRUCTION



Ryan Crooks, Architect
ryan@ryanccrooks.com 2783 Ashburn Lane
404.966.2142 Atlanta, GA 30341

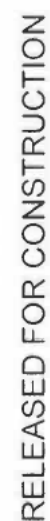
Victor Fernandez
Cigar Gallery

Existing Conditions

Project number 22074620
Date Aug 18, 2022
Drawn by Author
Checked by Checker

A100

Scale 1/8" = 1'-0"

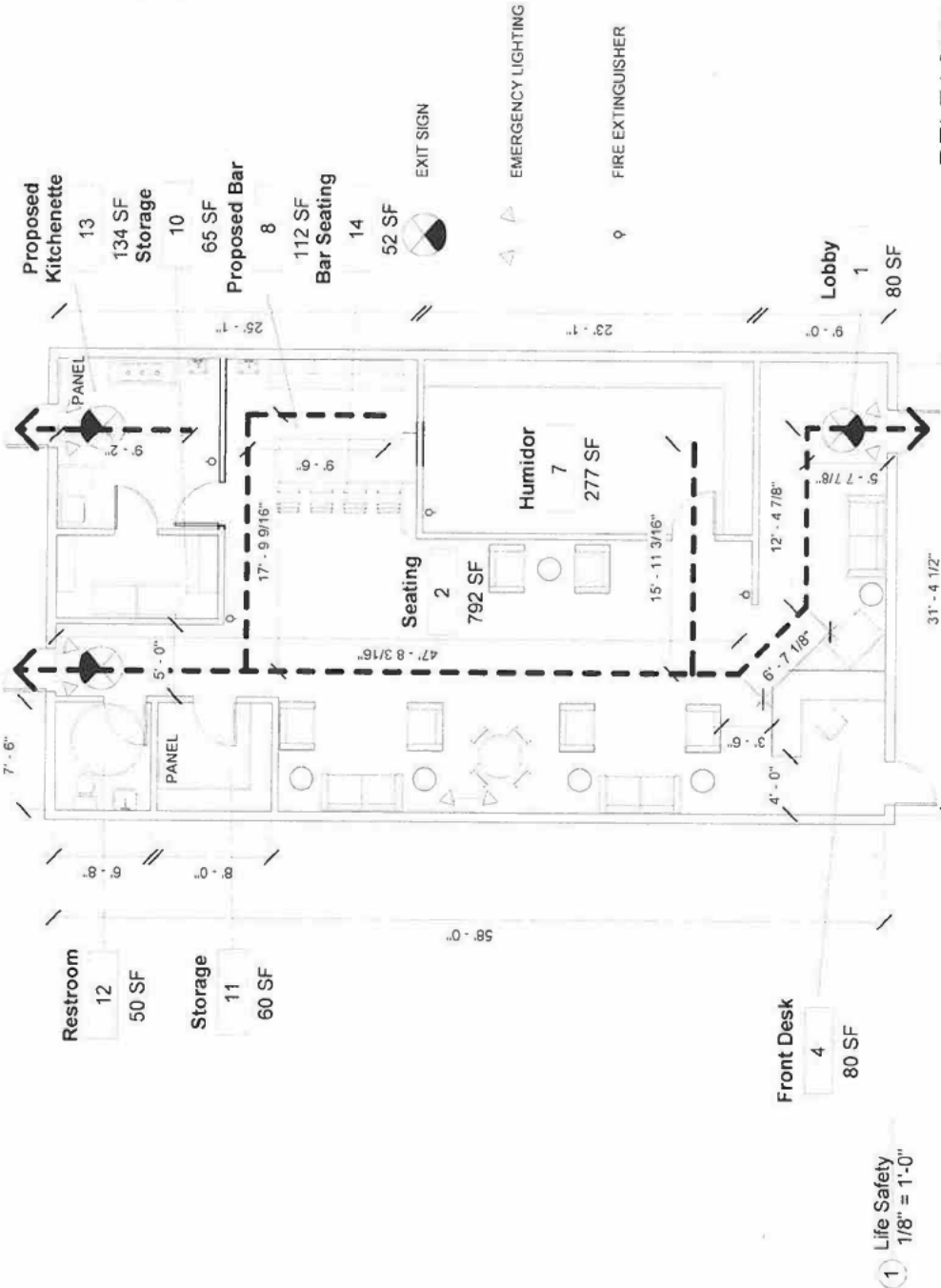


Project number	22074620
Date	Aug 18, 2022
Drawn by	Author
Checked by	Checker

Victor Fernandez
Cigar Gallery

Ryan Crooks, Architect
ryan@ryancrooks.com 2783 Ashburn Lane
404.966.2142 Atlanta, GA 30344

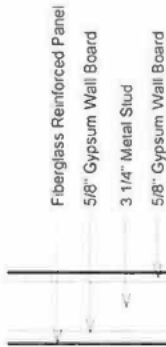
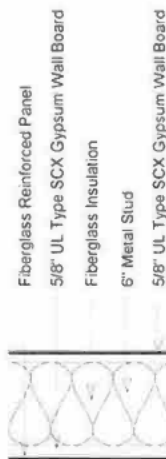
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Rm#	Rm Name	SF	OCC/IF	OCC
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13	Prop Kitchenette	134	100	2
14	Bar Seating	52	4 Seats	4
Total				98 Occupants



RELEASED FOR CONSTRUCTION

Ryan Crooks, Architect ryan@ryancrooks.com 2783 Ashburn Lane Atlanta, GA 30341 404.966.2142	Victor Fernandez Cigar Gallery	Life Safety Project number 22074620 Date Aug 18, 2022 Drawn by Author Checked by Checker	A102 Scale 1/8" = 1'-0"
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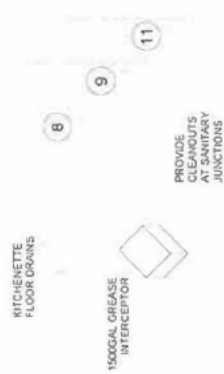
Fire Rated Wall: UL U419



1 FRP Wall
1 1/2" = 1'-0"

2 FRP Panel Insulated Wall
1 1/2" = 1'-0"

NO.	EQUIPMENT
1	4FT SHELVING
2	FREEZER
3	REFRIGERATOR
4	4FT SHELVING
5	SMALL CONVECTION MICROWAVE OVEN
6	4FT TABLE
7	4FT HOOD
8	3-BASIN SINK
9	HAND SINK
10	KITCHEN FIRE EXTINGUISHER
11	HAND SINK



3 Sanitary Riser Diagram
3/32" = 1'-0"

Finish Schedule

Rm #	Room Name	Walls	Ceiling	Floor
8	Proposed Bar	5/8" Gypsum Wall Board White on 3-1/4" Metal Studs	Existing 2'x4' Gypsum Tile	Existing Tile Floor
10	Storage	3/32 in x 4 ft x 10 ft Crane Composites GLASBORD FRP w/ Surfaseal - White - Code KW4x10 on 5/8" GWB on 3-1/4" Metal Studs or Similar	1/2"x2"x2" Gypsum Tile FireShield G w/ Vinyl Laminate w/ 24"x24" LED Troffers White or Similar	Concrete Floor with Non-Slip Mats
13	Proposed Kitchenette	3/32 in x 4 ft x 10 ft Crane Composites GLASBORD FRP w/ Surfaseal - White - Code KW4x10 on (2)5/8" GWB Both Sides on 3-1/4" Metal Studs or Similar	1/2"x2"x2" Gypsum Tile FireShield G w/ Vinyl Laminate w/ 24"x24" LED Troffers White or Similar	Concrete Floor with Non-Slip Mats
14	Bar Seating	5/8" Gypsum Wall Board White on 3-1/4" Metal Studs	Existing 2'x4' Gypsum Tile	Existing Tile Floor



RELEASED FOR CONSTRUCTION

Ryan Crooks, Architect
ryan@ryancrooks.com 2783 Ashburn Lane
Atlanta, GA 30341
404.966.2142

Victor Fernandez
Cigar Gallery

No.	Description	Date

Details

Project number	22074620
Date	Aug 18, 2022
Drawn by	Author
Checked by	Checker

A501

Scale As indicated

GEORGIA DEPARTMENT OF PUBLIC HEALTH Food Service Establishment Inspection Report				CURRENT SCORE		CURRENT GRADE																																																																																																																																																																																																																																																																																																																																																																													
Establishment Name: <u>!!CIGAR GALLERY CLUB</u>				100 A																																																																																																																																																																																																																																																																																																																																																																															
Address: <u>3600 CHEROKEE ST NW STE 102</u>																																																																																																																																																																																																																																																																																																																																																																																			
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Inspection Date: <u>08/02/2024</u> CFSM: <u>Victor Fernandez (07-31-2025)</u>																																																																																																																																																																																																																																																																																																																																																																																			
Purpose of Inspection: Routine ☐ Followup ☐ Initial ☒ Issued Provisional Permit ☐ Temporary ☐																																																																																																																																																																																																																																																																																																																																																																																			
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Risk Factors are food preparation practices and employee behaviors most commonly reported to the Centers for Disease Control and Prevention as contributing factors in foodborne illness outbreaks. Public Health Interventions are control measures to prevent illness or injury. Good Retail Practices are preventive measures to control the introduction of pathogens, chemicals, and physical objects into foods.																																																																																																																																																																																																																																																																																																																																																																																			
FOODBORNE ILLNESS RISK FACTORS AND PUBLIC HEALTH INTERVENTIONS (Mark designated compliance status IN, OUT, NA, or NO for each numbered item. For items marked OUT, mark COS or R for each item as applicable. R = repeat violation of the same code provision = 2 points)																																																																																																																																																																																																																																																																																																																																																																																			
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th colspan="4">Compliance Status</th> <th>COS</th> <th>R</th> <th colspan="4">Compliance Status</th> <th>COS</th> <th>R</th> </tr> </thead> <tbody> <!-- Section 1 --> <tr> <td>1</td> <td>IN</td> <td>OUT</td> <td>NA</td> <td>NO</td> <td colspan="2">Supervision</td> <td>4 points</td> <td>5</td> <td>IN</td> <td>OUT</td> <td>NA</td> <td>NO</td> <td colspan="2">Cooking and Reheating of TCS Foods, Consumer Advisory</td> <td>9 points</td> </tr> <tr> <td></td> <td>☒</td> <td>☐</td> <td>☐</td> <td>☐</td> <td colspan="2">1-2A. PIC present, demonstrates knowledge, performs duties</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">5-1A. Proper cooking time and temperatures</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☒</td> <td>☐</td> <td>☐</td> <td>☐</td> <td colspan="2">1-2B. Certified Food Protection Manager</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">5-1B. Proper reheating procedures for hot holding</td> <td>☐ ☐</td> </tr> <!-- Section 2 --> <tr> <td>2</td> <td>IN</td> <td>OUT</td> <td>NA</td> <td>NO</td> <td colspan="2">Employee Health, Good Hygienic Practices, Preventing Contamination by Hands</td> <td>9 points</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">5-2. Consumer advisory provided for raw and undercooked foods</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☒</td> <td>☐</td> <td>☐</td> <td>☐</td> <td colspan="2">2-1A. Proper use of restriction & exclusion</td> <td>☐ ☐</td> <td>6</td> <td>IN</td> <td>OUT</td> <td>NA</td> <td>NO</td> <td colspan="2">Holding of TCS Foods, Date Marking of TCS Foods</td> <td>9 points</td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">2-1B. Hands clean and properly washed</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">6-1A. Proper cold holding temperatures</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☐</td> <td>☒</td> <td colspan="2">2-1C. No bare hand contact with ready-to-eat foods or approved alternate method properly followed</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">6-1B. Proper hot holding temperatures</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☐</td> <td>☒</td> <td colspan="2">2-2A. Management knowledge, responsibilities, reporting</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">6-1C. Proper cooling time and temperature</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☐</td> <td>☒</td> <td colspan="2">2-2B. Proper eating, tasting, drinking, or tobacco use</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">6-1D. Time as a public health control: procedures and records</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☐</td> <td>☒</td> <td colspan="2">2-2C. No discharge from eyes, nose, and mouth</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">6-2. Proper date marking and disposition</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☐</td> <td>☒</td> <td colspan="2">2-2D. Adequate handwashing facilities supplied & accessible</td> <td>☐ ☐</td> <td>7</td> <td>IN</td> <td>OUT</td> <td>NA</td> <td>NO</td> <td colspan="2">Highly Susceptible Populations</td> <td>9 points</td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☐</td> <td>☒</td> <td colspan="2">2-2E. Response procedures for vomiting & diarrheal events</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">7-1. Pasteurized foods used: Prohibited foods not offered</td> <td>☐ ☐</td> </tr> <!-- Section 3 --> <tr> <td>3</td> <td>IN</td> <td>OUT</td> <td>NA</td> <td>NO</td> <td colspan="2">Approved Source</td> <td>9 points</td> <td>8</td> <td>IN</td> <td>OUT</td> <td>NA</td> <td>NO</td> <td colspan="2">Chemicals</td> <td>4 points</td> </tr> <tr> <td></td> <td>☒</td> <td>☐</td> <td>☐</td> <td>☐</td> <td colspan="2">3-1A. Food obtained from approved source</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">8-2A. Food additives: approved and properly used</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☐</td> <td>☒</td> <td colspan="2">3-1B. Food received at proper temperature</td> <td>☐ ☐</td> <td></td> <td>☒</td> <td>☐</td> <td>☐</td> <td>☐</td> <td colspan="2">8-2B. Toxic substances properly identified, stored, used</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☐</td> <td>☒</td> <td colspan="2">3-1C. Food in good condition, safe, and unadulterated</td> <td>☐ ☐</td> <td>9</td> <td>IN</td> <td>OUT</td> <td>NA</td> <td>NO</td> <td colspan="2">Conformance with Approved Procedures</td> <td>4 points</td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☐</td> <td>☒</td> <td colspan="2">3-1D. Required records: shellstock tags, parasite destruction</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2">9-2. Compliance with variance, specialized process and HACCP plan</td> <td>☐ ☐</td> </tr> <!-- Section 4 --> <tr> <td>4</td> <td>IN</td> <td>OUT</td> <td>NA</td> <td>NO</td> <td colspan="2">Protection From Contamination</td> <td>9 points</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2"></td> <td></td> </tr> <tr> <td></td> <td>☒</td> <td>☐</td> <td>☐</td> <td>☐</td> <td colspan="2">4-1A. Food separated and protected</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2"></td> <td></td> </tr> <tr> <td></td> <td>☒</td> <td>☐</td> <td>☐</td> <td>☐</td> <td colspan="2">4-1B. Proper disposition of returned, previously served, reconditioned, and unsafe food</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2"></td> <td></td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☐</td> <td>☒</td> <td colspan="2">4-2A. Food stored covered</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2"></td> <td></td> </tr> <tr> <td></td> <td>☐</td> <td>☐</td> <td>☐</td> <td>☒</td> <td colspan="2">4-2B. Food-contact surfaces: cleaned & sanitized</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td>☐</td> <td>☒</td> <td>☐</td> <td colspan="2"></td> <td></td> </tr> </tbody> </table>								Compliance Status				COS	R	Compliance Status				COS	R	1	IN	OUT	NA	NO	Supervision		4 points	5	IN	OUT	NA	NO	Cooking and Reheating of TCS Foods, Consumer Advisory		9 points		☒	☐	☐	☐	1-2A. PIC present, demonstrates knowledge, performs duties		☐ ☐		☐	☐	☒	☐	5-1A. Proper cooking time and temperatures		☐ ☐		☒	☐	☐	☐	1-2B. Certified Food Protection Manager		☐ ☐		☐	☐	☒	☐	5-1B. Proper reheating procedures for hot holding		☐ ☐	2	IN	OUT	NA	NO	Employee Health, Good Hygienic Practices, Preventing Contamination by Hands		9 points		☐	☐	☒	☐	5-2. Consumer advisory provided for raw and undercooked foods		☐ ☐		☒	☐	☐	☐	2-1A. 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Pasteurized foods used: Prohibited foods not offered		☐ ☐	3	IN	OUT	NA	NO	Approved Source		9 points	8	IN	OUT	NA	NO	Chemicals		4 points		☒	☐	☐	☐	3-1A. Food obtained from approved source		☐ ☐		☐	☐	☒	☐	8-2A. Food additives: approved and properly used		☐ ☐		☐	☐	☐	☒	3-1B. Food received at proper temperature		☐ ☐		☒	☐	☐	☐	8-2B. Toxic substances properly identified, stored, used		☐ ☐		☐	☐	☐	☒	3-1C. Food in good condition, safe, and unadulterated		☐ ☐	9	IN	OUT	NA	NO	Conformance with Approved Procedures		4 points		☐	☐	☐	☒	3-1D. Required records: shellstock tags, parasite destruction		☐ ☐		☐	☐	☒	☐	9-2. Compliance with variance, specialized process and HACCP plan		☐ ☐	4	IN	OUT	NA	NO	Protection From Contamination		9 points		☐	☐	☒	☐					☒	☐	☐	☐	4-1A. Food separated and protected		☐ ☐		☐	☐	☒	☐					☒	☐	☐	☐	4-1B. Proper disposition of returned, previously served, reconditioned, and unsafe food		☐ ☐		☐	☐	☒	☐					☐	☐	☐	☒	4-2A. Food stored covered		☐ ☐		☐	☐	☒	☐					☐	☐	☐	☒	4-2B. Food-contact surfaces: cleaned & sanitized		☐ ☐		☐	☐	☒	☐			
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1	IN	OUT	NA	NO	Supervision		4 points	5	IN	OUT	NA	NO	Cooking and Reheating of TCS Foods, Consumer Advisory		9 points																																																																																																																																																																																																																																																																																																																																																																				
	☒	☐	☐	☐	1-2A. PIC present, demonstrates knowledge, performs duties		☐ ☐		☐	☐	☒	☐	5-1A. Proper cooking time and temperatures		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
	☒	☐	☐	☐	1-2B. Certified Food Protection Manager		☐ ☐		☐	☐	☒	☐	5-1B. Proper reheating procedures for hot holding		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
2	IN	OUT	NA	NO	Employee Health, Good Hygienic Practices, Preventing Contamination by Hands		9 points		☐	☐	☒	☐	5-2. Consumer advisory provided for raw and undercooked foods		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
	☒	☐	☐	☐	2-1A. Proper use of restriction & exclusion		☐ ☐	6	IN	OUT	NA	NO	Holding of TCS Foods, Date Marking of TCS Foods		9 points																																																																																																																																																																																																																																																																																																																																																																				
	☐	☐	☒	☐	2-1B. Hands clean and properly washed		☐ ☐		☐	☐	☒	☐	6-1A. Proper cold holding temperatures		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
	☐	☐	☐	☒	2-1C. No bare hand contact with ready-to-eat foods or approved alternate method properly followed		☐ ☐		☐	☐	☒	☐	6-1B. Proper hot holding temperatures		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
	☐	☐	☐	☒	2-2A. Management knowledge, responsibilities, reporting		☐ ☐		☐	☐	☒	☐	6-1C. Proper cooling time and temperature		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
	☐	☐	☐	☒	2-2B. Proper eating, tasting, drinking, or tobacco use		☐ ☐		☐	☐	☒	☐	6-1D. Time as a public health control: procedures and records		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
	☐	☐	☐	☒	2-2C. No discharge from eyes, nose, and mouth		☐ ☐		☐	☐	☒	☐	6-2. Proper date marking and disposition		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
	☐	☐	☐	☒	2-2D. Adequate handwashing facilities supplied & accessible		☐ ☐	7	IN	OUT	NA	NO	Highly Susceptible Populations		9 points																																																																																																																																																																																																																																																																																																																																																																				
	☐	☐	☐	☒	2-2E. Response procedures for vomiting & diarrheal events		☐ ☐		☐	☐	☒	☐	7-1. Pasteurized foods used: Prohibited foods not offered		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
3	IN	OUT	NA	NO	Approved Source		9 points	8	IN	OUT	NA	NO	Chemicals		4 points																																																																																																																																																																																																																																																																																																																																																																				
	☒	☐	☐	☐	3-1A. Food obtained from approved source		☐ ☐		☐	☐	☒	☐	8-2A. Food additives: approved and properly used		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
	☐	☐	☐	☒	3-1B. Food received at proper temperature		☐ ☐		☒	☐	☐	☐	8-2B. Toxic substances properly identified, stored, used		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
	☐	☐	☐	☒	3-1C. Food in good condition, safe, and unadulterated		☐ ☐	9	IN	OUT	NA	NO	Conformance with Approved Procedures		4 points																																																																																																																																																																																																																																																																																																																																																																				
	☐	☐	☐	☒	3-1D. Required records: shellstock tags, parasite destruction		☐ ☐		☐	☐	☒	☐	9-2. Compliance with variance, specialized process and HACCP plan		☐ ☐																																																																																																																																																																																																																																																																																																																																																																				
4	IN	OUT	NA	NO	Protection From Contamination		9 points		☐	☐	☒	☐																																																																																																																																																																																																																																																																																																																																																																							
	☒	☐	☐	☐	4-1A. Food separated and protected		☐ ☐		☐	☐	☒	☐																																																																																																																																																																																																																																																																																																																																																																							
	☒	☐	☐	☐	4-1B. Proper disposition of returned, previously served, reconditioned, and unsafe food		☐ ☐		☐	☐	☒	☐																																																																																																																																																																																																																																																																																																																																																																							
	☐	☐	☐	☒	4-2A. Food stored covered		☐ ☐		☐	☐	☒	☐																																																																																																																																																																																																																																																																																																																																																																							
	☐	☐	☐	☒	4-2B. Food-contact surfaces: cleaned & sanitized		☐ ☐		☐	☐	☒	☐																																																																																																																																																																																																																																																																																																																																																																							
GOOD RETAIL PRACTICES (Mark the numbered item OUT, if not in compliance. For items marked OUT, mark COS or R for each item as applicable. R = Repeat Violation of the same code provision = 1 point)																																																																																																																																																																																																																																																																																																																																																																																			
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Variance obtained for specialized processing methods</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td colspan="3">14C. Single-use/single-service articles: properly stored, used</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3">10D. Food properly labeled; original container</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td colspan="3">14D. Gloves used properly</td> <td>☐ ☐</td> </tr> <!-- Section 11 --> <tr> <td>11</td> <td>OUT</td> <td colspan="3">Food Temperature Control</td> <td>3 points</td> <td>15</td> <td>OUT</td> <td colspan="3">Utensils, Equipment and Vending</td> <td>1 point</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3">11A. Proper cooling methods used: adequate equipment for temperature control</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td colspan="3">15A. Food and nonfood-contact surfaces cleanable, properly designed, constructed, and used</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3">11B. Plant food properly cooked for hot holding</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td colspan="3">15B. Warewashing facilities: installed, maintained, used; test strips</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3">11C. Approved thawing methods used</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td colspan="3">15C. Nonfood-contact surfaces clean</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3">11D. Thermometers provided and accurate</td> <td>☐ ☐</td> <td>16</td> <td>OUT</td> <td colspan="3">Water, Plumbing and Waste</td> <td>2 points</td> </tr> <!-- Section 12 --> <tr> <td>12</td> <td>OUT</td> <td colspan="3">Prevention of Food Contamination</td> <td>3 points</td> <td></td> <td>☐</td> <td colspan="3">16A. Hot and cold water available; adequate pressure</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3">12A. Contamination prevented during food preparation, storage, display</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td colspan="3">16B. Plumbing installed; proper backflow devices</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3">12B. Personal cleanliness</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td colspan="3">16C. Sewage and waste water properly disposed</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3">12C. Wiping cloths: properly used and stored</td> <td>☐ ☐</td> <td>17</td> <td>OUT</td> <td colspan="3">Physical Facilities</td> <td>1 point</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3">12D. Washing fruits and vegetables</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td colspan="3">17A. Toilet facilities: properly constructed, supplied, cleaned</td> <td>☐ ☐</td> </tr> <!-- Section 13 --> <tr> <td>13</td> <td>OUT</td> <td colspan="3">Postings and Compliance with Clean Air Act</td> <td>1 point</td> <td></td> <td>☐</td> <td colspan="3">17B. Garbage/refuse properly disposed; facilities maintained</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3">13A. Posted: Permit/Inspection/Choking Poster/Handwashing</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td colspan="3">17C. Physical facilities installed, maintained, and clean</td> <td>☐ ☐</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3">13B. Compliance with Georgia Smoke Free Air Act</td> <td>☐ ☐</td> <td></td> <td>☐</td> <td colspan="3">17D. Adequate ventilation and lighting; designated areas used</td> <td>☐ ☐</td> </tr> <!-- Section 18 --> <tr> <td></td> <td>☐</td> <td colspan="3"></td> <td></td> <td>18</td> <td>OUT</td> <td colspan="3">Pest and Animal Control</td> <td>3 points</td> </tr> <tr> <td></td> <td>☐</td> <td colspan="3"></td> <td></td> <td></td> <td>☐</td> <td colspan="3">18. Insects, rodents, and animals not present</td> <td>☐ ☐</td> </tr> </tbody> </table>								Compliance Status				COS	R	Compliance Status				COS	R	10	OUT	Safe Food and Water, Food Identification			3 points	14	OUT	Proper Use of Utensils			1 point		☐	10A. Pasteurized eggs used where required			☐ ☐		☐	14A. 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Inspector (Signature) <u>Victor Fernandez</u>				Follow-up: YES ☐ NO ☒		Follow-up Date:																																																																																																																																																																																																																																																																																																																																																																													



CIGAR GALLERY CLUB

KENNESAW | EST. 2022

CHARCUTERIE

Charcuterie Board \$16
Chef's selection of meats
and cheeses.

Sandwich

Cubano \$12
Cuban bread, Ham, Roasted Pork, Swiss
Cheese, Pickles, Mayo and Mustard.

Media Noche \$12
Cuban sweet roll, Ham, Roasted pork,
Swiss cheese, Pickles Mayo and Mustard.

Flatbread Pizzas

Pepperoni \$12
Homemade *Paleo* Pizza Sauce, Pepperoni and
Mozzarella cheese

Margherita \$12
Homemade *Paleo* Pizza Sauce,
Fresh Mozzarella and Basil

Triple Meat \$13
Homemade *Paleo* Pizza Sauce, Crumbled
sausage, pepperoni slices and
Mozzarella cheese.

Cheese \$10
Homemade *Paleo* Pizza Sauce and
Mozzarella cheese

TAPAS

\$9

EMPANADA SAMPLER

1- Chicken 1- BEEF
1- CHEESE

\$9

PATATAS BRAVAS

Roasted organic potatoes
spicy rub, aioli,
in house brava sauce

\$8

CUBAN CROQUETAS

Cuban style croquettes
stuffed
with ham and served with
cilantro sauce

Coffee

Café Con Leche \$4.50
Cortadito \$3.25
Cuban Coffee \$2.50
Latte \$4.50

Desserts

Tres Leches Cake \$7
Dominican Flan \$6



CERTIFICATE OF COMPLETION

This certifies that

Victor Yunior Fernandez Rodriguez

is awarded this certificate for

TIPS On-Premise Alcohol Server Training



Hours
3.00



Completion Date
08/07/2024



Expiration Date
08/07/2027



Certificate #
ON-000034436169

Official Signature

THIS CERTIFICATE IS NON-TRANSFERABLE

6504 Bridge Point Parkway, Suite 100 | Austin, TX 78730 | www.360training.com

(CUT HERE)

(CUT HERE)



On-Premise

Issued: 08/07/2024

Certificate #: ON-000034436169

Victor Yunior Fernandez Rodriguez
3600 Cherokee St NW Suite 102
Kennesaw GA 30144

CERTIFIED

Expires: 08/07/2027



Phone: 800-438-8477

www.gettips.com

This card was issued for successful completion of the TIPS program.

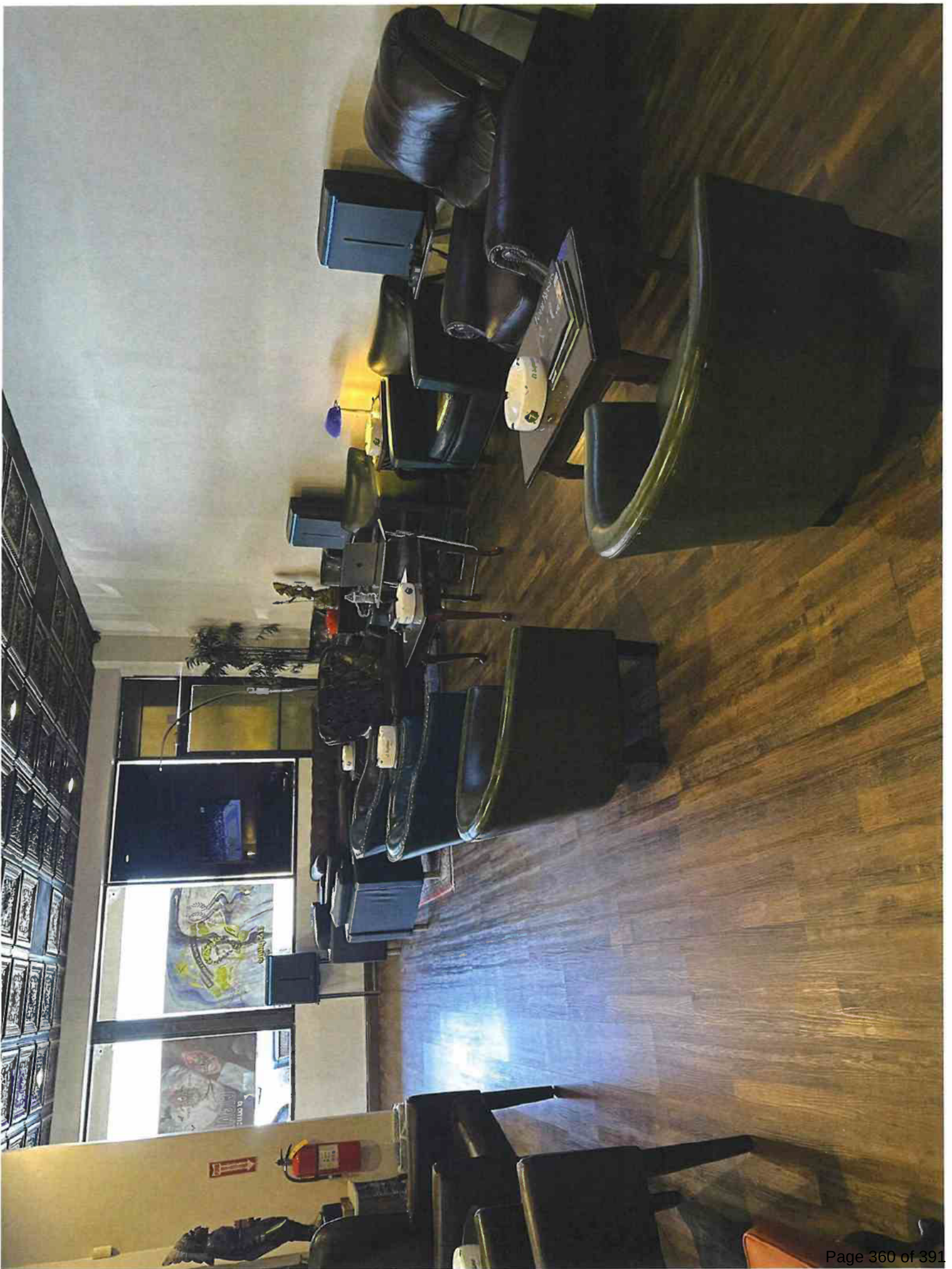
Signature _____



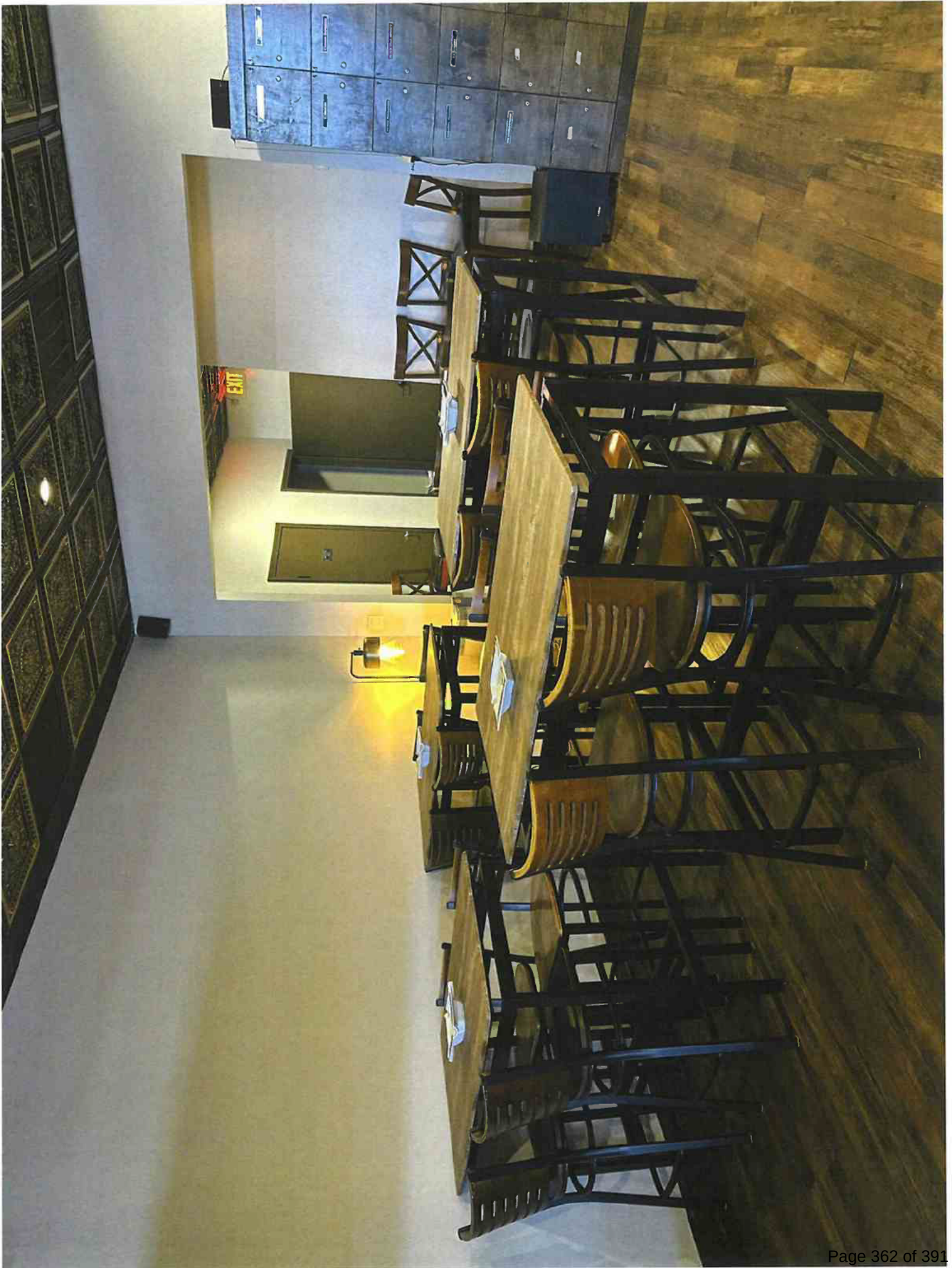
CIGARS

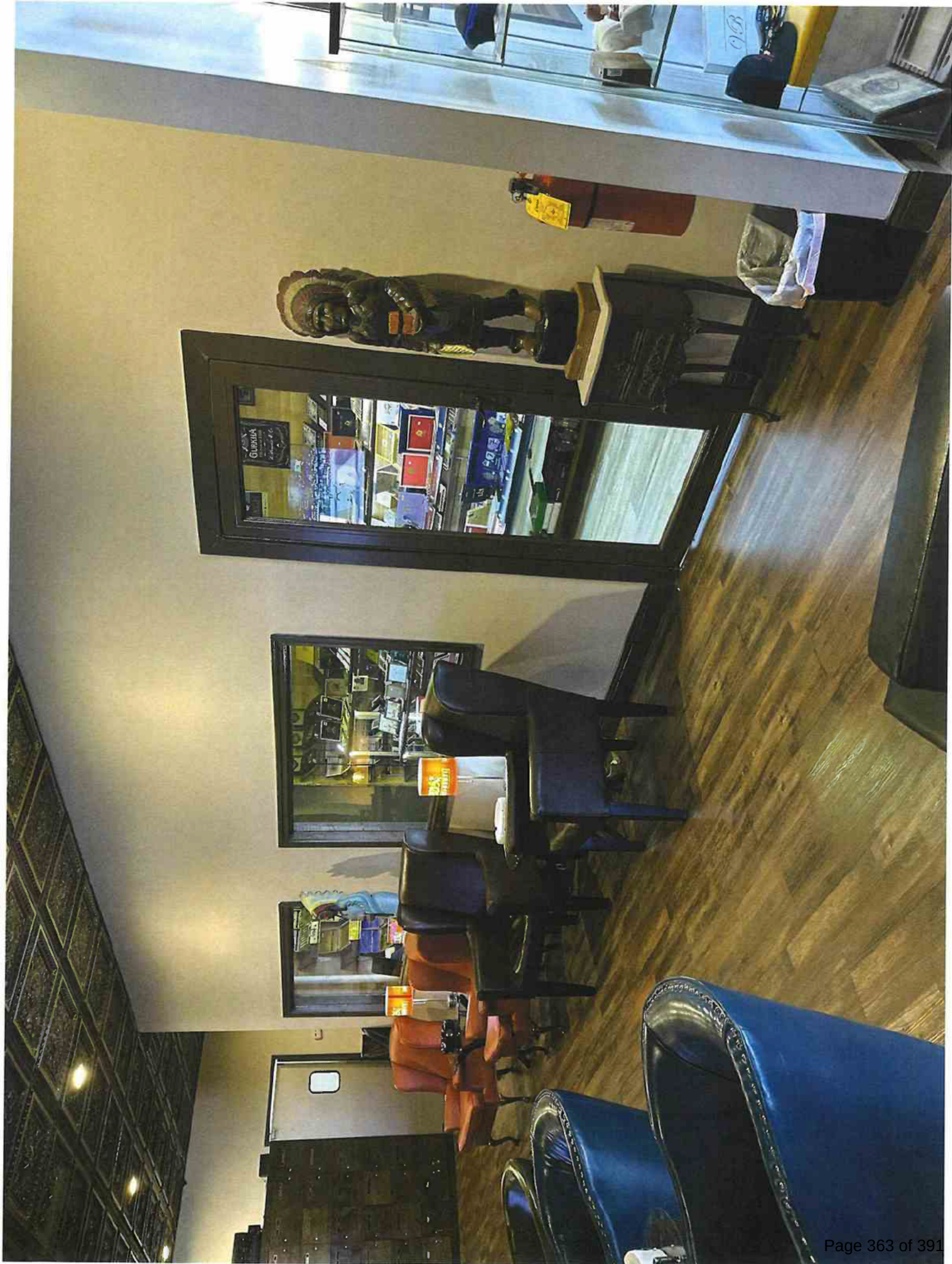
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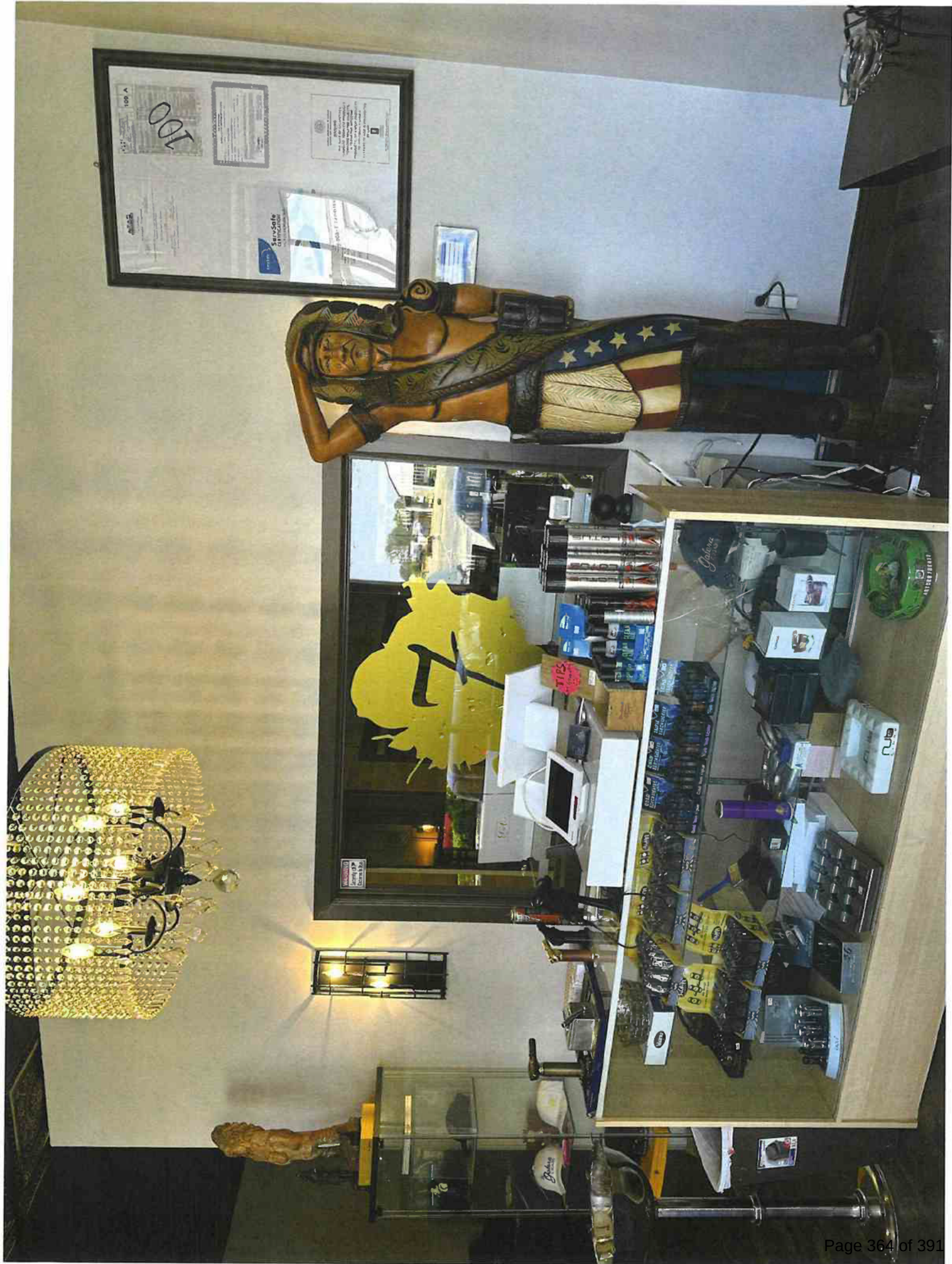
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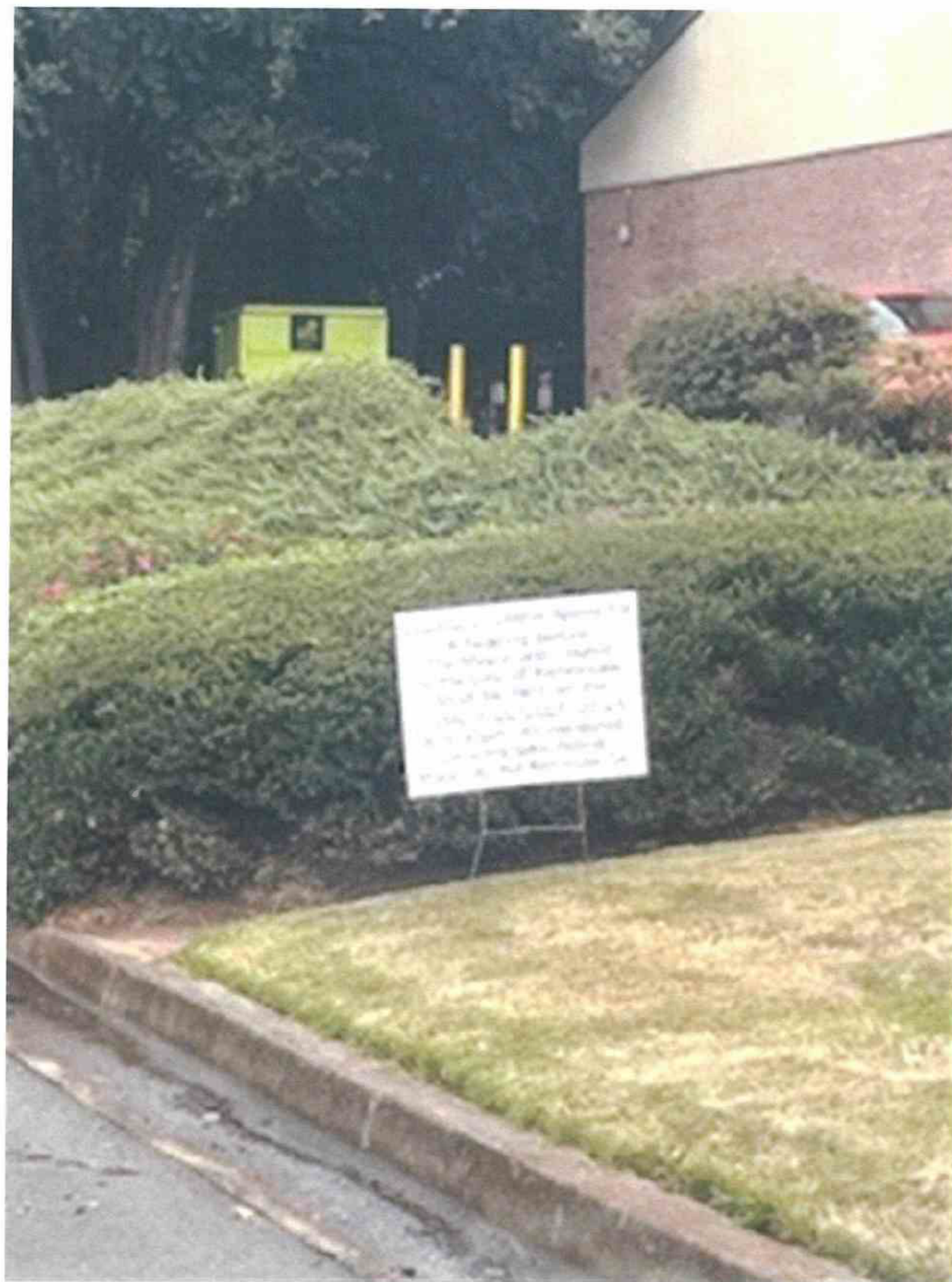
















Item Report

TO: The Honorable Mayor and City Council
FROM: Bill Westenberger, Chief of Police
DATE: October 21, 2024
TITLE: **Crime Statistics: September 2024**
Consideration to accept the September 2024 crime statistics.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

1. September 2024 Crime Statistics (M+C)



September 2024 Crime Statistics

Crimes	Sep 2024	Sep 2023	YTD (01/01/24 - 09/30/24)	YTD (01/01/23 - 09/30/23)
Assault Offenses	19	39	240	286
Motor Vehicle Theft	2	2	23	11
Burglary	5	2	28	23
Homicide Offenses	0	0	2	0
Larceny	13	13	105	129
Sex Offenses	4	1	14	16
Robbery	0	1	2	8
Total	43	58	414	473

	Sep 2024	Sep 2023	YTD (01/01/24 - 09/30/24)	YTD (01/01/23 - 09/30/23)
Dispatched Calls for Service	753	804	6,875	7,484
Self-Initiated Activity	1,112	845	9,284	9,187
Traffic Citations	464 (-290)	754	5,123 (-1,944)	7,067
Traffic Warnings*	653 (+514)	139	5,472 (+3,161)	2,311
Arrests**	59	65	825	777

* Warnings do not include verbal warnings
** Arrests do not include juvenile arrests

	Sep 2024	Sep 2023	YTD (01/01/24 - 09/30/24)	YTD (01/01/23 - 09/30/23)
Auto Accidents	105 (+2)	103	756 (+39)	717
Accident W/ Injury	12 (+1)	11	79 (-27)	106
Hit and Run	11 (-8)	19	100 (-40)	140
Hit and Run W/ Injury	0	0	1	1
Person Hit by Auto W/ Injury	0	0	5 (+1)	4

Bill Westenberger
Chief of Police



Kennesaw Police Department
2539 J. O. Stephenson Ave., Kennesaw, GA, 30144
911 Call Center: (770) 422-2505
Criminal Investigations Division: (770) 429-4533





Item Report

TO: The Honorable Mayor and City Council

FROM: Ricky Stewart, Public Works Director

DATE: October 21, 2024

TITLE: **Resolution: Keene Street ROW Transfer to Core Property Capital, LLC**
Consideration to approve a Resolution to transfer portions of the Right Of Way known as Keene Street to Core Property Capital, LLC

Summary:

In December 2019, by Resolution No. 2019-49, the City entered into an agreement with Arris Kennesaw, LLC, assignee of Core Property Capital, LLC, to exchange 29,882 square feet of abandoned right of way for the dedication of 38,332 square feet of future right of way. The 38,332 square feet of future right of way has been constructed and is now in its warranty period.

Core Property Capital, LLC has requested to amend the original agreement in which the City would transfer an additional 1,698 square feet of abandoned right of way in exchange for the dedication of 38,332 square feet of future right of way.

Recommendation:

The Public Works Director recommends approval of the transfer of rights of way and authorizing the Mayor to execute the Right of Way Deed.

Fiscal Impact:

Attachments:

1. RES 2024- Kennesaw-Core Exchange of ROW Addendum
2. Exhibits
3. Exhibit E from the Joint Development Agreement

**CITY OF KENNESAW
GEORGIA**

RESOLUTION NO. 2024-__, 2024

**RESOLUTION AUTHORIZING AN ADDENDUM TO THE JOINT DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF KENNESAW AND CORE PROPERTY
CAPITAL, LLC**

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

WHEREAS, the city entered into a joint development agreement with Core Property Capital, LLC on December 17, 2019 via Resolution No. 2019-49, 2019; and

WHEREAS, the City of Kennesaw has abandoned rights of way of 29,882 square feet which it agreed to exchange with Core Property Capital, LLC and its assigns; and

WHEREAS, Core Property Capital, LLC agreed to the future dedication of 38,332 square feet of newly constructed road right of way to the City of Kennesaw; and

WHEREAS, the City of Kennesaw has quitclaimed a deed to Arris Kennesaw, LLC, assignee of Core Property Capital, LLC, on April 19, 2021, for the abandoned 29,882 square feet; and

WHEREAS, the City of Kennesaw and Core Property Capital, LLC agreed to the exchange of the aforementioned abandoned rights of way of 29,882 square feet via quitclaim deed in exchange for the transfer via fee simple limited warranty deed for the dedication of rights currently awaiting completion of the one-year warranty period of 38,332 square feet of newly constructed road right of way; and

WHEREAS, The City of Kennesaw agrees to exchange additional rights of way of 1,698 square feet via quitclaim deed to Arris Kennesaw, LLC.

NOW, THEREFORE, BE IT RESOLVED that the Kennesaw City Council approves the attached addendum to the joint development agreement and authorizes the Mayor to sign the same.

PASSED AND ADOPTED by the Kennesaw City Council on this ____ day of October 2024.

ATTEST:

CITY OF KENNESAW:

Lea Alvarez, City Clerk

Derek Easterling, Mayor

**State of Georgia
County of Cobb**

**ADDENDUM TO THE JOINT DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF KENNESAW, GEORGIA
AND CORE PROPERTY CAPITAL, LLC (CORE)**

WHEREAS, the City of Kennesaw and Core have previously entered into a Joint Development Agreement on December 16, 2019, pursuant to which the City of Kennesaw agreed to the exchange of abandoned rights of way areas depicted on Exhibit “E” of the Agreement for the future dedication by Core of newly constructed road rights of way areas as identified in Exhibit “E” of the Agreement; and

WHEREAS, the City of Kennesaw and Core desire to amend the terms of said Joint Development Agreement;

NOW THEREFORE, in consideration of the promises and mutual covenants hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the City of Kennesaw and Core do hereby agree with the escrow agreement and Arris Kennesaw, LLC provided an executed warranty deed with no encumbrance, mortgage or otherwise hypothecated newly constructed road rights of way which is described in the limited warranty deed in Exhibit “J”. Arris Kennesaw, LLC shall not, between now and the time of formal recording, pledge said newly constructed road rights of way in exchange for the additional excess rights of way quitclaim deed attached in Exhibit “L”. The parties enter into this Addendum of said Joint Development agreement and hereby incorporate this Addendum into said Joint Development Agreement:

MODIFICATION OF THE EXCHANGE OF RIGHT OF WAYS

This addendum shall serve as a modification of the exchange of parcels contemplated by the original Joint Development Agreement as follows:

5.1.1 In accordance with Exhibit “E”, Developer shall submit a request to Kennesaw for the abandonment of certain public roads located on the Project Property or property owned by Kennesaw and located within or adjacent to the Developer’s Project, as more particularly identified in Section 5.1.2 and on **Exhibit “E”** attached hereto and incorporated herein by this reference as may be subject to change (the **“Proposed Abandoned Roads”**). Such submission shall include (1) a legal description of the road of right of ways to be considered for abandonment, (2) a survey of the roads or right of ways to be considered for abandonment, (3) identity of all individuals or entities owning any property along the said roads or right of ways to be considered for abandonment, (4) reasonable evidence of title to any property located along the

roads being considered for abandonment, and (5) any other information reasonably required by Kennesaw to complete the abandonment.

Upon Developer's abandonment request in accordance with this section, Kennesaw acknowledges and agrees to timely initiate the abandonment of said roads within thirty (30) days of said Developer's abandonment request and shall diligently pursue such abandonment process until final completion. Developer is solely responsible for coordinating with each utility owner to provide any necessary easements and relocation plans relating to any utilities and for any costs related thereto. Any such abandonment shall be in conformity with Georgia law. Kennesaw will order and obtain any appraisal(s) reasonably required for the abandonment of any such Proposed Abandoned Roads; provided however except as provided in the following paragraph, Developer shall bear the cost of all appraisals and/or reasonable due diligence expenses actually incurred by Kennesaw in connection with the abandonment of any road or right of way located within Developer's Project.

In the event Kennesaw abandons any of the Proposed Abandoned Roads, Kennesaw agrees, to the extent permitted by law, to accept for dedication and perpetual maintenance, certain property owned in fee simple by Developer with new roads constructed thereon in accordance with the Code and Uniform Development Standards of the City of Kennesaw (the "**New Roads**") required for the orderly development of the Developer's Project or the Schoolhouse Village Project in exchange for such abandoned roads and right of ways as set forth in Section 5.1.2 herein. The New Roads are more particularly depicted on **Exhibit "E"** attached hereto. Kennesaw shall be responsible for the cost of legal services required to prepare necessary closing documents for any abandonment made in accordance herewith and shall timely handle the closings thereof, through Kennesaw's City Attorney, or its designee.

5.1.2 Exchange of Rights of Way. Kennesaw agreed to exchange via quitclaim deed the abandoned rights of way of 29,882 square feet as identified in Exhibit "I" for Arris Kennesaw, LLC's transfer via fee simple limited warranty deed for the dedication of rights currently awaiting completion of the one-year warranty period of 38,332 square feet of newly constructed road right of way identified in Exhibit "J".

5.1.3 Additional Exchange. The City of Kennesaw agrees to exchange additional rights of way of 1,698 square feet via quitclaim deed to Arris Kennesaw, LLC identified in Exhibit "L".

EXHIBIT I

Return recorded document to:
Fred D. Bentley, Jr.
Bentley, Bentley & Bentley
241 Washington Avenue
Marietta Georgia 30060

STATE OF GEORGIA

COUNTY OF COBB

QUITCLAIM DEED

THIS INDENTURE, made this 19 day of April, 2021, between **THE CITY OF KENNESAW**, as party of the first part, hereinafter referred to as "Grantor," and **ARRIS KENNESAW, LLC** as party of the second part, hereinafter referred to as the "Grantee" (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

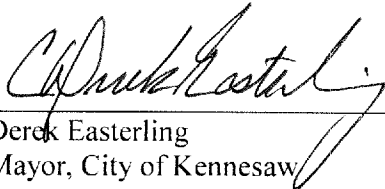
WITNESSETH:

That Grantor, for and in consideration of the sum of Ten and no/100 (\$10.00) Dollars, in hand paid, the receipt whereof is hereby acknowledged, has bargained, sold and by these presents does remise, release and forever quitclaim to the Grantee, her heirs and assigns, all the right, title, interest, claim or demand the Grantor has or may have had in the property described in "Exhibit A" attached hereto, with all rights, members, and appurtenances to the said premises in anywise appertaining or belonging.

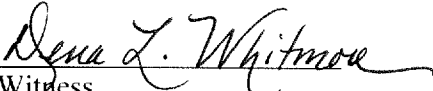
TO HAVE AND HOLD the said described premises unto the said Grantee, its heirs and assigns, so that neither Grantor, nor any other person or persons claiming under Grantor shall at

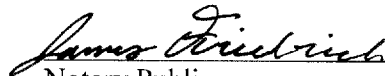
any time, by any means or ways, have, claim or demand any right, title or interest in or to the
aforescribed premises or its appurtenances, or any rights thereof.

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

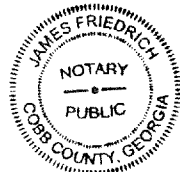
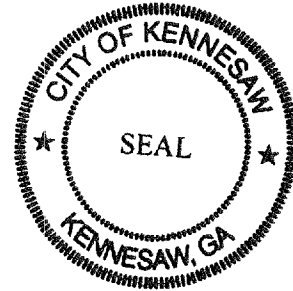

Derek Easterling
Mayor, City of Kennesaw

Signed, sealed, and delivered
In the presence of:


Witness


Notary Public
My Commission Expires: May 20, 2024

[SEAL]



My Commission Expires
May 20, 2024

Exhibit A
Legal Description

Tract 1:

All that tract or parcel of land lying and being in Land Lot 167 of the 20th District, 2nd Section, City of Kennesaw, Cobb County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at the intersection of the westerly right of way of Burrell Court (40' right of way) and the southerly right of way of Keene Street (40' right of way). said point being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED;

thence along said southerly right of way the following courses and distances: S55°37'27"W for a distance of 114.73 feet to a point; 155.02 feet along the arc of a curve to the right, said curve having a radius of 221.44 feet and being subtended by a chord of S75°29'25"W, 151.87 feet to a point; thence leaving said southerly right of way N05°04'48"E for a distance of 21.34 feet to a point; thence 61.70 feet along the arc of a curve to the left, said curve having a radius of 210.07 feet and being subtended by a chord of N86°39'54"E, 61.48 feet to a point; thence 80.04 feet along the arc of a curve to the left, said curve having a radius of 210.07 feet and being subtended by a chord of N67°20'05"E, 79.56 feet to a point; thence N55°29'19"E for a distance of 113.21 feet to a point; thence 174.56 feet along the arc of a curve to the left, said curve having a radius of 200.24 feet and being subtended by a chord of N31°22'46"E, 169.08 feet to a point; thence N04°10'45"E for a distance of 16.11 feet to a point; thence N04°10'45"E for a distance of 36.01 feet to a point; thence 36.05 feet along the arc of a curve to the right, said curve having a radius of 423.70 feet and being subtended by a chord of N08°13'02"E, 36.04 feet to a point; thence 48.22 feet along the arc of a curve to the right, said curve having a radius of 423.70 feet and being subtended by a chord of N13°54'55"E, 48.20 feet to a nail set; thence S59°00'04"E for a distance of 30.26 feet to a point at the southerly right of way of Keene Street (40' right of way); thence along said southerly right of way the following courses and distances: 63.19 feet along the arc of a curve to the left, said curve having a radius of 130.15 feet and being subtended by a chord of S19°47'23"W, 62.57 feet to a point; S05°52'48"W for a distance of 62.25 feet to a point; 151.20 feet along the arc of a curve to the right, said curve having a radius of 213.85 feet and being subtended by a chord of S26°08'07"W, 148.07 feet to a point at the intersection of said southerly right of way and the easterly right of way of Burrell Court (40' right of way); thence traversing said intersection S48°46'06"W for a distance of 39.86 feet to a point at the intersection of said southerly right of way and the westerly right of way of Burrell Court (40' right of way), said point being the **TRUE POINT OF BEGINNING**.

Said tract of parcel of land contains 0.271 acres.

Tract 2:

All that tract or parcel of land lying and being in Land Lot 167 of the 20th District, 2nd Section, City of Kennesaw, Cobb County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at the intersection of the westerly right of way of Burrell Court (40' right of way) and the southerly right of way of Keene Street (40' right of way), said point being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED;

thence traversing said intersection N48°46'06"E for a distance of 39.86 feet to a point at the intersection of said southerly right of way and the easterly right of way of Burrell Court (40' right of way); thence along said easterly right of way the following courses and distances:

S40°14'09"E for a distance of 134.22 feet to a point; S39°38'11"E for a distance of 100.09 feet to a 3/4" pipe found; thence S41°36'17"E for a distance of 99.89 feet to a 1/2" rebar found; thence S40°31'21"E for a distance of 125.66 feet to a point at the southeasterly termination of Burrell Court (40' right of way); thence along said right of way termination S49°28'39"W for a distance of 40.00 feet to a point at the southwesterly termination of Burrell Court (40' right of way); thence along the westerly right of way of Burrell Court (40' right of way) the following courses and distances: N40°39'03"W for a distance of 80.00 feet to a 1/2" rebar found; thence N40°17'48"W for a distance of 91.85 feet to a 5/8" rebar found; N40°19'28"W for a distance of 91.71 feet to a 1/2" pipe found; N40°31'46"W for a distance of 195.77 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Said tract of parcel of land contains 0.415 acres.

EXHIBIT J

Prepared by, and after recording, return to:
Schulten Ward Turner & Weiss, LLP
260 Peachtree Street, Suite 2700
Atlanta, GA 30303
Attn: Aimee D. LaTourette
Re: 5521.001
Parcel ID No.: 20016701140

STATE OF GEORGIA
COUNTY OF COBB

LIMITED WARRANTY RIGHT OF WAY DEED

THIS INDENTURE is made as of this ____ day of June, 2024, by and between **ARRIS KENNESAW, LLC**, a Delaware limited liability company (hereinafter referred to as "*Grantor*") and **CITY OF KENNESAW**, a political subdivision of the State of Georgia (hereinafter referred to as "*Grantee*") ("*Grantor*" and "*Grantee*" to include their respective successors, legal representatives and assigns where the context requires or permits).

WITNESSETH:

That the said Grantor, for and in consideration of the sum of Ten (\$10.00) Dollars, in hand paid, the receipt and sufficiency of which are hereby acknowledged, by these presents does hereby remise, convey, dedicate and confirm to the said Grantee ALL THAT TRACT OR PARCEL OF LAND lying and being in Cobb County, Georgia, and being more particularly described on Exhibit "A" attached hereto and made a part hereof by reference (hereinafter referred to as the "*Right of Way*").

To HAVE AND TO HOLD the Right of Way, together 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 behalf of Grantee, its successors and assigns forever, in fee simple.

Grantor hereby binds itself, its successors and assigns, to warrant and forever defend all and singular the Property unto Grantee, its successors and assigns, against any person whomsoever

lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but no further or otherwise.

[Signatures on following page]

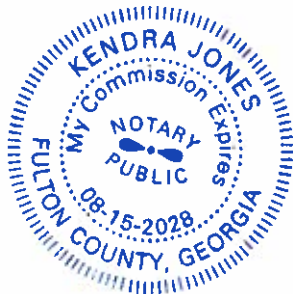
IN WITNESS WHEREOF, Grantor has hereunto caused this Indenture to be executed under seal as of the date and year first above written.

Signed, sealed and delivered in the presence of:

Jessie North
Unofficial Witness

Kendra Jones
Notary Public

Commission Expiration Date: 8/15/28
[NOTARIAL SEAL]



GRANTOR:

ARRIS KENNESAW, LLC,
a Delaware limited liability company

By: [Signature] (Seal)
Name: Josy Hleu
Title: Vice President

Exhibit "A"

Legal Description

All that tract or parcel of land lying and being in Land Lot 167 of the 20th District, 2nd Section, City of Kennesaw, Cobb County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at a 5/8" rebar found at the northeast corner of "Tract 1" as shown on the Minor Plat of 2601 Summers Street, recorded in Plat Book 279, Page 175,

thence S43°53'11"E a distance of 133.99 feet to a 1/2" rebar found;

thence S43°48'39"E a distance of 40.12 feet to a 1/2" rebar set;

thence N46°06'49"E a distance of 73.66 feet to a 1/2" rebar set, said point being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED;

thence N41°12'31"W a distance of 189.51 feet to a point;

thence along a curve to the right for an arc distance of 382.93 feet, said curve having a radius of 630.00 feet, and being subtended by a chord of N23°47'44"W, 377.07 feet to a 1/2" rebar set;

thence along a curve to the left for an arc distance of 94.38 feet, said curve having a radius of 200.24 feet, and being subtended by a chord of N36°52'40"E, 93.51 feet to a 1/2" rebar set;

thence along a curve to the left for an arc distance of 414.72 feet, said curve having a radius of 570.00 feet, and being subtended by a chord of S20°21'53"E, 405.64 feet to a point;

thence S41°12'31"E a distance of 232.69 feet to a 1/2" rebar set;

thence S23°50'37"W a distance of 66.17 feet to a 1/2" rebar set;

thence N41°12'31"W a distance of 71.10 feet to a 1/2" rebar set, said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land contains 0.880 acres.

EXHIBIT L

Prepared by, and after recording, return to:
Bentley, Bentley & Bentley
241 Washington Avenue
Marietta, GA 30060

STATE OF GEORGIA
COUNTY OF COBB

RIGHT OF WAY DEED

THIS INDENTURE is made as of this ____ day of _____, 2024, by and between **CITY OF KENNESAW**, a political subdivision of the State of Georgia (hereinafter referred to as “*Grantor*”) and **ARRIS KENNESAW, LLC**, a Delaware limited liability company (hereinafter referred to as “*Grantee*”) (“*Grantor*” and “*Grantee*” to include their respective successors, legal representatives and assigns where the context requires or permits).

WITNESSETH:

That the said Grantor, for and in consideration of the sum of Ten (\$10.00) Dollars, in hand paid, the receipt and sufficiency of which are hereby acknowledged, by these presents does hereby remise, convey, dedicate and forever QUITCLAIM to the said Grantee the following described property:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Cobb County, Georgia, and being more particularly described on Exhibit “A” attached hereto and made a part hereof by reference (hereinafter referred to as the “*Right of Way*”).

TO HAVE AND TO HOLD said described Right of Way unto the said Grantee, so that neither the said Grantor, nor any other person or persons claiming under Grantor shall at any time, claim or demand any right, title or interest to the aforesaid described Property or its appurtenances.

[Signatures appear on the following page]

IN WITNESS WHEREOF, Grantor has hereunto caused this Indenture to be executed under seal as of the date and year first above written.

Signed, sealed and delivered in the presence of:

GRANTOR:

CITY OF KENNESAW,
a political subdivision of the State of Georgia

Unofficial Witness

By: _____ (Seal)
Name: Derek Easterling
Title: Mayor

Notary Public

Commission Expiration Date: _____
[NOTARIAL SEAL]

Exhibit A
Legal Description

Tract 1:

All that tract or parcel of land lying and being in Land Lot 167 of the 20th District, 2nd Section, City of Kennesaw, Cobb County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at a 5/8" rebar found at the northeast corner of "Tract 1" as shown on the Minor Plat of 2601 Summers Street, recorded in Plat Book 279, Page 175, thence S43°53'11"E a distance of 133.99 feet to a 1/2" rebar found; thence S43°48'39"E a distance of 40.12 feet to a 1/2" rebar set; thence N46°06'49"E a distance of 73.66 feet to a 1/2" rebar set; thence N41°12'31"W a distance of 189.51 feet to a point; thence along a curve to the right for an arc distance of 382.93 feet, said curve having a radius of 630.00 feet, and being subtended by a chord of N23°47'44"W, 377.07 feet to a 1/2" rebar set at the southerly right of way of Keene Street (f.k.a. Dobbs Street; f.k.a. School Street; f.k.a. Broad Street) (right of way varies); thence along said southerly right of way along a curve to the left for an arc distance of 94.38 feet, said curve having a radius of 200.24 feet, and being subtended by a chord of N36°52'40"E, 93.51 feet to a 1/2" rebar set; thence leaving said right of way 12.71 feet along the arc of a curve to the right, said curve having a radius of 570.00 feet and being subtended by a chord of N01°07'04"E, 12.71 feet to a point; thence N01°45'25"E for a distance of 17.57 feet to a point; said point being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED;

thence N01°45'25"E for a distance of 89.33 feet to a point; thence 12.65 feet along the arc of a curve to the right, said curve having a radius of 15.00 feet and being subtended by a chord of N25°54'55"E, 12.28 feet to a point; thence N50°04'26"E for a distance of 19.47 feet to a 1/2" rebar set at the southerly right of way of Keene Street (f.k.a. Dobbs Street; f.k.a. School Street; f.k.a. Broad Street) (right of way varies); thence along said right of way the following courses and distances: 34.37 feet along the arc of a curve to the left, said curve having a radius of 423.70 feet and being subtended by a chord of S08°06'13"W, 34.36 feet to a point; S04°10'45"W for a distance of 52.12 feet to a point; 27.52 feet along the arc of a curve to the right, said curve having a radius of 200.24 feet and being subtended by a chord of S10°20'33"W, 27.50 feet to a 1/2" rebar set; thence leaving said right of way N88°40'30"W for a distance of 9.46 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land contains 0.035 acres.

Legal Description

Tract 2:

All that tract or parcel of land lying and being in Land Lot 167 of the 20th District, 2nd Section, City of Kennesaw, Cobb County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at a 5/8" rebar found at the northeast corner of "Tract 1" as shown on the Minor Plat of 2601 Summers Street, recorded in Plat Book 279, Page 175, thence S43°53'11"E a distance of 133.99 feet to a 1/2" rebar found; thence S43°48'39"E a distance of 40.12 feet to a 1/2" rebar set; thence N46°06'49"E a distance of 73.66 feet to a 1/2" rebar set; thence N41°12'31"W a distance of 189.51 feet to a point; thence along a curve to the right for an arc distance of 382.93 feet, said curve having a radius of 630.00 feet, and being subtended by a chord of N23°47'44"W, 377.07 feet to a 1/2" rebar set at the southerly right of way of Keene Street (f.k.a. Dobbs Street; f.k.a. School Street; f.k.a. Broad Street) (right of way varies); thence along said southerly right of way along a curve to the left for an arc distance of 94.38 feet, said curve having a radius of 200.24 feet, and being subtended by a chord of N36°52'40"E, 93.51 feet to a 1/2" rebar set, said point being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED;

thence leaving said southerly right of way 12.71 feet along the arc of a curve to the right, said curve having a radius of 570.00 feet and being subtended by a chord of N01°07'04"E, 12.71 feet to a point; thence N01°45'25"E for a distance of 17.57 feet to a point; thence S88°40'30"E for a distance of 9.46 feet to a 1/2" rebar set at the southerly right of way of Keene Street (f.k.a. Dobbs Street; f.k.a. School Street; f.k.a. Broad Street) (right of way varies); thence along said right of way 31.79 feet along the arc of a curve to the right, said curve having a radius of 200.24 feet and being subtended by a chord of S18°49'38"W, 31.75 feet to a 1/2" rebar set, said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land contains 0.004 acres.



Item Report

TO: The Honorable Mayor and City Council
FROM:
DATE: October 21, 2024
TITLE: Reports, Discussions, and Updates

Summary:

Recommendation:

Fiscal Impact:

Attachments:
None



Item Report

TO: The Honorable Mayor and City Council

FROM:

DATE: October 21, 2024

TITLE: 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.

Summary:

Recommendation:

Fiscal Impact:

Attachments:

None